

Test Report Federal Register

Wednesday
July 31, 1985

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Environmental Protection Agency

Air Transportation

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Animal Drugs

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Conflict of Interests

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Commodity Credit Corporation

Motor Carriers

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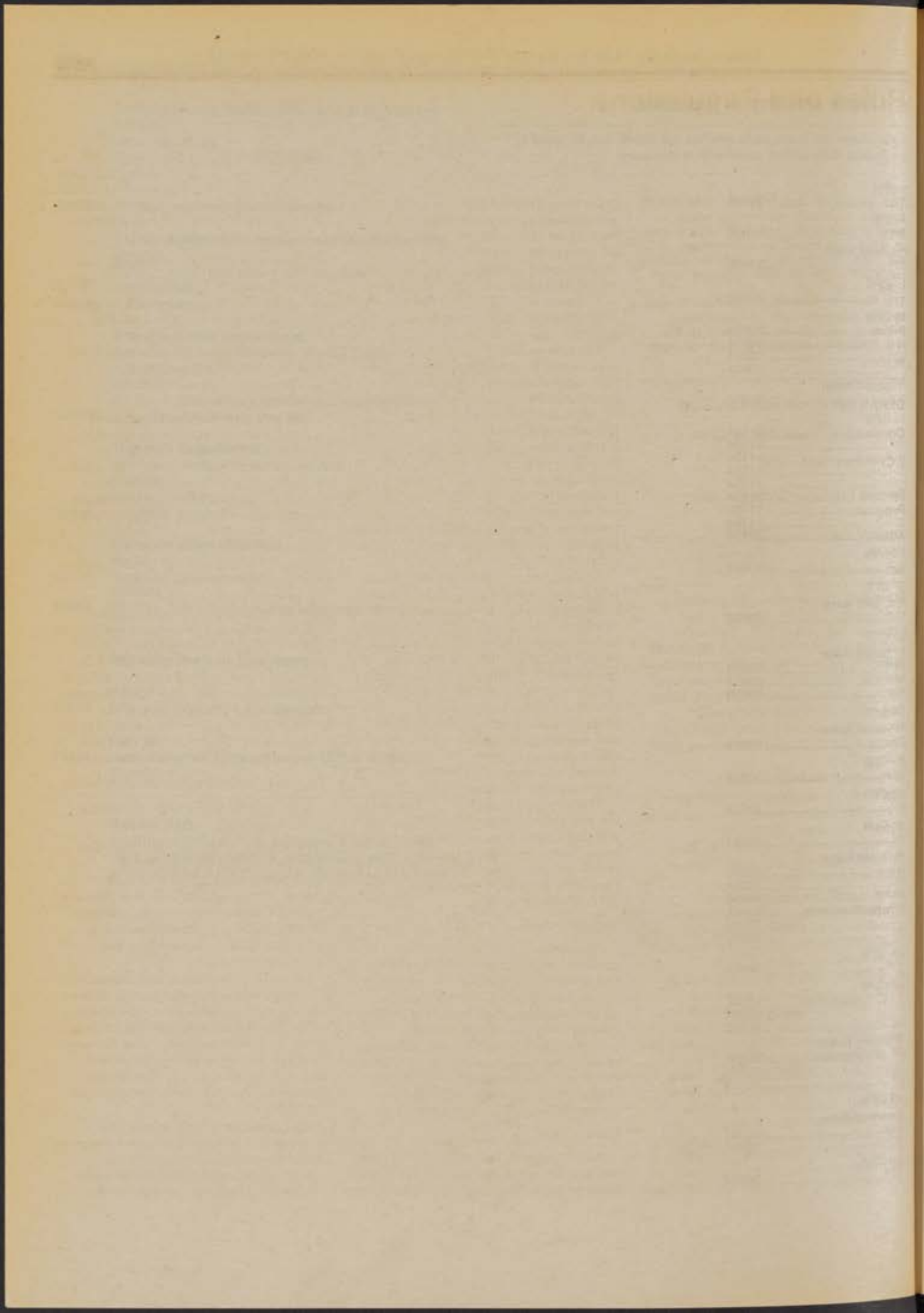
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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

Special Producer Storage Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The interim rule governing the Special Producer Storage Loan Program, published in the Federal Register on April 25, 1985 (50 FR 16221) is hereby adopted as a final rule without change. Under the program, a producer may pledge as collateral for such loans that collateral which is presently securing a matured Commodity Credit Corporation (CCC) farmer-owned grain reserve loan.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Steve Gill, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Phone: (202) 447-8480.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR Part 1421) have been approved by the Office of Management and Budget in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Number 0560-0087.

This final rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulation 1512-1 and Executive Order 12291 and has been classified "not major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of \$100 million or more; (2) major increases in costs 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 on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this final rule.

An Environmental Evaluation with respect to the Special Producer Storage Loan Program has been completed. It has been determined that this action is not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

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

Statutory Authority

The program will be conducted pursuant to the Commodity Credit Corporation Charter Act, as amended (the "Charter Act"). The Charter Act gives the Corporation broad authority to support the price of agricultural commodities through loans, purchases, or other operations, stabilize agricultural commodity markets and remove and dispose of surplus agricultural commodities.

Interim Rule

An interim rule setting forth the terms and conditions of the Special Producer Storage Loan Program was published in

the Federal Register on April 25, 1985, at 50 FR 16221. The interim rule provided for a 30-day comment period.

General Summary of Comments

The Department received one comment with respect to the interim rule from a state Attorney General. The comment received is on file and available for public inspection in Room 3627-South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20013.

The comment received discussed several issues on the theory that the provisions of the Special Producer Storage Loan Program should be similar to those of the Farmer-Owned Grain Reserve Program. The Farmer-Owned Grain Reserve Program is authorized by section 110 of the Agricultural Act of 1949, as amended (the "1949 Act"). The Special Producer Storage Loan Program is carried out under the broader authority of the Charter Act. Accordingly, there is no requirement that the terms and conditions which are specified for the Farmer-Owned Grain Reserve Program by section 110 of the 1949 Act also be made applicable to the Special Producer Storage Loan Program. The following is a summary of the comment and issues raised with respect to the Special Producer Storage Loan Program established by the interim rule:

Comment on Major Program Provisions

1. Length of Special Producer Storage Loan Agreement

Provisions of the Interim Rule. The interim rule provided that loan agreements shall be for a 12-month period. The interim rule further provided that loan agreements may be extended for an additional 12-month period if authorized and announced by the Secretary.

Comment. The respondent argued that this provision represents a reduction in the length of agreements entered into under the Farmer-Owned Grain Reserve Program. It was suggested that the new program provide for a two-year loan period in order to be consistent with extensions granted under the reserve program.

Discussion and conclusion. The purpose of the Special Producer Program is to permit producers to maintain control of their grain which had been pledged as loan collateral under the

Farmer-Owned Grain Reserve Program instead of being required upon maturity of the loans to immediately repay their loans or to forfeit the pledged grain to CCC. Since the Special Producer Storage Loan Program is not an extension of the Farmer-Owned Grain Reserve Program, the new loan is available to those producers who may have matured reserve agreements, some of which may have reached the statutory maximum period of five years. While the loan period under the Special Producer Storage Loan Program is for 12 months, the Secretary may offer an additional 12 month extension if market conditions indicate the need. This program provides the Secretary with needed flexibility to address future market needs or circumstances. Accordingly, the provisions of the interim rule have been retained.

II. Interest Rates

Provisions of the interim rule. The interim rule provided that each special producer storage loan shall bear interest during the loan period at the rate applicable to CCC price support loans in effect on the first day of the loan period, adjusted in accordance with any subsequent increase or decrease in the rate of interest to be charged on CCC price support loans as determined and announced by the Secretary.

Comment. The respondent suggested the interest requirement be eliminated to conform with the practice of not charging interest on extended Farmer-Owned Grain Reserve Program loans.

Discussion and conclusion. The waiving of interest on extended Farmer-Owned Grain Reserve Program loans was specifically authorized by Section 110 of the 1949 Act. Charging interest for loans made under the Special Producer Storage Loan Program is consistent with CCC's long-standing policy of charging interest with respect to loans which are made under other CCC programs. Accordingly, the provisions of the interim rule have been retained.

Acceleration of Loan Maturity Date

Provisions of the interim rule. The interim rule provided that the Secretary may accelerate the maturity date of special producer storage loans if the Secretary determines that conditions exist which require that the commodity which is serving as collateral for the loan be made available in the market to meet domestic or international needs.

Comment. The respondent suggested that the acceleration provision be modified to make it consistent with provisions governing the Farmer-Owned Grain Reserve Program.

Discussion and conclusion. Since this provision would only be used under unusual circumstances and after reviewing supply and demand conditions existing at that time, it is not considered to be prudent to limit the Secretary's authority to specific conditions or actions. Accordingly, the provisions of the interim rule have been retained.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Price support programs, Warehouses.

Final Rule

Accordingly, the interim rule published at 50 FR 16221 on April 25, 1985, which added 7 CFR 1421.900-1421.917, is hereby adopted as a final rule without change.

Signed at Washington, D.C., on July 26, 1985.

John R. Block,

Secretary.

[FR Doc. 85-18086 Filed 7-30-85; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF ENERGY

10 CFR Part 1047

Defense Programs; Limited Arrest Authority and Use of Force by Protective Force Officers

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is adopting regulations which set forth its policy concerning arrests and associated use of force by all DOE and DOE contractor employees engaged in nuclear security duties. Under section 161.k. of the Atomic Energy Act of 1954 (42 U.S.C. 2201.k.), certain DOE and DOE contractor protective force personnel are authorized to carry firearms and to make arrests without warrant for any offense against the United States committed in their presence or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing the felony. However, this arrest authority is specifically limited by the statute to enforcement of: (1) Laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission (NRC) or a contractor of the DOE or NRC; or (2) any provision of the Atomic Energy Act that may subject an offender to a fine, imprisonment, or both. The purpose of these rules is to insure that

protective force personnel at DOE facilities exercise such arrest authority, including the use of force to effect an arrest or apprehend a suspect, in a manner consistent with both DOE's security objectives and recognized legal standards.

EFFECTIVE DATE: August 30, 1985.

FOR FURTHER INFORMATION CONTACT: Martin J. Dowd, Department of Energy, Defense Programs, DP-343, Germantown, Washington, D.C. 20585, (301) 353-4642; Jo Ann Williams, Department of Energy, Office of General Counsel, Room 6B-256, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252-6975.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Discussion
- III. Discussion of Comments
- IV. Additional Revisions
- V. Administrative Procedures

I. Background

The nationwide nuclear program administered by the Secretary of Energy is conducted principally at nuclear facilities and sites owned by the federal government. Most of these facilities and sites, however, are operated under contracts with private industry. The increasing threat of terrorist activities at these facilities and sites where classified information, nuclear materials and nuclear weapons are located presents a real and present danger. DOE's armed security force, comprised of DOE and DOE contractor employees, is the first line of human defense against terrorist or other assaults. The effectiveness of its protective force officers is a key factor in DOE's program to provide a high degree of physical security to each of its nuclear activities.

On July 31, 1984, DOE issued a notice of proposed rulemaking (49 FR 30638) setting forth its proposed policy on the making of arrests and associated use of force by all DOE and DOE contractor employees engaged in nuclear security duties. DOE held five hearings in various parts of the country and accepted written comments on the proposed rule until September 7, 1984. In addition, to ensure that all interested parties had an opportunity to participate in the rulemaking process, DOE issued press releases and contacted guard unions and various federal, state, and local law enforcement agencies to solicit their comments and to invite their participation in the rulemaking process.

II. Discussion

Based on DOE's assessment of its security capabilities and the increasing threat of terrorist, paramilitary, criminal and other threatening activities, DOE has determined that formalization of a uniform policy on arrest and associated use of force by protective personnel armed pursuant to section 161.k. of the Atomic Energy Act will enhance the common defense and security. Section 161.k. of the Atomic Energy Act of 1954 authorizes DOE and DOE contractor security personnel to make arrests without warrant for: (1) Laws regarding the property of the United States in the custody of the DOE, NRC, or a contractor of the DOE or NRC; or (2) any provision of the Atomic Energy Act that may subject an offender to a fine or imprisonment, or both. This Final Rule specifies those provisions of the Atomic Energy Act and Title 18, United States Code, that DOE has determined should be enforced by its protective force personnel.

Eight offenses from Chapter 18 "Enforcement" of the Atomic Energy Act are enumerated. These five felonies and three misdemeanors pertain to the unlawful dissemination of Restricted Data (classified atomic energy information) and to criminal acts against facilities, equipment, materials, and other property of the DOE. Nineteen offenses from Title 18, United States Code, have been identified. These fourteen felonies and five misdemeanors prohibit criminal acts such as theft, arson, and sabotage against federal property, including DOE property.

This Final Rule also sets out procedures that protective force personnel are to follow in making arrests. A protective force officer is authorized to make an arrest for any of the felonies enumerated in the rule if the offense is committed in his or her presence or if he or she has reasonable grounds to believe that the individual to be arrested has committed or is committing the felony. In the case of a misdemeanor, the officer may only make an arrest if the offense is committed in his or her presence. This Final Rule also provides guidance on arrest techniques, including questioning of arrested persons and searches and seizure of evidence.

DOE is concerned that its protective force personnel only use the degree of force that is necessary and justified in making an arrest. This Final Rule establishes those circumstances under which the use of physical force is authorized and restrictions applicable to its use.

A protective force officer is authorized to use deadly force under conditions of extreme necessity and as a last resort only under the following five circumstances:

(1) To protect himself or herself from imminent danger of death or serious bodily harm; (2) to prevent serious offenses against other persons; (3) to prevent the theft, sabotage, or unauthorized control of a nuclear weapon or nuclear explosive device; (4) to prevent the theft, sabotage or unauthorized control of special nuclear material or (5) to apprehend or prevent the escape of a person who has committed an offense specified in (1) through (4); or who is escaping by use of a weapon or explosive or who otherwise indicates that he or she poses a significant threat of death or serious bodily harm to the protective force officer or other unless apprehended without delay.

III. Discussion of Comments

DOE held hearings in Washington, D.C., Denver, San Francisco, Pittsburgh, and Atlanta and requested written comments on these rules (49 FR 30638, July 31, 1984). Three (3) interested parties testified at the hearings and two (2) written comments were received during the thirty-day comment period. Each person testifying or submitting written comments represented either a DOE contractor or a guard union.

One commenter expressed concern that proposed §§ 1047.4(e), 1047.5(e) and 1047.6(b) compel an "unnecessary and perhaps unwarranted" reliance by protective force officers on the advice of local DOE legal counsel. These proposed sections state that guidance on the Assimilative Crimes Act; search and seizure of evidence; and physical force in making arrests, respectively, shall be obtained from the local DOE Office of Chief Counsel. DOE accepts the suggestion that coordination with contractor legal counsel, as appropriate, be provided for in each subpart directing consultation with DOE legal counsel. However, we do not view obtaining guidance from contractor counsel without coordination with DOE counsel as a viable option since these regulations establish federal standards.

A number of comments recommended reconsideration of certain requirements related to the exercise of arrest authority on the basis that they were not legally required and unreasonably impeded protective force officers in the safe and effective performance of their duties. DOE agrees with these comments and has revised this Final Rule accordingly. First, the requirement that a protective force officer announce the

offense committed in making an arrest has been deleted. Secondly, an arresting officer is authorized pursuant to these regulations to search any arrested person at the time and place of arrest for weapons and criminal evidence and the area into which the arrested person might reach for a weapon or to destroy evidence. The proposed regulations only authorized a "frisk" if the arrested person was suspected of carrying weapons or other dangerous articles. We agreed with the commenter that a more extensive search is legally permissible and necessary for the safety of protective force officers and others.

The greatest number of comments received suggested refinements in the provisions relating to the use of deadly force in making an arrest. One commenter expressed the view that the requirement to give an order to halt before a shot is fired is appropriate where there is a pursuit in progress, but inappropriate and dangerous in other situations; e.g., where a nuclear weapon is under hostile armed attack. DOE agrees and has limited the requirement to give warning to situations where it is feasible. This standard is consistent with the language of the United States Supreme Court in *Tennessee v. Garner*, 105 S. Ct. 1694, 1701 (1985). Secondly, the requirement to shoot to disable has been deleted at the recommendation of a number of commenters who correctly point out that the requirement is too onerous since normal police practice is to shoot to stop. We agree with the commenter that it is unreasonable to require a protective force officer when the use of deadly force is authorized to attempt to wound a person rather than to fire at the center mass of the body.

The regulations have also been changed to reflect comments regarding the five circumstances under which deadly force may be used. One commenter suggested that the provision in the regulations addressing the right of a protective force officer to use deadly force "in the event of serious offenses against persons involving violence and threatening death or serious bodily harm" be modified to emphasize that an imminent threat is required. This modification has been made. Deadly force is authorized in the Final Rule to "prevent the commission of a serious offense against a person(s) in circumstances presenting an imminent danger of death or serious bodily harm." As requested, DOE has also reworded § 1047.7(a)(1)-(5) to clarify that the use of deadly force in each of the five circumstances authorized is based on the reasonable belief of the protective force officer that the circumstance

requiring the use of deadly force exists. For example, proposed § 1047.7(a)(3) stated that deadly force is authorized "to prevent the theft, sabotage, or unauthorized control of a nuclear weapon or nuclear explosive devices." It has been modified to state that such use is authorized "when deadly force reasonably appears necessary to prevent the theft, sabotage, or unauthorized control of a nuclear weapon or nuclear explosive device." As reworded, the provisions state the standard that DOE intended and that has been applied by the courts to law enforcement officers in cases involving the use of deadly force.

DOE has adopted in part and rejected in part recommendations to modify the provision concerning use of deadly force to protect special nuclear material and other inherently dangerous property. The concept of inherently dangerous property, criticized in several comments as being vague and unnecessary, has been removed from the regulations. We agree with the commenters that the provisions authorizing the use of deadly force to protect nuclear weapons, nuclear explosive devices, and special nuclear material adequately cover property that would have been covered by the "inherently dangerous property" category. In addition, the provision has been modified to authorize a protective force officer to use deadly force to prevent the theft, sabotage, or unauthorized control of special nuclear material "from an area of a fixed site or from a shipment where Category II or greater quantities are known or are reasonably believed to be present." This accommodates the concerns of those commenters who expressed the view that the proposed rule set forth an impractical standard requiring a protective force officer in an emergency situation to determine the exact category (i.e., Category II or greater quantities) of special nuclear material involved.

DOE rejected the recommendation that its policy governing deadly force not be implemented to protect special nuclear material because of alleged inconsistencies between the policy and some state laws. Specifically, the commenter expressed the view that the DOE policy would be inconsistent with the laws of those states that do not permit the use of deadly force merely to protect property absent other circumstances involving an immediate threat to human life. DOE does not agree that there are inherent inconsistencies between the two. Because of its possible use as a radiological contaminant or in an explosive device, special nuclear

material differs quantitatively from ordinary property and its theft, sabotage, or unauthorized control is tantamount to a "dangerous felony" within the meaning of those state laws that require commission of a "dangerous felony" to justify the use of deadly force. Moreover, as federal law enforcement officers, DOE's protective force is not properly limited by state laws on the use of deadly force in performing their official federal duties. This legal principle was established by the United States Supreme Court in the landmark decision *In Re Neagle*, 135 U.S. 1 (1890), that has been widely followed. With respect to constitutional standards, DOE's policy as expressed in this Final Rule is consistent with the decision of the United States Supreme Court in *Tennessee v. Garner*, 105 S. Ct. 1694 (1985). The Court held that law enforcement officers cannot resort to deadly force unless they have probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others if not apprehended without delay.

A substantial portion of the provision in the proposed rules specifying additional considerations involving firearms has been deleted as suggested by a commenter. DOE agrees with his statement that some of the guidance provided in the provision is more appropriate for an internal agency directive or training manual.

From several comments received, it is clear to DOE that the provision regarding legal defense and reimbursement of protective personnel was not clearly understood by all readers. Upon further reflection, DOE has decided to accomplish the objectives of the provision by a contract-by-contract approach rather than by regulation. The specifics regarding legal defense and reimbursement of protective force officers will be set forth in a written agreement between DOE and each contractor employing protective force officers. Each protective force officer will be fully advised of and receive a copy of such agreement.

IV. Additional Revisions

Upon further reflection, DOE has decided to make a few revisions other than those suggested by commenters. Section 2114 of Title 18, United States Code, has been removed from the list of federal statutes to be enforced by DOE protective force officers because case law limits its application to property of the Postal Service. (See *United States v. Rivera*, 513 F.2d 519 (2nd Cir. 1975) and *United States v. Fernandez*, 497 F.2d 730 (9th Cir. 1974).)

The certification requirement for individual officers has been removed because it poses an undue administrative burden on DOE field operations.

V. Administrative Procedures

A. Review Under Executive Order 12291

This Final Rule was reviewed under Executive Order 12291 (48 FR 13193, Feb. 19, 1981). DOE has concluded that the rule is not a "major rule" under the Executive Order. It will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, 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 Final Rule was submitted to the Director of OMB for a 10-day review. The Director has concluded this review under that Executive Order.

B. 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 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*. This Final Rule deals with the arrest authority of DOE protective personnel. The economic impact on small businesses is negligible. Accordingly, pursuant to section 605(b) of the Regulatory Flexibility Act, DOE certifies that this Final Rule will not have a significant economic impact on a substantial number of small entities.

C. Environmental Review

DOE has determined that this Final Rule is not a major Federal action with significant environmental impact, and therefore does not require preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

D. Paperwork Reduction Act

These regulations do not impose a collection of information requirement:

therefore, it is not necessary to submit them to the Office of Management and Budget for review under the Paperwork Reduction Act, 44 U.S.C. 3501 through 3520.

Lists of Subjects in 10 CFR Part 1047

Security measures, Government contracts. Arrest authority and use of force.

In consideration of the foregoing, DOE hereby adds a new Part to Chapter X, Title 10 of the Code of Federal Regulations.

Issued in Washington, D.C., this 25th day of July, 1985.

William W. Hoover,

Assistant Secretary for Defense Programs.

Part 1047 is added to 10 CFR Chapter X to read as follows:

PART 1047—LIMITED ARREST AUTHORITY AND USE OF FORCE BY PROTECTIVE FORCE OFFICERS

General Provisions

- Sec.
- 1047.1 Purpose.
 - 1047.2 Scope.
 - 1047.3 Definitions.
 - 1047.4 Arrest authority.
 - 1047.5 Exercise of arrest authority—general guidelines.
 - 1047.6 Use of physical force when making an arrest.
 - 1047.7 Use of deadly force.
- Authority: Sec. 2201, Pub. L. 83-703, 68 Stat. 919 (42 U.S.C. 2011 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 505 (42 U.S.C. 7101 *et seq.*).

General Provisions

§ 1047.1 Purpose.

The purpose of this part is to set forth Department of Energy (hereinafter "DOE") policy and procedures on the exercise of arrest authority and use of force by protective force personnel.

§ 1047.2 Scope.

This part applies to DOE and DOE contractor protective force personnel armed pursuant to section 161.k. of the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*) to protect nuclear weapons, special nuclear material, classified matter, nuclear facilities, and related property.

§ 1047.3 Definitions.

(a) "Act" means section 161.k. of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2201.k.).

(b) "Arrest" means any act, including taking, seizing or detaining of a person, that indicates an intention to take a person into custody and that subjects the person to the control of the person making the arrest.

(c) "Citizen's Arrest" means that type of arrest which can be made by citizens in general and which is defined in the statutory and case law of each state.

(d) "Contractor" means contractors and subcontractors at all tiers.

(e) "LEA" means local law enforcement agencies: city, county; and state.

(f) "Offender" means the person to be arrested.

(g) "Protective Force Officer" means any person authorized by DOE to carry firearms under section 161.k. of the Atomic Energy Act of 1954.

(h) "Special Nuclear Material" (SNM) means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which DOE, pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

§ 1047.4 Arrest authority.

(a) Under the Act, the authority of a DOE protective force officer to arrest without warrant is limited to the performance of official duties and should be exercised only in the enforcement of:

(1) The following laws only if property of the United States which is in the custody of the DOE or its contractors is involved:

(i) Felonies:

(A) Arson—18 U.S.C. 81—(only applicable to "special maritime and territorial jurisdiction of the United States" as defined by 18 U.S.C. 7).

(B) Building or property within special maritime and territorial jurisdiction—18 U.S.C. 1363—(only applicable to "special maritime and territorial jurisdiction of United States" as defined by 18 U.S.C. 7).

(C) Civil disorder—18 U.S.C. 231.

(D) Communication lines, stations or systems—18 U.S.C. 1362.

(E) Concealment, removal or mutilation generally—18 U.S.C. 2071.

(F) Conspiracy—18 U.S.C. 371—(violation of this section is a felony if the offense which is the object of the conspiracy is a felony).

(G) Destruction of motor vehicles or motor vehicle facilities—18 U.S.C. 33.

(H) Explosives—18 U.S.C. 844(f).

(I) Government property or contracts—18 U.S.C. 1361—(violation of section is a felony if property damage exceeds \$100).

(J) Military, naval or official passes—18 U.S.C. 499—(pertains to forging or altering official passes).

(K) Personal property of the United States—18 U.S.C. 2112.

(L) Public money, property, or records—18 U.S.C. 641—(violation of section is a felony if the property value exceeds \$100).

(M) Sabotage—18 U.S.C. 2151, 2153—2156.

(N) Violation under Physical Security Convention—18 U.S.C. 831.

(ii) Misdemeanors:

(A) Conspiracy—18 U.S.C. 371—(violation of section is a misdemeanor if the offense which is the object of the conspiracy is a misdemeanor).

(B) Explosives—18 U.S.C. 844(g).

(C) Government property or contracts—18 U.S.C. 1361—(violation of section is a misdemeanor if the property damage does not exceed \$100).

(D) Official badges, identification cards, other insignia—18 U.S.C. 701—(pertains to the manufacture, sale, and possession of official insignia).

(E) Public money, property or records—18 U.S.C. 641—(violation of section is a misdemeanor if the property value does not exceed \$100).

(2) The following criminal provisions of the Atomic Energy Act:

(i) Felonies:

(A) Section 222. Violation of Specific Sections—42 U.S.C. 2272.

(B) Section 223. Violation of Sections Generally. 42 U.S.C. 2273.

(C) Section 224. Communication of Restricted Data—42 U.S.C. 2274.

(D) Section 225. Receipt of Restricted Data—42 U.S.C. 2275.

(E) Section 226. Tampering with Restricted Data—42 U.S.C. 2276.

(ii) Misdemeanors:

(A) Section 227. Disclosure of Restricted Data—42 U.S.C. 2277.

(B) Section 229. Trespass Upon Commission (DOE) Installations—42 U.S.C. 2278.

(C) Section 230. Photographing, etc., of Commission (DOE) Installations—42 U.S.C. 2278.b.

(b) *Felony Arrests.* A protective force officer is authorized to make an arrest for any felony listed in paragraph (a)(1)(i) or (a)(2)(i) of this section if the offense is committed in the presence of the protective force officer or if he or she has reasonable grounds to believe that the individual to be arrested has committed or is committing the felony.

(1) "In the presence of" means that the criminal act must have taken place in the physical presence of (under the observation of) the protective force officer. Knowledge of the existence of a criminal violation obtained in any other way (e.g., information from other persons) is not sufficient to permit an arrest under this part of the Act.

(2) "Reasonable grounds to believe" means that, at the moment of arrest, either the facts and circumstances within the knowledge of the protective force officer, or of which the protective force officer had reasonably trustworthy information, were sufficient to cause a prudent person to believe that the suspect had committed or was committing the offense.

(c) *Misdemeanor Arrest:* A protective force officer is authorized to make an arrest for any misdemeanor listed in paragraph (a)(1)(ii) or (a)(2)(ii) of this section if the offense is committed in the presence of the protective force officer.

(d) *Other Authority:* The Act does not provide authority to arrest for violations of state criminal statutes or for violations of federal criminal statutes other than those listed in paragraph (a) of this section. Therefore, arrests for violations of such other criminal statutes shall be made by other peace officers (e.g., U.S. Marshals or Federal Bureau of Investigation (FBI) agents for federal offenses; LLEA officers for state or local offenses) unless:

(1) The protective force officer can make a citizen's arrest for the criminal offense under the law of the state,

(2) The protective force officer is an authorized state peace officer or otherwise deputized by the particular state to make arrests for state criminal offenses, or

(3) The protective force officer has been deputized by the U.S. Marshals Service or other federal law enforcement agency to make arrests for the criminal offense.

(e) In those locations which are within the "special maritime and territorial jurisdiction of the United States," as defined in 18 U.S.C. 7, the Assimilative Crimes Act (18 U.S.C. 13) adopts the law of the state for any crime under state law not specifically prohibited by Federal statute and provides for federal enforcement of that state law. The local DOE Office of Chief Counsel, in coordination with contractor legal counsel, as appropriate, shall provide guidance in this matter.

§ 1047.5 Exercise of arrest authority—General Guidelines.

(a) In making an arrest, the protective force officer should announce his or her authority (e.g., "Security Officer") and that the person is under arrest prior to taking the person into custody. If the circumstances are such that making such announcements would be useless or dangerous to the officer or others, the protective force officer may dispense with these announcements.

(b) The protective force officer at the time and place of arrest may search any arrested person for weapons and criminal evidence and the area into which the arrested person might reach for a weapon or to destroy evidence. Guidance on the proper conduct and limitations in scope of search and seizure of evidence shall be obtained from the local DOE Office of Chief Counsel, in coordination with contractor legal counsel, as appropriate.

(c) After the arrest is effected, the arrested person shall be advised of his or her constitutional right against self-incrimination (Miranda warnings). If the circumstances are such that making such advisement is dangerous to the officer or others, this requirement may be postponed until the immediate danger has passed.

(d) Custody of the person arrested should be transferred to other federal law enforcement personnel (i.e., U.S. Marshals or FBI agents) or to LLEA personnel, as appropriate, as soon as practicable. The arrested person should not be questioned or required to sign written statements unless:

(1) Questioning is necessary for security or safety reasons (e.g., questioning to locate a bomb), or

(2) Questioning is authorized by other federal law enforcement personnel or LLEA officers responsible for investigating the crime.

§ 1047.6 Use of physical force when making an arrest.

(a) When a protective force officer has the right to make an arrest as discussed above, the protective force officer may use only that physical force which is reasonable and necessary to apprehend and arrest the offender; to prevent the escape of the offender; or to defend himself or herself or a third person from what the protective force officer believes to be the use or threat of imminent use of physical force by the offender. It should be noted that verbal abuse alone by the offender cannot be the basis under any circumstances for use of physical force by a protective force officer.

(b) Protective force officers shall consult the local DOE Office of Chief Counsel and contractor legal counsel, as appropriate, for additional guidance on use of physical force in making arrests.

§ 1047.7 Use of deadly force.

(a) Deadly force means that force which a reasonable person would consider likely to cause death or serious bodily harm. Its use may be justified only under conditions of extreme

necessity, when all lesser means have failed or cannot reasonably be employed. A protective force officer is authorized to use deadly force only when one or more of the following circumstances exists:

(1) *Self-Defense.* When deadly force reasonably appears to be necessary to protect a protective force officer who reasonably believes himself or herself to be in imminent danger of death or serious bodily harm.

(2) *Serious offenses against persons.* When deadly force reasonably appears to be necessary to prevent the commission of a serious offense against a person(s) in circumstances presenting an imminent danger of death or serious bodily harm (e.g. sabotage of an occupied facility by explosives).

(3) *Nuclear weapons or nuclear explosive devices.* When deadly force reasonably appears to be necessary to prevent the theft, sabotage, or unauthorized control of a nuclear weapon or nuclear explosive device.

(4) *Special nuclear material.* When deadly force reasonably appears to be necessary to prevent the theft, sabotage, or unauthorized control of special nuclear material from an area of a fixed site or from a shipment where Category II or greater quantities are known or reasonably believed to be present.

(5) *Apprehension.* When deadly force reasonably appears to be necessary to apprehend or prevent the escape of a person reasonably believed to: (i) have committed an offense of the nature specified in paragraph (a)(1)—(a)(4)¹ of this section; or (ii) be escaping by use of a weapon or explosive or who otherwise indicates that he or she poses a significant threat of death or serious bodily harm to the protective force officer or others unless apprehended without delay.

(b) *Additional Considerations Involving Firearms.* If it becomes necessary to use a firearm, the following precautions shall be observed:

(1) A warning, e.g. an order to halt, shall be given, if feasible, before a shot is fired.

(2) Warning shots shall not be fired.

[FR Doc. 85-18074 Filed 7-30-85; 8:45 am]

BILLING CODE 6450-01-M

¹ These offenses are considered by the Department of Energy to pose a significant threat of death or serious bodily harm.

FEDERAL RESERVE SYSTEM

(Regs. G, T, U and X)

12 CFR Parts 207, 220, 221, and 224**Securities Credit Transactions****AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Final rule.

SUMMARY: The List of Marginable OTC Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List effective May 14, 1985 and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: August 13, 1985.**FOR FURTHER INFORMATION CONTACT:**

Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781, or Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) (202) 452-3244.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. A copy of the complete List incorporating these additions and deletions was filed with the original of this document. This List supersedes the last complete List which was effective May 14, 1985 (50 FR 18230, April 30, 1985). The List includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U, and X (12 CFR 207, 220, 221, and 224, respectively). It also includes, as a result of an amendment to the margin regulations (49 FR 35756, September 12, 1984), any stock designated under a SEC rule as qualified for trading in a national market system (NMS Security). The List of Marginable OTC Stocks, as it is now called, is a composite of the List of OTC Margin Stocks and all NMS securities. Additional OTC securities may be designated as NMS securities in the interim between the Board's quarterly

publications. They will become automatically marginable at broker-dealers upon the effective date of their designation. The names of these securities are available at the Board and the Securities and Exchange Commission and will be subsequently incorporated into the Board's next quarterly List. Copies of the current List may be obtained from any Federal Reserve Bank.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6(a) and (b), 220.17 (a) and (b), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects**12 CFR 207**

Banks, banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting requirements, Securities.

12 CFR Part 220

Banks, banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting requirements, Securities.

12 CFR Part 221

Banks, banking, Credit Federal Reserve System, Margin, Margin requirements, Securities, National Market System (NMS Security), Reporting requirements.

12 CFR Part 224

Banks, banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with § 270.2(k) and 6(c) of Regulation G, § 220.2(s) and 17(c) of Regulation T, and

§ 221.2(j) and 7(c) of Regulation U, there is set forth below a listing of additions to and deletions from the Board's List:

Additions to the List

Acmat Corporation
No par common
Advanced Computer Techniques Corporation
\$10 par common
Advanced Tobacco Products, Inc.
\$01 par common
Air Cargo Equipment Corporation
\$1.00 par common
Allied Research Associates, Inc.
\$10 par common
Ameribanc, Inc.
\$5.00 par common
American Businessphones, Inc.
No par common
American Medcenters, Inc.
\$001 par common
Apeco Corporation
\$01 par common
Atkinson, Guy F., Company of California
No par common
Atlantic Permanent Federal Savings & Loan Association (Virginia)
\$1.00 par common
BTR Realty, Inc.
\$1.00 par common
Bancoklahoma Corporation
Series A, \$2.50 convertible preferred
Battle Mountain Gold Company
\$10 par common
Bay Pacific Health Corporation
\$01 par common
Bayou Resources, Inc.
\$01 par common
Birdview Satellite Communications, Inc.
\$01 par common
Bradley Real Estate Trust
\$1.00 par capital
Bruce, Robert Industries Inc.
Class A, \$01 par common
Catalyst Energy Development Corporation
\$10 par common
Centrafarm Group N.V.
No par common
Certified Collateral Corporation
\$01 par common
Chiron Corporation
No par common
Citizen's Financial Group, Inc.
\$1.00 par common
Coast R.V., Inc.
No par common
Cobanco, Inc.
No par common
Comcoa, Inc.
No par common
Commercial Federal Corporation
\$01 par common
Commercial National Corporation
\$5.00 par common
Congress Street Properties, Inc.

\$1.10 par common	\$2.50 par common	M/A/R/C Inc.
Consolidated Capital Income Opportunity Trust	Great American Partners Limited Partnership Units	\$1.00 par common
No par shares of beneficial interest	Grubb & Ellis Realty Income Trust	Medalist Industries, Inc.
Continental General Insurance Company	No par common	\$1.00 par common
\$1.00 par common	Guardian Packaging Corporation	Medco Containment Services, Inc.
Continental Steel Corporation	\$34 par common	\$0.01 par common
\$1.00 par common	Hanover Companies, Incorporated	Mellon Participating Mortgage Trust
Cooper Lasersonics, Inc.	\$0.01 par common	No par shares of beneficial interest
\$1.0 par common	Healthamerica Corporation	Michaels Stores, Inc.
Crestek, Inc.	Warrants (expire 04-15-89)	\$1.0 par common
\$0.01 par common	Healthgroup International, Inc.	Micros Systems, Inc.
Cyprus Minerals Company	No par common	\$0.025 par common
No par common	High Plains Oil Corporation	Microwave Filter Company, Inc.
Danners, Inc.	\$1.0 par common	\$1.0 par common
No par common	Highland Superstores, Inc.	Miltope Group, Inc.
Data Architects, Inc.	\$0.01 par common	\$0.01 par common
\$0.01 par common	Highlands-National, Inc.	Moniterm Corporation
Daxor Corporation	\$1.00 par common	\$0.025 par common
\$0.01 par common	IDC Services, Inc.	Nanometrics Incorporated
Detroit & Northern Savings, F.A.	\$0.01 par common	No par common
\$0.01 par common	Indiana National Corporation	Napa Valley Bancorp
Di Giorgio Corporation	No par depository preferred	No par common
12% convertible subordinated debentures	Innovex, Inc.	Nathan's Famous, Inc.
Dionics, Inc.	\$0.04 par common	\$1.0 par common
\$0.01 par common	Insituform of North America, Inc.	National Business Systems Inc.
Divi Hotels, N.V.	Class A, \$0.01 par common	No par common
\$1.00 par common	Warrants (expire 08-26-86)	National HMO Corporation
Drew Industries Incorporated	Institute of Clinical Pharmacology PLC	\$0.001 par common
\$0.01 par common	American Depository Receipts for ordinary shares (nominal value 4 Irish pence)	Nestor, Inc.
Dumagami Mines Limited	Instrumentarium Corporation	\$0.01 par common
\$1.00 par common	American Depository Receipts for non-restricted B shares (nominal value FIM 20)	New Frontier Petroleum Corporation
Electro-Sensors, Inc.	Integrated Barter International, Inc.	No par common
\$1.0 par common	\$0.04 par common	Newport Electronics, Inc.
Endotronics, Inc.	Intel Corporation	\$0.01 par common
No par common	Warrants (expire 05-15-95)	Novell, Inc.
Environmental Processing, Inc.	International Technology Corporation	\$1.0 par common
\$0.01 par common	Warrants (expire 12-14-87)	Nuvision Inc.
Environmental Testing & Certification Corporation	Interprovincial Pipe Line Limited	\$0.50 par common
\$1.0 par common	No par common	OTF Equities, Inc.
Fidelity Federal Savings & Loan Association (Pennsylvania)	Investors GNMA Mortgage-Backed Securities Trust, Inc.	\$0.01 par common
\$0.01 par common	\$1.00 par common	Oce-Van Der Grinten N. V.
First American Federal Savings & Loan Association (Alabama)	Kappa Networks, Inc.	American Depository Receipts for ordinary shares (nominal value Dfl .20)
\$0.01 par common	No par common	Optical Specialties, Inc.
First Colonial Bankshares Corporation	Karcher, Carl Enterprises, Inc.	No par common
Class A, \$1.25 par common	9½% convertible subordinated debentures	PDA Engineering
First Federal Bank, FSB (New Hampshire)	King World Productions, Inc.	No par common
\$1.00 par common	\$0.01 par common	PT Components, Inc.
First Federal Savings & Loan Association of Brooksville	LCS Industries, Inc.	\$0.01 par common
\$0.01 par common	\$0.01 par common	Pace Membership Warehouse, Inc.
First Federal Savings & Loan Association of Kalamazoo	LSI Lighting Systems, Inc.	\$0.01 par common
\$0.01 par common	\$0.01 par common	Pasadena Technology Corporation
First Federal Savings, F.A. (Connecticut)	Laser Corporation	No par common
\$0.01 par common	\$0.01 par common	People Express Airlines, Inc.
First United Financial Services, Inc.	Lieberman Enterprises Incorporated	Series A, \$2.64 convertible preferred
\$5.00 par common	No par common	Series B, \$2.50 cumulative convertible preferred
Florida Public Utilities Company	Loan America Financial Corporation	Perle Systems Limited
\$1.50 par common	\$1.0 par common	No par common
Fort Wayne National Corporation	Lone Star Steel Company	Phone-A-Gram System, Inc.
No par common	\$1.00 par common	\$0.01 par common
Great American Corporation	Louis Vuitton S. A.	Pioneer Savings Bank (Florida)
	American Depository Receipts for ordinary shares (par value FF 10)	\$1.00 par common
		Popular Bancshares Corporation
		\$1.00 par common
		Pullman Company, The
		Warrants (expire 02-24-88)

Questech, Inc.
\$.05 par common

Resources Pension Shares, Inc.
Shares of beneficial interest #1
Shares of beneficial interest #2
Shares of beneficial interest #3

River Forest Bancorp
\$.10 par common

Roanoke Electric Steel Corporation
No par common

Ropak Corporation
No par common

Ross Industries, Inc.
\$.100 par common

SPI Pharmaceuticals, Inc.
\$.01 par common

St. Joseph Bancorporation, Inc.
No par common

Saxon Oil Company
\$.01 par common

Silver State Mining Corporation
\$.01 par common

Stansbury Mining Corporation
\$.03 par common

Star Technologies, Inc.
\$.01 par common

Summcorp
No par common

Surgical Care Affiliates, Inc.
\$.25 par common

Systems & Computer Technology Corporation
\$.01 par common

Toys Plus, Inc.
\$.01 par common

Travelers Real Estate Investment Trust
No par shares of beneficial interest

Trio-Tech International
No par common

US Bancorp, Inc.
\$.250 par common

USPCI, Inc.
\$.10 par common

United Counties Bancorporation
No par common, \$1.00 stated value

United Healthcare Corporation
\$.01 par common

U.S. Precious Metals, Inc.
No par common

University National Bank & Trust Company (California)
\$.500 par capital

Vermont Federal Bank, FSB
\$.01 par common

Video Display Corporation
No par common

Wall to Wall Sound and Video, Inc.
\$.01 par common

Western Commercial
No par common

Westport Bancorp, Inc.
\$.250 par common

XL/Datacomp, Inc.
\$.01 par common

Zygo Corporation
\$.10 par common

Deletions From List

Stocks Removed for Failing Continued Listing Requirements

Air One, Inc.
\$.01 par common

American Guaranty Financial Corp.
No par common, \$1.00 stated value

American Nuclear Corporation
\$.04 par common

Anderson Industries, Inc.
\$.100 par common

Applied Solar Energy Corporation
Warrants (expire 08-06-85)

Arrays Inc.
No par common

Astrosystems, Inc.
Warrants (expire 01-19-88)

BFI Communications Systems, Inc.
\$.01 par common

Bank of Montana Systems
No par common

Basic Earth Science Systems, Inc.
\$.10 par common

Bedford Computer Systems
No par common

Bell National Corporation
No par common

Benihana National Corp.
Warrants (expire 05-11-87)

Beverly Hills Savings and Loan
No par common

Bonray Drilling Corporation
\$.10 par common

Compucorp
No par common

Computer Transceiver Systems
\$.01 par common

Conductron Corporation
\$.01 par common

Danker Laboratories, Inc.
\$.01 par common

Delta Queen Steamboat, The
\$.25 par common

General Automation, Inc.
\$.10 par common

Genetic Systems Corp.
Warrants, Class B (expire 06-05-85)

Geokinetics Inc.
\$.20 par common

Key Image Systems, Inc.
Class A, no par common

Koss Corporation
\$.01 par common

Land Resources Corporation
\$.10 par common

Lin Broadcasting Corporation
No par convertible subordinated debentures

Magic Circle Energy Corporation
\$.10 par common

Maui Land & Pineapple Company
No par common

Miller Technology & Communications
No par common

Minden Oil and Gas Inc.
\$.05 par common

National Computer Systems
9.25% convertible subordinated

debentures

Nautilus Fund
No par common

O.I. Corporation
\$.10 par common

Petroleum Development Corporation
\$.01 par common

S.S. Pierce Company, Inc.
\$.100 par common

Plasma-Therm, Inc.
\$.01 par common

Royal Business Group Inc.
\$.100 par common

Scientific Radio Systems
\$.01 par common

Southwest Leasing Corporation
\$.10 par common

Teeco Properties L.P.
Units of Limited Partnership interest

Unimet Corporation
\$.100 par common

Vail Associates, Inc.
No par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

Acme General Corporation
No par common

Aid Auto Stores, Inc.
\$.01 par common

Alaska Pacific Bancorporation
No par common

Armel, Inc.
\$.001 par common

Avalon Energy Corporation
\$.100 par common

Brokers Mortgage Service, Inc.
No par common

CBT Corporation
\$.10.00 par common

Carhart Photo, Inc.
Class A, \$.10 par common

Claire's Stores, Inc.
\$.05 par common

Clow Corporation
\$.625 par common

Colonial Bancorp, Inc.
\$.10.00 par common

Compucare, Inc.
\$.025 par common

Compushop Incorporated
\$.01 par common

Computer Synergy, Inc.
\$.001 par common

Elkonix Corporation
\$.05 par common

Ellman's Inc.
\$.100 par common

First Federal Savings & Loan Association of Winter Haven
\$.01 par common

Foxmeyer Corporation
\$.10 par common

Green Tree Acceptance, Inc.
\$.01 par common

Glendale Federal Savings and Loan Association

\$1.00 par common
 Grete Bay Casino Corporation
 Class A, \$.25 par common
 Healthamerica Corporation
 \$.01 par common
 Heritage Bancorporation
 No par common, \$2.50 stated value
 Hook Drugs, Inc.
 No par common
 Independence Health Plan, Inc.
 \$.01 par common
 Intertherm, Inc.
 \$1.00 par common
 MacGregor Sporting Goods, Inc.
 \$.10 par common
 National Shores, Inc.
 \$1.00 par common
 New Yorker Magazine, Inc., The
 \$.50 par common
 Optel Corporation
 \$.01 par common
 Pabst Brewing Company
 No par common
 Pay'n Save Corporation
 No par common
 Plasmine Corporation, The
 \$.10 par common
 Rockcor, Inc.
 No par common
 Sorg Printing Company, Inc.
 \$1.00 par common
 Sterns Manufacturing Company
 \$.01 par common
 Textone, Inc.
 \$.20 par common
 Trust Company of Georgia
 \$.50 par common
 Universal Development Corporation
 \$.01 par common
 Universal Telephone, Inc.
 \$1.00 par common
 Western Casualty and Surety Company
 \$1.25 par capital
 Wiener Enterprises, Inc.
 \$1.00 par common
 Wilson, H.J. Co., Inc.
 No par common
 10% convertible subordinated
 debentures

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), July 29, 1985.

William W. Wiles,
 Secretary of the Board.

[FR Doc. 85-18073 Filed 7-30-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Golden Sun Feeds, Inc., providing for the manufacture of 5-, 10-, and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Golden Sun Feeds, Inc., 111 South Fifth St., Estherville, IA 51334, is the sponsor of a supplement to NADA 97-567 submitted on its behalf by Elanco Products, Co. The supplement provides for the manufacture of new 5- and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). The use of the currently approved 10-gram-per-pound premix is revised to include additional uses in swine, and use in beef cattle and chickens. Golden Sun previously had also received approval for 0.8- and 40-gram-per-pound tylosin premixes. The conditions of use for these premixes are unchanged. The supplement is approved and the regulations are amended to reflect the approval.

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

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human

environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.625 is amended by revising paragraph (b)(17) to read as follows:

§ 558.625 Tylosin.

(b) * * *

(17) To 021780: 0.8 gram per pound, paragraph (f)(1)(vi)(a) of this section; 5, 10, 20, and 40 grams per pound, paragraph (f)(1)(i) through (vi) of this section.

Dated: July 23, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-18072 Filed 7-30-85; 8:45 am]

BILLING CODE 4180-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Emergency Stumpage Rate Redeterminations for National Forest Timber Sales in Alaska

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements section 4 of the Federal Timber Contract Payment Modification Act (98 Stat. 2213; 16 U.S.C. 619) which provides for emergency stumpage rate redeterminations of certain National Forest System timber sales in Alaska. The intended effect of this section of the Act and this rule is to enable purchasers of short-term timber sale contracts in Alaska to be more competitive with other purchasers of national forest timber in Alaska. This final rule adopts parts of the proposed rule, which was

published on February 5, 1985, at 50 FR 4992, and modifies and clarifies others as explained in the analysis of public comments which follows.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT:

David M. Spores, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, (202) 447-4051.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Federal Timber Contract Payment Modification Act provides that emergency stumpage rate redeterminations shall be made upon the written application of a purchaser of national forest timber in Alaska. The new Act establishes four prerequisites for the rate redeterminations. They are:

- (1) The purchaser must make written application for rate redetermination;
- (2) The contract has to have been bid after January 1, 1974;
- (3) The rates only apply to timber that has been or will be scaled between January 1, 1981, and October 15, 1989; and,
- (4) The contract must be held by a purchaser other than a holder of a 50-year timber sale contract in Alaska.

Public Comment on Proposed Rule

On February 5, 1985, the Forest Service published a proposed rule (50 FR 4992) which would implement section 4 of the Federal Timber Contract Payment Modification Act, which provides for emergency stumpage rate redeterminations of certain National Forest System timber sales in Alaska. On March 1, 1985, corrections of two minor typographical errors made in the printing of the proposed rule were published, (50 FR 8344). On March 7, 1985, the period of public comment was extended from March 7 to March 18, 1985, (50 FR 9302).

There were 13 responses to the proposed rule. Comments came from Members of Congress, timber producers, timber trade associations, a Forest Service official, a State official, and a mineral producer.

The major comments are explained below in the same order as the provisions were presented in the proposed rule.

Deadline for Application (paragraph a of proposed rule). It was suggested that there was no basis in the Act for requiring eligible purchasers to submit their applications within 90 days of publication of the final rule. It is agreed that this requirement is not spelled out in the Act, but was intended to have purchasers submit their applications so

that the emergency rate redeterminations can be completed in a timely manner. It is unlikely that the purchasers will delay their requests for relief. Accordingly, this requirement has been removed.

Eligible Contracts (paragraph b of proposed rule). A number of respondents objected to the rule applying to only those contracts open or existing on October 16, 1984, the date of enactment. Further review indicates the Act was intended to apply to closed sales as well as current sales. Many small sale purchasers for which the legislation was designed to assist have completed sales after January 1, 1981, which were closed prior to October 16, 1984. To prevent exclusion of these purchasers, the rule has been modified to make closed sales eligible for emergency rate redetermination.

There were also respondents who expressed the view that the Act did not exclude future sales from qualifying for emergency rate redeterminations under the Act. The language of the Act applies to "the holder of a contract", and authorizes the modification of "existing contract terms". This language covers purchasers that have held or currently hold contracts and clearly limits relief to existing or prior contract holders. If a bidder is able to request a rate redetermination as soon as the contract is awarded, no matter how high the bid, it would render the competitive bidding process meaningless. In order to provide purchasers of future short term contracts the same level of protection against market fluctuations as available to the purchasers of long-term sales timber contracts advertised after the effective date of this rule through October 15, 1989, will provide for emergency rate redeterminations under standard Forest Service procedures.

It was suggested that sales made under the authority of 36 CFR 223.12, commonly known as timber settlement sales, should be included as eligible contracts. In settlements the purchaser is required to purchase the timber as a condition of a special use permit. The government has the authority to grant permission to cut trees on National Forest System land without advertisement when necessary for the occupancy of a right-of-way or other authorized use of the land, and require payment for timber of merchantable size and quality at its appraised value. The intent of this section of the act is to make holders of certain contracts more competitive. The objective of timber settlement is to account for timber cut on National Forests in connection with the occupancy of land under permit or easement. Timber in a settlement is not

sold competitively. Competitive concerns are irrelevant since the primary objective of the settlement is to further another authorized use. Section 4 of the act applies to certain sales that were bid after January 1, 1974. Purchasers do not bid on timber settlements.

Based on the legal nature of timber settlements and the explicit statutory language in Section 4 that an eligible contract be bid, the final rule excludes timber settlement contracts from emergency rate redetermination eligibility.

Modification of Existing Contracts (paragraph c of the proposed rule). Two respondents asserted that the modification of existing contracts terms should also include the modification of required road standards, manipulation of cutting area boundaries, and the changing of various contractual requirements. These respondents assert that modifications of these existing contract provisions are important means of providing relief and making the sale holders competitive with other purchasers of national forest timber. Section 4(b) of the Act does provide for discretionary modification of existing contract terms; however, such modifications are limited to those relating to rates to be paid for timber. The Alaska Region has been reviewing conditions and terms of existing contracts due to the serious economic conditions affecting timber harvesting operations. Contracts are being modified, where feasible, to reduce operating costs while complying with applicable laws and plans.

Another respondent suggested that this paragraph be revised to make it clear that the rates established are intended to improve a purchaser's competitive position with other purchasers of national forest timber in Alaska. The direction of the Act to provide emergency rate redetermination for "the purchaser of national forest timber in Alaska", indicates the competitive position desired will be in relation to other Alaska purchasers of national forest timber. The common market and competitive structure of the Alaska industry supports the focus for the comparison to the Alaska area. Accordingly, the addition of the words "in Alaska" to the final rule is made to clarify the standard to which purchasers should be made competitive.

Effective Date of New Rates (paragraph d of proposed rule). Paragraph (d) of the proposed rule stated that redetermined stumpage rates would be effective for timber scaled from January 1, 1981, through October

15, 1989 (emphasis added). One respondent suggested that the provision be expanded to include tree measurement sales on which the volume is released for cutting but not scaled. This is an important clarification that recognizes that tree measurement sales are eligible for rate redetermination under this section and the final rule incorporates this suggestion.

The same respondent also recommended that the rule allow extension of the effective date for the redetermined rates, if, under existing contract provisions, the term of the contract is adjusted for the time lost during the normal operating season due to reasons beyond the purchasers control. Contract term adjustment for such uncontrollable lost time is a standard provision of timber sale contracts. When a purchaser receives a contract term adjustment, the timber removed and scaled during the extended period is paid for at the rates in effect during the period in which time was lost. The Act, however, establishes a specific time period for the application of rates established as a result of the emergency rate redetermination, which a contract term adjustment cannot alter. Therefore, additional time to harvest the timber may be granted by contract term adjustments, but the rates established as a result of the emergency rate redetermination shall be effective only for timber scaled or released for cutting on tree measurement sales between January 1, 1981, and October 15, 1989.

In addition to the changes made in response to public comment, whenever possible, the text of the proposed rule has been rewritten in active, rather than passive, voice to achieve greater clarity. Also, paragraphs (a) and (b) of the proposed rule have been reversed in the final rule to provide a more logical flow of the ideas and thus improve clarity of the rule.

The timber sales to be affected are ongoing operations, or in the case of closed sales, were ongoing operations. The emergency rate redeterminations will not alter existing on-the-ground conditions, but will enable purchasers of short-term timber sales in Alaska to receive stumpage rate reductions reflective of current depressed timber product markets. Timely implementation of this rule is necessary if purchasers are to be assisted this logging season. Further, pursuant to the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that making the effective date of this rule 30 days after publication in the Federal Register is contrary to the public interest; and

good cause is found for making this final rule effective upon publication.

The final procedures for emergency rate redeterminations for National Forest System timber sales in Alaska are to be codified in a new Section 223.183 of 36 CFR Part 223. Additional direction to guide Forest Service personnel in implementing these procedures will be issued through amendment to Chapter 2400—Timber Management of the Forest Service Manual.

Regulatory Impact

This action has been reviewed pursuant to Executive Order 12291; it has been determined that this final rule is not a major rule. It implements the requirements of the Federal Timber Contract Payment Modification Act which provides for emergency rate redeterminations for certain national forest timber sales in Alaska.

The discretion available to the Secretary is in selecting administrative procedures to implement the emergency rate redetermination authorized by the Federal Timber Contract Payment Modification Act. In and of itself, this rule will not have an annual effect on the economy of \$100 million or more and will not result in a major increase in costs for consumers, individual industries, federal, state, or local government agencies, or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, and the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Assistant Secretary of Agriculture for Natural Resources and Environment has determined that this final rule would not have significant economic impact on a substantial number of small entities. Implementing this section of the Act will strengthen some small businesses in Alaska because many of the sales eligible for emergency rate redeterminations are held by small business timber operators.

This final rule will not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969. Furthermore, the final rule will not result in additional procedures or paperwork not already required by law. Therefore, the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) are not applicable. The final rule to be implemented has substantial support in the agency record, viewed as a whole, and full attention has been given to the

comments of persons directly affected by the policy in particular.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting and recordkeeping requirements, Timber.

PART 223—[Amended]

For the reasons set forth above, Part 223 of Chapter II of Title 36 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 223 of Chapter II, Title 36 is revised to read as follows:

Authority: 16 U.S.C. 472a, 16 U.S.C. 619.

2. Add a new § 223.183 of a new Subpart E to read as follows:

Subpart E—Federal Timber Contract Payment Modification

§ 223.183 Emergency Rate Redeterminations in Alaska.

(a) *Eligible contracts.* Holders of 50-year timber sale contracts in Alaska are not eligible for emergency rate redeterminations under the provisions of this section. All other holders of closed and current timber sale contracts in Alaska bid between January 1, 1974, and July 31, 1985, excluding timber settlement contracts, are eligible for emergency rate redeterminations under this section.

(b) *Application.* Purchasers must make written application for emergency rate redeterminations to the Contracting Officer. The Contracting Officer will make emergency stumpage rate redetermination on eligible contracts. Existing contract provisions will apply except as they may be modified pursuant to paragraph (c) of this section.

(c) *Modification of existing contracts.* If necessary, to provide for rates that are competitive with other purchasers of national forest timber in Alaska, the Forest Service may modify existing payment terms of contracts eligible under paragraph (a), including reduction of bid premiums and the reduction of established base rates.

(d) *Effective date of new rates.* Rates established for stumpage as a result of emergency rate redeterminations on qualifying timber sale contracts shall be effective for timber scaled, or, in the case of tree measurement sales, timber released for cutting, from January 1, 1981, through October 15, 1989.

(e) *Refunds.* If the Contracting Officer determines that, as a result of an emergency rate redetermination, the credit balance of a timber sale account exceeds the charges for timber estimated to be cut in the next 60

calendar days, the Forest Service upon the purchaser's request, may refund the cash portion of such excess that is attributable to the redetermined contract rates.

(f) *Future Sales.* Timber sales in Alaska advertised after July 31, 1985 shall provide for an emergency rate redetermination in accordance with standard Forest Service timber sale contract procedures, except that completion of a scheduled rate redetermination shall not be required as a prerequisite for the emergency rate redetermination.

Dated: June 12, 1985.

Peter C. Myers,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 85-17786 Filed 7-30-85; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 41

Single Audit Act of 1984; Auditing Requirements

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration), in implementing the provisions of Pub. L. 98-502, the Single Audit Act of 1984, is amending its regulations to establish uniform requirements for audit of Federal financial assistance provided to State and local governments, and to promote the efficient and effective use of audit resources.

EFFECTIVE DATE: October 18, 1984.

FOR FURTHER INFORMATION CONTACT:

David A. Cole, Associate Deputy Administrator for Congressional and Intergovernmental Affairs (002), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389-2482.

SUPPLEMENTARY INFORMATION: This new Part 41 adopts the provisions of Pub. L. 98-502 in the Veterans Administration to establish uniform requirements for audit of Federal financial assistance provided to State and local governments, and to promote the efficient and effective use of audit resources. To effect the implementation of Pub. L. 98-502 in the Veterans Administration, OMB Circular A-128 has been adopted in its entirety in regulation format.

These new regulations conform the Veterans Administration to the requirements of Pub. L. 98-502. Since these regulations have no effect independent of the statute, the VA is not

seeking public participation in promulgating these regulations. This is done in accordance with 5 U.S.C. 553(b)(3)(B) and § 1.12 of title 38, Code of Federal Regulations. These new regulations implement a statutory change over which there are no discretionary interpretations. Because a proposed notice is not necessary and will not be published, these changes do not come within the definition of the term "rule" (5 U.S.C. 601(2)) under the Regulatory Flexibility Act and are not subject to the requirements of that Act. The regulations have been reviewed under Executive Order 12291, entitled "Federal Regulations," and not considered major as defined in the Executive Order. The regulations will not impact on the public or private sectors as a major rule. They will not have an annual effect on the economy of \$100 million or more, cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or have other 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.

The Catalog of Federal Domestic Assistance Program Numbers involved are 64.005, 64.014, 64.015, 64.016, 64.111, 64.117, 64.120 and 64.203.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 35) approval for the information collection requirements in this regulation will be obtained by OMB.

List of Subjects in 38 CFR Part 41

Audits, State programs, Veterans Administration.

These regulations are adopted under authority granted to the Administrator by section 210(c) of title 38, United States Code, and the enabling legislation.

Approved: June 13, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Title 38, Code of Federal Regulations is amended by adding a new Part 41—AUDITING REQUIREMENTS, to read as follows:

PART 41—AUDITING REQUIREMENTS

Sec.

41.1 Purpose.

41.2-41.4 [Reserved.]

41.5 Definitions.

41.6 Scope of audit.

41.7 Frequency of audit.

41.8 Internal control and compliance reviews.

41.9 Subrecipients.

41.10 Relation to other audit requirements.

41.11 Cognizant agency responsibilities.

41.12 Illegal acts or irregularities.

41.13 Audit reports.

41.14 Audit resolution.

41.15 Audit workpapers and reports.

41.16 Audit costs.

41.17 Sanctions.

41.18 Auditor selection.

41.19 Small and minority audit firms.

41.20 Reporting.

Authority: Pub. L. 98-502, 31 U.S.C. ch. 75; 38 U.S.C. 210(c).

§ 41.1 Purpose.

These regulations (38 CFR 41.1 through 41.20) are issued pursuant to the Single Audit Act of 1984, Pub. L. 98-502. The act establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements. The Single Audit act requires the following:

(a) State or local governments that receive \$100,000 or more a year in Federal financial assistance shall have an audit made in accordance with these regulations.

(b) State or local governments that receive between \$25,000 and \$100,000 a year shall have an audit made in accordance with these regulations, or in accordance with Federal laws and regulations governing the programs they participate in.

(c) State or local governments that receive less than \$25,000 a year shall be exempt from compliance with the Act and other Federal audit requirements. These State and local governments shall be governed by audit requirements prescribed by State or local law or regulation.

(d) Nothing in this section exempts State or local governments from maintaining records of Federal financial assistance or from providing access to such records to Federal agencies, as provided for in Federal law or in Circular A-102, "Uniform requirements for grants to State or local governments." (Pub. L. 98-502)

§§ 41.2-41.4 [Reserved]

§ 41.5 Definitions.

For the purposes of these regulations, the following definitions from the Single Audit Act apply:

(a) "Cognizant agency" means the Federal agency assigned by the OMB (Office of Management and Budget) to carry out the responsibilities described in § 41.11.

(b) "Federal financial assistance" means assistance provided by a Federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals. It includes awards received directly from Federal agencies, or indirectly through other units of State and local governments.

(c) "Federal agency" has the same meaning as the term "agency" in section 551(1) of Title 5, United States Code.

(d) "Generally accepted accounting principles" has the meaning specified in the generally accepted government auditing standards.

(e) "Generally accepted government auditing standards" means the *Standards For Audit of Government Organizations, Programs, Activities, and Functions*, developed by the Comptroller General, dated February 27, 1981.

(f) "Independent auditor" means:

(1) A State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or

(2) A public accountant who meets such independence standards.

(g) "Internal controls" means the plan of organization and methods and procedures adopted by management to ensure that:

(1) Resource use is consistent with laws, regulations, and policies;

(2) Resources are safeguarded against waste, loss, and misuse; and

(3) Reliable data are obtained, maintained, and fairly disclosed in reports.

(h) "Indian tribe" means any Indian tribe, band, nations, or other organized group or community, including any Alaskan Native village or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(i) "Local government" means any unit of local government within a State, including a county, a borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

(j) "Major Federal Assistance Program," for State and local governments having Federal assistance expenditures between \$100,000 and \$100,000,000, means any program for

which Federal expenditures during the applicable year exceed the larger of \$300,000, or 3 percent of such total expenditures. Where total expenditures of Federal assistance exceed \$100,000,000, the following criteria apply:

Total Expenditures of Federal Financial Assistance of all Programs		Major Federal Assistance Program Means Any Program That Exceeds
More Than	But Less Than	
\$100 million	1 billion	\$ 3 million
1 billion	2 billion	4 million
2 billion	3 billion	7 million
3 billion	4 billion	10 million
4 billion	5 billion	13 million
5 billion	6 billion	16 million
6 billion	7 billion	19 million
over 7 billion		20 million

(k) "Public accountants" means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

(l) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, and any multi-State, regional or interstate entity that has governmental functions and any Indian tribe.

(m) "Subrecipient" means any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through a State or local government, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a direct recipient of Federal financial assistance.

(Pub. L. 98-502)

§ 41.6 Scope of audit.

The Single Audit Act provides that:

(a) The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

(b) The audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year. However, if a State or local government receives \$25,000 or more in General Revenue Sharing Funds in a fiscal year, it shall have an audit of its entire operations. A series of audits of individual departments, agencies, and

establishments for the same fiscal year may be considered a single audit.

(c) Public hospitals and public colleges and universities may be excluded from State and local audits and the requirements of this Circular. However, if such entities are excluded, audits of these entities shall be made in accordance with statutory requirements and the provisions of Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations."

(d) The auditor shall determine whether:

(1) The financial statements of the government, department, agency or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) The organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

(3) The organization has complied with laws and regulations that may have material effect on its financial statements and on each major Federal assistance program.

(Pub. L. 98-502)

§ 41.7 Frequency of audit.

Audits shall be made annually unless the State or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, the cognizant agency shall permit biennial audits, covering both years, if the government so requests. It shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual, but only for fiscal years beginning before January 1, 1987.

(Pub. L. 98-502)

§ 41.8 Internal control and compliance reviews.

The Single Audit Act requires that the independent auditor determine and report on whether the organization has internal control systems to provide reasonable assurance that it is managing Federal assistance programs in compliance with applicable laws and regulations.

(a) *Internal control review.* In order to provide this assurance the auditor must make a study and evaluation of internal control systems used in administering Federal assistance programs. The study and evaluation must be made whether or not the auditor intends to place

reliance on such systems. As part of this review, the auditor shall:

(1) Test whether these internal control systems are functioning in accordance with prescribed procedures.

(2) Examine the recipient's systems for monitoring subrecipients and obtaining and acting on subrecipient audit reports.

(b) *Compliance review.* The law also requires the auditor to determine whether the organization has complied with laws and regulations that may have a material effect on each major Federal assistance program.

(1) In order to determine which major programs are to be tested for compliance, State and local governments shall identify in their accounts all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies and through other State and local governments.

(2) The review must include the selection and testing of a representative number of charges from each major Federal assistance program. The selection and testing of transactions shall be based on the auditor's professional judgment considering such factors as the amount of expenditures for the program and the individual awards; the newness of the program or changes in its conditions; prior experience with the program, particularly as revealed in audits and other evaluations (e.g., inspections, program reviews); the extent to which the program is carried out through subrecipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

(i) In making the test of transactions, the auditor shall determine whether:

(A) The amounts reported as expenditures were for allowable services, and

(B) The records show that those who received services or benefits were eligible to receive them.

(ii) In addition to transaction testing, the auditor shall determine whether:

(A) Matching requirements, levels of effort and earmarking limitations were met,

(B) Federal financial reports and claims for advances and reimbursements contain information that is supported by the books and

records from which the basic financial statements have been prepared, and

(C) Amounts claimed or used for matching were determined in accordance with OMB Circular A-87, "Cost principles for State and local governments," and Attachment F of Circular A-102, "Uniform requirements for grants to State and local governments."

(iii) The principal compliance requirements of the largest Federal aid programs may be ascertained by referring to the *Compliance Supplement for Single Audits of State and Local Governments*, issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

(3) Transactions related to other Federal assistance programs that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

(Pub. L. 98-502)

§ 41.9 Subrecipients.

State or local governments that receive Federal financial assistance and provide \$25,000 or more of it in a fiscal year to a subrecipient shall:

(a) Determine whether State or local subrecipients have met the audit requirements of these regulations and whether subrecipients covered by Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations," have met that requirement;

(b) Determine whether the subrecipient spent Federal assistance funds in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with these regulations, Circular A-110, or through other means (e.g., program reviews) if the subrecipient has not yet had such an audit;

(c) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of non-compliance with Federal laws and regulations;

(d) Consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

(e) Require each subrecipient to permit independent auditors to have access to the records and financial statements as necessary to comply with these regulations.

(Pub. L. 98-502)

§ 41.10 Relation to other audit requirements.

The Single Audit Act provides that an audit made in accordance with these regulations shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides Federal agencies with information and assurances they need to carry out their overall responsibilities, they shall rely upon and use such information. However, a Federal agency shall make any additional audits which are necessary to carry out its responsibilities under Federal law and regulation. Any additional Federal audit effort shall be planned and carried out in such a way as to avoid duplication.

(a) The provisions of these regulations do not limit the authority of Federal agencies to make, or contract for audits and evaluations of Federal financial assistance programs, nor do they limit the authority of any Federal agency Inspector General or other Federal audit official.

(b) The provisions of these regulations do not authorize any State or local government or subrecipient thereof to constrain Federal agencies, in any manner, from carrying out additional audits.

(c) A Federal agency that makes or contracts for audits in addition to the audits made by recipients pursuant to these regulations shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

(Pub. L. 98-502)

§ 41.11 Cognizant agency responsibilities.

The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of OMB Circular A-128:

(a) The Office of Management and Budget will assign cognizant agencies for States and their subdivisions and larger local governments and their subdivisions. Other Federal agencies may participate with an assigned cognizant agency, in order to fulfill the cognizance responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds whether directly or indirectly.

(b) A cognizant agency shall have the following responsibilities:

(1) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of these regulations.

(2) Provide technical advice and liaison to State and local governments and independent auditors.

(3) Obtain or make quality control reviews of selected audits made by non-Federal audit organizations, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. They should also inform State or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

(5) Advise the recipient of audits that have been found not to have met the requirements set forth in these regulations. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for followup action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(6) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits made pursuant to these regulations; so that the additional audits build upon such audits.

(7) Oversee the resolution of audit findings that affect the programs of more than one agency.

(Pub. L. 98-502)

§ 41.12 Illegal acts or irregularities.

If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (See also § 41.13(a)(3) for the auditor's reporting responsibilities.) The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

(Pub. L. 98-502)

§ 41.13 Audit Reports.

Audit reports must be prepared at the completion of the audit. Reports serve

many needs of State and local governments as well as meeting the requirements of the Single Audit Act.

(a) The audit report shall state that the audit was made in accordance with the provisions of these regulations. The report shall be made up of at least:

(1) The auditor's report on financial statements and on a schedule of Federal assistance; the financial statements; and a schedule of Federal assistance, showing the total expenditures for each Federal assistance program as identified in the *Catalog of Federal Domestic Assistance*. Federal programs or grants that have not been assigned a catalog number shall be identified under the caption "other Federal assistance."

(2) The auditor's report on the study and evaluation of internal control systems must identify the organization's significant internal accounting controls, and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of the evaluation.

(3) The auditor's report on compliance containing:

(i) A statement of positive assurance with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements;

(ii) Negative assurance on those items not tested;

(iii) A summary of all instances of noncompliance; and

(iv) An identification of total amounts questioned, if any, for each Federal assistance award, as a result of noncompliance.

(b) The three parts of the audit report may be bound into a single report, or presented at the same time as separate documents.

(c) All fraud, abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, should normally be covered in a separate written report submitted in accordance with § 41.13(f).

(d) In addition to the audit report, the recipient shall provide comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

(e) The reports shall be made available by the State or local

government for public inspection within 30 days after the completion of the audit.

(f) In accordance with generally accepted government audit standards, reports shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the recipient shall submit copies of the reports to each Federal department or agency that provided Federal assistance funds to the recipient. Subrecipients shall submit copies to recipients that provided them Federal assistance funds. The reports shall be sent within 30 days after the completion of the audit, but not later than one year after the end of the audit period unless a longer period is agreed to with the cognizant agency.

(g) Recipients of more than \$100,000 Federal funds shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports.

(h) Recipients shall keep audit reports on file for three years from their issuance.

(Pub. L. 98-502)

§ 41.14 Audit resolution.

As provided in § 41.11, the cognizant agency shall be responsible for monitoring the resolution of audit findings that affect the programs of more than one Federal agency. Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternate arrangement may be made on a case-by-case basis by agreement among the agencies concerned. Resolution shall be made within six months after receipt of the report by the Federal departments and agencies. Corrective action should proceed as rapidly as possible.

(Pub. L. 98-502)

§ 41.15 Audit workpapers and reports.

Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office, at the completion of the audit.

(Pub. L. 98-502)

§ 41.16 Audit costs.

The cost of audits made in accordance with the provisions of these regulations are allowable charges to Federal assistance programs.

(a) The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provision of Circular A-87, "Cost principles for State and local governments."

(b) Generally, the percentage of costs charged to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceeded, however, if appropriate documentation demonstrates higher actual cost.

(Pub. L. 98-502)

§ 41.17 Sanctions.

The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the Act that are not made in accordance with these regulations. In cases of continued inability or unwillingness to have a proper audit, Federal agencies must consider other appropriate sanctions including:

(a) Withholding a percentage of assistance payments until the audit is completed satisfactorily.

(b) Withholding or disallowing overhead costs, and

(c) Suspending the Federal assistance agreement until the audit is made.

(Pub. L. 98-502)

§ 41.18 Auditor selection.

In arranging for audit services State and local governments shall follow the procurement standards prescribed by Attachment O of Circular A-102, "Uniform requirements for grants to State and local governments." The standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by State statutes (e.g., audit services) these statutes will take precedence. (Pub. L. 98-502)

§ 41.19 Small and minority audit firms.

Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of these regulations. Recipients of Federal

assistance shall take the following steps to further this goal:

(a) Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.

(b) Make information on forthcoming opportunities available and arrange timeframes for the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

(c) Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

(d) Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

(e) Encourage contracting with consortiums of small audit firms as described in paragraph (a) of this section when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.

(f) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

(Pub. L. 98-502)

§ 41.20 Reporting.

Each Federal agency will report to the Director of OMB on or before March 1, 1987, and annually thereafter on the effectiveness of State and local governments in carrying out the provisions of these regulations. The report must identify each State or local government or Indian tribe that, in the opinion of the agency, is failing to comply with these regulations.

(Pub. L. 98-502)

[FR Doc. 85-18121 Filed 7-30-85; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[A-9-FRL-2858-3]

Approval and Promulgation of Implementation Plans; North Coast Air Basin Air Pollution Control Regulations, State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: This notice approves PSD rules for the three Districts which make up the North Coast Air Basin in California. The Districts in the North Coast Air Basin (NCAB) adopted Prevention of Significant Deterioration (PSD) regulations in late 1981 and early 1982. The regulations were submitted as a SIP revision on August 6, 1982, and EPA proposed approval on June 21, 1983. The Districts revised their rules in 1983 and 1984 in response to the problems cited in EPA's proposed rulemaking. In this notice, EPA is approving the revised rules because they remedy the concerns defined in the Notice of Proposed Rulemaking.

EFFECTIVE DATE: August 30, 1985.

Copies of the rules are available for public inspection during normal business hours at the EPA Region IX office at the address below and at the following locations:

EPA Library, Public Information Reference Unit, 401 "M" Street, SW., Washington, D.C. 20460

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

California State Air Resources Board, Technical Support Division, 1131 "S" Street, Sacramento, CA 95814

Mendocino County Air Pollution Control District, Courthouse, 890 North Bush, Ukiah, CA 95482

Northern Sonoma County Air Pollution Control District, 134 A North Street, Healdsburg, CA 95448

FOR FURTHER INFORMATION CONTACT: Mark C. Brucker, Air Management Division, Environmental Protection Agency, Region IX, (415) 974-7657, FTS 454-7657

SUPPLEMENTARY INFORMATION: This portion of the notice has five sections: Background, Supplementary Revisions (which discusses new submittals from the District), Public Comments, EPA Actions, and the Regulatory Process.

Background

The Clean Air Act stipulates that each State Implementation Plan (SIP) shall include a PSD program. The North Coast Districts revised their rules in 1981 and 1982 to follow EPA's PSD requirements. On June 21, 1983 (48 FR 28290), EPA proposed to approve the NCAB rules. The proposal was based on the assumption that the Districts would modify the rules to clarify certain points and to address the problems EPA identified. The Districts did so in 1983 and 1984.

The entire North Coast is designated either attainment or unclassified for all criteria pollutants. The Basin includes the North Coast Unified Air Quality Management District, which covers Humboldt, Del Norte and Trinity Counties, and the separate Districts in Mendocino County and Northern Sonoma County.

EPA's regulations for PSD programs are contained in 40 CFR 51.24, "Prevention of Significant Deterioration of Air Quality." EPA has been administering the PSD program in the NCAB under the federal PSD permitting regulation, 40 CFR 52.21.

In the Notice of Proposed Rulemaking, EPA identified several problems. Four of those problems were described in the notice and three others were identified. The problems are stated in this section of the notice and the actions taken to remedy them are described in the Supplementary Revisions section.

The minor concerns that were identified in the NPR were the source definition, stack heights, and the division of responsibility between the Districts and EPA.

The problems that were described in detail are as follows:

(1) There were several areas where the emission calculation procedures seemed to conflict with EPA requirements or were unclear. They did not clearly require limitations and emission reductions to be federally enforceable and there was uncertainty about how emission baselines are set.

(2) EPA regulations require notification of either EPA or federal officials responsible for Class I areas when sources may affect these areas. The Rules did not clearly address how Class I notification would be handled.

(3) The provisions for public notice were incomplete. EPA requires that more information be made available to the public than the Rules provided for and the Rules allow for a public hearing, if required.

(4) State law, not the local rules, allows permitting of cogeneration

sources which would violate air quality increments.

One additional issue arose after the 1983 notice. Two court decisions concerning stack heights led EPA to impose new restrictions on approval of PSD rules. In response to EPA's resulting policy the Districts have cooperated by revising their Rules to prohibit credit for stacks which exceed "good engineering practice" heights. EPA and the Districts have also agreed that EPA will retain PSD permitting authority for sources which are major under EPA's regulation and which would either have stacks

higher than 65 meters or which plan to use dispersion techniques. When EPA issues its final stack height regulations the Districts can adopt requirements to satisfy the regulations and EPA would then be able to drop its permitting of those sources.

Copies of EPA's detailed evaluation of the rules are available at EPA's Region IX office listed earlier in this notice.

Supplementary Revisions

These rules have been revised several times. The submittals that EPA is approving are as follows:

Submittal date	Rule	Title
Mendocino County		
Dec. 3, 1984	130 (b2, m1, p3, s7)	Definitions.
	Chapter II	Permits.
	220 (a)(2), (b)	New source review.
	(3,4,6,8,9)	Standards.
Apr. 19, 1984	130	Definitions.
	200	Permit requirements.
	220 (a)(1,8,3), (b)	New Source review.
	(1,2,5,7),(c)	
	260	Exclusions.
Aug. 6, 1982	130(b1,m1,p5,s2)	Definitions.
	210	Environmental assessment.
	230	Action on applications.
North Coast Unified		
July 10, 1984	130(b2,m1,p3,s7)	Definitions.
	200(c)(3-6)	Permit requirements.
	Chapter II	Permits.
	220 a,b	New source review.
Mar. 14, 1984	130	Definitions.
	130(b1,m2,n1,p5,s2)	Definitions.
	200 (a),(b),(c)(1-2),(d)	Permit requirements.
	220(c)	New source review.
	260	Exclusions.
Aug. 8, 1982	210	Environmental assessment.
(Del Norte, Humboldt and Trinity Counties)	230	Action on applications.
Northern Sonoma County		
June 21, 1985	220 (a)	New source review.
Oct. 19, 1984	130 (b2,m1,s7,p3a,p3)	Definitions.
	Chapter II	Permits.
	220(b)	New source review.
Aug. 6, 1982	130	Definitions.
	130(b1,n1,p5,s2)	Definitions.
	200	Permit requirements.
	210	Environmental assessment.
	220(c)	New source review.
	230	Action on applications.
	260	Exclusions.

With respect to the four major problems cited in the 1983 notice and described above, the following actions were taken:

(1) The Districts revised several parts of their rules to clarify emission calculation procedures and to ensure that they fully meet all of EPA's requirements.

(2) The Districts agreed to take responsibility for informing officials responsible for Class I areas of any projects that may affect those areas. They revised their rules accordingly.

(3) The APCD's expanded the public notice section of the rules to include all of the provisions that EPA requested.

(4) Districts agreed to have EPA retain permitting authority for those PSD

sources that would cause increment problems because of state law, since the Districts do not have any power to correct the problems by themselves. The Districts also pointed out that many sources which claim to be cogeneration sources do not in fact meet the definition provided by state law and are not exempted from any of the District's requirements.

Public Comments

EPA received two comment letters, one from North Coast Unified AQMD and one from Pacific Gas and Electric (PG&E). The District's letter and subsequent discussions clarified some aspects of cogeneration source permitting and have been reflected in

clarification of EPA's Evaluation Report. The PG&E letter addressed issues which primarily concern EPA's PSD regulations, rather than whether or not EPA should approve these rules.

EPA Actions

In this notice, EPA is taking two actions:

1. EPA is approving the North Coast rules under Section 110 of the Clean Air Act and Part C, Subpart 1, (PDS) and is incorporating them into the California State Implementation Plan (SIP).

2. EPA is rescinding 40 CFR 52.270, except for (a) major cogeneration sources and modification which would cause increment violations, (b) sources subject to stack height credit restrictions, (c) sources of Indian lands, and (d) sources for which EPA has issued PSD permits.

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 State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control agency, Incorporation by reference, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon, monoxide, Hydrocarbons, Intergovernmental relations.

Dated: May 14, 1985.

Lee M. Thomas,
Administrator.

PART 52—[AMENDED]

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

Subpart F—California

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.220 is amended by adding (c)(124)(vi)(B), (c)(vii)(B), (c)(viii)(B), (c)(ix)(B), and (c)(x)(B), (c)(153)(ii)(B), (c)(154)(i)(B), (c)(155)(v)(B), (c)(156)(vi), (c)(158)(i)(B), and (c)(162) as follows:

§ 52.220 Identification of plan.

- (c) * * *
- (124) * * *
- (vi) * * *
- (B) New or amended rules 210 and 230.
- (vii) * * *

(B) New or amended rules 210 and 230.
(viii) * * *
(B) New or amended rules 130 (b1, m1, p5, s2), 210, and 230.

(ix) * * *
(B) New or amended rules 130, 130 (b1, n1, p5, and 200, s2), 210, 220(c), and 260.

(x) * * *
(B) New or amended rules 210 and 230.

* * * * *
(153) * * *
(ii) * * *
(B) New or amended rules, 130, 130 (b1, m2, n1, p5, s2), 200 (a), (b), (c)(1-2), and (d), 220(c), and 260.

* * * * *
(154) * * *
(i) * * *
(B) New or amended rules, 130, 200, 220(a)(1&3), (b)(1, 2, 5, and 7), (c), and 260.

* * * * *
(155) * * *
(v) * * *
(B) New or amended rules 130 (b2, m1, p3, and s7), Chapter II, 200 (c)(3-6) and 220 (a) and (b).

* * * * *
(156) * * *
(vi) Northern Sonoma County APCD.
(A) New or amended rules 130 (b2, m1, p3, p3a, and s7), Chapter II, 220(B).

* * * * *
(158) * * *
(i) * * *
(B) New or amended rules 130 (b2, m1, p3, s7), Chapter II, 220 (a)(2) and (b)(3, 4, 6, 8 and 9).

* * * * *
(162) Revised regulations for the following APCD were submitted on June 21, 1985 by the Governor's designee.
(i) Northern Sonoma County APCD.
(A) Amended rule 220 (a).

* * * * *
3. Section 52.270 is amended by adding paragraphs (b)(2) through (b)(4) to read as follows:

§ 52.270 Significant deterioration of air quality.

(b) * * *
(2) The PSD rules for the North Coast Unified Air Quality Management District are approved under Part C, Subpart 1, of the Clean Air Act. However, EPA is retaining authority to apply § 52.21 in certain cases. The provisions of § 52.21 (b) through (w) are therefore incorporated and made a part of the state plan for California for the North Coast Unified Air Quality Management District for:

(i) Those cogeneration and resource recovery projects which are major

stationary sources or major modifications under § 52.21 and which would cause violations of PSD increments.

(ii) Those projects which are major stationary sources of major modifications under § 52.21 and which would either have stacks taller than 65 meters or would use "dispersion techniques" as defined in § 51.1.

(iii) Sources for which EPA has issued permits under § 52.21, including the following permits and any others for which applications are received by July 31, 1985:

(A) Arcata Lumber Co. (NC 78-01; November 8, 1979).

(B) Northcoast Paving (NC 79-03; July 5, 1979).

(C) PG&E Buhne Pt. (NC 77-05).

(3) The PSD rules for the Mendocino County Air Pollution Control District are approved under Part C, Subpart 1, of the Clean Air Act. However, EPA is retaining authority to apply § 52.21 in certain cases. The provisions of § 52.21 (b) through (w) are therefore incorporated and made a part of the state plan for California for the Mendocino County Air Pollution Control District for:

(i) Those cogeneration and resource recovery projects which are major stationary sources or major modifications under § 52.21 and which would cause violations of PSD increments.

(ii) Those projects which are major stationary sources or major modifications under § 52.21 and which would either have stacks taller than 65 meters or would use "dispersion techniques" as defined in § 51.1.

(iii) Any sources for which EPA has issued permits under § 52.21, including any permits for which applications are received by July 31, 1985.

(4) The PSD rules for the Northern Sonoma County Air Pollution Control District are approved under Part C, Subpart 1, of the Clean Air Act. However, EPA is retaining authority to apply § 52.21 in certain cases. The provisions of § 52.21 (b) through (w) are therefore incorporated and made a part of the state plan for California for the Northern Sonoma County Air Pollution Control District for:

(i) Those cogeneration and resource recovery projects which are major stationary sources or major modifications under § 52.21 and which would cause violations of PSD increments.

(ii) Those projects which are major stationary sources or major modifications under § 52.21 and which would either have stacks taller than 65

meters or would use "dispersion techniques" as defined in § 51.1.

(iii) Any sources for which EPA has issued permits under § 52.21, including any permits for which applications are received by July 31, 1985.

[FR Doc. 85-15922 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 412

Medicare Program; Court Ordered Regulations Regarding Prospective Payment Amounts and Administrative Review Will Not Become Effective

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice that regulations will not take effect; removal of regulations.

SUMMARY: Interim rules providing for certain adjustments to Medicare prospective payment rates and modifications to the provider appeal process were published on July 1, 1985 solely in response to an order of the United States District Court for the Northern District of California in *Redbud Hospital District v. Heckler*, No. C-84-4382 MHP dated June 14, 1985. That portion of the district court order requiring the Secretary to promulgate nationwide regulations was recently stayed by United States Supreme Court Justice Rehnquist, pending the determination of the Secretary's appeal of the case to the United States Court of Appeals for Ninth Circuit. *Heckler v. Redbud Hospital District*, No. A-32. (Rehnquist, Circuit Justice, July 24, 1985). This document is to notify the public that the interim final rules have, by operation of that decision, been automatically revoked. They will not become effective on August 1, 1985.

EFFECTIVE DATE: July 24, 1985.

FOR FURTHER INFORMATION CONTACT: Linda Magno, 301-594-9343.

SUPPLEMENTARY INFORMATION: The interim final rules published in the *Federal Register* on July 1, 1985, 50 FR 27208 (*Federal Register Document Number: 85-15816*), would have modified the process for determining the Medicare prospective payment rate for inpatient hospital services to take into account extraordinary and unusual costs incurred after the base year; the special needs of hospital serving disproportionate numbers of Medicare and low-income patients; and the special needs of sole community

hospitals. In addition, they would have modified the requirements for administrative review of the hospital-specific portion of a hospital's PPS rate.

In issuing those regulations, the Department indicated that it was doing so solely in response to the court order in *Redbud Hospital District v. Heckler*, No. C-84-4382 MHP, June 14, 1985. Since the Department did not agree with the court's conclusion that the regulations were required under the Medicare Act, it specified that the regulations would not become effective and would be automatically invalidated if the court's order was stayed, vacated or otherwise rendered ineffective.

On July 24, 1985, United States Supreme Court Justice Rehnquist, as Circuit Justice, stayed the order of the district court insofar as it required the Secretary to promulgate and apply nationwide regulations. *Heckler v. Redbud Hospital District*, No. A-32 (Rehnquist, Circuit Justice, July 24, 1985). As indicated in the July 1, 1985 publication, this stay automatically invalidated the interim rules issued on that date, and had the effect of revoking those regulations before their effective date. This document serves as notice to the public that the interim final rules, published on July 1, 1985, to be included at 42 CFR Part 412, Subpart H are, by their own terms, revoked and will not become effective on August 1, 1985.

List of Subjects in 42 CFR Part 412

Cancer hospitals, Christian Science sanatoria, Discharges and transfers, Inpatient hospital services, Medicare, Outlier cases, Prospective payment, Referral centers, Renal transplantation centers, Sole community hospitals.

PART 412—PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES

1. The authority citation for Part 412 reads as follows:

Authority: Secs. 1102, 1871, and 1886 of the Social Security Act as amended (42 U.S.C. 1302, 1395hh, and 1395ww).

Subpart H (§§ 412.200—412.204)—[Removed]

2. For the reasons set out in the preamble, 42 CFR Part 412, Subpart H (§§ 412.200 through 412.204) published July 1, 1985, is hereby removed.

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance Program)

Dated: July 29, 1985.

Carolyn K. Davis,
Administrator, Health Care Financing Administration.

[FR Doc. 85-18243 Filed 7-30-85; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Oversight of the Broadcast Rules in Regard to Temporary and Emergency Operation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends certain sections of Part 73 of the Commission's rules.

This action is taken by the Commission in its continuing effort to eliminate unnecessary requirements placed upon licensees of broadcast radio stations. Specifically, it eliminates the requirement, in certain circumstances, that permittees and licensees of AM radio stations must request a Special Temporary Authorization (STA) before undertaking certain modes of temporary operation. Instead, it institutes a procedure whereby various modes of temporary operation may be commenced automatically upon the permittee's or licensee's notification to the Commission that such operation is being undertaken in accordance with the revised rules. In addition, certain rules have been editorially restructured and cross-referenced to make their use easier for the public.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Gary R. Thayer, Mass Media Bureau, (202) 632-7010.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Order

In the Matter of Oversight of the Broadcast Rules in Regard to Temporary and Emergency Operations.

Adopted: July 11, 1985.

Released: July 18, 1985.

By the Chief, Mass Media Bureau.

1. This *Order* is part of our continuing effort to review and update our broadcast rules. In this *Order*, we are focusing on the rules pertaining to Special Temporary Authorizations.

(STA's) and emergency authorizations. We are, in some cases, eliminating the requirement that prior authority be obtained for certain categories of STA's. In other cases, we are adding clarifying language and cross-references to related or pertinent rules.

Directional Antenna System Tolerances

2. Section 73.62 of the Rules provides that an AM station utilizing a directional antenna may operate with the antenna base currents, monitor currents, and relative antenna phase currents at variance from the tolerances specified in this section for a maximum of 10 consecutive days, without authority from the FCC, during periods of inclement weather or severe climatic conditions. If normal operations are not resumed within the 10-day period, special temporary authority (STA) to operate with parameters at variance from these tolerances must be requested from the FCC. We are adding language to this rule to cross-reference such a request to § 73.1635 of the Rules—the rule which outlines the procedures for obtaining an STA. Moreover, we are also adding language to clearly state that in situations where the variance is not necessitated by inclement weather or severe climatic conditions, an STA must first be obtained in accordance with § 73.1635 of the Rules.

Antenna Testing During Daytime

3. Section 73.157 of the Rules allows the licensee of an AM station using a directional antenna during nighttime hours to request a special antenna test authorization to operate with the nighttime facilities during the daytime when taking monitoring point field strength measurements or when conducting an antenna proof of performance. Because it is often desirable to conduct a nondirectional proof of performance contemporaneously with a directional proof of performance, we believe the scope of this rule should be expanded to allow a station which uses directional facilities during daytime to also operate in a nondirectional mode during daytime hours in order to conduct a nondirectional proof of performance. The revised rule will specify that the operating power for such nondirectional operation shall be adjusted to the same power as was utilized for the most recent nondirectional proof of performance covering the licensed facilities.

In addition, we believe that no significant regulatory purpose is served by requiring a licensee to specifically request authority for such routine antenna measurements. Therefore, we

are eliminating the requirement that the licensee of an AM station seek specific authority to conduct either a directional or nondirectional proof of performance during daytime hours. Under the revised rule, such operation may be undertaken without further FCC authority, subject to the conditions and guidelines set forth in the revised rule.

Because we are eliminating the need for a special antenna test authorization in these circumstances, the rule is being retitled "Antenna Testing During Daytime".

Broadcasting Emergency Information

4. Section 73.1250 of the Rules provides for the broadcasting of emergency information during certain situations such as severe weather, widespread power failures, industrial explosions, civil disorders, school closings or activation of the Emergency Broadcast System. Stations may broadcast this information without further authority from the FCC so long as the particular requirements regarding such operation and follow-up reports to the FCC specified in this section are followed. We are adding a specific cross-reference to § 73.3542 of the Rules which pertains to emergencies not within the ambit of § 73.1250 for which prior emergency operation authority must be obtained.

Equipment Tests

5. Section 73.1610 of the Rules allows a permittee to conduct equipment test during the construction of new broadcast facilities upon notification to the FCC. Under the present rule, permittees of new FM and TV facilities may conduct such tests at any time during the day or night. Permittees of new AM facilities, however, must conduct such tests during the experimental period, midnight to local sunrise. If the AM permittee desires to conduct equipment tests during other periods (e.g., during daytime hours), specific authority must first be requested and obtained from the FCC. In practice, virtually all affected AM permittees request and are routinely granted authority to conduct equipment tests during daytime hours because of the difficulty in performing such tests during the experimental period when skywave interference is present.

Because such requests are freely granted and because equipment tests are routinely required of AM permittees, we believe that no significant regulatory purpose is served by requiring AM permittees to request specific authority to conduct such tests. Therefore, we are eliminating the requirement that the permittees of a new AM facility must

request authority to conduct equipment tests during daytime hours. Under the revised rule, the permittee of a new AM station may, after notifying the FCC in Washington, D.C., and without further authority, conduct required equipment tests during daytime hours provided, however, that the antenna system is first substantially tuned during the experimental period.

Operation During Modification of Facilities

6. Section 73.1615 of the Rules concerns the operation of a licensed station while it is undergoing modification of existing facilities. Under the present rule, licensees of all FM, TV and nondirectional AM stations holding a construction permit for modification of existing facilities may operate with temporary facilities, upon notification to the FCC, for 30 days without specific FCC authority. Only those licensees of AM stations holding a construction permit which involves directional facilities are presently excluded from taking advantage of this convenience and must request and obtain specific authority before using temporary facilities.

Upon careful examination, we have concluded that such an exclusion is, in most cases, no longer necessary and serves no regulatory purpose. Our concern in the past has been that the complexity of constructing and testing an AM directional array is such that an AM licensee might, inadvertently, undertake modes of operation which are inappropriate and could result in harmful interference to other stations. This concern was based on the fact that the present rules provide no guidance as to what modes of temporary operation are permissible. We believe that simply spelling out the permissible modes of operation in the rule itself will suffice to obviate this concern. Generally, these modes of operation include operating nondirectionally and/or with the authorized construction permit pattern(s) to continue service while the modified facilities are under construction or while taking required proof of performance measurements.

The scope of the revised rule, therefore, will be expanded to give most AM licensees holding a construction permit for directional facilities a similar degree of flexibility as is presently enjoyed by FM, TV and nondirectional AM licensees. In particular, the revised rule will allow the licensee of an AM station holding a construction permit which involves directional facilities and which does not involve a change in operating frequency to utilize the

temporary facilities and modes of operation specified in the revised rule, upon notification to the FCC in Washington, D.C., and without specific FCC authority, for a period of 30 days in order to continue service and to facilitate taking required proof of performance measurements. Any extension of this authority must be requested in writing. We are not extending the revised rule to cover the particular situation which involves a change in operating frequency because our experience has shown that the various modes and sequences of temporary operation often must be tailored to suit each specific situation. Therefore, AM licensees holding a construction permit which involves directional facilities and a change in operating frequency must, as under the present rule, continue to request and obtain a special temporary authority (STA) before using any temporary facilities or modes of operation.

Special Temporary Authorizations (STA)

7. Section 73.1635 of the Rules defines a Special Temporary Authority (STA) and provides cross-references to other rules which permit temporary operation without prior authorization. The procedures for obtaining an STA are specified in § 73.3542(a) of the Rules. We believe that the basic definitions and requirements pertaining to STA's should be consolidated in one rule. Accordingly, we are deleting paragraph (a) from § 73.3542 as revised herein, and are transferring it, in substance, to § 73.1635. We are also including additional cross-references to other relevant rules (e.g. § 73.62 Directional Antenna System Tolerances; § 73.157 Antenna Testing During Daytime; § 73.1250 Broadcasting Emergency Information; § 73.1560 Operating Power Tolerance; and § 73.1680 Emergency Antennas.)

Emergency Antennas

8. Section 73.1680 of the Rules addresses the use of emergency antennas in situations where the main and auxiliary antennas are damaged and cannot be used. In effect, this rule permits a licensee to use an emergency antenna to restore program service for 24 hours before a requesting authority from the FCC for any period beyond the initial 24 hours. In regard to AM Stations, subsection (b)(1) provides that an AM licensee may use a horizontal or vertical wire or a nondirectional element of a directional antenna as an emergency antenna. We feel that clarifying language is necessary to prevent the possible abuse of an

emergency nondirectional antenna. Accordingly, the revised rule will clearly state that the licensee must reduce operating power to 25% or less of the nominal licensed power, or, alternatively, a higher power, but not exceeding licensed power, while insuring that the radiated field strength does not exceed that authorized at any given azimuth or null in the licensed pattern. This latter provision should mitigate the potential for objectionable interference resulting from the use of such an emergency antenna. In any event, the licensee must request authority from the FCC to continue use of an emergency antenna beyond the initial 24 hour period specified in this section.

Application for Emergency Authorization

9. Section 73.3542 is currently titled "Application for temporary or emergency authorization." Paragraph (a) refers to the basic requirements for obtaining an STA. In essence, the provisions of paragraph (a) are being transferred to § 73.1635, Special Temporary Authorizations (STA), as revised herein. As a result we are deleting paragraph (a) from this section as unnecessary. Therefore, § 73.3542 is being limited to what is now contained in subsection (b) which sets forth informal application procedures for certain specific emergency conditions. Finally, the revised rule will make cross-references to § 73.1250, Broadcasting Emergency Information, for situations in which emergency operation may be conducted without prior authority, and § 73.1635, Special Temporary Authorization (STA), for temporary authorizations necessitated by circumstances not within the ambit of this section.

10. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

11. These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act. See 5 U.S.C. 553(b)(3)(B).

12. Since a general notice of proposed rule making is not required, the

Regulatory Flexibility Act does not apply.

13. Therefore, it is ordered, that pursuant to section 4(i), 5(c)(1) and 303(r) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Part 73 of the Rules is amended as set forth in the attached Appendix, effective on the date of publication in the Federal Register.

14. For further information on this Order, contact Gary Thayer (202) 632-7010.

Federal Communications Commission,
James C. McKinney,
Chief, Mass Media Bureau.

Appendix

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. 47 CFR 73.62 is revised in its entirety to read as follows:

§ 73.62 Directional antenna system tolerances.

(a) Each AM station operating a directional antenna must maintain the indicated relative amplitudes of the antenna base currents and antenna monitor currents within 5% of the values specified on the instrument of authorization, unless other tolerances are specified therein. Directional antenna relative phase currents must be maintained to within $\pm 3^\circ$ of the values specified on the instrument of authorization, unless other tolerances are specified therein.

(b) When periods of inclement weather or severe climatic conditions make it impossible to maintain the operating parameters within the tolerances specified in paragraph (a) of this section, a licensee may operate with parameters at variance from such tolerances for a period up to 10 consecutive days, providing the monitoring point values specified in the station authorization are maintained within authorized limits. If, at the end of this 10 day period, normal operation is not restored, the licensee must request from the FCC in Washington, D.C., special temporary authority (STA) to continue operation of the station at variance from the provisions of this section. Any request for such authority shall be made in accordance with § 73.1635 Special Temporary Authorizations (STA), except that the prior notice requirement of § 73.1635(a)(1) is waived. Instead, such a request shall be made immediately at

the end of the 10 day period of operation allowed by this paragraph.

(c) All other requests for authority to operate with parameters at variance not necessitated by inclement weather or severe climatic conditions must be made in accordance with § 73.1635.

3. 47 CFR 73.157 is revised in its entirety to read as follows:

§ 73.157 Antenna testing during daytime.

(a) The licensee of a station using a directional antenna during daytime or nighttime hours may, without further authority, operate during daytime hours with the licensed nighttime directional facilities or with a nondirectional antenna when conducting monitoring point field strength measurements or antenna proof of performance measurements.

(b) Operation pursuant to this section is subject to the following conditions:

(1) No harmful interference will be caused to any other station.

(2) The FCC may notify the licensee to modify or cease such operation to resolve interference complaints or when such action may appear to be in the public interest, convenience and necessity.

(3) Such operation shall be undertaken only for the purpose of taking monitoring point field strength measurements or antenna proof of performance measurements, and shall be restricted to the minimum time required to accomplish the measurements.

(4) Operating power in the nondirectional mode shall be adjusted to the same power as was utilized for the most recent nondirectional proof of performance covering the licensed facilities.

4. 47 CFR 73.1250 is amended by revising paragraph (a) to read as follows:

§ 73.1250 Broadcasting emergency information.

(a) Emergency situations in which the broadcasting of information is considered as furthering the safety of life and property include, but are not limited to the following: Tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gasses, widespread power failures, industrial explosions, civil disorders and school closing and changes in school bus schedules resulting from such conditions. See also § 73.3542, Application for Emergency Authorization, for requirements involving emergency situations not

covered by this section for which prior operating authority must be requested.

5. 47 CFR 73.1610 is amended by revising paragraphs (a) and (b) to read as follows:

§ 73.1610 Equipment tests.

(a) During the process of construction of a new broadcast station, the permittee, after notifying the FCC in Washington, D.C. may, without further authority from the FCC, conduct equipment tests for the purpose of making such adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit, the technical provisions of the application therefore, the rules and regulations and the applicable engineering standards. For AM stations, equipment tests, including either a directional or nondirectional proof of performance required by the construction permit, may be conducted during daytime hours provided that the antenna system is first substantially tuned during the experimental period. The nondirectional proof shall be conducted with power adjusted to 25% of that specified in the permit for the authorized directional facilities or, if applicable, to such higher power as is specified in the same permit for authorized nondirectional facilities. For licensed stations, see § 73.1615, Operation During Modification of Facilities; and § 73.157, Antenna Testing During Daytime.

(b) The FCC may notify the permittee not to conduct equipment tests or may modify, cancel, suspend, or change the modes of testing or the dates and times for such tests in order to resolve interference complaints or when such action may appear to be in the public interest, convenience, and necessity.

6. 47 CFR 73.1615 is revised in its entirety to read as follows:

§ 73.1615 Operation during modification of facilities.

When the licensee of an existing AM, FM or TV station is in the process of modifying existing facilities as authorized by a construction permit and determines it is necessary to either discontinue operation or to operate with temporary facilities to continue program service, the following procedures apply:

(a) Licensees holding a construction permit for modification of directional or nondirectional FM and TV or nondirectional AM station facilities may, without specific FCC authority, for a period not exceeding 30 days:

(1) Discontinue operation, or

(2) Operate with temporary facilities to maintain, as nearly as possible, but not exceed, the size of the presently licensed coverage area.

(b) Licensees of an AM station holding a construction permit which involves directional facilities and which does not involve a change in operating frequency may, without specific FCC authority, for a period not exceeding 30 days:

(1) Discontinue operation, or

(2) Operate with reduced power or with parameters at variance from licensed tolerances while maintaining monitoring point field strengths within licensed limits during the period subsequent to the commencement of modifications authorized by the construction permit, or

(3) Operate in a nondirectional mode during the presently licensed hours of directional operation with power reduced to 25% or less of the nominal licensed power, or whatever higher power, not exceeding licensed power, will insure that the radiated field strength specified by the license is not exceeded at any given azimuth for the corresponding hours of directional operation, or

(4) Operate in a nondirectional mode during daytime hours, if not already so licensed, only as necessary to conduct a required nondirectional proof of performance with a power not to exceed 25% of the maximum power authorized by the construction permit for directional operation, or

(5) Operate during daytime hours with either the daytime or nighttime directional pattern and with the power authorized by the construction permit only as necessary to take proof of performance measurements. Operating power shall be promptly reduced to presently licensed level during any significant period of time that these measurements are not being taken. No daytime operation of construction permit directional patterns authorized by this paragraph shall be conducted before such patterns have been substantially tuned during the experimental period.

(6) In the event the directional pattern authorized by the construction permit replaces a licensed directional pattern, the licensee may operate with the substantially adjusted construction permit pattern during the corresponding licensed hours of directional operation with power not exceeding that specified for the licensed pattern.

(c) Such operation or discontinuance of operation in accordance with the provisions of paragraph (a) or (b) of this

section may begin upon notification to the FCC in Washington, D.C.

(1) Should it be necessary to continue the procedures in either paragraph (a) or (b) of this section beyond 30 days, an informal letter request signed by the licensee or the licensee's representative must be sent to the FCC in Washington, D.C. prior to the 30th day.

(d) Licensees of an AM station holding a construction permit which authorizes both a change in frequency and directional facilities must request and obtain authority from the FCC in Washington, D.C. prior to using any new installation authorized by the permit, or using temporary facilities.

(1) The request is to be made at least 10 days prior to the date on which the temporary operation is to commence. The request is to be made by letter which shall describe the operating modes and facilities to be used. Such letter requests shall be signed by the licensee or the licensee's representative.

(2) Discontinuance of operation is permitted upon notification to the FCC in Washington, D.C. Should it be necessary to discontinue operation longer than 30 days, an informal letter request, signed by the licensee or the licensee's representatives, must be sent to the FCC in Washington, D.C. prior to the 30th day.

(e) The FCC may modify or cancel the temporary operation permitted under the provisions of paragraph (a), (b), (c) or (d) of this section without prior notice or right to hearing.

7. 47 CFR 73.1635 is revised in its entirety to read as follows:

§ 73.1635 Special temporary authorizations (STA).

(a) A special temporary authorization (STA) is the authority granted to a permittee or licensee to permit the operation of a broadcast facility for a limited period at a specified variance from the terms of the station authorization or requirements of the FCC rules applicable to the particular class of station.

(1) A request for a STA should be filed with FCC in Washington, D.C. at least 10 days prior to the date of the proposed operation.

(2) The request is to be made by letter and shall fully describe the proposed operation and the necessity for the requested STA. Such letter requests shall be signed by the licensee or the licensee's representative.

(3) A request for a STA necessitated by unforeseen equipment damage or failure may be made without regard to the procedural requirements of this section (e.g. via telegram or telephone). Any request made pursuant to this

paragraph shall be followed by a written confirmation request conforming to the requirements of paragraph (a)(2) of this section. Confirmation requests shall be submitted within 24 hours. (See also § 73.1680 Emergency Antennas).

(4) An STA may be granted for an initial period not to exceed 180 days. A limited number of extensions of such authorizations may be granted for additional periods not exceeding 180 days per extension. An STA necessitated by technical or equipment problems, however, may, in practice, be granted for an initial period not to exceed 90 days with a limited number of extensions not to exceed 90 days per extension. The permittee or licensee must demonstrate that any further extensions requested are necessary and that all steps to resume normal operation are being undertaken in an expeditious and timely fashion.

(5) Certain rules permit temporary operation at variance without prior authorization from the FCC when notification is filed as prescribed in the particular rules. See § 73.62, Directional Antenna System Tolerances; § 73.157, Antenna Testing During Daytime; § 73.1250, Broadcasting Emergency Information; § 73.1615, Operation During Modification of Facilities; and § 73.1680, Emergency Antennas.

(b) An STA may be modified or cancelled by the FCC without prior notice or right to hearing.

(c) No request by an AM station for temporary authority to extend its hours of operation beyond those authorized by its regular authorization will be accepted or granted by the FCC except in emergency situations conforming with the requirements of § 73.3542, Application for Emergency Authorization. See also § 73.1250, Broadcasting Emergency Information.

8. 47 CFR 73.1680 is amended by revising paragraph (b)(1) to read as follows:

§ 73.1680 Emergency antennas.

(b) * * *

(1) *AM stations.* AM stations may use a horizontal or vertical wire or a nondirectional vertical element of a directional antenna as an emergency antenna. AM stations using an emergency nondirectional antenna or a horizontal or vertical wire pursuant to this section, in lieu of authorized directional facilities, shall operate with power reduced to 25% or less of the nominal licensed power, or, a higher power, not exceeding licensed power, while insuring that the radiated field strength does not exceed that authorized in any given azimuth for the

corresponding hours of directional operation.

9. 47 CFR 73.3542 is revised to read as follows:

§ 73.3542 Application for emergency authorization.

(a) Authority may be granted, on a temporary basis, in extraordinary circumstances requiring emergency operation to serve the public interest. Such situations include: emergencies involving danger to life and property; a national emergency proclaimed by the President or the Congress of the U.S.A. and; the continuance of any war in which the United States is engaged, and where such action is necessary for the national defense or security or otherwise in furtherance of the war effort.

(1) An informal application may be used. The FCC may grant such construction permits, station licenses, modifications or renewals thereof, without the filing of a formal application.

(2) No authorization so granted shall continue to be effective beyond the period of the emergency or war requiring it.

(3) Each individual request submitted under the provisions of this paragraph shall contain, as a minimum requirement, the following information:

- (i) Name and address of applicant.
- (ii) Location of proposed installation or operation.
- (iii) Official call letters of any valid station authorization already held by applicant and the station location.
- (iv) Type of service desired (not required for renewal or modification unless class of station is to be modified).
- (v) Frequency assignment, authorized transmitter power(s), authorized class(es) of emission desired (not required for renewal; required for modification only to the extent such information may be involved).

(vi) Equipment to be used, specifying the manufacturer and type or model number (not required for renewal; required for modification only to the extent such information may be involved).

(vii) Statements to the extent necessary for the FCC to determine whether or not the granting of the desired authorization will be in accordance with the citizenship eligibility requirements of section 310 of the Communications Act.

(viii) Statement of facts which, in the opinion of the applicant, constitute an emergency to be found by the FCC for the purpose of this section. This

statement must also include the estimated duration of the emergency and if during an emergency or war declared by the President or Congress, why such action, without formal application, is necessary for the national defense or security or in furtherance of the war effort.

(b) Emergency operating authority issued under this section may be cancelled or modified by the FCC without prior notice or right to hearing. See also § 73.1250, Broadcasting Emergency Information, for situations in which emergency operation may be conducted without prior authorization, and § 73.1635, Special Temporary Authorization (STA), for temporary operating authorizations necessitated by circumstances not within the ambit of this section.

[FR Doc. 85-18063 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-5; FCC 85-370]

Filing of Network Affiliation and Transcription Contracts

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action eliminates § 73.3613 (a)(2) of the Commission's Rules. This section required that radio licensees file network affiliation contracts with the Commission. However, television licensees will continue to be required to file national network affiliation contracts with the Commission.

In taking this action, the Commission felt that with over 100 radio networks available, no one program source could have significant market power over any individual radio station. Therefore, continued filing of radio network affiliation agreements is unnecessary. The Commission chose to keep the filing requirement for television licensees who affiliate national networks. The Commission stated that closer scrutiny of national television network/affiliate relations is warranted given that there are only a few major national networks at this time.

This action reduces the amount of information radio licensees and certain television licensees have to submit as well as FCC work hours devoted to filing the data.

EFFECTIVE DATE: July 22, 1985.

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

FOR FURTHER INFORMATION CONTACT: Scott Roberts, Policy and Rules Division, Mass Media Bureau, (202) 632-8302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Filing of reports and contracts, Radio broadcasting.

Report and Orders (Proceeding Terminated)

In the matter of amendment of Part 73 of the Commission's rules concerning the filing of network affiliation and transcription contracts, MM Docket No. 85-5.

Adopted: July 12, 1985.

Released: July 22, 1985.

By the Commission: Commissioner Rivera concurring in part.

1. By this *Report and Order*, we are eliminating the requirement that radio stations and certain television stations file network affiliation and transcription contracts with the Commission. We are, however, retaining the filing requirement for television stations that are affiliated with national networks. In addition, we are terminating this proceeding.

Background

2. Section 73.3613(a) of the Commission's rules requires that each licensee or permittee of commercial or non-commercial AM, FM, TV or international broadcast station file all network affiliation contracts, agreements or understandings with the Commission.¹ In addition, any cancellation or change in the status of such contracts must be filed. Transcription contracts that specify an option time are also required to be submitted to the Commission.

3. On January 7, 1985, the Commission adopted a *Notice of Proposed Rule Making (Notice)* proposing to eliminate § 73.3613(a) of the rules.² In the *Notice*, the Commission stated that the costs and burdens of filing the affiliation contracts now appear to outweigh the benefits of having this information at hand. The Commission indicated that over 3800 licensees presently file copies of their contracts with the Commission each year and that this filing requirement places a paperwork burden of approximately 2500 workhours on the industry. The Commission noted that the contracts have become relatively

¹ The rules require the filing of all network affiliation contracts, agreements and understandings between TV broadcast or low power TV stations and a national, regional or other network. For commercial AM and FM stations, this information need be filed only where the network normally furnished programming to affiliated stations at least 5 days each week during 8 months or more of the year.

² 50 FR 2596 (Published January 17, 1985).

standard in nature and that it has not made significant use of this information in its recent deliberations. In this regard, the Commission stated that the public interest might be better served by conducting special *ad hoc* studies of network affiliation matters, as needed, rather than require the continued filing of this information. The *notice*, therefore, requested comment on the general proposal to eliminate the filing of this information.

4. Nevertheless, the Commission did recognize that there may be substantial benefits in having this information available for public inspection. The Commission sought comment on alternative approaches that would permit public scrutiny of this information. The Commission indicated that one such approach would be to require that the affiliation and transcription contracts be available at the broadcast station as part of the public inspection file.

5. Five comments and four reply comments were filed in response to the *Notice*.³

Discussion

6. Most commenters favor retention of the filing requirement in some form. The National Radio Broadcasters Association (NRBA) states that the contracts contain essential information as to rates and other matters relating to the activity in the marketplace. Without this information, broadcasters would be at a competitive disadvantage when facing networks in negotiations, according to NRBA. The ABC Affiliates Association (ABC Affiliates) and Westinghouse Broadcasting and Cable, Inc. (Group W) contend that the contract information enhances competition between the networks and affiliates and that this was the primary reason for allowing public inspection of the contracts in 1969.⁴ The ABC Affiliates further state that the existence and availability of accurate information is necessary in order for the market to function at its highest level of efficiency. ABC Affiliates directed their comments only to television affiliation contracts. They took no position on radio affiliation contracts but recognized that an analysis of the regulatory costs and

³ National Public Radio, National Radio Broadcasters Association, Storer Communications, Inc. and ABC Television Affiliates Association filed comments in this docket. ABC Television Affiliates Association, Media Access Project, Westinghouse Broadcasting and Cable, Inc. and Fisher Broadcasting, Inc. filed reply comments. WATH, Inc. filed late but their comments were accepted.

⁴ See *Report and Order*, Docket No. 14710 [34 FR 5947] May 1, 1969.

benefits of the rule as applied to radio could yield a different conclusion than for television. The Media Access Project (Media) favors retention of the filing requirement to insure that network practices do not adversely affect the ability of licensees to operate in the public interest. Media states that the cost of complying with this regulation is *de minimus* since it only requires the filing of copies of documents already in existence. Media also believes that the Commission should require that the affiliation contracts be required to be made part of the station's public file to permit local listeners and organizations to inspect this information.

7. Storer Communications, Inc. (Storer) claims that the continued filing of the affiliation contracts is not unduly burdensome on the Commission or its licensees. Storer states that the Commission is the only central source of this information and that the burden of this regulation is minimal compared to the costs that would be incurred to travel from city to city to inspect individual files. Fisher Broadcasting Inc. (Fisher), states that keeping the contract filing requirement is more cost effective than Commission *ad hoc* studies. Fisher did, however, support eliminating the requirement for filing transcription contracts.

8. WATH, Inc. (WATH) supports deletion of the filing requirement. WATH states that elimination of this requirement would cut costs for licensees and the Commission. With less "paperwork" requirements, WATH feels that they could put more time into service to their listening area. Further, WATH suggests that the public has no use for such documents and that the Commission has other means and resources that could provide more meaningful and accurate information.

9. After reviewing the record in this proceeding, we concur with the majority of the commenters that the information provided by the network affiliation and transcription contracts may be valuable to affiliates in their negotiations and that the public availability of this information may potentially serve to enhance competition. However, as we stated in the Notice, the Paperwork Reduction Act and the Regulatory Flexibility Act impose substantial responsibilities on the Commission to ensure that the benefits of continued governmental regulation outweigh the costs associated with such regulation.⁵

In this regard, we believe that the contract filing requirement for radio station licensees is no longer justified. There are presently over 3400 radio stations that are affiliated with one or more of the over 100 radio network organizations. Radio stations, therefore, have a significant number of program sources and choices in addition to local origination of programming. Given this fact, we find that it is unlikely that any one program source could exercise undue influence over any particular radio station. Accordingly, we believe that the requirement for filing network affiliation and transcription contracts by radio broadcast licensees is unnecessary.

10. With respect to television licensees, we believe that the requirement to file national network affiliation contracts should be retained at this time for stations affiliated with national networks. The number of national network organizations and program sources is still more limited for television than for radio. More importantly, the amount of national network programming carried by each individual television station is, in general, considerably more than that carried by a network affiliated radio station. Therefore, we believe that there can be significantly more dependence of the television station on the national network for programming and that closer scrutiny of national network/affiliate relationships is warranted at this time.⁶ Accordingly, we will retain the requirement that national network affiliation contracts be filed with the Commission.⁷

11. For non-national television networks, we believe that the situation more closely parallels that of radio and that the filing requirement can be eliminated. In general, regional and other non-national networks do not provide the same quantity of programming to individual television stations as is the case with stations associated with the national networks. Therefore, we conclude that the filing

requirement can be eliminated. Similarly, we see no need to retain the filing requirements for transcription contracts and contracts for the supplying of videotape recordings which specify an option time (§ 73.3613(a)(5) and (a)(6)) and will eliminate these provisions of our rules.

12. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

I. Need for and Purpose of the Rules

The Commission has decided to retain the requirement that television licensees file national network affiliation contracts with the Commission, but has eliminated this requirement for radio station licensees. The number of national network organizations and program outlets is more limited for television than for radio. Moreover, the amount of network programming carried by individual TV stations is greater than that carried by network affiliated radio stations. Therefore, the potential for any one network organization to exercise undue influence over an affiliate is greater for a television station than for a radio station. The Commission believes that continued scrutiny of the television national network/affiliate relationship is therefore warranted.

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

A. *Issues Raised.* No issues or concerns were raised specifically in response to the initial regulatory flexibility analysis. However, by retaining the filing requirement for television stations, approximately 600 network affiliates will continue to file copies of their national affiliation agreements with the Commission. Approximately 3400 radio stations affiliated with networks will no longer have to file their contracts with the Commission.

B. *Assessment.* None required.

C. *Changes made as a result of such comments.* None.

III. Significant Alternatives Considered and Rejected

The Commission considered requiring that licensees insert copies of their affiliation contracts in their public files in lieu of filing copies with the Commission. Since the Commission is retaining the requirement that television licensees file their national affiliation contracts with the Commission and that radio licensees will no longer have to

⁵ See *Review of Commission Rules and Regulatory Policies Concerning Network Broadcasting by AM and FM Broadcast Stations*, 63 FCC 2d 674, 680 (1977), where the Commission explained that its rules governing network-affiliate relations were based on its concern that a licensee has an affirmative duty to choose independently all programming for broadcast and, thus, the networks should not place unreasonable restraints on the licensee's ability to select programming.

⁷ For the purposes of this filing requirement, we will use the definition of a national network contained in § 73.658(j)(4). Under this definition, the term network means any person, entity, or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states.

⁶ 44 U.S.C. Section 3501 *et seq.* and 50 U.S.C. Section 601 *et seq.*

file at all, the Commission rejected that alternative.

13. Authority for amending the rules is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended.

14. Accordingly, it is ordered, that Part 73 of the Commission's Rules are amended as set forth in Appendix A, effective July 22, 1985.

15. It is further ordered, that the Secretary shall cause a copy of the Report and Order, including the regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*) (1980).

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

Federal Communications Commission,
William J. Tricarico,
Secretary.

Appendix A

PART 73—RADIO BROADCAST SERVICES

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended; 47 U.S.C. 154, 303. Interpret or apply Secs. 301, 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.

2. Section 73.3613, is amended by revising paragraph (a)(1), removing paragraphs (a)(2), (a)(5) and (a)(6); and marking them reserved to read as follows:

§ 73.3613 Filing of contracts.

(a) * * *

(1) All network affiliation contracts, agreements, or understandings between a TV broadcast or low power TV station and a national network. For the purposes of this paragraph the term network means any person, entity, or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states; and/or any person, entity, or corporation controlling, controlled by, or under common control with such person, entity, or corporation.

(2) [Reserved].

(5) [Reserved].
(6) [Reserved].

[FR Doc. 85-18047 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-46; RM-4891]

TV Broadcast Stations in Tuscumbia and Selma, AL and Fayetteville, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes UHF Channel 52 for 47 at Tuscumbia, Alabama, in response to a joint petition filed by Kadd Communications Corporation, permittee of Station WGEI(TV), Tuscumbia, and American Valley Broadcasting Company, licensee of Station WAFF(TV), Huntsville, Alabama, and modifies the permit of Station WGEI(TV) to reflect the change. Additionally, Channel *29 is substituted for vacant Channel *52 at Fayetteville, Tennessee, to accommodate the Tuscumbia substitution, and the permit of ACB, Inc. for Station WOTC(TV), Channel 29, Selma, Alabama, is modified to reflect a change in its carrier offset to accommodate the Fayetteville substitution.

EFFECTIVE DATE: August 26, 1985.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, 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 (Tuscumbia and Selma, Alabama; and Fayetteville, Tennessee). MM Docket No. 85-46; RM-4891.

Adopted: July 1, 1985.

Released: July 19, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making and Order to Show Cause*, 50 FR 9072, published March 6, 1985, issued in response to a joint petition filed by Kadd Communications Corporation ("Kadd"), permittee of UHF television Station WGEI (Channel 47), Tuscumbia, Alabama, and American Valley Broadcasting Company ("AVBC"), licensee of Station WAFF(TV) (Channel 48), Huntsville, Alabama, proposing the substitution of UHF television Channel 52 for Channel 47 at Tuscumbia, and modification of the WGEI(TV) construction permit to specify operation on the new channel. The proposal is intended to prevent mutual adjacent channel interference problems between the two stations. To effectuate the change requested, Channel *29 was proposed as a substitute for vacant Channel *52 at Fayetteville, Tennessee, with a site restriction 6.1 miles south of the community to avoid short-spacing to Station WKSO(TV) (Channel *29), Somerset, Kentucky. Further, ACB, Inc., permittee of Station WOTC(TV) (Channel 29), Selma, Alabama, was requested to show cause why its permit should not be modified to change its carrier offset from "minus" to "zero" to accommodate the Fayetteville proposal. Joint comments in support were filed by petitioners.

2. As the *Notice* herein indicated, even though Stations WGEI (TV) and WAFF(TV) meet our mileage separation requirements, petitioners contend that if WGEI begins operation on Channel 47 with even minimal facilities, considerable interference to mutual service areas of the two stations would result in the Huntsville-Decatur-Florence ADI market. Therefore, petitioners assert the requested substitution of Channel 52 at Tuscumbia and modification of the WGEI(TV) construction permit would prevent the potential market interference, and preserve WGEI's future ability to serve the populous areas of Decatur (population 42,002)¹ and the Huntsville-Florence market to the east. Concurrently, the proposal would permit WAFF to retain service to its off-the-air viewing audience in the western portion of the ADI, including Tuscumbia, as well as the surrounding counties of Colbert,

¹ Population figure was extracted from the 1980 U.S. Census.

Lauderdale and Franklin, containing approximately 61,000 television households.

3. Although ACB, Inc. did not respond to the *Order to Show Cause*, petitioners advise they have reached an agreement with it whereby it is willing to change the carrier offset of Station WOTC(TV), Selma, Alabama, provided it is reimbursed for the reasonable costs incurred in the change.

4. As indicated earlier, the Selma carrier offset substitution will permit the replacement of Channel *29 for vacant Channel *52 at Fayetteville, Tennessee, with a site restriction 6.1 miles south of the community to avoid short-spacing to Station WKSO(TV) (Channel *29), Somerset, Kentucky. The Fayetteville substitution will, in turn, allow Channel 52 to be substituted for Channel 47 at WGEI-TV's present transmitter site.

5. We believe the petitioners' proposal is in the public interest since it could prevent the mutual adjacent channel interference between WGEI(TV) and WAFF(TV) in their respective markets. Moreover, the proposal will retain off-the-air service to WAFF's viewers and will preserve WGEI's ability to improve its transmitting facilities, thus enabling it to serve the eastern portion of its market.

6. 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 26, 1985, the TV Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the communities listed below, as follows:

City	Channel No.
Selma, AL	8, 29
Tuscumbia, AL	52+
Fayetteville, TN	*29—

7. It is further ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, the permit of Kadd Communications Corporation for UHF television Station WGEI, Tuscumbia, Alabama, is modified effective August 26, 1985, to specify operation on Channel 52 in lieu of Channel 47, subject to the following conditions:

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

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

(c) Nothing contained herein shall be

construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

8. It is further ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, the permit of ACB, Inc. for UHF television Station WOTC(TV), Selma, Alabama, is modified effective August 26, 1985, to specify operation on Channel 29 with a zero offset, in lieu of its present operation on that channel with a minus offset, with the condition it will be reimbursed for the reasonable costs incurred in switching frequencies from the petitioners herein. Station WOTC(TV) may continue to operate on Channel 29 at Selma, Alabama, for one year from the effective date of this action, or until Station WGEI(TV) is ready to operate on Channel 52+, at Tuscumbia, Alabama, whichever is earlier, unless the Commission sooner directs. Additionally, Station WOTC(TV) shall comply with the following conditions:

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

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

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

9. It is further ordered, that the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to Kadd Communications Corporation, P.O. Box 585, Tuscumbia, Alabama, 35674, and to its attorney, Howard Weiss, Esq. of Mullin, Rhyne, Emmons and Topel, P.C., 1000 Connecticut Avenue, NW., Suite 500, Washington, D.C. 20036; and to ACB, Inc., 1004 Crystal Court, Lexington, Kentucky 40515.

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

11. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-18060 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 83

[PR Docket No. 85-8, RM-4779; FCC 85-353]

Ship Radar Reliability Tests

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document deletes the requirement for manufacturers of radar for large oceangoing ships to perform reliability tests. This action was requested by the Sperry Corporation. The intended effect is to remove an unnecessary and burdensome requirement from the rules.

EFFECTIVE DATE: August 23, 1985.

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

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, Washington, D.C. 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 83

Radar, Vessels, Communications equipment, Marine safety, Radio.

Report and Order (proceeding terminated)

In the matter of amendment of Part 83 of the rules to remove the requirement for reliability tests of ship radar, PR Docket No. 85-8, RM-4779.

Adopted: July 9, 1985.

Released: July 17, 1985.

By the Commission.

1. In this Report and Order we are amending the rules to eliminate the requirement for manufacturers of shipboard radar to perform reliability tests.

Background

2. In Gen. Docket No. 80-108¹ the Commission adopted the specifications for ship radar stations contained in the Final Report of Special Committee 65 (Ship Radar) of the Radio Technical Commission for Maritime Services (RTCM).² Among the specifications were requirements for extensive reliability tests by manufacturers of radar used on large oceangoing ships.

3. Sperry Corporation (Sperry), a manufacturer and distributor of marine radar equipment, filed a petition for

¹ Report and Order, FCC 8197, released March 23, 1981, 46 FR 18984.

² RTCM was then a Federal Advisory Committee. It has since reorganized and become a private maritime industry association. The Sperry Corporation was represented on the RTCM Special Committee 65.

rulemaking to permit manufacturers to certify the reliability of shipboard radar equipment in lieu of performing the extensive and expensive reliability tests specified by the rules. Typically these tests require multiple sets of radar equipment to be operated in temperature controlled chambers for two to three months with performance tests conducted twice each day. Sperry argued that this has become unnecessary and burdensome. Sperry stated that reliability is built into such radar systems during the design stage, assessed in prototypes, and tested under actual operating conditions. Competition among manufacturers of marine radar is sufficient incentive to assure the quality according to Sperry. Further, Sperry noted that no other marine electronic or navigational equipment is subject to such reliability testing.

4. Radar Devices, Inc. (RDI) filed comments supporting Sperry's petition. RTCM referred the issue to its Special Committee 103 (SC-103) which is charged with studying radar matters. SC-103 also recommended eliminating the requirement for reliability tests. The RTCM Board of Directors in concurring with SC-103 commented that in the six years since RTCM originally recommended reliability testing, experience demonstrated the purposes of the tests can be accomplished just as effectively by marketplace competition among manufacturers.

5. In response to the petition and supporting comments we proposed to eliminate the reliability tests for compulsory marine radar.³ Amoco Transport Company (Amoco) and the Radio Officers Union, District 3 of the National Marine Engineers' Beneficial Association (ROU) filed comments opposing the proposal. The Sperry Corporation (Sperry) filed comments and reply comments supporting the proposed rule amendment.

6. Both Amoco and ROU argue that radar reliability tests are necessary and should be retained. They believe that marketplace forces cannot be relied on regarding safety related equipment, and to do so would abrogate the Commission's responsibility to promote the safety of life and property through the use of radar. They view the requirement for redundant radar systems on large oceangoing ships as evidence of the importance of radar and the need for reliability. Although the ROU agrees that solid state and digital techniques have made radar more reliable, it argues that radar units have

also become more complex and thus not so reliable as to justify deleting tests. ROU submits that radar is not treated substantially differently than other compulsory radio equipment. It points out that radar may be required to be repaired before a ship is permitted to leave certain ports and a ship with inoperable radar may be required to wait for assistance or good weather conditions before entering a port. Amoco and ROU are concerned that the adoption of the proposed amendment would lower the present standards for marine radar equipment to the detriment of ship operators and crew.

7. Sperry agrees that radar is an important aid for the safe navigation of ships. However, Sperry argues that the reliability tests are burdensome, costly, and long ago overtaken by events. It states that improvements in the reliability of electronic components and competition in the marine radar market rather than the mandated reliability tests are responsible for quality radar products. Sperry maintains that the competition is too great for any manufacturer to allow its product to deteriorate. Further, Sperry believes that the concerns expressed by Amoco and ROU are groundless. It emphasizes that all is proposed in the NPRM is the elimination of reliability tests. The radar installation requirements, specifications and performance standards set forth in the rules would continue in effect. Since reliability testing is not required for other marine compulsory radio equipment its elimination would not constitute any abdication of the Commission's responsibility to foster the safety of life and property. Sperry urges that the rule be removed as proposed.

8. We conclude that the reliability tests currently specified for compulsory marine radar are unnecessary. We agree with Amoco and ROU that radar is an important aid to navigation similar to other compulsory equipment. However, the elimination of the requirement for radar reliability testing contained in § 83.465(b)(4) will in fact be consistent with the rules applicable to other compulsory equipment. No other compulsory marine radio equipment is subject to reliability testing requirements.⁴ Further, as Sperry points

out, the installation requirements, specifications and performance standards currently contained in the rules remain unchanged. Only an outdated and burdensome test procedure is being removed.

9. In the NPRM we specifically asked for comments on whether a statement from the manufacturer that the equipment has been built to perform reliably should be required in lieu of the subject tests. No requirement for a statement from manufacturers was included in the proposed rules. The ROU reiterated its position that the existing rule should be retained and that such a statement should not be acceptable. Sperry stated that a statement is not necessary and supported the proposed amendment. We believe that no regulatory purpose would be served by requiring such a statement. Accordingly, we are amending the rules to remove § 83.465(b)(4) as proposed.

10. Pursuant to section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), we certify that this rule will not have a significant impact on a substantial number of small entities. This rule will relieve a burden for manufacturers of radar used on large vessels. Elimination of reliability tests will be more convenient and may slightly reduce equipment costs, and no substantial economic impact on any entity expected.

11. The proposals continued herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; they will not increase or decrease burden hours imposed on the public.

12. Accordingly, it is ordered, That under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), the Commission's rules are amended as set forth in the attached Appendix, effective August 23, 1985.

13. It Is Further Ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

14. It Is Further Ordered, That this proceeding is terminated.

15. Regarding questions on this matter contact Nicholas G. Bagnato, 202/632-7175.

Federal Communications Commission.
William J. Tricarico,
Secretary.

³ Notice of Proposed Rule Making, PR Docket 85-4, FCC 85-6, released January 8, 1985, 50 FR 3576.

⁴ In its comments ROU cites § 83.554, regarding radiotelegraph auto alarms as an example of equipment requiring extensive testing analogous to that required for radar. However, the extensive test procedures contained in § 83.554 were eliminated in the Report and Order in PR Docket No. 84-29, released November 29, 1984, FR 48187.

Appendix

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 83 continues to read as follows:
 Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303 unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

§ 83.465 [Amended]

2. Section 83.465 is amended by removing paragraph (b)(4).

[FR Doc. 85-18049 Filed 7-30-85; 6:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 661**

[Docket No. 50458-5048]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the commercial salmon fishery for all salmon species in the fishery conservation zone (FCZ) between Cape Falcon, Oregon, and Cape Blanco, Oregon, at midnight, July 26, 1985, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Oregon Department of Fish and Wildlife (ODFW) that the commercial fishery harvest quota of 45,000 coho salmon for

the area south of Cape Falcon will be reached by midnight, July 26. The intended effect is to ensure conservation of coho salmon.

EFFECTIVE DATE: Closure of the FCZ between Cape Falcon, Oregon, and Cape Blanco, Oregon, to commercial fishing for all species of salmon is effective at 2400 hours Pacific Daylight Time (PDT), July 26, 1985. At 0001 hours PDT, July 27, 1985, the FCZ between Cape Falcon and Cape Blanco is open to commercial fishing for all salmon species except coho.

ADDRESSES: Information relevant to this notice has been compiled in aggregate form and is available for public review at the Northwest Region, NMFS, 7600 Sand Point Way N.E., Building 1, Seattle, Washington, from 8:00 a.m. to 4:30 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Director, Northwest Region, NMFS), 206-526-6150.

SUPPLEMENTARY INFORMATION: The regulations implementing the framework amendment to the ocean salmon management plan (49 FR 43679, October 31, 1984) specify at § 661.21(a)(1) that: "When a quota for the commercial or the recreational fishery, or both, for any salmon species during any period open to fishing in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the *Federal Register*, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Under the provisions of the framework amendment, the 1985 management measures were published on May 2, 1985 (50 FR 18672). The commercial season for the non-Indian commercial fishery for all salmon species in the FCZ between Cape Falcon, Oregon, and Cape Blanco, Oregon, was established as July 1, 1985, until the quota of 45,000 coho are landed from the area south of Cape Falcon, followed immediately by a season for all

species except coho through October 31, 1985. Based on the most recent catch and effort information supplied by ODFW, the commercial fishery catch in the area south of Cape Falcon is projected to reach the 45,000 coho salmon quota by midnight, July 26, 1985. The Secretary therefore issues this notice to close the commercial fishery to further harvest of coho salmon in the FCZ between Cape Falcon, Oregon, and Cape Blanco, Oregon, effective midnight, July 26, 1985. Immediately following this closure, the commercial salmon fishery in the FCZ between Cape Falcon and Cape Blanco will reopen for all species except coho.

The Regional Director consulted with the Director of ODFW regarding this closure. The Director of ODFW has confirmed that Oregon will close the commercial fishery to the further harvest of coho salmon in State waters adjacent to this area of the FCZ effective midnight, July 26, 1985. Further landings of coho salmon will be prohibited after a grace period of 24 hours [midnight, Saturday, July 27].

This notice does not apply to the regularly-scheduled commercial fishery for all salmon species in the FCZ between Point Delgada, California, and the U.S.-Mexico border because this area is not affected by the attainment of the coho quota for the area south of Cape Falcon.

Other Matters

This action is taken under the authority of §§ 661.21 and 661.23 and is in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Dated: July 26, 1985.

Joseph W. Angelovic, *

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 85-18133 Filed 7-26-85; 3:56 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 50, No. 147

Wednesday, July 31, 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

Federal Grain Inspection Service

7 CFR Part 801

Official Performance and Procedural Requirements for Grain Weighing and Inspection Equipment and Related Grain Handling Systems

Correction

In FR Doc. 85-17296, beginning on page 29689, in the issue of Monday, July 22, 1985, make the following correction:

On page 29691, second column, in the table in § 801.3, in the "Tolerance" column, third line, "±17" should read "±7".

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0545]

Truth in Lending; Variable Rate Disclosure; Extension of Comment Period

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; extension of comment period.

SUMMARY: By notice published on May 15, 1985 (50 FR 20221), the Board of Governors requested comment on a proposed amendment to Regulation Z (Truth in Lending) to provide more information to consumers about the variable rate feature of adjustable rate mortgages than is currently required. The proposal would also eliminate a provision of Regulation Z that currently permits creditors to substitute the disclosures required by other federal regulations for the variable rate disclosures required by Regulation Z. Comment was requested on the proposal by July 12, 1985. In order to provide

interested parties additional time in which to present their views, the Board is extending the comment period.

DATE: The comment period has been extended through August 30, 1985.

FOR FURTHER INFORMATION CONTACT: Ellen Maland, Section Chief, or Susan M. Wethan, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202)452-3867; or Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) at (202)452-3244.

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in lending.

By order of the Board of Governors, acting through its Secretary under delegated authority, July 25, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-17879 Filed 7-30-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-262-84]

Returns Relating to Cash Payments in Excess of \$10,000 Received in a Trade or Business; 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 the requirement of reporting cash in excess of \$10,000 received in a trade or business.

DATES: The public hearing will be held on Thursday, September 19, 1985, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Thursday, September 5, 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 of oral comments should be submitted to the Commissioner of Internal Revenue, ATTN: CC:LR:T (LR-262-84), 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 or telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6050I of the Internal Revenue Code of 1954. The proposed regulations appeared in the *Federal Register* for Thursday, May 23, 1985 (50 FR 21308).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR 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 Thursday, September 5, 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. 85-18129 Filed 7-30-85; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modification to the Iowa Permanent 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 requesting a public hearing on the substantive adequacy of program amendments submitted by Iowa to remove a condition of the Secretary of the Interior's approval of the State's permanent regulatory program (hereinafter referred to as the Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments consist of proposed changes to the Iowa regulations revising the procedures for the assessment of penalties under the laws regulating coal mining. This notice sets forth the times and locations that the Iowa program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing.

DATES: Written comments not received by 4:30 p.m., August 30, 1985, will not necessarily be considered in the decision on whether the proposed amendments should be approved and incorporated into the Iowa program.

A public hearing on the proposed amendments has been scheduled for August 28, 1985. Any person interested in speaking at the hearing should contact Mr. Richard Rieke at the address or telephone number listed below by August 15, 1985. If no person has contacted Mr. Rieke by that date to express an interest in the hearing, the hearing will not be held. If only one person requests the opportunity to speak at the public hearing, 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 is scheduled for 1:00 p.m. at the Kansas City Field Office, Professional Building, Room 502, 1103 Grand Avenue, Kansas City, Missouri 64106.

Written comments and requests for a hearing should be directed to Mr. Richard Rieke, Director, Kansas City Field Office, Professional Building, Room 502, 1103 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374-5527.

Copies of the Iowa program, the proposed modifications to the program, a listing of any scheduled public meetings, 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 amendments by contacting the Kansas City Field Office, Office of Surface Mining, Administrative Record, Room 5124, 1100 "L" Street, NW., Washington, D.C. 20240. Iowa Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Building, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Director, Kansas City Field Office, Office of Surface Mining, Professional Building, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106; Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION:**I. Background**

The Iowa program was conditionally approved by the Secretary of the Interior on January 21, 1981. The approval was made effective April 10, 1981. Information pertinent to the general background, revisions, modifications, and amendments to the Iowa program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981 *Federal Register* (46 FR 5885).

The proposed amendments are submitted by Iowa to remove a condition placed on the Iowa program approval on November 8, 1983 (see November 8, 1983 *Federal Register*, 48 FR 51457). The condition of approval was placed on Iowa's program because it did not include a prepayment requirement comparable to that contained in section 518(c) of SMCRA and 30 CFR 845.19. The proposed amendment to section 83.15, subsection 4, Code 1985, establishes a prepayment requirement. In the November 5, 1984 *Federal Register* (49 CFR 44206) the Director of OSM extended the deadline

for Iowa to meet the condition of its program to June 30, 1985. By letter dated June 28, 1985, Iowa submitted proposed amendments to remove the condition.

II. Submission of Revisions

By letter dated June 28, 1985, Iowa submitted proposed program amendments consisting of:

1. An amendment to Iowa Code section 83.10 which the Iowa Department of Soil Conservation (the department) to expend the funds it collects in bond forfeitures and the interest these funds accrue to conduct reclamation activities on any areas disturbed by coal mining not subject to a presently valid permit to conduct surface mining.

2. A new subsection has been added to section 83.14, Code 1985. This subsection states that when the director has reasonable cause to believe that the operator is unable to complete all or a portion of his required reclamation, the director shall issue a show cause order as to why all or a portion of the performance bond should not be forfeited.

3. An amendment to the Iowa program, section 83.14, subsection 4, which sets forth the appeal procedures for committee decisions made in bond forfeiture show cause hearings.

4. An amendment to section 83.14, subsection 8, Code 1985, which states that injunction relief may be requested to enforce a cessation order.

5. Amendments to section 83.15, subsections 1, 2, 3, 4, and 5, Code 1985. Subsection 1 establishes a civil penalty not to exceed \$5,000 per day for each day of violation. If a cessation order is issued, the amount of the penalty shall take into consideration the operator's history of previous violations, the seriousness of the violation, whether the operator was negligent, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of the violation. Operators who fail to correct violations within the period allowed for correction shall pay a civil penalty of \$750 for each day the violations continue. Subsection 2 allows the assessing of penalties in accordance with a schedule established by rule. It sets forth procedures for reassessing a penalty and provides that a violation that results in a cessation order shall be assessed a penalty. Subsection 3 provides for a contested case hearing if requested by the person to whom a penalty was issued. Subsection 4 provides that a judicial review will not be permitted unless the petitioner has posted a bond equal to the amount of

the assessed penalty in the district court or has placed the proposed penalty amount in an interest bearing escrow fund approved by the department. Subsection 5 provides that the attorney general, at the department's request, shall institute a civil action for injunctive relief. An appeal bond shall be required for an appeal of judgement assessing a civil penalty.

The full text of the proposed amendments is available for review at the addresses listed above. Upon request to OSM's Field Office Director, each person may receive, free of charge, one single copy of the proposed program amendments. The Director now seeks public comment on whether the proposed amendments are consistent with the Federal provisions. If approved, the amendments will become part of the Iowa program.

VI. Procedural Requirements

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

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM and 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 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 915

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

Dated: July 23, 1985.

Jed Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85-18144 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 925

Public Comment and Opportunity for Public Hearing on Modification to the Missouri Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the adequacy of proposed amendments to the Missouri permanent regulatory program which was approved by the Secretary of the Interior pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments submitted by Missouri include modifications to the State regulations on revegetation requirements, regulatory program inspection and enforcement, and penalty assessment, including informal assessment conferences. In addition, Missouri has submitted proposed rules for training, examination and certification of blasters.

DATE: Written comments not received on or before 4:00 p.m. August 30, 1985 will not necessarily be considered.

A public hearing on the proposal will be held, if requested on August 28, 1985 at the address listed below under "ADDRESSES". Any person interested in making oral or written presentation at the hearing should contact Mr. Richard Rieke at the address listed below by August 20, 1985. If no person has contacted Mr. Rieke by this date to express an interest in the hearing, the hearing will not be held. If only one person has so contacted Mr. Rieke, a public meeting rather than a public hearing may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing will be held at the Federal Building, 601 E. 12th, Kansas City, Missouri.

Written comments should be mailed or hand-delivered to Mr. Richard Rieke, Office of Surface Mining, Kansas City Field Office, 1103 Grand Avenue, Professional Building, Room 502, Kansas City, Missouri 64106.

See "SUPPLEMENTARY INFORMATION" for address where copies of the Missouri

program amendment and administrative record on the Missouri program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Kansas City Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Office of Surface Mining Kansas City Field Office, 1103 Grand Avenue, Professional Building, Room 502, Kansas City, Missouri 64106; Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION: Copies of the Missouri proposed amendments, the Missouri program and the administrative record on the Missouri program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m. excluding holidays.

Office of Surface Mining, Administrative Record, Room 5124, 1100 "L" Street, NW., Washington, D.C. 20240.

Office of Surface Mining, Kansas City Field Office, 1103 Grand Avenue, Professional Building, Room 502, Kansas City, Missouri 64106.

Missouri Department of Natural Resources, Land Reclamation Commission, P.O. Box 176, Jefferson City, Missouri 65102.

Background

On February 1, 1980, OSM received a proposed regulatory program for the State of Missouri. On November 14, 1980, the Secretary approved the program subject to the corrections of minor deficiencies. The approval was effective on November 21, 1980 (45 FR 77017-77028).

On June 18, 1985, Missouri submitted to OSM proposed new rules for training, examination and certification of blasters; and proposed amendments on revegetation requirements, penalty assessments and regulatory program inspection and enforcement activities (aerial inspections, enforcement of notices of violations, informal public hearings).

The proposed revisions to the Missouri rules are as follows:

10 CSR 40-2.090 Revegetation Requirements

The amendment would update interim regulations by incorporating permanent program standards for measuring revegetation success.

10 CSR 40-3.160 Training, Examination and Certification of Blasters

The amendment would establish requirements and procedures that will

be follow for training, examination and certification of persons engaging in or directly responsible for the use of explosives in surface coal mining operations.

10 CSR 40-8.030 Permanent Program Inspection and Enforcement

The amendment would clarify, revise and set forth requirements for permanent program inspection and enforcement. Specifically, the amendment concerns the state requirements for conducting partial inspections of each inactive surface coal mining and reclamation operation; would allow aerial inspections to be conducted in the inspection of surface coal mining and reclamation sites; allow for the extension of the abatement period beyond 90 days under certain circumstances; and would allow the waiving of informal public hearing when certain requirements are met.

10 CSR 40-8.040 Penalty Assessment

The amendment would clarify, revise and set forth the method of assessment of penalties for violation of the regulatory program. Specifically, the amendment revises procedures for assessing civil penalties and establishes procedures for conducting informal assessment conferences.

OSM is seeking comment on whether Missouri's proposed rules are as stringent as SMCRA and whether the State's proposed regulation modifications are no less effective than the requirements of the revised Federal regulations and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

The full text of the proposed program modifications submitted by Missouri for OSM's consideration is available for public review at the address listed under "SUPPLEMENTARY INFORMATION".

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 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 925

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

Dated: July 25, 1985.

Jed D. Christensen,
Acting Director, Office of Surface Mining.
[FR Doc. 85-18093 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 944

Consideration of Amendments to the Utah Permanent Program Under the Surface Mining Reclamation Act of 1977

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

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for public comment on the adequacy of proposed amendments to the Utah Permanent Regulatory Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On February 6, 1984, Utah submitted proposed program amendments for OSM's approval pertaining to water quality and effluent limitations, inspections, notices of violations and suspension or revocation of permits. On August 29, 1984, the Director, OSM approved the amendments, with certain exceptions concerning suspension or revocation of permits (49 FR 34210-34212). Subsequently, in a letter to OSM dated September 25, 1984, the State responded by making certain revisions to its regulations and by including position papers from the Assistant Attorney General for Utah concerning the State provisions for suspension or revocation of permits.

This notice sets forth the times and locations that the Utah program and proposed amendments are available for public inspection and the comment period during which interested persons

may submit written comments on the proposed program elements.

DATES: Written comments not received by August 30, 1985, will not necessarily be considered in the Director's decision on whether the proposed amendments satisfy the criteria for approval.

ADDRESSES: Written comments should be sent to Mr. Robert Hagen, Field Office Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

Copies of the Utah program, the proposed modifications to the program and all written comments received in response to this notice will be available for public review at the OSM Field Office above and the OSM Headquarters office and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one single copy of the amendments by contacting the OSM Albuquerque Field Office listed above.

Utah Division of Oil, Gas and Mining,
Department of Natural Resources,
4241 State Office Building, Salt Lake City, Utah 84114

Office of Surface Mining, 1100 "L" Street, NW., Room 5124, Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program under SMCRA for the regulation of the surface coal mining operations in the State (46 FR 5899-5915).

Information pertinent to the general backgrounds, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 *Federal Register* (46 FR 5899-5915).

On February 6, 1984, the Utah Division of Oil, Gas and Mining (DOGM) submitted proposed program amendments for OSM's approval. The amendments included proposed changes to sections of the Utah regulations concerning water quality and effluent limitations, inspections, notice of

violations and suspension or revocation of permits. On April 30, 1984, OSM announced receipt of these amendments and scheduled a public hearing and comment period on the proposed modifications (49 FR 18315). The public comment period closed May 30, 1984.

On June 29, 1984, OSM advised Utah by letter that the proposed provisions satisfied the criteria for approval of State program amendments set forth under 30 CFR 732.15 and 732.17 with certain exceptions in section UMC/SMC 843.13 of the proposed regulations. This section pertains to the suspension or revocation of permits (See Utah Administrative Record No. 335).

OSM informed the State that it was prepared to delay its final rulemaking on the amendments for one month to allow the State an opportunity to submit draft proposed rule changes or other evidence that the State amendments are consistent with the Federal standards.

Utah did not submit to OSM any additional materials to address the deficiencies identified by OSM in the State's proposed amendments during the one month period granted for this purpose. Therefore, OSM proceeded with the publication of a final rule to announce the Director's decision on the amendments as submitted to OSM on February 6, 1984. The Director's decision was to approve the amendments, with certain exceptions concerning suspension or revocation of permits (August 29, 1984, 49 FR 34210-34212).

Subsequently, in a letter dated September 25, 1984, the State responded by making certain revisions to its regulations and by including position papers from the Assistant Attorney General for Utah concerning provisions for suspension or revocation of permits.

Therefore, OSM is reopening the public comment period on the proposed amendments submitted February 6, 1984, as revised and clarified by the State on September 25, 1984. The material being considered pertains only to the provisions made by Utah to its regulations at UMC/SMC 843.13. If the proposed amendment provisions are found no less stringent than those of SMCR and contain the same or similar procedural requirements to those of the Federal regulations, the amendments will be approved and incorporated as part of the Utah permanent regulatory program.

List of Subjects in 30 CFR Part 944

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

Dated: July 25, 1985.

Charles B. Kenahan,

Acting Assistance Director, Program Operations and Inspection.

[FR Doc. 85-18143 Filed -30-85; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF EDUCATION

34 CFR Part 79

Intergovernmental Review of Department of Education Programs and Activities

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations entitled Intergovernmental Review of Department of Education Programs and Activities. These amendments are necessary to implement a number of procedural changes that will improve the intergovernmental review process required by Executive Order 12372.

DATES: Comments must be received on or before September 16, 1985.

ADDRESSES: Comments should be addressed to F. LeRoy Walser, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs, Room 2083 FOB-6, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: F. LeRoy Walser, Telephone (202) 447-7501.

SUPPLEMENTARY INFORMATION: On June 24, 1983, the Secretary published in the Federal Register final regulations for 34 CFR Part 79 (48 FR 29158-29168) implementing Executive Order 12372, Intergovernmental Review of Federal Programs. The regulations were effective on September 30, 1983. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for coordination and review of proposed Federal financial assistance and direct development.

The Executive Order—

(1) Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;

(2) Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why these views will not be accommodated; and

(3) Revoke OMB Circular A-95.

As a result of guidance issued by the Executive Office of the President on

March 14, 1985 the OMB criteria previously used to determine program coverage are rescinded.

In order to make the regulations consistent with the Executive Order and revised OMB guidance, the following amendments to the regulation at 34 CFR Part 79 are proposed:

The proposed regulations remove references to rescinded OMB criteria and enumerate the criteria for exclusion of programs from Executive Order 12372 coverage. The regulations also clarify the date by which comments and State process recommendations are due to the Department, and provide that State process recommendations should be clearly identified as such.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. These regulations primarily affect the Department of Education and States and State agencies and will not have a significant impact on a substantial number of small entities. These regulations cover programs and activities of the Department that are subject to intergovernmental review requirements and procedures for commenting on proposed Federal financial assistance. State participation in the intergovernmental review process is voluntary. The Department of Education and States and State agencies are not small entities under the Regulatory Flexibility Act.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 2083, 400 Maryland Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is

invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 79

Grant programs—education, Grants administration, Intergovernmental relations, State-administered programs.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance does not apply)

Dated: July 26, 1985.

William J. Bennett,
Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by amending Part 79 as follows:

PART—79 INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAM AND ACTIVITIES

1. The authority citation for Part 79 continues to read as follows:

Authority: E.O. 12372, July 14, 1982 (47 FR 30959), as amended, April 8, 1983 (48 FR 15887); sec. 401 of the Intergovernmental Cooperation Act of 1968, as amended (31 U.S.C. 6506); sec. 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334).

2. In § 79.3, paragraphs (a) and (b) are revised and new paragraphs (c) and (d) are added to read as follows:

§ 79.3 What programs and activities of the Department are subject to these regulations?

(a) The Secretary publishes in the *Federal Register* a list of the Department's programs and activities that are subject to these regulations and identifies which of these are subject to the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act.

(b) If a program or activity of the Department that provides Federal financial assistance does not have implementing regulations, the regulations in this part apply to that program or activity.

(c) The following programs and activities are excluded from coverage under this part:

- (1) Proposed legislation.
- (2) Regulation and budget formulation.
- (3) National security matters.
- (4) Procurement.
- (5) Direct payments to individuals.
- (6) Financial transfers for which the Department has no funding discretion or direct authority to approve specific sites or projects (e.g., block grants under Chapter 2 of the Education Consolidation and Improvement Act of 1981).
- (7) Research and development national in scope.
- (8) Assistance to federally recognized Indian tribes.

(d) In addition to the programs and activities excluded in paragraph (c) of this section, the Secretary may only exclude a Federal financial assistance program or activity from coverage under this part if the program or activity does not directly affect State or local governments.

(E.O. 12372)

3. In § 79.8, paragraphs (a), (a)(1), and (a)(2) are revised, a new paragraph (b) is added, and the current paragraphs (b) and (c) are redesignated as (c) and (d) respectively, to read as follows:

§ 79.8 How does the Secretary provide States an opportunity to comment on proposed Federal financial assistance?

(a) Except in unusual circumstances, the Secretary gives State processes or directly affected State, areawide, regional, and local officials and entities—

(1) At least 30 days to comment on proposed Federal financial assistance in the form of noncompeting continuation awards; and

(2) At least 60 days to comment on proposed Federal financial assistance other than noncompeting continuation awards.

(b) The Secretary establishes in the program application notice published in the *Federal Register* the date by which comments under paragraph (a) of this section must be transmitted to the Department.

4. In § 79.9, paragraph (a)(2) is revised to read as follows:

§ 79.9 How does the Secretary receive and respond to comments?

- (a) * * *
- (2) That office or official transmits a State process recommendation, and

identifies it as such, for a program selected under § 79.6.

[FR Doc. 85-18151 Filed 7-30-85; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2872-4]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA proposes to approve as a revision to the Indiana State Implementation Plan (SIP), Indiana Regulation 325 IAC 13-2, Motor Vehicle Tampering and Fuel Switching. USEPA anticipates that compliance with this rule will lead to reduced ambient levels of carbon monoxide (CO), hydrocarbons, and oxides of nitrogen (NO_x). USEPA is proposing to approve it as being consistent with Federal law and at the State's request.

DATE: Comments on this revision and on the proposed USEPA action must be received by September 30, 1985.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Anne E. Tenner, at (312) 886-6036, before visiting the Region V office.) U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.)

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886-6036.

SUPPLEMENTARY INFORMATION: On November 13, 1984, the State of Indiana submitted to USEPA Rule 325 IAC 13-2, Motor Vehicle Tampering and Fuel Switching, which prohibits any person from knowingly tampering with any emission control device installed in any motor vehicle which is designed for unleaded gasoline only.

Section 3(a) of 325 IAC 13-2, Tampering of Pollution Control Devices

on Motor Vehicles, prohibits any person (1) from knowingly renting, leasing, offering for sale, or otherwise transferring ownership of a motor vehicle which has undergone tampering with any emission control system, (2) from knowingly operating such a vehicle, (3) from knowingly offering for sale or advertising for sale any add-on part or device which interferes with the operation of any emission control device, and (4) from removing, disconnecting, disabling or allowing to lapse into disrepair any emission control system installed by the manufacturer. Vehicles which have been tampered with in violation of this rule are subject to suspension of registration. These vehicles are not eligible for re-registration until they have been properly repaired or otherwise restored to compliance. The maximum civil penalty for each violation of the tampering provisions in this rule is \$2,500.

Section 3(b) of 325 IAC 13-2, Fuel Switching, prohibits any person (1) from selling, dispensing, or offering for sale gasoline represented to be unleaded unless it meets the requirements of unleaded gasoline, i.e., it contains no more than 0.05 grams of lead per gallon, (2) from knowingly introducing leaded gasoline into any vehicle originally designed for unleaded gasoline, and (3) from modifying the dispensing nozzle of a gasoline pump containing leaded gasoline such that the nozzle can dispense gasoline into a vehicle designed for unleaded gasoline only. Section 3(b) of 325 IAC 13-2 also requires all gasoline dispensing facilities to display permanent signs distinguishing leaded and unleaded gasoline pumps and informing the public that State and Federal law prohibit the introduction of leaded gasoline into a vehicle designed by the manufacturer for unleaded gasoline only. Any person found in violation of 325 IAC 13-2-3(b) is subject to civil penalties of not more than \$10,000 per violation.

USEPA has reviewed these requirements in relation to the applicable portions of the Clean Air Act and has found that the Indiana anti-tampering provisions are consistent with sections 203(a)(3) (A) and (B) of the Act. Additionally, the Indiana fuel-switching provisions are consistent with section 211 of the Act and 40 CFR Part 80, Subpart B. USEPA is therefore proposing to approve 325 IAC 13-2 as an addition to the Indiana SIP.

USEPA notes that Indiana submitted the regulation without requesting specific emission reduction credits in its air quality attainment and maintenance

plans due to implementation of this rule. Although it is not Agency policy to assign specific credits for this activity, USEPA believes that enforcement of this rule is an important part of the effort to reduce the incidence of vehicle tampering and fuel switching and the related emissions of CO, hydrocarbons and NO_x.

Under 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals do not have 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.

Authority: 42 U.S.C. 7401-7642.

Dated: June 13, 1985.

Robert Springer,

Acting Regional Administrator.

[FR Doc. 85-18109 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 62

[EPA Action MO 1730; A-1-FRL 2872-3]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of Missouri; Section 111(d) Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The State of Missouri has submitted plans for the control of fluoride emissions from phosphate fertilizer plants and from primary aluminum reduction plants and also a plan for the control of sulfuric acid mist from sulfuric acid production plants. These plans were submitted in response to section 111(d) of the Clean Air Act, which requires state plans to establish emission controls for existing sources which would be subject to EPA's new source performance standards if these sources were new sources. This notice advises the public that EPA proposes to approve the State's section 111(d) plans.

DATE: Public comments must be received submitted by August 30, 1985.

ADDRESSES: Comments should be sent to Mr. Larry A. Hacker, Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101. The State submittal is available for inspection during normal business hours at the above address, and at the Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (816) 374-3791, or FTS 758-3791.

SUPPLEMENTARY INFORMATION:

I. Plan Requirements

Section 111 of the Clean Air Act provides authority for EPA to establish standards of performance for new stationary sources of air pollution. Section 111(d) and 40 CFR Part 80, Subpart B, require that each state adopt and submit a plan for the control of designated pollutants from existing facilities. Designated pollutants do not include those for which air quality criteria have been established or which are already listed under section 108(a), relating to development of air quality criteria for certain pollutants, or section 112(b)(1)(A) Hazardous Air Pollutants. After promulgation of a standard of performance for a designated pollutant from an affected facility, EPA publishes an applicable emission control guideline document, and then publishes a notice in the *Federal Register* as to its availability. The state must submit its Section 111(d) plan within nine months after the final guideline notice of availability. If there are no such designated facilities located within a state, the state is required to submit a letter of certification to that effect. The State of Missouri submitted a negative declaration for kraft pulp mills on May 14, 1982 (49 FR 7233).

The requirements for section 111(d) plans are contained in 40 CFR 60.23 through 60.26. The state is required to give proper notification and conduct at least one public hearing. The plan must contain emission standards and compliance schedules. The emission standards must be at least as stringent as those required by the federal standard with certain case-by-case exemptions. The plan must also include an inventory of all designated facilities, including emissions data for the designated pollutants. The State must demonstrate that it has adequate legal authority to carry out the plan unless previously approved under section 111(d) or section 110 of the Act. For a complete description of the plan requirements, the reader is referred to the above-mentioned sections of the Code of Federal Regulations. Part 62 of the CFR Provides the procedural framework for the submission of these plans.

II. Review of the Submittal

On January 3, 1985, the State of Missouri submitted a plan for the control of: (1) fluoride emissions from phosphate fertilizer plants; (2) Fluoride

emissions from primary aluminum reduction plants; and (3) sulfuric acid mist emissions from sulfuric acid production plants. This submittal supersedes a previous submittal of September 22, 1981, which did not fully address the plan requirements of Section 111(d) of the Act. State plans for the control of fluoride emissions from existing phosphate fertilizer plants were due on December 1, 1977, and those for primary aluminum reduction plants were due on January 19, 1981. State plans for the control of sulfuric acid mist emissions from sulfuric acid production plants were due on July 18, 1978. Missouri's January 3, 1985, submittal is intended to satisfy the requirements for these plans.

On September 22, 1981, the State of Missouri submitted regulations for the control of fluoride emissions from phosphate fertilizer plants and from aluminum reduction plants. The submittal includes Rule 10 CSR 10-3.160, Restriction of Emissions of Fluorides from Diammonium Phosphate Fertilizer Production; Rule 10 CSR 10-6.090, Restriction of Emission of Fluorides from Primary Aluminum Reduction Installations; and revisions to Rule 10 CSR 10-6.020, Definitions. These rules were adopted by the Missouri Air Conservation Commission on June 17 and June 21, 1981, after adequate notice and public hearing. The State submittal includes the public hearing records on these rulemakings; thus the public participation requirements of 40 CFR 60.23 are met regarding these rules.

On March 12, 1979, the State submitted Rules 10 CSR 10-3.100 and 5.150, which restrict the emissions of certain sulfur compounds, including sulfuric acid mist. The emission limits on sulfuric acid mist were contained in prior versions of these rules adopted in 1967 and 1971 after proper notice and public hearings. The most recent public hearing concerning these rules was held on October 25, 1978. In addition, the emission limits contained in these rules are at least as stringent as the applicable federal standard; thus the public participation requirements of 40 CFR 60.23 are satisfied regarding these rules.

In a prior action, EPA approved portions of Rules 10 CSR 10-3.100 and 5.150 which pertained to emissions of sulfur dioxide from lead smelters. EPA took no actions on these rules with respect to the requirements of section 111(d). Today, EPA is proposing to approve these rules insofar as they meet the requirements for the control of sulfuric acid mist from existing sulfuric acid production plants.

EPA has reviewed the State's regulations and finds the emission limits are at least as stringent as those specified in the applicable federally promulgated guideline documents. The State has adopted, by reference, EPA's compliance test methods for fluorides and sulfuric acid mist emissions as specified in 40 CFR Part 60, Appendix A. All designated facilities are in compliance with the applicable emission limits for the designated pollutants; therefore, the State's plan does not include compliance schedules. However, the State has demonstrated that it has the legal authority to implement compliance schedules for designated facilities when necessary. As discussed above, the State's plan meets the requirements for emission standards and compliance schedules as specified in 40 CFR 60.24.

The State's plan includes an inventory of all designated facilities, including emission data for the designated pollutants. Additional inventory data is maintained on EPA's National Emissions Data System (NEDS), which is updated periodically. The emission inventory data meet the requirements of 40 CFR Part 60, Appendix D. The State's section 111(d) emission inventory meets the requirements of 40 CFR 60.25.

On April 29, 1985, the State of Missouri submitted Rule 10 CSR 10-6.110, Submission of Emission Data and Process Information, which was adopted by the Missouri Air Conservation Commission on September 27, 1984, after proper notice and public hearing. This rule satisfies the reporting and recordkeeping requirements of 40 CFR 60.25. In addition, the State submittal includes the public hearing record on this rule to satisfy the public participation requirements of 40 CFR 60.23.

Rule 10 CSR 10-6.110 was submitted to satisfy the requirements of both sections 110 and 111(d) of the Act. Today's notice proposes to approve this rule insofar as it pertains to the requirements of section 111(d). This notice does not propose any action on this rule with respect to section 110.

The State's submittal includes a demonstration of adequate legal authority to carry out the plan. Missouri Air Conservation Law, Chapter 203, RSMO, provides the State with authority to: (1) Adopt emission standards and compliance schedules; (2) enforce applicable laws and regulations; (3) require source testing and reporting; and (4) require sources to use emission monitoring equipment. The State's demonstration of legal authority

satisfies the requirements of 40 CFR 60.26.

III. EPA Action

Today's notice proposes to approve the State of Missouri's Section 111(d) plan for the control of: (1) Fluoride emissions from phosphate fertilizer plants; (2) fluoride emissions from primary aluminum reduction plants; and (3) sulfuric acid mist emissions from sulfuric acid production plants.

Under 5 U.S.C. 605(b), I hereby certify that these section 111(d) plans will not have a significant economic impact on a substantial number of small entities.

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

List of Subjects in 40 CFR Part 62

Air Pollution Control, Fluoride, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, Phosphate, Aluminum, Fertilizers, Paper and paper products industry, Sulfuric oxides, Sulfuric acid plants.

Authority: 42 U.S.C. 7401-7642.

Dated: June 17, 1985.

Morris Kay,

Regional Administrator.

[FR Doc. 85-18110 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[EPA No. KS 1588; A-7-FRL 2872-2]

Designation of Areas for Air Quality Planning Purposes; Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Section 107(d) of the Clean Air Act, as amended, provides for the designation of areas as either attainment, nonattainment or unclassified with respect to the National Ambient Air Quality Standards (NAAQS). Today, EPA proposes to redesignate a portion of Wyandotte County, Kansas (Kansas City, Kansas) from secondary nonattainment for total suspended particulate matter (TSP) to attainment. EPA also proposes to redesignate a portion of Kansas City, Kansas, from primary nonattainment with respect to TSP to secondary nonattainment. This redesignation proposal is based upon a request from the Kansas Department of Health and Environment (KDHE). This request is supported by air quality monitoring data

and evidence of an applied control strategy.

DATE: Public comments should be received by August 30, 1985.

ADDRESSES: Comments should be sent to Robert J. Chanslor, Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101. The State submission is available for public inspection during normal business hours at the above address and at the Kansas Department of Health and Environment, Forbes Field, Topeka, Kansas 66620.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at (816) 374-3791 or FTS 758-3791.

SUPPLEMENTARY INFORMATION: In response to section 107(d) of the Clean Air Act, as amended, EPA and the State of Kansas have designated all areas of the State as attaining the NAAQS, not attaining the NAAQS, or having insufficient data upon which to make a determination (unclassified). A nonattainment area is one in which the air quality is worse than a standard. An unclassified area is one for which there is insufficient data to determine whether an area is attainment or nonattainment. The areas of the State which are nonattainment for one or more pollutants are identified at 40 CFR Part 81, Subpart C.

EPA's current redesignation policy, under section 107 of the Act is summarized in an April 21, 1983, memorandum from Sheldon Meyers. Generally, eight consecutive quarters (two years) of monitoring data showing no violations are required to support redesignation requests for areas having an approved Part D control strategy. However, the most recent four quarters of monitoring data may be used if dispersion modeling shows that the SIP strategy is sound, and if actual enforceable emissions reductions have occurred.

On March 3, 1978 (43 FR 8984), EPA designated portions of Wyandotte County, Kansas, nonattainment with respect to the primary and secondary TSP standard. The remainder was classified as attainment with respect to the TSP standards. The primary standard for TSP is an annual geometric mean value of 75 $\mu\text{g}/\text{m}^3$ not to be exceeded and a 24-hour value of 260 $\mu\text{g}/\text{m}^3$ not to be exceeded more than once per year. The secondary NAAQS for TSP is a 24-hour value of 150 $\mu\text{g}/\text{m}^3$ not to be exceeded more than once per year. Under the requirements of Part D of the Act, states were required to develop and submit plans to attain air standards in those areas where the NAAQS were violated. The Act requires growth

sanctions for a nonattainment area if no plan is submitted.

The State of Kansas submitted a plan to control TSP emissions in Wyandotte County on March 10, 1980. This plan was approved on April 3, 1981 (46 FR 20170).

The attainment status of Wyandotte County (Kansas City), Kansas is found at 40 CFR 81.317. The primary TSP nonattainment area is described as most of the area between I-635 and the Missouri state line. The secondary TSP nonattainment area is the area extending about three miles west of I-635.

By letter of June 22, 1984, the KDHE requests that EPA redesignate that part of Wyandotte County currently designated secondary nonattainment with respect to TSP to attainment and that area designated nonattainment with respect to the primary TSP standard to secondary nonattainment. Included with the request was a reasonable further progress report showing TSP emissions reductions since enforcement of the Part D plan revision. Air quality data for 1982 and 1983 (eight quarters) showed no violation of the primary TSP NAAQS in the designated primary TSP nonattainment area and no violations of the secondary TSP NAAQS in the designated secondary TSP nonattainment area. However, TSP data for the first six months of 1984 had a geometric mean value of approximately 100 $\mu\text{g}/\text{m}^3$ at one monitor site in the primary nonattainment area.

EPA advised the State of its concern over the high six month mean value in 1984. The State was further advised that action on its redesignation request for Wyandotte County would be delayed until all 1984 data are available for analysis. On March 21, 1985, the KDHE provided TSP air quality data for Wyandotte County for 1982, 1983 and 1984. These data show no violations of the primary TSP NAAQS in the primary nonattainment area and no violation of the secondary TSP NAAQS in the designated secondary nonattainment area. Thus, the KDHE provided data for three years (12 quarters) showing that the primary TSP NAAQS have not been violated in the primary nonattainment area and that there have been no secondary TSP NAAQS violations in the designated secondary TSP nonattainment area.

EPA believes the State of Kansas evidence meets the redesignation criteria outlined in the April 21, 1983, memorandum from Sheldon Meyers. **ACTION:** EPA proposes to redesignate that portion of Wyandotte County presently designated primary nonattainment for TSP as secondary

nonattainment. EPA also proposes to redesignate that portion of Wyandotte County presently designated secondary nonattainment for TSP NAAQS to attainment. EPA solicits public comments on this proposed rule.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 4709.)

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401-7442.

Dated: May 1, 1985.

Morris Kay,

Regional Administrator.

[FR Doc. 85-18111 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300136; FRL-2870-9]

N-Butanol; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that *n*-butanol be exempted from the requirement of a tolerance when used as an inert ingredient solvent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. This proposed regulation was requested by the Amway Corp.

DATE: Written comments, identified by the document control number [OPP-300136], must be received on or before August 30, 1985.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be

disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava,

Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: At the request of the Amway Corp., the Administrator proposes to amend 40 CFR 180.1001 by establishing an example exemption from the requirement of a tolerance for *n*-butanol when used as an inert ingredient solvent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c) and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carboxymethyl cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. *n*-Butanol.

Name and address of requester.

Amway Corp., Ada, MI 49355.

Bases for approval. 1. *n*-Butyl alcohol is cleared under 40 CFR 180.1001(d) as a solvent, cosolvent for use in pesticide

formulations applied to growing crops only.

2. *n*-Butanol is cleared under 40 CFR 180.100(e) as a solvent for blended emulsifiers for use in pesticide formulations applied to animals. (the entry appears incorrectly in the CFR because of a typographical error: "alpha-Butanol" should read "*n*-Butanol.")

3. *n*-Butanol is cleared under 21 CFR 172.515 for use as a synthetic flavoring substance and adjuvant.

4. *n*-Butanol is cleared under 21 CFR 172.560 as a solvent with a 50-ppm tolerance in modified hop extract.

5. *n*-Butanol is cleared under 21 CFR 175.105 as an indirect food additive as a component of adhesives.

6. *n*-Butyl alcohol is cleared under 21 CFR 176.200 as a defoaming agent for use in coatings.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended that contains this inert ingredient any request within 30 days after publication of this notice in the *Federal Register* that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments of the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP-300136]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance

requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 19, 1985.

Douglas D. Camp,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for 40 CFR Part 180 continues to read as set forth below:

Authority: 21 U.S.C. 345a.

2. Section 180.1001 is amended by adding and alphabetically inserting the inert ingredient *n*-Butanol to the table in paragraph (c), removing *n*-Butyl alcohol from the table in paragraph (d), and correcting the entry alpha-Butanol in paragraph (e) to *n*-Butanol, as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(c) * * *		
Inert Ingredients	Limits	Uses
<i>n</i> -Butanol (CAS Reg. No. 71-36-3)		Solvent, cosolvent.
(d) * * *		
Inert Ingredients	Limits	Uses
<i>n</i> -Butyl alcohol (Removed)		Solvent, cosolvent (Removed)
(e) * * *		
Inert Ingredients	Limits	Uses
<i>n</i> -Butanol (CAS Reg. No. 71-36-3)		Solvent for blended emulsifiers

[FR Doc. 85-17882 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4E3113/P371; FRL-2671-1]

Pesticide Tolerance for Permethrin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the insecticide permethrin and the sum total of its metabolites in or on the raw agricultural commodity watercress. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number (PP 4E3113/P371), must be received on or before August 15, 1985.

ADDRESS: Written comments by mail to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

In person, bring comments to: Room 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record.

Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Room 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Office location and telephone number: Rm 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-7700).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment

Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 4E3113 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Station of Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the insecticide permethrin [(3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] and its metabolites 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) and (3-phenoxyphenyl)methanol (3-PBA), calculated as parent, in or on the raw agricultural commodity watercress at 5.0 ppm. The Agency has determined that the tolerance expression for permethrin in 40 CFR 180.378 (b) and (c) should reflect the sum of permethrin and its metabolites, not permethrin and its metabolites calculated as permethrin.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were discussed in a final rule document (PP 8F2099, . . . / R422), published in the *Federal Register* of October 13, 1982 (47 FR 45008). Tolerances for residues of the insecticide on various raw agricultural commodities have been previously established ranging from 0.05 to 60.0 ppm.

The acceptable daily intake (ADI), based on the 2-year rat chronic feeding/ oncogenicity study (NOEL of 5.0 mg/kg or 100 ppm/day) and using a 100-fold safety factor, is calculated to be 0.05 mg/kg/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 3.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 1.18723 mg/day; the current action will increase the TMRC by 0.00225 mg/day (0.19 percent). Published tolerances utilize 39.57 percent of the ADI; the current action will utilize an additional 0.08 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography with an electron capture detector, is available for enforcement purposes. No secondary

residues in meat, milk, poultry or eggs are anticipated since watercress is not considered a livestock feed commodity. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.378 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, which contains any of the ingredients listed herein, may request within 15 days after publication of this notice in the *Federal Register* that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. As provided for in the Administrative Procedures Act (5 U.S.C. 553(d)(3)), the comment period time is shortened to less than 30 days because of the necessity to expeditiously provide a means for control of insects infesting watercress.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 4E3113/P371]. All written comments filed in response to this petition will be available in the Information Services Section at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 3, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 19, 1985.

Douglas D. Campt,

Director, Registration Division, Office of
Pesticide Programs.

PART 180 [AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.378 is amended by revising the introductory text of paragraphs (b) and (c) and adding and alphabetically inserting the raw agricultural commodity watercress in (b), to read as follows:

§ 180.378 Permethrin; tolerances for residues.

(b) Tolerances are established for residues of the insecticide permethrin [(3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] and the sum of its metabolites 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) and (3-phenoxyphenyl)methanol (3-PBA) in or on the following raw agricultural commodities:

Commodities	Parts per million
Watercress.....	5.0

(c) Tolerances are established for residues of permethrin and the sum total of its metabolites 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) and (3-phenoxyphenyl)methanol (3-PBA) and 3-phenoxybenzoic acid in or on the following animal commodities.

[FR Doc. 85-17881 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300137; FRL-2870-7]

Sulfur; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that sulfur be exempted from the requirement of a tolerance when used as an inert

ingredient stabilizer in pesticide formulations applied to animals. This proposed regulation was requested by the Ralston Purina Co.

DATE: Written comments, identified by the document control number [OPP-300137], must be received on or before August 30, 1985.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-7700.

SUPPLEMENTARY INFORMATION: At the request of the Ralston Purina Co., the Administrator proposes to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for sulfur when used as a stabilizer in pesticide formulations applied to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and

diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Sulfur.

Name and address of requestor. Ralston Purina Co., St. Louis, MO 63164.

Bases for approval. 1. Sulfur is cleared under 21 CFR 175.105 as an adhesive.

2. Sulfur is cleared under 21 CFR 177.1210 for use in closure-sealing gaskets for food containers.

3. Sulfur, ground is cleared under 21 CFR 177.2600 as a vulcanization agent in rubber articles intended for repeated use.

4. Sulfur is cleared under 40 CFR 180.2 as a pesticide chemical generally recognized as safe (GRAS).

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended that contains this inert ingredient may request within 30 Days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP-300137]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.
Dated: July 19, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for 40 CFR 180 continues to read as set forth below:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(e) * * *

Inert ingredients	Limits	Uses
Sulfur (CAS Reg. No. 7704-34-9)		Stabilizer

[FR Doc. 85-17884 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-7-FRL-2872-8]

Kansas; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Tentative Determination on Application of Kansas for Final Authorization, Public Hearing and Public Comment Period.

SUMMARY: In July 1984, Kansas applied for final authorization under the

Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) reviewed Kansas' application and made the tentative decision that Kansas' hazardous waste program satisfied all of the requirements necessary to qualify for final authorization as stated in the Federal Register notice of October 24, 1984. However, on reviewing the State's application in light of the public comments received at the November 27, 1984 public hearing, clarification was sought on selected topics. The State submitted the requested clarifications in its June 11, 1985 addendum to the application.

The addendum also contains other program modifications: A statutory amendment, regulatory revisions and a revised Memorandum of Agreement. The EPA has reviewed the addendum and finds Kansas' revised hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. In our review of the program modifications we conclude that the modifications do not alter the Kansas waste management program as presented in the July application in such a way as to change our October 24, 1984 tentative determination. Thus, the EPA intends to grant final authorization to the State to operate in lieu of the Federal program.

The State's application for final authorization as amended on June 11, 1985, is available for public review. The EPA solicits comments on the State's addendum and our review of it during a 30 day public comment period and at a public hearing.

DATES: The public comment period closes on September 3, 1985. A public hearing is scheduled for September 3, 1985. Kansas will participate in the public hearing held by EPA on this subject. All comments on Kansas' addendum and our review of it must be received by the close of business on September 3, 1985. The Regional Administrator may cancel the public hearing if sufficient public interest is not expressed by August 26, 1985. Information concerning the public hearing may be obtained by calling 913-236-2828.

Written comments should be sent to Morris Kay, Regional Administrator, U.S. EPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. The EPA will hold a public hearing at 1:00 p.m. on September 3, 1985, at Shawnee County Health Department, 1615 West 8th Street, Topeka, Kansas.

ADDRESSES: Copies of the Kansas final authorization application are available during business hours, 8:00 a.m. to 4:30

p.m. Monday through Friday, at the following addresses for inspection and copying: Kansas Department of Health and Environment, Building 740, Forbes Field, Topeka, Kansas 66620; U.S. EPA Headquarters Library, 401 M Street, S.W., Room M2904, Washington, D.C. 20460, Phone: 202-382-5926; U.S. EPA Region VII Library, 726 Minnesota Avenue, Kansas City, Kansas 66101, Phone 913-236-2828.

FOR FURTHER INFORMATION CONTACT: Michael Sanderson (913) 236-2800.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the RCRA allows EPA to authorize a State hazardous waste program to operate in the State in lieu of the Federal hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Act Amendments of 1984 (Pub. L. 98-616, Nov. 8, 1984). Authorization is granted by EPA if the Agency finds that the State's program meets the following criteria: (1) It is "equivalent" to the Federal program, (2) it is "consistent" with the Federal program and other State programs, and (3) it provides for adequate enforcement (Section 3006(b) 42 U.S.C. 6226(b)). The Agency's implementing regulations at Title 40 Code of Federal Regulations (40 CFR) 271.5 and 271.20 establish procedures for reviewing a State's application and any subsequent addendum to it.

Under 40 CFR 271.5(c), the review period including public participation shall begin again upon receipt of a revised submission which materially changes the State's application. Under 40 CFR 271.20(d) the Regional Administrator must give notice of the State's addendum and the Agency's evaluation of it in the Federal Register for the public to consider and comment on during a 30 day period. A public hearing may also be held if sufficient public interest is expressed. The Regional Administrator may announce in the notice on the public comment period the date and place for the public hearing. The notice may specify that the Regional Administrator may cancel the public hearing if sufficient public interest in a hearing is not expressed.

B. Kansas

Kansas submitted its application for final authorization in July 1984. However, on reviewing the State's application in light of public comments received at the November 27, 1984 public hearing, EPA decided additional clarification was needed on the State's authority in the areas of imposing criminal fines per day in the case of a

continuing violation and providing citizens the right to intervene in all civil actions initiated by the Secretary as well as by a county or district attorney.

Kansas submitted the clarification requested on June 11, 1985. The State revised its statute to clarify its authority in these two areas. These statutory amendments ensure that the Kansas program meets the Federal requirements for approval of a State's program under section 3006 of the RCRA.

During the time taken to obtain the statutory clarifications, the State further amended its program as follows:

(1) Kansas has enacted a statutory amendment which prohibits the underground burial of hazardous waste. Such prohibition does not include mound landfill, above ground storage, land treatment or underground injection of hazardous waste. On a case by case determination, the Secretary of the Kansas Department of Health and Environment may approve land burial of hazardous waste if a petitioner demonstrates to the Secretary that, except for underground burial, no economically reasonable or technologically feasible methodology exists for the disposal of a particular hazardous waste. The statute contains procedures, including public participation, for obtaining an exception to the prohibition against underground burial of hazardous waste.

(2) The State also revised its program to adopt regulatory revisions in the Federal program as required under 40 CFR 271.21. The State has adopted by reference Federal regulations in effect as of July 15, 1985. The regulatory revisions include, but are not limited to, the adoption of the uniform manifest, the identification of additional wastes, and the change in the definition of solid waste. Final authorization is also being granted for the dioxin waste standards currently in effect under the Hazardous and Solid Amendments of 1984 (HSWA).

(3) The State revised the Memorandum of Agreement as necessary to ensure the implementation of HSWA, particularly in the area of issuing a permit to a facility which treats, stores or disposes of hazardous waste.

We have reviewed the State's addendum to its final authorization application in terms of the Kansas waste management program meeting the Federal criteria for authorizing a State program. We conclude the Agency's tentative decision as discussed in the Federal Register notice of October 24, 1984, to approve the State's application for final authorization remains in effect. For this reason, the EPA intends to grant final authorization to Kansas to operate

its program in lieu of the Federal program.

In accordance with Section 3006 of RCRA and 40 CFR 271.20(d), the Agency will hold a public hearing on the addendum to the State's application for final authorization, our review of the addendum, and our conclusion regarding the tentative determination to approve the State's application. Comments are requested on (1) the addendum and (2) whether the program modifications allow the State's program to achieve the Federal criteria for authorizing a State to operate its program in lieu of the Federal program.

The public hearing will be held at 1:00 p.m. on September 3, 1985, at Shawnee County Health Department, 1615 West 8th Street, Topeka, Kansas. Persons wishing to present testimony at the public hearing must file a written request for a hearing with the Regional Administrator on or before August 26, 1985. The Regional Administrator will cancel the public hearing if sufficient public interest in a hearing is not received by August 26, 1985. The public may also submit written comments on the State's addendum and on EPA's review of it until the close of public comment period, September 3, 1985. A copy of Kansas' application and the addendum are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

The EPA will consider comments received at the hearing or during the public comment period. Issues raised by those comments will be considered in making a final determination on Kansas' final authorization application. The EPA expects to make a final decision on whether or not to approve Kansas' program by September 30, 1985 and will give notice of it in the Federal Register. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Compliance with Executive Order 12291

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

Certification under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens in small

entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority:

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b), EPA Delegations 7.

Dated: July 9, 1985.

Morris Kay,

Regional Administrator.

[FR Doc. 85-18105 Filed 7-30-85; 8:45 am]

BILLING CODE 5560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-752; FCC 85-371]

Changes in AM Technical Rules To Reflect New International Agreements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC proposes three amendments to its technical rules that will (1) increase the power of Class IV stations in Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands; (2) eliminate the distinctions between Class III-A and Class III-B stations; (3) change the provisions affecting the use of Figure 1a of § 73.190(r) of the FCC Rules for locations less than 100 km from the transmitter; and (4) permit the use of synchronous AM transmitter systems. The amendments are in conformity with recent changes in international AM agreements.

DATES: Comments must be submitted no later than September 16, 1985 and reply comments no later than October 11, 1985.

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

FOR FURTHER INFORMATION CONTACT: Louis C. Stephens, Mass Media Bureau, FCC (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of changes in AM technical rules to reflect new international agreements; MM Docket No. 84-752.

Adopted: July 12, 1985.

Released: July 19, 1985.

By the Commission.

1. Comments are invited on proposed additional changes to the AM Technical rules to conform them with new international AM broadcasting agreements.¹ They supplement changes adopted in the *Report and Order* of March 28, 1985 in this proceeding, FCC 85-150, 50 FR 18818, which was partially stayed by *Order* dated May 30, 1985.

2. *Higher Power for Stations in Alaska, Hawaii, Puerto Rico and the Virgin Islands Presently Classified as Class IV Stations.* When rule amendments raising the power ceiling on Class III stations in the areas listed were adopted, we deferred action on power increases for the fewer than 10 Class IV stations in each of these areas. It is now our view that higher station power in Puerto Rico and the Virgin Islands would help to mitigate the effects of interference from neighboring countries. Higher power would also provide opportunities to improve service in Hawaii and in Alaska. We propose to accomplish this by reallocating the Local Channels in Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands (i.e., 1230, 1240, 1340, 1400, 1450 and 1490 kHz) as Regional (Class III) Channels. As such, they would become subject to rules limiting nighttime interference among Class III stations in those four designated places, rather than the Class IV rules which make nighttime protection dependent upon the daytime separation between stations. They would also achieve the greater flexibility available to Class III stations in the application of directional antennas, during both daytime and nighttime hours. Stations on those channels would also be automatically reclassified as Class III stations.

3. We further propose that the reclassified Class III stations be required to protect Class IV stations in the coterminous United States by application of the RSS procedure and the 50% exclusion rule contained in § 73.182(o) of the Rules. No loss of

service would result from the use of increased power by such reclassified stations. We propose that reclassified stations would continue to have the benefit of the lower antenna efficiency requirements currently applicable to them as Class IV stations. Present and future Class IV stations in the coterminous United States would be permitted to treat the reclassified stations as if they were Class IV stations during nighttime hours. Otherwise, the reclassified stations and future stations on the reclassified channels would be afforded the same protection as other Class III stations. New Class IV stations in the coterminous United States, in calculating interference received from stations assigned now or in the future to the reclassified channels, would be required to base their calculations on the facilities actually used by the stations in question. We invite comments on this reclassification plan.

4. *Elimination of distinctions between Class III-A and Class III-B AM Stations.* At this stage of AM service's development, we believe that no useful purpose would be served by maintaining the distinctions between Class III-A and Class III-B stations. The assignment of new Class III stations and modifications to existing ones can be satisfactorily handled by applying common requirements. We therefore propose to merge Class III-A and Class III-B stations into a single class: Class III. Thereafter, a Class III station on a Regional Channel in the coterminous United States would operate with a power not less than 0.5 kW and not more than 5 kW. It is also proposed that a Class III station on a Regional Channel be protected to its 0.5 mV/m contour day time, and nighttime to its 2.5 mV/m contour, or to its interference-limited contour, whichever is greater. Under this proposal, existing Class III-B stations would continue to be protected to their current nighttime limits even if the y are less than 4 mV/m. The conditions for protection to Class III stations would apply as well to the Class IV stations in Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands when they are reclassified as Class III stations, except that they will be treated as Class IV stations in the coterminous United States.

5. *Classification of AM Stations and Channels.* The present, longstanding system of classification of AM stations as Class I, II, III and IV, with certain subclassifications of these basic classes, was developed in conformity with earlier international agreements to which the United States was a party.

Our Rules also classify channels, as Clear, Regional and Local, and prescribe the classes of stations that may be assigned on each class of channel.

6. The Final Acts of the Rio Conference, the 1984 AM Agreement between Canada and the United States, and the draft AM Agreement under negotiation between the United States and Mexico all contain new AM station classifications that differ from those used heretofore by the United States and neighboring countries. The new international system prescribes three classes of AM station—Class A, Class B, and Class C. These differ according to the nature and extent of the service intended to be rendered. Only Class A stations, those designed to provide wide area service, are entitled under the new international agreements to protection for their nighttime skywave service areas. Class B stations provide protected groundwave service to a moderately extensive region, while Class C stations provide interference-free groundwave service to particular communities and, in some cases, to smaller neighboring service areas. Under the new multilateral and bilateral international agreements Class A, B, and C stations are not limited to channels prescribed for each, as under the FCC rules, but are permitted internationally to be placed on any of the channels allocated for AM broadcasting, so long as they provide requisite protection to other cochannel and adjacent-channel assignments.

7. We believe that it would unduly disrupt the long-established system of domestic AM allocations to abandon the traditional classification of stations and channels. We accordingly propose to retain the long established station classifications provide for in § 73.21 of the AM rules (except for the proposal, to eliminate difference between class III-A and Class III-B stations). We propose, also, to retain the classification of AM channels in the same rule as Clear, Regional and Local, and to continue to prescribe the classes of stations that may be assigned in the United States each class of channel.

8. We believe, however, that orderly conformity with the new international agreements will be facilitated by placing in the Rules the following table, which designates the international station classes to which the established domestic classes of stations correspond, and the classes of channels on which they may be assigned in the United States:

¹ The Final Acts of the Administrative Radio Conference on Medium Frequency (AM) Radio Broadcasting in Region 2 (Rio de Janeiro, 1981); the 1984 bilateral AM Broadcasting Agreement between the United States and Canada, and the bilateral agreement between the United States and Mexico now under negotiation.

INTERNATIONAL AND DOMESTIC CLASSIFICATIONS OF STATIONS AND CHANNELS

International Classes of AM stations	Corresponding U.S. classes of AM stations	Classes of channels available in U.S. for each class of station
Class A.	I-A	Clear channels.
	I-B	Do.
	I-C	Do.
Class B.	II	Do.
	II-A	Do.
	II-B	Do.
	II-C	Do.
	II-D	Do.
	II-S	Do.
Class C.	III	Regional channels.
	IV	Local channels.

9. Figure 1a, § 73.190 of the Rules. This figure is a curve depicting skywave field strengths at varying distances from a station's transmitter; however, Figure 1a does not extend to distances less than 100 km. In the relatively few cases that may be expected to arise where there would be any occasion to calculate skywave field strengths at distances less than 100 km from the transmitter, it is anticipated that the pertinent locations would seldom be substantially less than 100 km. Further the values at such locations may not be expected to vary significantly, for purposes of interference calculations, from that at 100 km. In those circumstances, we propose to permit the use of the skywave field factors depicted at 100 km for shorter distances.

10. *Synchronous Transmitter Systems.* Finally, comments are invited on the desirability of permitting synchronous transmitter systems in the United States and on the technical standards to be employed.² Synchronous transmitter systems involve the use of two or more broadcasting stations on the same frequency to broadcast the same program material. In this way it is possible to provide more extensive coverage than a single station could offer. Such systems have been successfully used in Europe where they have been used to extend service without causing excessive frequency demand. Although conditions in the United States differ, there may well be a need for such operations here as well.

11. Successful operation of these systems requires fully synchronization of the stations involved. Fortunately, recent technological improvements appear to have solved the practical difficulties involved in such synchronization. This is accomplished by requiring close alignment of the

carrier frequencies while limiting the modulation delay between stations. Under our proposal, transmitters forming part of a synchronous system would be considered as a group and could not be operated separately or be transferred to other persons for operation as separate stations. Comments are invited on the specific provisions we have proposed for synchronous transmitters, as well as on any other aspect of their authorization and operation that interested parties may wish us to consider.

12. *Other Matters.* In addition to commenting on any of the foregoing matters, parties are invited to submit proposals relating to any other rule amendments or alternative methods that they consider would be desirable in view of the changes introduced in the new AM international agreements.

13. *Paperwork Reduction.* The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Regulatory Flexibility Analysis

I. Reason for Action

Intervening changes in international agreements necessitate corresponding changes in the rules governing AM radio allocations in the United States.

II. Objective

To conform pertinent rules with changed international agreements.

III. Legal Basis

Section 303 of the Communications Act of 1934, as amended, empowers the Commission to foster the more efficient use of radio in the public interest.

IV. Description, Potential Impact and Number of Small Entities Affected

The affected group consists of licensees and applicants for AM radio broadcasting stations. The proposed changes will beneficially augment the power some of them will be permitted to use, and improve the methods for making technical calculations called for by international agreements and domestic requirements.

V. Recording, Record Keeping and Other Compliance Requirements

No new requirements would be added by the proposed action.

VI. Federal rules Which Overlap, Duplicate or Conflict With the Proposed Rules

None.

VII. Any Significant Alternative Minimizing Impact on Small Entities Consistent With Stated Objectives

No adverse impact on small entities is expected.

14. Accordingly, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, IT IS PROPOSED that Part 73 of the Commission's Rules be amended as set forth herein.

15. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before September 16, 1985, and reply comments on or before October 11, 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 is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

16. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at headquarters, Room 239, 1919 M Street, NW., Washington, DC. For general information on how to file comments, please contact the FCC Consumer Assistance and Information Division at (202) 632-7000.

17. 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 or until a final Order disposing of the matter is adopted by the Commission.

² Internationally, standards for synchronous transmitting systems already exist and are included in the Region 2 AM Agreement (Rio, 1981) as well as in the U.S.—Canadian Bilateral AM Agreement (Ottawa, 1984). Tentatively, we propose to apply the same standards domestically, including to the one existing synchronous system not in operation.

whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or proceeding. Any person who submits a written *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and Commission consideration or court review, *ex parte* contacts in this proceeding which affect individual license rights, will not be permitted. An *ex parte* contact is a message (spoken or written) concerning the merits of pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. 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, DC. For further information on this matter contact Larry Olson (202) 632-632-6955 or Louis C. Stephens (202) 632-7792.

Federal Communication Commission.

William J. Tricarico,
[FR Doc. 85-18048 Filed 7-30-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-723; RM-4748]

TV Broadcast Station in Cortaro, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Denial of petition.

SUMMARY: Denial of a petition for rule making to assign UHF television Channel 49 to Cortaro, Arizona. The petitioner, Saul Dresner, failed to supply required information to demonstrate that Cortaro qualified as a community for assignment purposes.

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

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

SUPPLEMENTARY INFORMATION:

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Allotments, TV Broadcast Stations, (Cortaro, Arizona) NM Docket No. 84-723; RM-4748.

Adopted: July 1, 1985.

Released: July 17, 1985.

By the Chief, Policy and Rules Division:

1. Before the Commission for consideration is its *Notice of Proposed Rule Making*, 49 FR 32237, published August 13, 1984, proposing the assignment of UHF television Channel 49 to Cortaro, Arizona, as that community's first television assignment. The *Notice* was adopted in response to a petition filed by Saul Dresner ("petitioner"). Petitioner has filed comments stating his intention to apply for the channel, if assigned. Opposition comments were filed by Channel Four Television Company ("Channel Four") to which petitioner did not respond.

2. Initially, the *Notice* indicated that, based on the information submitted by petitioner, the Commission could not determine Cortaro's community status. Accordingly, the petitioner was requested to provide the Commission with sufficient information to demonstrate that Cortaro had the social, economic or cultural indicia to qualify as a "community" for assignment purposes citing *Ansley, Alabama*, 46 FR 58688, published December 3, 1981; *Cascade-Village, Colorado*, 48 FR 19917, published May 3, 1983; and *Gayles, Louisiana*, 48 FR 28495, published June 22, 1983, and cases cited therein. Petitioner failed to provide the required information.

3. In opposition, Channel Four argues that Cortaro "does not qualify" as a community for assignment purposes. In support, it asserts that "Cortaro is not recognized as a community by the U.S. Census; It lacks the social, economic and cultural indicia normally associated with a community." Further, "Cortaro has no elected local government officials nor does it have recognizable boundaries. . . . Moreover, Cortaro lacks the municipal and social services traditionally associated with a community."

4. In view of the above and petitioner's failure to supply the requested information, we find that petitioner has failed to demonstrate that Cortaro qualifies as a "community" for assignment purposes.

6. Accordingly, it is hereby Ordered, that the petition is denied.

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

8. For further information contact D. David Weston, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-18062 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-224; RM-4763]

FM Broadcast Station in Iron Mountain, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of FM Channel 272A to Iron Mountain, Michigan, in response to a petition filed by Edward J. and Alice Mae Slater. This allotment could provide a third FM service for the community.

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 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.

Proposed Rulemaking

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Iron Mountain, Michigan), MM Docket No. 85-224 RM-4763.

Adopted: July 1, 1985.

Released: July 19, 1985.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Edward J. and Alice Mae Slater ("Petitioner"), seeking the allotment of FM Channel 272A at Iron Mountain, Michigan, as that community's third FM service. Petitioner submitted information in support of the proposal and stated that it would apply for the channel, if allotted.

2. Channel 272A can be allotted to Iron Mountain, Michigan, consistent with the minimum distance separation

requirements, provided there is a site restriction 5.6 miles north of the community. The site restriction will prevent a short spacing to Station WRVM, Channel 274, Suring, Wisconsin.¹ However, this allotment would limit the 16 kilometer buffer zone for the Suring station.²

3. Since the assignment of Channel 272A to Iron Mountain, Michigan, is within 320 kilometers (200 miles) of the common U.S.-Canadian border, the concurrence of the Canadian government is required.

4. In view of the fact that the proposed assignment could provide a third FM broadcast service to Iron Mountain, Michigan, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community.

City	Channel No.	
	Present	Proposed
Iron Mountain, MI.	226, 268	226, 268, and 272A.

5. 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.

6. Interested parties may file comments on or before September 9, 1985, and reply comments on or before September 24, 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: Russell C. Powell, Southmayd, Powell, Taylor and Brown, 1764 Church Street, N.W., Washington, D.C. 20036, (Counsel for the petitioner).

7. 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 Assignments, § 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*

Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 Fed. Reg. 11549, published February 9, 1981.

8. 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 Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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.

(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 Rulemaking* 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 petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-18054 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

¹ Channel 274 is allocated to Shawano, Wisconsin, but authorized for use at Suring, by the previously deleted "10 mile" rule.

² Existing Class C stations operating with less than a 300 meter antenna height are now permitted a buffer zone. However, this requirement does not apply to petitions such as the instant one which were filed before March 1, 1984. See BC Docket 80-90, *recons.* 97 F.C.C. 2d 279 (1984). Nevertheless potential applicants should attempt to select a transmitter site which protects the buffer zone.

47 CFR Part 73

[MM Docket No. 85-222; RM-4977]

FM Broadcast Station in Spencer, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 289A to Spencer, Oklahoma, as that community's first local FM service, at the request of Lift Him Up Outreach Ministries, Inc.

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 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. (Spencer, Oklahoma) [MM Docket No. 85-222; RM-4977]

Adopted: July 1, 1985.
Released: July 19, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Lift Him Up Outreach Ministries, Inc. ("petitioner") requesting the allocation of Channel 289A to Spencer, Oklahoma, as that community's first local FM service. Petitioner states that it will apply for the channel, if allocated. Channel 289A can be allocated in compliance with the Commission's minimum distance separation requirements if the transmitter site is restricted to an area at least 1.1 kilometers (0.7 miles) north of Spencer in order to avoid a short-spacing to Station KGOU, Channel 292A, at Norman, Oklahoma.

2. We believe the public interest would be served by proposing the channel allocation, as it could provide Spencer with its first local FM service. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Rules, with respect to the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Spencer, OK		289A

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 9, 1985, and reply comments on or before September 24, 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: Mr. Billy G. Mason, Sr., Lift Him Up Outreach Ministries, Inc., P.O. Box 285, Spencer, Oklahoma 73084 (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 73.608(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 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 § 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. 85-18056 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-223; RM-5034]

FM Broadcast Station in Barre, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Radio Barre, Inc., proposes the substitution of Channel 284C2 for Channel 296A at Barre, Vermont, in order to provide that community with its first wide coverage FM station.

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 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, (Barre, Vermont) MM Docket No. 85-223; RM-5034.

Adopted: July 1, 1985.

Released: July 19, 1985.

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration the petition for rule making filed by Radio Barre, Inc. ("petitioner"), licensee of Station WORK(FM), Channel 296A, Barre, Vermont, seeking the allocation of Channel 284C2 as a substitute for Channel 296A and the modification of its license for Station WORK to specify operation of Channel 284C2. The request was originally filed as a counterproposal in MM Docket No. 84-231 to the *Further Notice of Proposed Rule Making*, 50 FR 2835, published January 22, 1985. However, the counterproposal is

unacceptable because it does not conflict with the proposal to allot Channel 294C2 to Vergennes, Vermont.

2. Petitioner submitted information in support of the proposal and states the upgrade of its facilities will allow it to provide first and second aural services to residents of east central Vermont and west central New Hampshire.

3. We believe the petitioner's proposal warrants consideration. The substitution can be made in compliance with the Commission's minimum distance separation requirements, with a site restriction 28.8 kilometers (18.7 miles) west of the city to avoid short spacings to Canadian Station CFNI-FM, Channel 283A, Coaticook, Quebec and a proposal to allot Channel 287C2 at Killington, Vermont (MM Docket No. 83-357).

4. Since Barre is located within 320 kilometers (200 miles) of the U.S.-Canadian border, the proposal requires concurrence by the Canadian government.

5. In accordance with our established policy, we shall propose to modify the license of Station WORK to specify operation on Channel 284C2. However, if another party should indicate an interest in the Class C2 allotment, the modification cannot be implemented unless an additional equivalent channel is allotted. See, *Modification of FM and TV Station Licenses*, MM Docket No. 83-1148, 49 FR 34007, published August 28, 1984.

6. Accordingly, in order to provide Barre with its first wide coverage FM Station, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Rules, with the regard to the following community:

City	Channel No.	
	Present	Proposed
Barre, Vermont	296A	284C2

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 allotted.

8. Interested parties may file comments on or before September 9, 1985, and reply comments on or before September 24, 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: Todd D. Gray,

Dow, Lohnes & Albertson, 1255 23rd Street, N.W., Washington, D.C. 20037.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking 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.

10. 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 and *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 comment, to which the reply is directed, constitutes and *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 section 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.

(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 filing 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. 85-18055 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-1046; RM-4815]

TV Broadcast Station in Winchester, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule, Dismissal of petition.

SUMMARY: Action taken herein dismisses a petition filed by Brown Resources, Inc. to assign UHF Television Channel 27 to Winchester, Nevada. The petition is dismissed because no expression of interest has been filed by the petitioner or any other party.

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

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

SUPPLEMENTARY INFORMATION:

Report and Order (Proceeding Terminated)

In the matter of § 73.606(b), Table of Assignments, TV Broadcast Stations (Winchester, Nevada), MM Docket No. 84-1046; RM-4815.

Adopted: July 1, 1985.

Released: July 17, 1985.

By the Chief, Policy and Rules Division:

1. Before the Commission is the *Notice of Proposed Rule Making*, 49 FR 46446, published November 26, 1984, proposing the assignment of UHF Television Channel 27 to Winchester, Nevada, as its first television broadcast service. The *Notice* was issued in response to a petition filed by Brown Resources, Inc. ("petitioner").

2. H & W Communications filed comments supporting the assignment and stated its intention to apply for the channel, if assigned. On February 7, 1985, H & W Communications withdrew its comments since it no longer intended to apply for the proposed allocation. The original petitioner did not file comments. Consistent with the policy and procedures set forth in the Appendix to the *Notice*, we shall dismiss the petition to assign a TV channel to Winchester at this time.

3. In view of the foregoing, it is ordered, that the petition of Brown Resources, Inc. proposing the assignment of UHF Television Channel 27 to Winchester, Nevada, is hereby dismissed.

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

5. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-18061 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-220; RM-4928]

FM Broadcast Station in Davenport, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Wheat Waves, Inc., proposes the allotment of Channel 273A to Davenport, Washington, as that community's first FM service.

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 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, 1062; 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 (Davenport, Washington) (MM Docket No. 85-220, RM-4928)

Adopted: July 1, 1985.

Released: July 19, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by Wheat Waves, Inc. ("Petitioner"), seeking the allocation of Channel 273A to Davenport, Washington, as that community's first FM service. Petitioner has expressed an intention to apply for the channel. The channel can be allotted in compliance with the Commission's minimum distance separation requirements.

2. Since Davenport is located within 320 kilometers (199 miles) of the U.S.-Canadian border, the proposal requires concurrence by the Canadian government.

3. In view of the fact that the proposed allotment could provide a first FM service to Davenport, Washington, 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
Davenport, Washington		273A

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 9, 1985, and reply comments on or before September 24, 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: Kathryn Riley Dole, Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, D.C. 20036-2679 (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 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 Schot,

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.

(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. 85-18058 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-219; RM-4911]

FM Broadcast Station in Toppenish, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Radio Broadcasters, Inc., proposes the substitution of Channel 225C2 for Channel 224A at Toppenish, Washington, in order to provide that community with its first wide coverage FM station.

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 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. (Toppenish, Washington) (MM Docket No. 85-219, RM-4911)

Adopted: July 1, 1985.

Released: July 19, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by Radio Broadcaster, Inc., licensee of Station KZHR, Channel 224A, Toppenish, Washington ("petitioner"), seeking to substitute Class C2 Channel 225 for Channel 224A and to modify its license for Station KZHR to specify operation on Channel 225C2.

2. Petitioner submitted information in support of the proposal and states the upgrade of its facilities is necessary in order to better provide services to communities surrounding Toppenish.

3. We believe the petitioner's proposal warrants consideration. The substitution can be made in compliance with the Commission's minimum distance separation requirements.

4. In accordance with our established policy, we shall propose to modify the license of Station KZHR to specify operation on Channel 225C2. However, if another party should indicate an interest in the Class C2 allotment, the modification may not be implemented, unless an additional equivalent channel is allotted. See, *Modification of FM and TV Station Licenses*, MM Docket No. 83-1148, 49 FR 34007, published August 28, 1984.

5. Accordingly, in order to provide Toppenish with its first wide coverage FM station, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Rules, with regard to the community listed below, as follows:

City	Channel No.	
	Present	Proposed
Toppenish, Washington	224A	225C2

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 allotted

7. Interested parties may file comments on or before September 9, 1985, and reply comments on or before September 24, 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: Michael H. Bader, James E. Dunstan, Haley, Bader & Potts, 2000 M Street, NW, Washington, D.C. 20036 (Counsel for 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 Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time of 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 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 filing 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 of 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. *Comment 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 comment 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. 85-18059 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-221; RM-4893]

TV Broadcast Station in Keyser, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Contemporary Communications, Inc., proposes the substitution of noncommercial education UHF TV Channel *30 for Channel *48 at Keyser, West Virginia. The proposal would enable Contemporary, permittee of Channel 52, Cumberland, Maryland, to locate its transmitter site at an "antenna farm".

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 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.

Proposed Rule Making

In the Matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Keyser, West Virginia), MM Docket No. 85-221 RM-4893.

Adopted: July 1, 1985.

Released: July 19, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is the petition for rule making filed by Contemporary Communications, Inc., ("Contemporary") requesting the substitution of noncommercial educational UHF TV Channel *30 for Channel *48 at Keyser, West Virginia. Channel *48 is currently unoccupied and unapplied for.

2. Contemporary, permittee of a new television station on Channel 52 at Cumberland, Maryland, seeks to utilize an "antenna farm" for its transmitter site, in order to better serve its community. However, the site is short-spaced to Channel *48 at Keyser. Channel *30 can be substituted at Keyser in compliance with the Commission's minimum distance separation, with a site restriction of 5.7 miles west of the community to avoid

short spacing to unused Channel *44 at Martinsburg, West Virginia.

3. Since the proposed assignment of Channel *30 to Keyser, West Virginia, is within 250 miles of the common U.S.-Canadian border, Canadian concurrence is required.

4. We believe the public interest would be served by proposing to substitute the noncommercial educational channel at Keyser, West Virginia which could permit an earlier inauguration of service to Cumberland, Maryland on Channel 52. Accordingly, we propose to amend the Television Table of Assignments § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Keyser, West Virginia	*48+	*30+

5. 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.

6. Interested parties may file comments on or before September 9, 1985, and reply comments on or before September 24, 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: Larry G. Fuss, Sr., President, Contemporary Communications, Inc., P.O. Box 3976, Jackson, GA 30233-0976.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. 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 assignments. An *ex parte* contact is a message (spoken or written) concerning

the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communication Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing 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 assign a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. Number of Copies. In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85-18057 Filed 7-30-85; 8:45 am]

BILLING CODE 8712-01-M

47 CFR Part 74

(MM Docket No. 85-225; FCC 85-85-357)

Television Broadcasting; Posting of License Requirements, ITFS Remote Control Rules and ITFS Unattended Operation

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes rule changes to relax: (1) Posting of license requirements; (2) ITFS remote control rules; and (3) ITFS unattended operation.

The proposed Rule changes are intended to provide experimental broadcast licenses and Instructional Television Fixed Service licensees more

flexibility in operating auxiliary systems to promote spectrum efficiency.

DATES: Comments due by September 16, 1985, and Reply Comments due by October 16, 1985.

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

FOR FURTHER INFORMATION CONTACT: Hank Van Deursen, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 74

Television broadcasting.

The collection of information requirement contained in this proposed rule has been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons wishing to comment on this collection of information requirement should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for Federal Communications Commission.

Proposed Rule Making

In the Matter of Review of Technical and Operational Requirements: Part 74-A Experimental Broadcast Stations; and Part 74-I Instructional Television Fixed Service; MM Docket No. 85-225.

Adopted: July 9, 1985.

Released: July 16, 1985.

By the Commission.

1. The Commission, on its own motion, proposes to revise the rules covering technical and certain operational requirements for experimental broadcast stations and the Instructional Television Fixed Service (ITFS). Experimental broadcast stations are licensed to conduct research and experimentation for the advancement of technologies used by the broadcast industry. ITFS stations are operated by educational organizations and used primarily for the transmission of visual and aural instructional, cultural, and other types of educational material to one or more fixed receiving locations. Comments are invited on the proposed actions described in the remainder of this document which would allow licensees in these services more flexibility in the operation of their stations.

Issue 1: Posting of Licenses

2. The current rules require that station licenses be posted in the room in which the transmitter is located or at the control point. The proposed revision would allow a clearly legible photocopy of the license to be available at each transmitter site. Additionally, the rule

requiring operator licensing for ITFS stations was previously deleted from the Rules. Therefore, the removal of the ITFS operator license posting requirements is appropriate.

Issue 2: ITFS Remote Control

3. The current rule contains detailed equipment and operational provisions for ITFS remote control operations. Docket 84-110 relaxed the detailed equipment remote control requirements for AM, FM, and TV broadcast transmitter remote control operations. We believe that relaxation can be extended to ITFS stations at this time. Therefore, we propose to eliminate all ITFS remote control implementation specifications.

Issue 3: Unattended Operations of ITFS Stations

4. The current rules authorized unattended operations only for ITFS *response* and *relay* stations. Because of technological advances and the availability of stable transmitting equipment, we propose to allow unattended operations for all ITFS stations. Further, § 74.934(a)(2) specifies particular technical criteria that stations must meet when relaying signals. These rules relate to quality of service only and their elimination would not increase interference potential. Therefore, we propose elimination of the specified technical criteria. The above proposals would leave the determination of station operation and system selection to the judgment of the licensee.

Other Considerations

5. We additionally propose to make some non-substantive revisions to certain rule sections, as outlined in the appendix, by employing more concise language. These sections include: 74.937 *Antennas*; 74.939 *Special rules governing ITFS response stations*; 74.952 *Acceptability of equipment for licensing*; and 74.962 *Frequency monitors and measurements*. Comments are invited on these changes.

6. Initial Regulatory Flexibility Analysis.

I. Reason for action: This review is necessary to determine the relevance of current rules and to consider whether revision of some portions is warranted.

II. The Objective: The Commission's proposals are designed to provide licensees more flexibility in the operation of their stations.

III. Legal basis: Action is proposed in accordance with sections 4(i), 303 (g) and (r) of the Communications Act of 1934, as amended, which charge the Commission to encourage the most

effective use of radio in the public interest.

IV. *Description, potential impact, and number of small entities affected:* The proposed Rule changes are permissive in nature and should favorably affect licensees.

V. *Recording, recordkeeping, and other compliance requirements:* None.

VI. *Federal Rules which overlap, duplicate, or conflict with this Rule:* None.

VII. *Any significant alternative minimizing impact on small entities and consistent with the stated objective:* None.

Paperwork Reduction Act

7. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Actions

8. The Secretary shall cause a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*)

9. Accordingly, it is proposed to amend Part 74 of the Commission's Rules as set forth in the attached Appendix. Authority for the action taken herein is contained in sections 4(i), 303 (g) and (r) of the Communications Act of 1934, as amended.

10. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules and Regulations, interested parties may file comments on or before September 16, 1985, and reply comments on or before October 16, 1985. All relevant and timely comments shall be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for

public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

11. For purposes of this nonrestrictive Notice and comment Rule Making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits 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 on the proceeding must prepare a written summary of that presentation; and, 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 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.

12. Further information on this proceeding may be obtained by contacting Hank Van Deusen, Policy and Rules Division, Mass Media Bureau, (202) 632-9660.

Federal Communications Commission.

William J. Tricarico,
Secretary.

PART 74—[AMENDED]

Appendix

It is proposed to amend Title 47, Part 74 of the Code of Federal Regulations as follows:

1. The authority citation for Part 74 would continue to read as follows:

Authority: 47 U.S.C. 74.

2. Section 74.165, *Station and operator licenses; posting of*, would be revised in its entirety to read as follows:

§ 74.165 Posting of station and operator licenses.

(a) The instrument of authorization of a clearly legible photocopy thereof, shall be available at the transmitter.

(b) Operators of an experimental broadcast transmitter must have their operators' licenses or permits available at their duty locations.

3. Section 74.933 would be revised in its entirety to read as follows:

§ 74.933 Remote control operation.

A station may be operated by remote control without further authority.

4. Section 74.934 would be revised in its entirety to read as follows:

§ 74.934 Unattended operation.

Unattended operation of ITFS stations is permitted without further authority.

5. Section 74.937 *Antennas* would be amended by removing paragraph (c); and redesignating paragraphs (d) as (c), (e) as (d), and (f) as (e).

6. Section 74.939 would be amended by removing paragraphs (j), (m), and (n); redesignating paragraph (i) as (j); and revising paragraph (f) to read as follows:

§ 74.939 Special rules governing ITFS response stations.

(f) An ITFS response channel is 125 kHz wide and is centered at the assigned frequency. Either amplitude or frequency modulation can be employed. If amplitude modulation is used, the carrier shall not be modulated in excess of 100%. If frequency modulation is used, the deviation shall not exceed ± 25 kHz. Any emissions outside the channel including harmonics shall be attenuated at least 60 dB below peak output power. Greater attenuation may be required if interference is caused by out-of-band emissions.

7. Section 74.952 would be revised in its entirety to read as follows:

§ 74.952 Acceptability of equipment for licensing.

Each authorization for a station in this service requires the use of type accepted equipment. Requirements for obtaining a grant of equipment authorization are contained in Subpart J of Part 2 of the Rules.

(a) An application specifying a transmitter, translator, or booster not type accepted, may be filed by the applicant if the information and

measurement data required for type acceptance under Subpart J of Part 2 of the Rules is submitted with the application. However, if that data has been filed with the Commission in connection with a request for type acceptance, it need not be submitted and may be referred to as "on file."

8. Section 74.962 would be revised in its entirety to read as follows:

§ 74.962 Frequency monitors and measurements.

Suitable measurements shall be made as often as necessary to ensure that the operating frequencies of the station are within the prescribed tolerances.

9. Section 74.965, *Posting of station and operating licenses*, would be revised in its entirety to read as follows:

§ 74.965 Posting of licenses.

(a) The instrument of authorization of a clearly legible photocopy thereof, shall be available at each transmitter.

(b) If a station is operated unattended, the call sign and name of the licensee shall be displayed such that it may be read within the vicinity of the transmitter enclosure or antenna structure.

[FR Doc. 85-18046 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 70-27; Notice 28 and Docket 83-07; Notice 3]

Federal Motor Vehicle Safety Standards

Correction

In FR Doc. 85-17393 appearing on page 29993 in the issue of Tuesday, July 23, 1985, make the following correction: In the second column in the **DATES** paragraph, first line, "Docket No. 70-72" should read "Docket No. 70-27".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1048

[Ex Parte No. MC-37 (Sub-No. 38)]

Petition To Establish a Commercial Zone of Cameron, Hidalgo, Starr, and Willacy Counties, TX

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a petition, the Commission is instituting a proceeding to consider amending its regulations at 49 CFR Part 1048 *et seq.* to define specifically a commercial zone embracing the four southernmost Texas counties of Cameron, Hidalgo, Starr, and Willacy.

The proposal entails integration and expansion of what are now distinct commercial zones of municipalities in the involved area, identified by applying the population-mileage formula of 49 CFR 1048.101. Accordingly, recognition of the proposed commercial zone would increase the territory with which interstate motor carrier operations are exempt from economic regulation by the Interstate Commerce Commission.

Any interested person may file comments addressing the proposal.

DATE: Comments are due on August 30, 1985.

ADDRESS: Send an original and 15 copies of comments to: Ex Parte No. MC-37 (Sub-No. 38), Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Suzanne Higgins, (202) 275-7181

or

Howell I. Sporn, (202) 275-7691

SUPPLEMENTARY INFORMATION: The Rio Grande Valley Chamber of Commerce and the RGV Trucking Coalition request amendment of the Commission's regulations at 49 CFR Part 1048 to provide for a commercial zone embracing the four southernmost Texas counties of Cameron, Hidalgo, Starr, and Willacy (Rio Grande Valley commercial zone). Petitioners limit their request to creation of the commercial zone for the

transportation of property only; however, the Commission solicits comments on and will consider the proposed commercial zone expansion with respect to all motor vehicle transportation.

The proposed special determination of the Rio Grande Valley commercial zone would intergrade and expand the commercial zones of municipalities within the involved four-county area, now define by application of the population-mileage formula prescribed at 49 CFR 1048.101, and, accordingly, would expand the zone within which interstate motor carrier operations are exempt from economic regulation by the Interstate Commerce Commission under 49 U.S.C. 10526(b). This action also would expand the border commercial zones within which foreign motor carriers issued certificates of registration pursuant to 49 U.S.C. 10530 (section 226 of the Motor Carrier Safety Act of 1984, Pub. L. 98-554, 98 stat. 2832, effective May 1, 1985) could operate.

The Commission certifies that this proposal will not have significant economic impact on a substantial number of small entities. Its main purpose is to maintain the *status quo* for local cross-border operations by Mexican motor carriers. Otherwise, an expanded zone should not enable regulated interstate motor carriers to conduct expanded point-to-point service.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to Office of the Secretary, 12th and Constitution Avenue, N.W., Room 2215, Washington, D.C. 20423, or call (202) 275-7428.

List of Subjects in 49 CFR Part 1048

Motor carriers, Commercial zones.

This decision is issued pursuant to 49 U.S.C. 10321, 10526, and 5 U.S.C. 553.

Dated: July 22, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterret, Andre, Simmons, Lamboley, and Setrenio. Commissioner Lamboley concurred with a separate expression.

James H. Bayne,
Secretary.

[FR Doc. 85-18068 Filed 7-30-85; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 50, No. 147

Wednesday, July 31, 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.

ACTION

VISTA Guidelines; Final Notice

AGENCY: Action.

ACTION: Final Notice of VISTA Guidelines.

SUMMARY: This Notice outlines the Guidelines under which the VISTA program will operate. Part I sets forth the overall programmatic direction of the VISTA program; Part II discusses criteria for selection of VISTA sponsors and projects; and Part III describes VISTA project approval procedures. The Guidelines incorporate certain changes made to Title I, Part A of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113), by the amendments of 1984 (Pub. L. 98-288). Certain revision have been made in response to comments and suggestions received from members of the public.

DATE: The VISTA Guidelines shall take effect September 16, 1985.

FOR FURTHER INFORMATION CONTACT: Suzanne Gibson Wise, Director of VISTA, Action, 806 Connecticut Avenue, NW., Washington, D.C. 20525. (202) 634-9445.

SUPPLEMENTARY INFORMATION: Section 420 of the Domestic Volunteer Service of 1973, as amended (42 U.S.C. 5060), defines the term regulation and describes the procedures to be followed in prescribing regulations. Though its broad definition of a regulation, the section requires that "any rule, regulation, guideline interpretation, order, or requirement of general applicability" issued by the Director of ACTION must be published with a 30-day comment period. These Guidelines, although not regulations under the Administrative Procedure Act (5 U.S.C. 551 et seq.) may, in whole or in part, be required by our Act to be published in proposed form for public comment.

The VISTA Guidelines were published in proposed form in the Federal Register

for comment on April 23, 1985 (50 FR 15944-15947).

Discussion of Comments and Response

A total of 15 comments were received from current VISTA sponsors, members of the general public and members of Congress in response to the proposed Guidelines. Each recommendation has been duly considered. The following is the Agency response to the substantive comments, and the resulting modifications.

Part II—Criteria for Selection of VISTA Sponsors and Projects

One comment recommended that the legal requirement of VISTA to generate private sector resources and encourage volunteer service at the local level be added as a project selection criterion. This criterion has been added to Part II, Section A.

Some VISTA sponsors recommended deleting the prohibition against VISTA Volunteers holding outside employment while in VISTA service. Section 104(a) of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113) states that "Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty . . . and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave." Since VISTA legislation does not permit any activities which interfere with full-time service, this suggestion was not adopted.

Part III—VISTA Project Approval Process

Several comments were received recommending the ACTION provide organizations applying for new VISTA projects with reasons for disapproval if the applications are turned down. This suggestion has been adopted in Part III, Section A and Part III, Section B2.

Other comments concerned the length of time required for final decisions on new VISTA project applications. The timeframe within which the Director of VISTA must render a final decision on new project applications has been reduced from 60 to 45 days in response to the comments. Additionally, since second and third year project renewals will be decided by ACTION Regional Directors, the number of remaining projects which require Director of VISTA approval will be greatly reduced,

thereby expediting the decision-making process.

For purpose of clarity and consistency, the term "renewal" is used throughout the guidelines whereas the terms "renewal" and "continuation" were used interchangeably in the proposed guidelines.

Questions were raised concerning the apparent lack of a requirement by ACTION to provide existing projects with reasons for tentative denial of refunding. The requirement to provide such reasons is contained in section 412 of the Domestic Volunteer Service Act of 1973, as amended, and 45 CFR Part 1206, Subpart B. For purposes of clarification, the requirement had been restated in the VISTA Guidelines under Part III, Section B.

The requirement that existing projects seeking certain increases in volunteer levels must be approved by the Director of VISTA has been simplified in response to several comments received. Only projects seeking an increase of 5 or more volunteers, regardless of the level previously approved, require final approval by the Director of VISTA. All other increases in volunteer levels will be approved by the ACTION Regional Director.

Other comments were received concerning the treatment of project applications from existing sponsors requesting VISTA Volunteers for new program emphasis areas of for substantially different activities. The Guidelines treat such applications in the same manner as all other new project applications. New project applications, if denied, are not subject to the denial of refunding procedures contained in section 412 of the Domestic Volunteer Service Act and 45 CFR Part 1206, Subpart B. Those procedures relate only to refunding of existing projects or grants.

New VISTA project proposals, whether submitted by existing or new sponsoring organizations, will be treated on an equal basis in order to provide all potential sponsors with equal access to the scarce VISTA volunteer resource in a certain programmatic area. If the existing VISTA sponsor can most effectively manage a VISTA project in a new programmatic area, that organization will be selected as the project sponsor. The will not be regarded, however, as *renewal* of the organizations's previous project, but

rather as a totally new effort. If however, another organization is selected, the existing VISTA sponsor will be provided with reasons for the disapproval of the new project.

Part I—Program Directions

Volunteers in Service to America (VISTA) is authorized under Title I, Part A, of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113) ("the Act"). The statutory mandate of the VISTA program is "to eliminate and alleviate poverty and poverty-related problems in the United States by encouraging and enabling persons from all walks of life, all geographical areas, and all age groups, including low-income individuals, and elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. In addition the objective of [VISTA] is to generate the commitment of private sector resources and to encourage volunteer service at the local level to carry out the purposes [of the program]" (42 U.S.C. 4951).

VISTA provides full-time volunteers to local public and private non-profit organizations which have goals in accord with the VISTA mission. VISTA carries out its legislative mandate by assigning Volunteers to sponsoring organizations to work on projects determined and defined by the sponsoring organization and by the low-income individuals to be served by the VISTA Volunteers.

The VISTA program can most effectively serve the poor by encouraging projects which enable low-income communities and individuals to develop the skills and resources necessary to survive and prosper in the private sector, and by making the private sector aware of the basic needs of low-income people. Organizations which have a demonstrable pattern of approaching people and problems in a constructive, collaborative way have the best chance of fulfilling the goals of the Act and of the particular project. VISTA project sponsors must actively elicit the support and/or participation of local public and private sector elements in order to enhance the chances of a project's success, as well as institutionalize the VISTA activities when ACTION/VISTA no longer provides Volunteers.

The VISTA Volunteer's role in addressing the problems of poverty in a

particular community should be focused on mobilizing community resources and increasing the capacity of the low-income community to solve its own problems. While VISTA Volunteers may serve as important links between the project sponsor and the people being served, it is crucial to the concept of achieving self-sufficiency among the low-income community that sponsoring organizations plan for the eventual phase-out of VISTA Volunteers and for the absorption of the Volunteers' functions by other facets of the community.

(42 U.S.C. 4951; 4952)

Part II—Criteria for Selection of VISTA Sponsors and Projects

A. Criteria

The following criteria will be employed by ACTION staff in the selection of VISTA sponsors and in the approval of new and renewal VISTA projects. All of the stated elements below must be found in the applicant's proposal. The project must:

1. Be poverty-related in scope and otherwise comply with the provisions of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951 *et seq.*) applicable to VISTA and all applicable published regulations, guidelines and ACTION policies.
2. Comply with applicable financial and fiscal requirements established by ACTION or other elements of the Federal Government.
3. Show that the goals, objectives and volunteer tasks are attainable within the time frame during which the volunteers will be working on the project and will produce a measurable or verifiable result.
4. Provide for reasonable efforts to recruit and involve low-income community residents in the planning, development and implementation of the VISTA project.
5. Have evidence of local public and private sector support.
6. Be designed to generate private sector resources and encourage local, part-time volunteer service.
7. Provide for frequent and effective supervision of the volunteers.
8. Identify resources needed and make them available for volunteers to perform their tasks.
9. Have the management and technical capability to implement the project successfully.

B. Additional Factors

ACTION staff will use the following additional tests in choosing among applicants who meet all of the minimum criteria specified above:

1. How important is the proposed project to the low-income community? Who will benefit from the project?
2. Does the project show evidence of skillful and careful planning to attain project goals?
3. Did the sponsor answer project applications questions with specificity or somewhat vaguely?
4. Is there any local opposition to the proposed project from a segment of the community which could seriously hamper the project's success?
5. Are there plans for the continuation of VISTA activities in the community after the volunteers are withdrawn?
6. Sponsoring Organization.
 - (a) Does the sponsoring organization have adequate experience in dealing with the problem(s) identified in the project application?
 - (b) Are plans for volunteer supervision and sponsor-provided training adequate for the volunteer assignments?
 - (c) Are transportation arrangements outlined in the project application adequate for the volunteers to carry out their assignments?
 - (d) Are the procedures for staff accountability adequate for the VISTA project?
7. VISTA Volunteers
 - (a) Is the number of volunteers being requested appropriate for project goals and objectives as stated? Is a proposal requesting one VISTA Volunteer of such worth as to make development worthwhile?
 - (b) Are the roles of the volunteers designed to increase self-sufficiency in the low-income community?
 - (c) Are the volunteer skills/qualifications described in the application appropriate for the assignment(s)?
 - (d) Are the volunteer assignments designed to utilize the full-time volunteers' time to the maximum extent?

C. Prohibited Activities

Applicant and current sponsoring organizations must ensure that the following prohibitions on volunteer and sponsor activity are observed:

1. VISTA Volunteers are prohibited by law from participating in:
 - (a) Partisan and nonpartisan political activities, including voter registration activities and transporting voters to the polls.
 - (b) Direct or indirect attempts to influence legislation, or proposals by initiative petition.
 - (c) Labor and anti-labor organization and related activities.
 - (d) Any outside employment while in VISTA service.

2. VISTA sponsors are prohibited by law from:

(a) Carrying out projects resulting in the identification of such projects with partisan and nonpartisan political activities, including voter registration activities and providing voters with transportation to the polls.

(b) Assigning volunteers to activities which would supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(c) Requesting or receiving any compensation for the services of volunteers.

3. VISTA Volunteers are prohibited from engaging in any religious activities as part of their duties. VISTA sponsors are prohibited from conducting any religious instruction, worship, proselytization or other religious activity as part of a VISTA project.

Part III—VISTA Project Approval Process

A. Project Approval Process for New Sponsors

In order to assure all potential sponsors equal consideration, the VISTA project approval process for new projects described below is to be followed.

1. When a potential sponsor contacts an ACTION State Office to apply for VISTA resources the State Office will send the sponsor a Preliminary Inquiry Form or a VISTA Project Application Form. State Offices will provide applicants with technical assistance and additional instructions necessary to plan proposed project activities.

(2) Completed VISTA Project Application forms will be reviewed by the State Director as they are received.

(a) Potential projects which the State Director determines to be out of compliance with VISTA legislation and guidelines will be disapproved with the applicant agency/organization notified in writing of the reasons for disapproval.

(b) Potential projects that meet minimum VISTA requirements will be assessed by the State Director in terms of the Additional Factors noted in Section II B above, evidence of local support, the overall quality of the project application, the State programming strategy (e.g. rural/urban program focus, etc.), and the availability of VISTA resources within the State.

3. At least 80 days prior to the planned projects' start dates, the State Director will forward to the ACTION Regional Office all VISTA project applications recommended for placement of VISTA Volunteers.

4. The Regional Director will review the State Director's recommendations and transmit to the Director of VISTA, at least 45 days prior to the planned projects' start dates, all project application packages deemed suitable for VISTA Volunteer placements along with recommendation memos from the State and Regional Offices.

Project applications not transmitted to the VISTA Director by the Regional Director will be returned to the State Director who will, in turn, notify the applicant organization(s) of the reasons for the projects' non-selection.

5. The Director of VISTA will notify the Regional and State Directors of final decisions on new VISTA project applications within 45 days of receipt. Formal action necessary to implement the decisions will be taken by the State Director after all approved VISTA Project Application forms and necessary auxiliary documents (e.g., Memorandum of Agreement, Memoranda of Understanding) have been reviewed for compliance by the Regional Director.

6. The Regional Office will forward a copy of the complete project document file to VISTA Headquarters. Official project document files will be retained in the Regional Office.

B. Project Approval Process for Existing VISTA Sponsors

All VISTA projects will be reviewed at the time of their renewal request to determine the extent to which the projects are mobilizing support from the community and planning for community continuance of the volunteers' activities.

1. The project approval process outlined below is to be followed for all VISTA sponsors seeking renewal for a second or third year of operation of their existing VISTA project.

a. Project applications from existing sponsoring organizations which desire renewal of their present VISTA projects, i.e. continuation of the VISTA volunteer activities and/or program issue area(s) previously approved, for a second or third year of operation should be submitted to the ACTION State Office at least 115 days prior the end of the current project period.

b. The State Director will review the renewal project application, as well as quarterly VISTA Project Progress Reports which have been submitted during the current project period. The State Director will transmit the complete project renewal package to the Regional Director, along with a recommendation for continuance or non-continuance of the VISTA project, at least 80 days prior to the end of the current project period.

c. If the Regional Director approves the renewal project application, the

project will be continued for one year subject to the availability of funds. Formal action necessary to implement the approval decision will be taken by the State Director after all approved VISTA project application forms and auxiliary documents (e.g. Memorandum of Agreement, Memoranda of Understanding) have been reviewed for compliance by the Regional Director.

d. The Regional Office will forward a copy of the complete project document file to VISTA Headquarters. Official project document files will be retained in the Regional Office.

e. If the Regional Director disapproves the renewal project application, the sponsoring organization will be notified by the Regional Director at least 75 days in advance of the end of the current project period that ACTION intends to deny the application for renewal. The sponsor will be given reasons for the tentative decision and an opportunity to show cause why the application should not be denied in accordance with section 412 of the Domestic Volunteer Service Act of 1973, as amended, and 45 CFR, Part 1206, Subpart B.

f. If the current sponsor participates in an informal meeting, the information presented by the sponsor at that meeting, as well as a report of the meeting and recommendations of the Regional Director, will be forwarded within five (5) working days of the meeting to the Director of VISTA for a final decision on the project's renewal application. The project will be continued at its existing level of volunteer and project support pending a final decision by the Director of VISTA.

g. Where a final decision denies project renewal, VISTA volunteers whose terms of service extended beyond the project's expiration date are covered by the provisions of 45 CFR Part 1210.3-2.

2. The project approval process outlined below is to be followed for:

a. All existing VISTA projects seeking continuation for a fourth year or longer of the previously approved VISTA volunteer activities and/or program issue area(s); or

b. All existing VISTA projects seeking an increase of 5 or more volunteers from their previously approved level of volunteers; or

c. All existing VISTA sponsors seeking to change the programmatic emphasis(es) of the VISTA project and/or substantially change the scope of the activities and duties performed by the volunteers (e.g. from literacy to job development, or from agricultural production activities to development of food buying clubs).

(1) Project application should be submitted to the ACTION State Office at least 115 days prior to the beginning of the proposed project period. The State Director will review the project application, as well as quarterly VISTA Project Progress Reports for the current project period and evidence of local support for the proposed project's activities.

(2) At least 60 days prior to the beginning of the project period, the State Director will transmit the complete project package to the Regional Director, along with a specific justification for the continuance of the current project beyond a third year, or a recommendation regarding the sponsor's revised programmatic emphasis or volunteer activities.

(3) The Regional Director will review the project package and State Director's recommendations and transmit to the Director of VISTA, at least 45 days prior to the start of the project period, any application package deemed suitable for VISTA volunteer placements along with recommendation memos from the State and Regional Offices. The Director of VISTA will render the final decision on the project applications package within 45 days. The ACTION State and Regional offices will take formal action to implement the VISTA Director's decision.

(4) If the project application requesting renewal of a current VISTA project for a fourth year or longer, as defined in Part III B2 above, is disapproved at the State, regional or national level, the sponsoring organization will be notified at least 75 days in advance of the end of the current project period that ACTION intends to deny the application for renewal. The sponsor will be given reasons for the tentative decision and an opportunity to show cause why the application should not be denied in accordance with section 412 of the Domestic Volunteer Service Act of 1973, as amended, (enacted May 21, 1984), and 45 CFR, Part 1206, Subpart B, (effective March 25, 1982).

(5) If the sponsor participates in an informal meeting, the information presented by the sponsor at that meeting, as well as a report of the meeting and recommendations of the Regional Director will be forwarded within five (5) working days of the meeting to the Director of VISTA for a final decision on the project's renewal application. The project will be continued at its existing level of volunteer and project support pending a final decision by the Director of VISTA.

(6) Project applications from current VISTA sponsors proposing to change the

programmatic emphasis(es) or substantially change the scope of activities and duties performed by the volunteers from those previously approved are not subject to the denial of refunding procedures contained in section 42 of the Domestic Volunteer Service Act of 1973, as amended, and 45 CFR Part 1206, Subpart B. Such applications will be treated as new project applications in accordance with the procedures outlined in III A (2) above.

C. Extensions of Current VISTA Projects

In limited circumstances, current VISTA sponsors may wish to extend previously approved projects for up to six months in order to allow already-assigned VISTA volunteers to complete their term of service, and/or to conclude activities designed to institutionalize the efforts of VISTA Volunteers when ACTION/VISTA no longer provides Volunteers.

In such instances, the VISTA sponsors will send to the ACTION State Office, at least 60 days prior to the end of the current project period, a detailed justification, along with Section III of the VISTA Project Application form, describing the activities to be performed during the extension period.

The State Director will review the project extension request and transmit it, along with a recommendation memo, to the ACTION Regional Director at least 45 days prior to the end of the current project period.

The ACTION Regional Director will render a final decision on the project extension request within 20 days.

If the request is approved, the ACTION State and Regional Offices will take formal action to implement the decision including extension of the current Memorandum of Agreement.

The Regional Office will forward copies of all project extension documents to VISTA Headquarters. Official project document files will be retained in the Regional Office.

Denial of project extension requests of six months or less are not subject to the denial of refunding procedures contained in section 412 of the Domestic Volunteer Service Act of 1973 as amended (enacted May 21, 1984), as 45 CFR Part 1206, Subpart B (effective March 25, 1982).

D. Intergovernmental Review of VISTA Projects

Agencies and organization submitting new or renewal VISTA project applications must comply with the provisions of Executive Order 12372, the "Intergovernmental Review of Federal Programs and Activities" as set forth in

45 CFR Part 1233. ACTION State Offices will provide applicant organizations with technical assistance regarding this requirement.

E. Governor's Approval of VISTA Projects

No volunteers may be assigned in any State until the Governor or other Chief Executive Officer of the jurisdiction concerned has been given 45 days within which to disapprove the proposed project's submission.

Governor's approval must be sought by the ACTION Regional Director (or designee) for all new VISTA projects, as well as for ongoing projects which are requesting an increase in their volunteer numbers or substantially changing their volunteer activities.

F. Freedom of Information Act Requests Related to VISTA Project Reviews.

All Freedom of Information Act (FOIA) requests generated by the project review process shall be directed to the FOIA Officer in ACTION Headquarters for reply (even if initially addressed to the State or Regional Office).

(42 U.S.C. 4951, 4952, and 4953)

Dated in Washington, D.C. on July 26, 1985.

Daniel F. Bonner,

Acting Director, Action.

[FR Doc. 85-18100 Filed 7-30-85; 8:45 am]

BILLING CODE 6050-28-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

July 26, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, D.C. 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Agricultural Marketing Service
Washington—Oregon Prunes Marketing
Order 924

On occasion; Biennially
Farms; Businesses or other for-profit; 91
responses; 22 hours; not applicable
under 3504(h)

William J. Doyle (202) 447-5975

• Agricultural Marketing Service
Papayas Grown in Hawaii—Marketing
Order 928

On occasion; Weekly; Monthly;
Annually

Farms; Businesses or other for-profit;
Small businesses or organizations;
1,219 responses; 1,059 hours; not
applicable under 3504(h)

William J. Doyle (202) 447-5975

• Agricultural Marketing Service
Fresh Peaches Grown in Georgia—
Marketing Order No. 918

On occasion

Farms; Businesses or other for-profit; 68
responses; 17 hours; not applicable
under 3504(h)

William J. Doyle (202) 447-5975.

Jane A. Benoit,

Departmental Clearance Officer.

[FR Doc. 85-18138 Filed 7-30-85; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 307]

Resolution and Order Approving the Application of the Capital District Regional Planning Commission for a Foreign-Trade Zone in the Albany, New York Area

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Capital District Regional Planning Commission, a New York public corporation, filed with the Foreign-Trade Zones Board (the Board) on December 6, 1984, and amended on January 23, 1985, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone at sites in the Albany, New York, Customs port of entry area, including the manufacture of specialty trucks and dermatological soaps, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone other than those mentioned above. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in the Albany, New York Area

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 USC 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Capital District Regional Planning Commission (the Grantee), a New York public corporation, has made application (filed December 6, 1984, Docket No. 53-84, 49 FR 48584, amended 1/23/85, 50 FR 3946) in due and proper form to the Board, requesting the establishment, operation, and

maintenance of a foreign-trade zone at sites in Albany, Schenectady and Rensselaer Counties, New York, adjacent to the Albany Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 121 at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issue thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone other than those involving the manufacture of specialty trucks and dermatological soaps as described in the application record.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer

at Washington, D.C. this 18th day of July 1985, pursuant to Order of the Board.

Foreign-Trade Zones Board,
Malcolm Baldrige,
Chairman and Executive Officer.

Attest:

Dennis Puccinelli,
Acting Executive Secretary.
[FR Doc. 85-18175 Filed 7-30-85 8:45 a.m.]
BILLING CODE 3510-DS-M

[Order No. 306]

Resolution and Order Approving the Application of the Cowlitz Economic Development Council for a Foreign-Trade Zone in Cowlitz County, WA

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Cowlitz Economic Development Council, a Washington non-profit corporation, filed with the Foreign-Trade Zones Board (the Board) on July 10, 1984, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Cowlitz County, Washington, within the Longview Customs port of entry; the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in Cowlitz County, WA

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation,

and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 USC 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Cowlitz Economic Development Council (the Grantee), a Washington non-profit corporation, has made application (filed July 10, 1984, Docket No. 34-84, 43 FR 29116) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone at sites in Cowlitz County, Washington, within the Longview Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 120 at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance

of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 18th day of July 1985, pursuant to Order of the Board.

Foreign-Trade Zones Board,
Malcolm Baldrige,
Chairman and Executive Officer.

Attest:

Dennis Puccinelli,
Acting Executive Secretary.
[FR Doc. 85-18174 Filed 7-30-85; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administration

[C-580-013]

Certain Carbon Steel Products From Korea; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of intention to review and preliminary results of changed circumstances administrative review and tentative determination to revoke countervailing duty order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty order on certain carbon steel products from Korea. The review covers the period from October 1, 1984. The petitioner and other domestic interested parties to this proceeding have notified the Department that they are no longer interested in the countervailing duty order. These affirmative statements of no interest from domestic interested parties provide a reasonable basis for the Department to revoke the order. Therefore, we tentatively determine to revoke the order. In accordance with the petitioner's notification, the revocation will apply to all certain carbon steel

products entered, or withdrawn from warehouse, for consumption on or after October 1, 1984. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 18, 1983, the Department of Commerce ("the Department") published in the *Federal Register* (48 FR 7241) a countervailing duty order on certain carbon steel products from Korea.

In a letter dated June 19, 1985, United States Steel Corporation, the petitioner in this proceeding, informed the Department that it was no longer interested in the order and stated its support of revocation of the order. The Department received similar letters from the other domestic interested parties to the proceeding, Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, Cyclops Corporation and Laclede Steel Company. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke a countervailing duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of Korean certain carbon steel products. Such merchandise is currently classifiable under items 607.6610, 607.6615, 607.6710, 607.6740, 607.8320, 607.8342, 607.8350, 607.9400, 607.0710, 608.0730, 608.1100, 608.1310, and 608.1330 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the domestic interested parties' affirmative statements of no interest in continuation of the countervailing duty order on certain carbon steel products from Korea provide a reasonable basis for revocation of the order.

Therefore, we tentatively determine to revoke the order on this product effective October 1, 1984. We intend to

instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to countervailing duties and to refund any estimated countervailing duties collected with respect of those entries. The current requirement for a cash deposit of estimated countervailing duties will continue until publication of the final results of this review.

This notice does not cover unliquidated entries of certain carbon steel products from Korea which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984, and which were not covered in prior administrative review. The Department will cover any such entries in a separate review, if one is requested.

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

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (b) and (c) of the tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 335.41, 355.42).

Dated: July 24, 1985.

Gilbert B. Kaplan,
Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 85-18095 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-05-M

[C-580-403]

Cold-Rolled Carbon Steel Flat-Rolled Products From Korea; Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of intention to review and preliminary results of changed circumstances administrative review

and tentative determination to revoke countervailing duty Order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty order on cold-rolled carbon steel flat-rolled products from Korea. The review covers the period from October 1, 1984. The petitioner and other domestic interested parties to this proceeding have notified the Department that they are no longer interested in the countervailing duty order. These affirmative statements of no interest provide a reasonable basis for the Department to revoke the order. Therefore, we intend to revoke the order. In accordance with the petitioner's notification, the revocation will apply to all cold-rolled carbon steel flat-rolled products entered, or withdrawn from warehouse, for consumption on or after October 1, 1984. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 11, 1985, the Department of Commerce ("The Department") published in the *Federal Register* (50 FR 5653) a countervailing duty order on cold-rolled carbon steel flat-rolled products from Korea.

In a letter dated June 19, 1985, United States Steel Corporation, the petitioner in this proceeding, informed the Department that it was no longer interested in the order and stated its support of revocation of the order. The Department received similar letters from the other domestic interested parties to the proceeding, Bethlehem Steel Corporation, Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, Cyclops Corporation and Laclede Steel Company. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke a countervailing duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of Korean cold-rolled carbon steel flat-rolled products. Such merchandise is currently classifiable under items 609.8005, 609.8015, 609.8035, 609.8041, and 609.8045 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the domestic interested parties' affirmative statements of no interest in continuation of the countervailing duty order on cold-rolled carbon steel flat-rolled products from Korea provide a reasonable basis for revocation of the order. In light of the October 1, 1984, effective date for revocation requested by the domestic parties, there is good cause (as required by section 751(b)(2) of the Tariff Act) to conduct this review at this time.

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

This notice does not cover unliquidated entries of cold-rolled carbon steel flat-rolled products from Korea which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984, and which were not covered in a prior administrative review. The Department will cover any such entries in a separate review, if one is requested.

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

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: July 24, 1985.

Gilbert B. Kaplan,
Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 85-18097 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-469-406]

Oil Country Tubular Goods From Spain; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of final results of changed circumstances administrative review and revocation of countervailing duty order.

SUMMARY: On June 19, 1985, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on oil country tubular goods from Spain and announced its tentative determination to revoke the order. The review covers the period from October 1, 1984.

We gave interested parties an opportunity to comment. We received no comments. We determine that domestic interested parties are no longer interested in continuation of the order. Therefore, we will revoke the order. In accordance with petitioners' notifications, the revocation will apply to all oil country tubular goods entered, or withdrawn from warehouse, for consumption on or after October 1, 1984.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Alan Long or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 19, 1985, the Department of Commerce ("the Department") published in the *Federal Register* (50 FR 25439) the preliminary results of its changed circumstances administrative review of the countervailing duty order on oil country tubular goods from Spain

(50 FR 5287, February 7, 1985). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Spanish oil country tubular goods. Such merchandise is currently classifiable under items 610.3216, 610.3219, 610.3233, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5234, 610.5240, 610.4242, 610.5243, and 610.5244 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Final Results of the Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the countervailing duty order on oil country tubular goods from Spain and that the order should be revoked on this basis.

Therefore, we are revoking the order on oil country tubular goods from Spain effective October 1, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries.

This notice does not cover unliquidated entries of oil country tubular goods from Spain which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984. The Department will cover any entries not covered in a prior administrative review and entered, or withdrawn from warehouse, for consumption before October 1, 1984, in a separate review, if one is requested.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: July 23, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 85-18094 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-DS-M

C-201-494]

Oil Country Tubular Goods From Mexico; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of final results of changed circumstances administrative review and revocation of countervailing duty order.

SUMMARY: On June 13, 1985, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on oil country tubular goods from Mexico and announced its tentative determination to revoke the order. The review covers the period from October 1, 1984.

We gave interested parties an opportunity to comment. We received no comments. We determine that cosmetic interested parties are no longer interested in continuation of the order. Therefore, we will revoke the order. In accordance with petitioners' notifications, the revocation will apply to all oil country tubular goods entered, or withdrawn from warehouse, for consumption on or after October 1, 1984.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Alan Long or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1985, the Department of Commerce ("the Department") published in the *Federal Register* (50 FR 24793) the preliminary results of its changed circumstances administrative review of the countervailing duty order on oil country tubular goods from Mexico (49 FR 47054, November 30, 1984). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Mexican oil country tubular goods. Such merchandise is currently classifiable under items 610.3216, 610.3219, 610.3233, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244 of the Tariff Schedules of the United States Annotated.

The review covers the period from October 1, 1984.

Final Results of the Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the countervailing duty order on oil country tubular goods from Mexico and that the order should be revoked on this basis.

Therefore, we are revoking the order on oil country tubular goods from Mexico effective October 1, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries.

This notice does not cover unliquidated entries of oil country tubular goods from Mexico which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984. The Department will cover any entries not covered in a prior administrative review and entered, or withdrawn from warehouse, for consumption before October 1, 1984, in a separate review, if one is requested.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: July 24, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 85-18096 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Amended Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The date cited in the agenda [published July 15, 1985, at 50 FR 28604] for the public meeting, August 15-16, 1985, of the North Pacific Fishery Management Council's Permit Review Committee has been changed. The Committee will convene its public meeting on August 14, at 2 p.m., instead of August 15. All other information remains unchanged. For further information contact Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274-4563.

Dated: July 26, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

[FR Doc. 85-18177 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

An emergency teleconference meeting of the Pacific Fishery Management Council is scheduled for 11 a.m., July 31, 1985, for consideration of what management actions might be required by the over-quota coho salmon harvest in the July 15-18 troll salmon season between Leadbetter Point and Cape Alava, WA. Depending on the total harvest and its impact on key choco stocks, the Council may have to revise or reduce the two remaining troll salmon fisheries north of Cape Falcon scheduled to open in August.

Members of the public desiring to participate in the meeting may do so at the following locations:

1. Oregon Department of Fish and Wildlife, Commission Meeting Room, 506 S.W. Mill Street, Portland, OR;
2. Oregon Department of Fish and Wildlife, Astoria Office, 53 Portway Street, Astoria, OR;

Port of Ilwaco Office, Ilwaco, WA; and,

Washington, Department of Fisheries, 115 General Administration Building, Olympia, WA.

For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR, 97201; telephone: (503) 221-6352.

Dated: July 26, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

[FR Doc. 85-18176 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Republic of the Philippines

July 25, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 26, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated December 21, 1984 (49 FR 50231) established limits for certain categories of cotton, wool, and man-made fiber textile products, including man-made fiber coats in Categories 635 T and 635 NT, produced or manufactured in the Philippines and exported during the agreement year which began on January 1, 1985. Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated November 24, 1982, as amended, between the Governments of the United States and the Republic of the Philippines, and at the request of the Government of the Republic of the Philippines, the 1985 limit for Category 635 T is being increased by the addition of special swing to 154,126 dozen. The limit for Category 635 NT is being reduced to 126,978 dozen to account for the special swing applied to Category 635 T.

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).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 25, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1984 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Philippines and exported during 1985.¹

Effective on July 26, 1985, Paragraph 1 of the directive of December 21, 1984 is hereby further amended to include adjusted restraint limits for the following categories:

Category	Adjusted 12-mo restraint limit (dozen) ¹
635 T	154,126
635 NT	126,978

¹ The limits have not been adjusted to reflect any imports restricted after December 31, 1984.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-18099 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-DR-M

¹ The agreement provides, in part, that: (1) specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Increasing Import Level for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Singapore

July 26, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 31, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textile Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore, provides consultation levels for certain categories, such as Category 636 (man-made fiber dresses), which may be adjusted upon agreement between the two governments. The Governments of the United States and the Republic of Singapore have agreed to further amend their bilateral agreement to convert this consultation level to a designated consultation level at 40,000 dozen for the 1985 agreement year. The letter to the Commissioner of Customs which follows this notice implements the agreed increase for goods in Category 636 produced or manufactured in Singapore and exported during 1985.

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).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 26, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1984 which directed

you to prohibit entry of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Singapore and exported during 1985.

Effective on July 31, 1985, the directive of December 21, 1984 is hereby further amended to increase the restraint level previously established for textile products in Category 636 to 40,000 dozen.¹

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald L. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-18098 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

President's Blue Ribbon Commission on Defense Management; Meeting

The President's Blue Ribbon Commission on Defense Management will meet August 15 to August 16, 1985 at 736 Jackson Place, NW., Washington, D.C.

Agenda: August 15 to August 16 (0900-1700): Presentations and discussions with the Commissioners on organizational and administrative issues. Any additional information concerning the meeting may be obtained from Robert T. Marlow, Administrative Officer, 202-395-7365, President's Blue Ribbon Commission on Defense Management, 736 Jackson Place NW., Washington, D.C. 20503.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 26, 1985.

[FR Doc. 85-18092 Filed 7-30-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Discretionary Grant Programs; Applications Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1986 New Grant Applications

AGENCY: Department of Education.

ACTION: Application Notice Establishing Closing Dates for Transmittal of Certain

Fiscal Year 1986 New Grant Applications.

SUMMARY: The purpose of these applications notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of new grant applications for certain programs administered by the Department of Education under the Office of Special Education and Rehabilitative Services.

Organization of Notice

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates for new grant applications covered by this notice. Part II contains the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of applications:

Applications for new awards must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: (insert appropriate CFDA number), 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must

be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered application between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Available funds: An estimate of available funds is included in each application notice, under the paragraph on availability of funds. These estimates of funding levels do not bind the Department to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Intergovernmental review: On June 24, 1983, the Secretary published in the *Federal Register* final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled: "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

Some of the following programs in this notice are subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

Included in each application announcement in this notice is a current list of States that have established a

¹The level has not been adjusted to reflect any imports exported after December 31, 1984.

process, designated a single point of contact, and have selected that program for review. Also included in each announcement is the date by which comments and recommendations from the single point of contact review are due to the Department.

The Executive Order for Intergovernmental Review will apply to the following programs:

- 84.025—Services for Deaf-Blind Children and Youth
- 84.024—Handicapped Children's Early Education Program
- 84.078—Postsecondary Education Programs for Handicapped Persons
- 84.158—Secondary Education and Transitional Services for Handicapped Youth

PART I—LIST OF PROGRAM APPLICATION ANNOUNCEMENTS PUBLISHED IN THIS NOTICE

CFDA No.	Program	Closing date
84.023C	Research in Education of the Handicapped—Field-Initiated Research Projects	10-4-85
84.023T	Research in Education of the Handicapped—Extant Data Base Projects	12-13-85
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Part II—Application Notice

84.023 Research in Education of the Handicapped

Applications are invited for new projects under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641-644 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441-1444)

Awards are made under this program to State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

The purpose of this program is to provide support for research, surveys, demonstration projects, and other activities relating to the education of handicapped children and youth. Under this program, the Secretary makes awards to eligible parties for research and related activities to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children and youth, including physical education and recreation.

84.023C—Research in Education of the Handicapped—Field-Initiated Research Projects

Closing date:

Program information: This priority supports a broad range of field-initiated research projects focusing on the education of handicapped children and youth. The appropriate areas of interest for projects are limited only by the mission of the research program—support of applied research relating to the education of handicapped children and youth.

84.023T—Research in Education of the Handicapped—Extant Data Base Projects

Closing Date: December 13, 1985.

Program information: This priority supports projects related to the education of handicapped children that use, build on, or expand existing data files or records and information as the data source of research focusing on issues related to the education of handicapped children.

Available funds: It is estimated that approximately \$1,800,000 will be available for support of 20 new grants for Field-Initiated Research projects to be awarded in Fiscal Year 1986.

It is estimated that approximately \$503,000 will be available for support of seven new grants for Extant Data Base projects to be awarded in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be mailed on August 12, 1985 to all applicants to the Research in Education of the Handicapped program during 1985. Other interested parties may obtain these materials by writing to: Research Projects Branch, Special Education Programs, 400 Maryland Avenue, S.W., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included information is only intended to aid applicants in applying for assistance. Nothing on the program information package is intended to impose any paperwork, application content, reporting, or grantee requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges the applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable Regulations: Regulation applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the *Federal Register* on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, and 78).

For Further Information Contact: Dr. Nancy Safer or Dr. James Johnson, Division of Education Services, Special Education Programs, Department of Education, 400 Maryland Avenue, S.W., (Switzer Building, Room 3511 M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1064.

(20 U.S.C. 1441-1444)

84.078—Postsecondary Education Programs for Handicapped Persons

Applications are invited for projects under the Postsecondary Education Programs for Handicapped Persons.

Authority for this program is contained in section 625 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1424a)

Awards are made under this program to State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies.

The purpose of this program is to provide assistance for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for handicapped individuals.

84.078C—Postsecondary Education Programs for Handicapped Persons—Postsecondary Demonstrations

Closing Date: December 16, 1985.

Program information: (a) In accordance with 34 CFR 338.30(b), the Secretary will award Fiscal Year 1986 grants for model projects of supportive services to individuals with handicapped conditions other than deafness that focus on specially adapted or designed education programs that coordinate, facilitate, and encourage education of handicapped students with their nonhandicapped peers, as described in § 338.10(a)(2)(i). An application that does not address this priority will not be considered. If an application addresses both the priority and a non-priority area, the Secretary will consider only that portion that addresses the priority.

(b) Within this priority, the Secretary especially urges the submission of applications for projects that develop models of postsecondary services which focus on individuals with specific learning disabilities, particularly in regular and in vocational education settings. (See 34 CFR 300.5(b)(9) for the definition of "specific learning disability"). Projects in vocational-technical schools and institutions, and at community colleges and other two-year institutions are especially invited. These projects should produce information and practices which will facilitate their replication in other agencies and improve work opportunities for persons with specific learning disabilities who are served in postsecondary settings. However, applications that meet the invitational priority described in this paragraph will

not receive a competitive preference over other applications that meet the absolute priority described in paragraph (a).

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Mexico
Arizona	New York
Arkansas	Northern Mariana Islands
California	Ohio
Colorado	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	Puerto Rico
Guam	Rhode Island
Hawaii	South Carolina
Indiana	South Dakota
Kentucky	Texas
Louisiana	Trust Territory
Maine	Utah
Massachusetts	Vermont
Michigan	Virgin Islands
Missouri	Virginia
Montana	Washington
Nebraska	Wisconsin
Nevada	Wyoming
New Hampshire	
New Jersey	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 13, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.078), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(Proof of mailing will be determined on the same basis as applications).

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH

THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available Funds: It is estimated that approximately \$800,000 will be available for support of 12 new demonstration projects to be awarded in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be available for mailing on November 1, 1985.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Postsecondary Education Programs for Handicapped Persons program (34 CFR Part 338).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, 78, and 79).

For Further Information Contact: Dr. Joseph Rosenstein, Postsecondary Education Programs, Captioning and Adaptation Branch, Division of Innovation and Development, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1176.

(20 U.S.C. 1424a)

84.025—Services for Deaf-Blind Children and Youth

Applications are invited for new projects under the Services for Deaf-Blind Children and Youth program.

Authority for this program is contained in section 622 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1422)

Awards are made under this program to public or nonprofit private agencies, institutions, or organizations.

The purpose of this program is to support projects that enhance services to deaf-blind children and youth, particularly by providing technical assistance to State educational agencies and others who are involved in the education of deaf-blind children and youth.

84.025A—Services for Deaf-Blind Children and Youth—State and Multi-State Projects

Closing date: January 3, 1986.

Program information: This priority supports cooperative agreements with the Secretary to conduct projects that enhance services to deaf-blind children and youth. The projects supported under this program provide:

(a)(1) Special education and related services, as well as vocational and transitional services, to deaf-blind children and youth to whom States are not obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act and to whom the State is not providing those services under some other authority.

(2) Technical assistance to State educational agencies so that they may more effectively—

(i) Provide special education and related services, as well as vocational and transitional services, to those deaf-blind children and youth to whom they are obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act or some other authority;

(ii) Provide preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind children or youth;

(iii) Replicate successful, innovative approaches to providing educational or related services to deaf-blind children and youth;

(iv) Facilitate parental involvement in the education of their deaf-blind children and youth; and

(v) Provide consultative and counseling services for professionals, paraprofessionals, parents, and others who play a direct role in the lives of deaf-blind children and youth, to enable them to understand the special problems of those children and youth, and to assist in the provision of appropriate services to those children and youth.

(3) The services described in paragraph (a)(1) to deaf-blind children and youth to whom a State is obligated to make available a free appropriate public education under Part B of the

Education of the Handicapped Act and to whom the State is providing those services under some other authority.

Under 34 CFR 307.11 projects assisted under this program must be designed to:

(i) Give first priority in the use of project funds to the provision of services described in paragraph (a)(1); and

(ii) Give second priority in the use of project funds to the provision of technical assistance to State educational agencies, as described in paragraph (a)(2).

Any remaining funds may be used by the grantee, upon request of the State educational agency, for the services described in paragraph (a)(3).

The regulations for this program (see §§ 307.11(e) and 307.20(a)(1)) permit any State to choose to receive services independently from other States.

This announcement provides the opportunity for a State presently participating in a multi-State project for deaf-blind children and youth to withdraw from that project and apply for a single State project.

Multi-State projects including participating States:

Alabama	Nevada
American Samoa	New Hampshire
Arizona	New Mexico
Arkansas	North Dakota
Connecticut	Northern Mariana Islands
Delaware	Ohio
Florida	Oklahoma
Georgia	Pennsylvania
Hawaii	Puerto Rico
Idaho	South Carolina
Illinois	South Dakota
Indiana	Trust Territory
Iowa	Vermont
Maine	Virgin Islands
Massachusetts	Washington
Minnesota	Wisconsin
Nebraska	

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review.

Alabama	Montana
Arizona	Nebraska
Arkansas	Nevada
California	New Hampshire
Connecticut	New Jersey
Delaware	New Mexico
Florida	New York
Guam	Northern Mariana Islands
Hawaii	Ohio
Indiana	Oklahoma
Iowa	Oregon
Kansas	Pennsylvania
Kentucky	South Carolina
Louisiana	South Dakota
Maine	Tennessee
Massachusetts	Texas
Michigan	
Missouri	

Trust Territory
Utah
Vermont
Virgin Islands

Virginia
Washington
West Virginia
Wyoming

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, or local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by March 4, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.025), 400 Maryland Avenue, SW., Washington, D.C. 20202.

(Proof of mailing will be determined on the same basis as applications).

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately \$598,000 will be available for support for an estimated seven new single-State cooperative agreements to be awarded in Fiscal Year 1986. Awards will be for a period of up to three years. Funding for awards will be based on the extent to which applicants address the two priorities described under *Program Information*. However, it is not anticipated that Fiscal Year 1986 funds will be available to support the services described in 34 CFR 307.11(a)(3). A total of \$4,935,000 is expected to be made available for awards for multi-State and single State projects for Fiscal Year 1986. Of this amount, \$4,337,000 is anticipated to be awarded under this competition for new awards. It is expected that funds available for continuation awards will be increased to the extent that funds are not awarded under the new competition.

Application forms: Application forms and program information packages will be mailed on October 28, 1985 to grantees who are eligible to apply for new cooperative agreement support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Services for Deaf-Blind Children and Youth program (34 CFR part 307) published at 49 FR 28360 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR parts 74, 75, 76, 77, 78, and 79).

For Further Information Contact: Charles Freeman, Special Needs Section, Special Education Programs, Department of Education, 330 C Street, SW., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone (202) 732-1165.

(20 U.S.C. 1422)

84.024—Handicapped Children's Early Education Program

Applications are invited for projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in Section 623 of Part C of the Education of the Handicapped Act. (20 U.S.C. 1423)

Awards are made under this program to appropriate public agencies and private non-profit organizations to develop and implement experimental preschool and early education programs for handicapped children from birth through eight years which show promise of promoting a comprehensive and strengthened approach to the special problems of young handicapped children. Awards are also provided to assist States in planning, developing, an implementing a comprehensive delivery

system that provides education and related services to handicapped children from birth through five years and their families. One grant may be awarded to each State.

84.024C—Handicapped Children's Early Education Program—Outreach Projects

Closing date: January 6, 1986.

Program information: The purpose of this program is to support experimental preschool and early education programs for handicapped children. These programs are intended to promote a comprehensive service delivery system to meet the special needs of handicapped children from birth through eight years of age. Outreach projects support the replication of established practices to assist other agencies and organizations in expanding and improving services to handicapped children.

Applications may be submitted by public or nonprofit private agencies, organizations, or institutions that—

(1) Have completed demonstration projects assisted under the Handicapped children's Early Education program, or projects assisted with other Federal, State, local, private, or nonprofit funding sources that have achieved effective results with children; and

(2) Have continued the demonstration project program model with local, State, or other funding than under 34 CFR Part 309.

Priority for assistance under this program will be given to projects that—
111(a) Assist other agencies and organizations in the development and implementation of comprehensive delivery systems for handicapped children that may be incorporated into Early Childhood State Plans under Subpart F of 34 CFR Part 309;

(b) Provide quality training and other assistance and general support services to regions, States, and geographical areas where handicapped children from birth through five years of age are unserved or underserved, especially projects that serve ethnic and linguistic minority group handicapped children, economically disadvantaged, and migrant handicapped children;

(c) Stimulate the provision of services, and provide training in rural areas; or

(d) Stimulate the provision of services and provide training based upon recent research findings and information from fields of special education, child development, pediatrics, and other areas appropriate to early childhood education. (See 34 CFR 309.32).

Applications that do not address one or more of the priorities will not be considered. The Secretary especially

urges the submission of applications for outreach projects that—(1) within each of the priorities listed in (a) through (d), address the needs of unserved and underserved preschool children who are severely and multiply handicapped; and (2) attempt to improve skills for use in the family, home, community, or day care centers by parents and personnel participating in the projects. However, applications that meet the invitational priorities described in this paragraph will not receive a competitive preference over other applications that meet the priorities described in paragraphs (a) through (d).

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Mexico
Arizona	New York
Arkansas	Northern Mariana Islands
California	North Dakota
Connecticut	Ohio
Delaware	Oklahoma
Florida	Oregon
Guam	Pennsylvania
Hawaii	Puerto Rico
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Trust Territory
Maine	Utah
Massachusetts	Vermont
Michigan	Virgin Islands
Missouri	Virginia
Montana	Washington
Nebraska	West Virginia
Nevada	Wisconsin
New Hampshire	
New Jersey	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, or local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State,

areawide, regional, and local entities must be mailed or hand delivered by March 7, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.024), 400 Maryland Avenue, SW., Washington, D.C. 20202.

(Proof of mailing will be determined on the same basis as applications)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately \$3,900,000 will be available for support of 30 new outreach projects (84.024C) in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be available for mailing on November 4, 1985.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309) published at 49 FR 28350 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, 78 and 79).

For Further Information Contact: Dr. Thomas Finch, Chief, Early Childhood Programs, Special Education Programs, Department of Education, 330 C Street, SW., (Switzer Building, Room 3511-M/S 2313) Washington, D.C. 20202. Telephone: (202) 732-1084.

(20 U.S.C. 1423)

84.023—Research in Education of the Handicapped

Applications are invited for new projects under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641-644 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441-1444)

Awards are made under this program to State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

The purpose of this program is to provide support for research, surveys, demonstration projects, and other activities relating to the education of handicapped children and youth. Under this program, the Secretary makes awards to eligible parties for research and related activities to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, demonstrations relating to the education of handicapped children and youth. Research and related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education related practices and services for handicapped children and youth, including physical education and recreation.

84.023F—Research in Education of the Handicapped—Increasing Teaching Learning Efficiency Projects

Closing date: January 13, 1986.

Program information: This priority supports projects that focus on teacher and school variables associated with improved performance of handicapped students as shown by a variety of educational outcome measures.

Available funds: It is estimated that approximately \$800,000 will be available for support of eight new grants for Increasing Teaching/Learning Efficiency projects to be awarded in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be mailed August 12, 1985 to all applicants to the Research in Education of the Handicapped program during 1985. Other interested parties may obtain these materials by writing to: Research Projects Branch, Special Education Programs, 400 Maryland Avenue, SW., (Switzer Building, Room

3511-M/S 2313), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the *Federal Register* on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, and 78).

For Further Information Contact: Dr. Nancy Safer or Dr. James Johnson, Division of Educational Services, Special Education Programs, Department of Education, 400 Maryland Avenue, S.W., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1084.

(20 U.S.C. 1441-1444)

84.158—Secondary Education and Transitional Services for Handicapped Youth

Applications are invited for projects under the Secondary Education and Transitional Services for Handicapped Youth program.

Authority for this program is contained in Section 626 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1425)

Awards are made under this program to institutions of higher education, State

educational agencies, local educational agencies, and other public and private nonprofit institutions or agencies.

The purpose of this program is to provide support for research, development, demonstration, evaluation, and other types of projects that improve secondary special education and other services for handicapped youth in order to assist them in the transition from secondary school to postsecondary environments such as competitive or supported employment.

84.158C—Secondary Education and Transitional Services for Handicapped Youth—Cooperative Models for Planning and Developing Transitional Services

Closing date: January 20, 1986.

Program information: This priority supports projects designed to plan and develop cooperative models for activities among State or local educational agencies, developmental disabilities councils, and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and private employers, which will facilitate effective planning for services to meet the employment needs of handicapped youth as they leave school.

Intergovernmental Review: The information on Intergovernmental review of Federal Programs, as required under Executive Order 12372, is included in the preamble of this notice.

The Secondary Education and Transitional Services for Handicapped Youth program is a new program, and most States have not made a determination as to whether it will be included or excluded from review under the State review process. New Jersey, however, has selected this program for review.

In those states which have not selected this program for review under the State process, immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, should contact the appropriate State single point of contact to see if this assistance will be included under its review process and to comply with the State's process under Executive Order 12372.

A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities

must be mailed or hand delivered by March 21, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.158), 400 Maryland Avenue, SW., Washington, D.C. 20202.

(Proof of mailing will be determined on the same basis as applications).

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is expected that approximately \$880,000 will be available for support of eight new grants for Cooperative Models for Planning and Developing Transitional Services to be awarded in Fiscal Year 1986.

Application forms: Application forms and program information packages will be mailed on November 18, 1985 to grantees who are eligible to apply for grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of this package not exceed 20 pages in length. The Secretary further urges that the applicant submits only information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0026)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Secondary Education and Transitional Services for Handicapped Youth Program (34 CFR Part 326) published at 49 FR 28380 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, 78, and 79).

For Further Information Contact: Dr. Thomas R. Behrens, Director, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511—M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1154.

(20 U.S.C. 1425)

84.023—Research in Education of the Handicapped

Applications are invited for new projects under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641-644 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441-1444)

Awards are made under this program to State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

The purpose of this program is to provide support for research, surveys, demonstration projects, and other activities relating to the education of handicapped children and youth. Under this program, the Secretary makes awards to eligible parties for research and related activities to assist special educational personnel related services personnel and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children and youth, including physical education and recreation.

84.023B—Research in Education of the Handicapped—Student-Initiated Research Projects

Closing date: March 14, 1986.

Program information: This priority supports post-secondary students to initiate and direct a broad range of research and related projects focusing on the education of handicapped children. Content of the research projects is limited only by the mission of the research program—the support of the applied research relating to the education of handicapped children and youth.

Available funds: It is estimated that approximately \$150,000 will be available for support of 20 new grants for Student-Initiated Research projects to be awarded in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be mailed on August 12, 1985 to all applicants to the Research in Education of the Handicapped program during 1985. Other interested parties

may obtain these materials by writing to: Research Projects Branch, Special Education Programs, 400 Maryland Avenue, S.W., (Switzer Building, Room 3511—M/S 2313), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the programs information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the **FEDERAL REGISTER** on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, and 78).

For Further Information Contact: Dr. Nancy Safer or Dr. James Johnson, Division of Educational Services, Special Education Programs, Department of Education, 400 Maryland Avenue, S.W., (Switzer Building, Room 3511—M/S 2313), Washington, D.C. 20202. Telephone (202) 732-1064.

20 U.S.C. 1441-1444)

84.024—Handicapped Children's Early Education Program

Applications are invited for projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in section 623 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1423)

Awards are made under this program to appropriate public agencies and private nonprofit organizations to develop and implement experimental preschool and early education programs for handicapped children from birth through eight years which show promise of promoting a comprehensive and strengthened approach to the special problems of young handicapped children. Awards are also provided to assist States in planning, developing, and implementing a comprehensive delivery system that provides education and related services to handicapped children from birth through five years and their families. One grant may be awarded to each State.

8304.024E—Handicapped Children's Early Education Program—Early Childhood State Plan Projects

Closing date: May 23, 1986.

Program information: The purpose of this program is to assist eligible States in planning, developing, or implementing an Early Childhood State Plan for a comprehensive delivery system of special education and related services to handicapped children from birth through five years of age.

The Secretary makes one of the grants described in 34 CFR 309.51-309.53 to any State which submits an application that meets the requirements of Subpart F of 34 CFR Part 309. States funded in Fiscal Year 1985, and therefore ineligible to apply under this announcement, are:

Arizona	Nebraska
California	New Hampshire
Colorado	New Jersey
Connecticut	New Mexico
Delaware	New York
Florida	North Carolina
Georgia	North Dakota
Guam	South Dakota
Hawaii	Tennessee
Iowa	Trust Territories
Louisiana	Virgin Islands
Maine	Washington
Maryland	West Virginia
Montana	Wisconsin
Michigan	Wyoming

In accordance with section 623(c)(2) of the Act, the Secretary will issue grants in three categories: planning, development, and implementation.

Technical assistance (by telephone or mail) is available to applicants for this competition through START (State Technical Assistance Resource Team), Suite 500, NCB Plaza, Chapel Hill, North Carolina 27514. Telephone: Pat Trohanis (919) 962-2001.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process,

designated a single point of contact, and have selected this program for review:

Alabama	New Mexico
Arizona	New York
Arkansas	Northern Mariana Islands
California	North Dakota
Connecticut	Ohio
Delaware	Oklahoma
Florida	Oregon
Guam	Pennsylvania
Hawaii	Puerto Rico
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Trust Territory
Maine	Utah
Massachusetts	Vermont
Michigan	Virgin Islands
Missouri	Virginia
Montana	Washington
Nebraska	West Virginia
Nevada	Wisconsin
New Hampshire	
New Jersey	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by July 23, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.024), 400 Maryland Avenue, S.W. Washington, D.C. 20202.

(Proof of mailing will be determined on the same basis as applications).

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately \$3,300,000 will be available for support of 27 new Early Childhood State Plan projects (84.024E) in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be available for mailing on March 24, 1986.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Noting in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309) published at 49 FR 28350 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, 78, and 79).

For Further Information Contact: Dr. Thomas Finch, Chief, Early Childhood Programs, Special Education Programs, Department of Education, 330 C Street, S.W., (Switzer Building, Room 3511-M/S 2313) Washington, D.C. 20202. Telephone: (202) 732-1084.

(20 U.S.C. 1423)

(Catalog of Federal Domestic Assistance Numbers 84.023—Research in Education of the Handicapped; 84.025—Services for Deaf-Blind Children and Youth; 84.024—Handicapped Children's Early Education Program; 84.078—Postsecondary Education Programs for Handicapped Persons; 84.158—Secondary Education and Transitional Services for Handicapped Youth)

Dated: July 26, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 18169 Filed 7-30-85; 8:45 am]

BILLING CODE 4000-01-M

Educational Media Research, Production, Distribution and Training

AGENCY: Department of Education.

ACTION: Notice of Proposed Annual Funding Priority for Fiscal Year 1986.

SUMMARY: The Secretary proposes an annual funding priority for the Educational Media Research.

Production, Distribution and Training program. This priority for Fiscal Year 1986 is for projects that are designed to provide information on the impact and use of captioned materials with hearing impaired individuals and those with handicapping conditions other than hearing impairment.

DATE: Comments must be received on or before August 30, 1985.

ADDRESS: Comments should be addressed to: Dr. Malcolm J. Norwood, Division of Innovation and Development, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Malcolm J. Norwood. (202) 732-1172.

SUPPLEMENTARY INFORMATION: The Educational Media, Research, Production, Distribution, and Training program, authorized by sections 651 and 652 of Part F of the Education of the Handicapped Act, provides financial assistance to profit and non-profit public and private agencies, organizations, and institutions for the purpose of: (a) Conducting research on the use of educational media for handicapped persons; (b) producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of handicapped persons; and (c) training persons in the use of educational media for the instruction of handicapped persons.

The Department has, since 1959, provided captioned films for deaf children and adults, and, more recently, has provided for the closed captioning of many television programs. While the provision of captions was initially and primarily intended for hearing impaired persons, the Department is aware of increasing reports of potential and actual benefits received by persons with handicapping conditions other than deafness. Pilot information on classroom use of captioned materials with hearing children who have reading difficulties shows improvements related to such skills as sight vocabulary, prediction skills, locating skills, and comprehension/oral fluency. The simultaneous presentation of visual and auditory information afforded by captioned films and video materials for the learning disabled population has been identified as being of potential benefit, but actual demonstrations and evaluations have not as yet been subjected to analyses, nor has the field opted to undertake such studies under existing discretionary research funding authority.

This proposed priority reflects the recognition of the potential for enhanced learning and educational growth among children who are hearing impaired and those with other handicapping conditions who are systematically exposed to captioned materials, and the need to document the nature and extent of such growth among these populations.

Priority

In accordance with the Education Department General Administrative Regulations at 34 CFR 75.105(b)(2) and 75.105(c)(3)(i), and subject to available funds, the Secretary proposes to give an absolute preference to each applicant which provides satisfactory assurance that the recipient will use funds made available for these projects to conduct any of the following activities: (a) Determination of the impact of captioned materials for specific subject matter areas that are used in instructional programs with persons who are hearing impaired and with persons who have handicapping conditions other than deafness; (b) studies that provide information on the nature and extent of incidental learning that occurs as a result of exposure to captioned materials in hearing impaired child and adult audiences; (c) identification of the effect of exposure to captioned materials on changes in reading and language comprehension scores in children with various handicapping conditions; or (d) clarification of the extent to which captions provide for or assist in the learning of social and cultural concepts by hearing impaired children in both school and home environments.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document provides early notification of the Department's plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priority.

All comments submitted in response to this proposed priority will be available for public inspection, during

and after the comment period, in Room 4088, Switzer Building, 330 C Street, SW., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1451-1452)

(Catalog of Federal Domestic Assistance No. 84.026; Educational Media Research, Production, Distribution, and Training)

Dated: July 28, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-18168 Filed 7-30-85; 8:45 am]

BILLING CODE 4000-01-M

Office of the Secretary

Excellence in Education Program; New Awards

AGENCY: Department of Education.

ACTION: Application notice for new awards under the Excellence in Education Program.

SUMMARY: The Secretary of Education (the Secretary), under the Excellence in Education Program, announces a new grant program and invites applications for projects in individual public schools designed to achieve excellence in education. Applications will be considered in two categories: school excellence grants and special school grants.

Closing Date for Transmittal of Applications From Chief State School Officers and Chief Educational Officers

Applications nominated for grants must be mailed or hand delivered to the Department on or before October 15, 1985. In accordance with §§ 750.20 and 750.21 of the final regulations, a chief State school officer or chief educational officer submits applications directly to the Secretary. A local educational agency (LEA) desiring to participate in this program must comply with the procedures and deadlines established by the chief State school officer or chief educational officer of its State. Any application submitted directly to the Secretary by an LEA or an individual public school will not be considered and will be returned.

Applications Delivered by Mail (Applies only to chief State school officers and chief educational officers)

Applications sent by mail must be addressed to the U.S. Department of Education, Office of Educational Research and Improvement Proposal Clearinghouse, Attention: Lee Black, Room 619F, Brown Building, 1200 19th Street, NW., Washington, D.C. 20208.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand (Applies only to chief State school officers and chief educational officers)

An application delivered by hand must be taken to the U.S. Department of Education, Office of Educational Research and Improvement Proposal Clearinghouse, Room 619F, Brown Building, 1200 19th Street, NW., Washington, D.C.

The Proposal Clearinghouse will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted by the Proposal Clearinghouse after 4:00 p.m. on the closing date.

Program Information

The Excellence in Education Act (EEA) was enacted as Title VI of the Education for Economic Security Act (EESA), Pub. L. 98-377 (20 U.S.C. 4031 *et seq.*).

The Excellence in Education Program provides assistance to local educational agencies to carry out projects of excellence in individual public schools through activities that: (1) Demonstrate successful techniques for improving the quality of education, (2) can be disseminated and replicated, and (3) are conducted with the participation of school principals, school teachers, parents, and business concerns in the locality of the school.

Two types of awards are made under this program: (1) School excellence

grants, and (2) special school grants. Both types of awards support school improvement activities. Special school grants, however, require the assurance of contributions of funds from the private sector for the proposed activities.

Funding Priorities

Section 605(c)(2) of the EEA requires that the Secretary give priority to proposals that have the highest potential for successfully demonstrating techniques to improve the quality of education and that can be disseminated and replicated. Further, the Secretary may establish additional priorities, as described in § 750.11(b) of the regulations. In accordance with 34 CFR 75.105 of the Education Department General Administrative Regulations (EDGAR), the Secretary has selected priorities as described in detail below.

(a) *Absolute preference.* The Secretary has selected the following seven priorities for both the school excellence grants and the special school grants. Only those applicants that have as their purposes one or more (or combinations) of the following will be considered under this program—

(1) Modernization and improvement of secondary school curricula to improve student achievement in academic or vocational subjects, or both, and competency in basic functional skills;

(2) Elimination of excessive electives and the establishment of increased graduation requirements in basic subjects;

(3) Improvement in student attendance and discipline through the demonstration of innovative student motivation techniques and attendance policies with clear sanctions to reduce student absenteeism and tardiness;

(4) Demonstrations to increase learning time for students;

(5) Experimentation providing incentives to teachers and teams of teachers for outstanding performance, including financial rewards, administrative relief such as the removal of paperwork and extra duties, and professional development;

(6) Demonstrations to increase student motivation and achievement through creative combinations of independent study, team teaching, laboratory experience, technology utilization, and improved career guidance and counseling; or

(7) Demonstrations of new and promising models of school-community and school-to-school relationships including the use of nonschool personnel to alleviate shortages in areas such as mathematics, science and foreign

language instruction, as well as other partnerships between business and education, including the use of equipment.

In addressing one or more of the above priorities, the Secretary especially encourages proposals that:

- increase the involvement of parents in improving the quality of elementary and secondary education; or
- observe the bicentennial of the U.S. Constitution by increasing students' knowledge of the early history of the American republic; the significance of the Constitution, Declaration of Independence, Bill of Rights, and other primary documents; and the origins and development of the American form of government and political institutions.

(b) *Competitive preference.* The Secretary will award up to 10 extra points, in addition to the 100 possible points under § 750.31, for those proposals that have the highest potential for successfully demonstrating techniques to improve the quality of education, and that can be disseminated and replicated.

The Secretary encourages applicants to conduct activities with the participation of school principals, school teachers, parents, and local business concerns, as appropriate. The Secretary also encourages applications that enhance reform efforts initiated at the State and district level.

Eligible Applicants

Under § 750.2(a) of the regulations, only a local educational agency is eligible to receive a grant under this program. A local educational agency may not receive more than one grant under this program for any individual school of that LEA.

Cost Sharing

Cost sharing is required only for grantees that receive special school grants. Under § 750.40 of the regulations, the Federal share for each year of the grant may not be less than 67½ percent nor more than 90 percent of the total cost of the project. The Secretary is required to set the Federal share for each competition established for special school grants.

For the purpose of this competition, the Secretary has set the Federal share at 70 percent of the total cost of the project.

Application Procedures

In accordance with § 750.20 of the regulations, a local educational agency desiring to participate in this program must submit to the chief State school officer or chief educational officer of its

State an application for each school for which the local educational agency is applying for a grant.

Under § 750.21 of the regulations, the chief State school officer of each State selects from those up to 25 applications for submission to the Secretary. In the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the chief educational officer selects up to five applications for submission to the Secretary.

The chief State school officer or chief educational officer is responsible for establishing the process and procedures for soliciting, receiving, reviewing, and selecting nominations for both the school excellence grants and the special school grants.

In selecting those schools to nominate to the Secretary, the chief State school officer or chief educational officer, in accordance with § 750.21(b) of the regulations, must assure a fair and equitable distribution of schools within the State after considering—

- (1) All categories of public elementary and secondary schools within the State, including, but not limited to, elementary schools, junior high schools, secondary schools, vocational-technical schools, or any combination of two or more schools;
- (2) Socioeconomic conditions of the State;
- (3) Geographic distribution within the State;
- (4) School size;
- (5) The size and location of the community in which the school is located;
- (6) The local governmental arrangements between the government and the local educational agency submitting the application;
- (7) The potential for the proposed project to demonstrate successfully techniques for improving the quality of education in ways that can be disseminated and replicated; and
- (8) Other relevant information provided by the local educational agency in its application.

Selection Criteria

(a) In evaluating applications, the Secretary uses the selection criteria contained in § 750.31 of the regulations. The maximum possible number of points for all the criteria is 85, and the value assigned for each criterion is as follows:

- (1) Plan of operation. (20 points)
- (2) Quality of key personnel. (15 points)
- (3) Budget and cost effectiveness. (5 points)
- (4) Evaluation plan. (5 points)
- (5) Adequacy of resources. (5 points)

- (6) Improving elementary or secondary education. (15 points)
- (7) National significance. (15 points)
- (8) Applicant's commitment and capacity. (5 points)

(b) Furthermore, the regulations authorize the Secretary to distribute an additional 15 points among the criteria to bring the total to a maximum of 100 points. The Secretary will distribute these additional points as follows:

Improving elementary or secondary education. Five (5) additional points will be added to this criterion for a possible total of 20 points.

National Significance. Ten (10) additional points will be added to this criterion for a possible total of 25 points.

Length of Awards

Section 606(b) of the EEA authorizes a two-year grant program. Applicants may apply for funding for a project not to exceed 24 months. However, for the purposes of this notice, funding will be provided only for a twelve-month period. Support for a second year will be subject to the availability of funds and the requirements contained in 34 CFR 75.253.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

The Excellence in Education Program is a new program, and States have not make a determination as to whether it will be included or excluded from review under the State review process. Therefore, immediately upon receipt of this notice, an applicant should contact the appropriate State single point of contact to see if this assistance will be included under its State's review process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by September 30, 1985 to the following address: The Secretary, U.S. Department of Education, Room 4181 (CFDA No. 84.171), 400 Maryland Avenue, SW., Washington, D.C. 20202. Proof of mailing will be determined on the same basis as applications.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available Funds

The Congress has appropriated \$5 million to implement this program. Four million dollars are available for school improvement activities. Of this amount, \$1 million is available for the school excellence grant competition, and \$3 million is available for the special school grant competition. The remaining \$1 million is reserved for research, evaluation, and dissemination activities.

Section 750.33 of the regulations requires the Secretary to base the amount of a grant award to an individual school on the size of the school, the number of students enrolled in the school, and the number of teachers teaching in the school.

For *school excellence grants*, schools with fewer than 1,000 students and teachers combined are eligible to receive up to \$15,000 for a one-year project or up to \$30,000 for a two-year project. Schools with 1,000 or more students and teachers combined are eligible to receive up to \$20,000 for a one-year project or up to \$35,000 for a two-year project.

For *special school grants*, schools with fewer than 1,000 students and teachers combined are eligible to receive up to \$20,000 for a one-year project or up to \$35,000 for a two-year project. Schools with 1,000 or more students and teachers combined are eligible to receive up to \$25,000 for a one-year project or up to \$40,000 for a two-year project.

It is anticipated that 250 or fewer grants will be awarded under this program. These estimates do not bind the U.S. Department of Education to a specific number of grants, or to the amount of any grant, unless that amount

is otherwise specified by statute or regulations.

Restriction on Use of Funds

Under § 750.41 of the regulations, the Secretary may restrict the amount of grant funds used under this program to purchase equipment. For the purposes of the competitions described in this notice, the Secretary expects to restrict to no more than 10 percent the amount of grant funds that may be used to purchase equipment.

Application Forms

The chief State school officer or chief educational officer of each State is responsible for establishing the process and procedures for receiving applications from LEAs.

Application forms and program information must be obtained through the chief State school officer or chief educational officer at each State educational agency. Further inquiries regarding this process should be directed to that office in each State.

Applicable Regulations

The following regulations apply to this program:

(a) The regulations for the Excellence in Education Program which are codified in 34 CFR Part 750. (Final regulations were published June 24, 1985 at 50 FR 25962.)

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact Patricia Alexander, U.S. Department of Education, Office of the Secretary, 400 Maryland Avenue SW., Room 4010, Washington, D.C. 20202. Telephone (202) 472-1762.

(20 U.S.C. 4031 *et seq.*)

(Catalog of Federal Domestic Assistance Number 84.171, Excellence in Education Program)

Dated: July 26, 1985.

William J. Bennett,
Secretary of Education.

FR Doc. 85-18139 Filed 7-30-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Leasing of Cesium-137

AGENCY: Office of Defense Waste and Byproducts Management, DOE.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) has a limited supply of the

byproduct radioisotope cesium-137 in the form of cesium chloride compound contained in sealed metal containers. These cesium capsules have been offered for sale to licensed users for many years through the Oak Ridge National Laboratory (ORNL) Isotopes, Products and Services Catalogue. Market response had been very modest until 1984, when a sharp increase of interest in use of cesium capsules occurred. The DOE has received requests for the capsules which exceed the limited supply and must make allocations based upon its obligations under provisions of the Atomic Energy Act of 1954 as amended, and other authorizing legislation, as those provisions apply to the management of byproduct nuclear materials. The Department has determined that the appropriate means of making these capsules available for use is through lease arrangements.

Through this notice, the DOE seeks to inform the community of qualified users of these facts and to request information which will assist it in making appropriate allocations. Responses should be in the form of signed Isotope and Technical Service Order Forms (DOE Form ER-391 amended for this purpose by the ORNL) supplemented by attached brief narratives describing the specific purpose(s) for which the cesium-137 would be used, the location proposed for its end use, and other information described below under the discussion of qualified users.

DATE: Responses are due within 45 days of the date of this Notice.

ADDRESSES: Responses and requests for further information should be addressed to the Oak Ridge National Laboratory, Isotope Distribution Office, P.O. Box X, Oak Ridge, Tennessee 37831 (Telephone 615-574-6984).

SUPPLEMENTARY INFORMATION: Each sealed metal container contains approximately 50,000 curies of cesium. The current stocks were produced under the Atomic Energy Commission waste management program at the Waste Encapsulation and Storage Facility (WESF) at the Hanford site near Richland, Washington. Additional material in this form may not be available in the future; however, a reserve will be retained by DOE for future fabrication of special-purpose cesium sources under custom order. The DOE will also retain a reserve of WESF capsules for its current and projected programmatic needs.

Respondents will be considered for an allocation only if they can demonstrate

themselves to be qualified users.

Qualified Users must:

1. Provide a completed DOE Form ER-391 and reasonably complete supplemental information to support a DOE determination whether or not the respondent is a qualified user and, perhaps, a preferred user.

2. Possess a valid materials license or evidence of a license application under active consideration (at minimum, receipt for payment of any license fee and a valid docket number) by the U.S. Nuclear Regulatory Commission or an agreement State, for utilization of cesium WESF capsules, or present proof that the proposed use would be exempt from licensing under provisions of applicable Federal statutes.

3. Demonstrate to DOE's satisfaction that the material will be put to beneficial use within 90 days of delivery, rather than held for some contingency.

4. Demonstrate to DOE's satisfaction that the user is financially capable of pre-payment of the first year's use charge (currently 0.828 cents per curie) plus all charges resulting from DOE's costs of handling, loading, and other activities preparatory to shipment from Hanford to the user (currently estimated to be \$3500 per capsule for large orders).

5. Provide a statement that such user is prepared to agree to the general terms and conditions of the lease agreement.

6. Commit to accept delivery at the Hanford site within 1 year of this notice.

7. Provide a credible plan for taking custody and transporting the leased capsules to the end-use location.

Copies of DOE Form ER-391 (Order Form) and the terms and conditions of the lease agreement can be obtained for respondent's use in complying with qualification requirements 1 and 5 by contacting the ORNL Isotope Distribution Office at the address given above.

Deliveries have already begun under the interim allocations to qualified users who have achieved a full license for possession and use of the cesium WESF capsules. If the qualified users responding to this notice should cumulatively request more than the existing supply, allocations will be made with priority to preferred users. Preferred Users will have proposed end usage related to one or more of the following:

1. National security and defense;
2. Accomplishment of existing DOE programmatic objectives;
3. Medical therapy;
4. Research and development; and
5. Cesium-specific irradiation objectives.

In addition, the DOE will give preference to domestic U.S. companies and to end use within the U.S. (over foreign use), and will give consideration to its statutory obligation to strengthen free competition in private enterprise. The DOE reserves the right to select whatever mix of users and their fractional allocations that the DOE determines, in its discretion, will best serve the public purpose. The allocation decision will be made by the DOE Oak Ridge Operations Office.

All qualified users will be notified of their allocation.

The DOE makes no representation that these capsules are licensable for any specific application.

Issued in Washington, D.C., July 25, 1985.
William W. Hoover,

Assistant Secretary for Defense Programs.

FR Doc. 85-18102 Filed 7-30-85; 8:45 am]

BILLING CODE 6450-01-M

Trespassing on Department of Energy Property; Pantex Plant, TX

The Department of Energy, successor agency to the Atomic Energy Commission, is authorized pursuant to section 229 of the Atomic Energy Act of 1954, as amended; section 104 of the Energy Reorganization Act of 1974 as implemented by 10 CFR Part 860; and section 301 of the Department of Energy Organization Act, to prohibit unauthorized entry and the unauthorized introduction of weapons or dangerous materials into and upon its nuclear sites. By Notice dated October 12, 1965, appearing at pages 13287-13268 of the Federal Register of October 19, 1965, the Atomic Energy Commission prohibited unauthorized entry into and upon certain portions of the Pantex Plant site located in the State of Texas. This Notice amends the site description of the Pantex Plant site to add 3,068 acres, more or less, to the 9,100 acres to which unauthorized access was prohibited by the 1965 Notice. Notices stating the pertinent prohibition of 10 CFR Part 860.5 will be posted at all entrances of said tract and at intervals along its perimeters as provided in 10 CFR Part 860.6.

The site description of the Pantex Plant site is hereby amended to read as follows:

A 12,166.8187 acre tract of land situated north of the A.T.&S.F. R.R., west of FM Hwy. 2373, east of FM Hwy. 683 and south of FM Hwy. 293, being a portion of Sections 30, 40, 41, 46 and 58, and all of Sections 31, 32, 33, 34, 36, 37, 38, 39, 40, 47, 48, 49, 50, 51, 54 and 55, Block M4, J.H. Gibson Survey, the north portion of Lyman Brewer Survey No. 6½ and all of M.F. Wright Survey No. 7, all in Carson

County, Texas, described by metes and bounds to-wit:

Beginning at a 3¼ inch metal cap set in concrete and stamped T&I, X=30,834.134, Y=27,514.383, said point being in the west R.O.W. line of FM Hwy. 2373 (50 Ft. west of center line) and in the south R.O.W. line of FM Hwy. 293 (150 Ft. south of center line), marking the most easterly northeast corner of this tract, whence a 2 inch iron pipe found marking the northeast corner of Section 34, Block M4, J.H. Gibson Survey bears N 89°15'38"E, 89.29 Ft. and N 00° 08'30"W, 150.58 Ft;

Thence S 00°08'30"E, along the west R.O.W. line of FM Hwy. 2373, 5099.45 Ft to a 3¼ inch metal cap set in concrete, stamped T&I, X=30,846.744, Y=22,414.949;

Thence S 00°21'37"E, along the west R.O.W. line of FM Hwy. 2373, 10,502.18 Ft to 3¼ inch metal cap set in concrete stamped T&I, X=30,912.779, Y=11,912.972;

Thence S 00°18'09"E, along the west R.O.W. line of FM Hwy. 2373, 2731.95 Ft. 59 a 3¼ inch metal cap set in concrete stamped T&I, X=30, 927.200, Y=9181.060;

Thence S 00°14'25"E, along the west R.O.W. line of FM Hwy. 2373, 2633.84 Ft. to a concrete R.O.W. monument in the west R.O.W. line of FM Hwy. 2373;

Thence S 00°06'53"E, along the west R.O.W. line, 3091.06 Ft. to a 3¼ inch aluminum cap stamped T&I, X=30,944.423, Y=3456.180, marking the southeast corner of this tract, said point being the intersection of said west R.O.W. line of FM Hwy. 2373 and the northwesterly R.O.W. line of the A.T.&S.F. R.R.;

Thence S 60°23'W, along said railroad R.O.W. line, 1519.64 Ft. to a railroad R.O.W. monument (railroad rail set vertical);

Thence N 20°37'W, 25.00 Ft. to a similar railroad R.O.W. monument;

Thence S 60°23'W, along said railroad R.O.W. line, 1232.00 Ft. to a similar railroad monument;

Thence S 20°37'E, 20.00 Ft. to a similar railroad R.O.W. monument;

Thence S 69°23'W, along said railroad R.O.W. line, 3793.60 Ft. to a ½ inch iron rod marking a point of intersection in said railroad R.O.W. line;

Thence N 89°15'E, 14.71 Ft. to a ½ inch iron rod marking a point of intersection in said railroad R.O.W. line;

Thence S 69°23'W, along said railroad R.O.W. line, 6088.24 Ft. to a ½ inch iron rod marking a point of intersection in said railroad right-of-way line;

Thence S 20°37'E, 25.00 Ft. to a ½ inch iron rod marking a point of intersection in said railroad R.O.W. line;

Thence S 69°23'W, along said railroad right-of-way line, 4249.65 Ft. to a 3¼ inch aluminum cap stamped T&I, X=15,164.294, Y=2507.131 marking the intersection of said railroad R.O.W. line and the west line of said Section 46;

Thence N 00°17'35"W, along the west lines of said Sections 46, 47 and 48, 10,261.44 Ft. to a 3¼ inch aluminum cap, set at the base of a steel post, stamped T&I, X=15,111.806, Y=7754.177;

Thence N 00°14'02"W, 4938.51 Ft. to a 3/4 inch aluminum cap, stamped T&I, X=15,091.644, Y=12,692.601;

Thence N 89°31'40"W, 4134.37 Ft. to a 3/4 inch aluminum cap, stamped T&I, X=10,957.414, Y=12,726.675, set at the base of a steel post;

Thence N 89°31'48"W, 2935.04 Ft. to a 3/4 inch metal cap set in concrete stamped T&I, X=8022.478, Y=12,750.750, set in the east R.O.W. line of FM Hwy. 683 marking the most westerly southwest corner of this tract;

Thence N 00°08'05"W along the east R.O.W. line of FM Hwy. 683, 4063.51 Ft. to a 3/4 inch metal cap set in concrete stamped T&I, X=8012.920, Y=16,814.249.

Thence N 89°51'55"E, 30.00 Ft. to a 3/4 inch metal cap set in concrete stamped T&I, X=8042.920, Y=16,814.319, said point being in the east R.O.W. line of FM Hwy. 293;

Thence N 00°04'28"E, along the east R.O.W. line of FM Hwy. 293, 10,272.63 Ft. to a 3/4 inch metal cap set in concrete stamped T&I, X=8056.278, Y=27,086.936, said point marks the beginning of a curve whose radius point bears S 89°55'32"E, 236.09 Ft.;

Thence northeasterly along said R.O.W. curve in a clockwise direction thru a central angle of 89°11'08", an arc distance of 367.49

Ft. to a 3/4 inch metal cap set in concrete stamped T&I, X=8289.319, Y=27,322.700, said point marks a point of tangency;

Thence N 89°15'36"E, along the south R.O.W. line of FM Hwy. 293, 22,446.99 Ft. to a 3/4 inch metal cap set in concrete stamped T&I, X=30,734.436, Y=27,612.565, said point marks the most northerly northeast corner of this tract;

Thence S 45°26'25"E, along the south R.O.W. line of FM Hwy. 293, 139.93 Ft. to the place of beginning and containing 12,188.8137 acres of land more or less.

Dated at Washington, D.C. this 23 day of July, 1985.

John L. Gilbert,

Executive Assistant Office of the Assistant Secretary for Defense Programs.

[FR Doc. 85-18077 Filed 7-30-85; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals Cases Filed; Week of May 31 Through June 7, 1985

During the Week of May 31 through June 7, 1985, the appeals and applications for exception or other relief

listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: July 19, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 31 through June 7, 1985]

Date	Name and location of applicant	Case No.	Type of submission
May 31, 1985	State of Texas, Austin, TX	HRR-0102	Request for modification/rescission. If granted: The Mar. 22, 1985 remedial order issued to Holly Corp. (Case No. HRO-0215) would be modified to provide for disposition of refunds pursuant to provisions of 10 CFR part 205, subpart V.
June 3, 1985	Barrier Oil Corp., Tarrytown, NY	HEE-0153	Exception to the reporting requirements. If granted: Barrier Oil Corp. would not be required to file form EIA-782B, "Resettlers/Retailers' Monthly Petroleum Product Sales Report."
Do.	Plumbers and Steamfitters Local Union 647, Burlingame, CA	HFA-0292	Appeal of an information request denial. If granted: The May 17, 1985 freedom of information request denial issued by the San Francisco Operations Office would be rescinded, and the Plumbers & Steamfitters Local Union 657 would receive access to certain payroll records regarding contracts between several contractors and Dan Fivickler.
Do.	Reuben & Proctor, Chicago, IL	HFA-0293	Appeal of an information request denial. If granted: Reuben & Proctor would receive access to (1) reports concerning the production of alcohol and gasoline; (2) forecasts for demand prices for gasoline during 1980 through 1985; (3) copies of EIA's Petroleum Supply Annual from 1979 through 1982; and (4) EIA's Monthly Energy Review from 1979 through 1983.
June 4, 1985	David Rodriguez Soler, Cranberry, NJ	HFA-0294	Appeal of an information request denial. If granted: The May 6, 1985 freedom of information request denial issued by the Princeton area office would be rescinded, and David Soler would receive access to certain employee records.
Do.	Ferrell Companies, Inc., Washington, D.C.	HEF-0587	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement special refund procedures pursuant to 10 CFR part 205, subpart V, in connection with the Dec. 12, 1984 consent order between Ferrell Companies, Inc. and the DOE.
Do.	Leonard E. Belcher, Washington, D.C.	HEF-0588	Implementation of special refund procedures. If granted: the office of Hearings and Appeals would implement special refund procedures pursuant to 10 CFR part 205, subpart V, in connection with the Nov. 21, 1983 final agreement signed by the litigants and the U.S. District Court for the District of Massachusetts (Civil Action No. 77-2975-6) with respect to Leonard E. Belcher.

NOTICES OF OBJECTION RECEIVED

[Week of May 31, 1985 to June 7, 1985]

Date	Name and location of applicant	Case No.
June 4, 1985	Bale Oil Co., Horse Cave, KY	HEE-0140

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund applicant	Case No.
May 31, 1985	JOC/Tenneco Oil Co.	RF109-1
Do.	A. Taricone/Tenneco Oil Co.	RF155-1
Do.	A. Taricone/Consolidated Edison Co. of New York	RF155-2
June 3, 1985	Franks-Tusoro Petroleum Corp.	RF156-1
Do.	Aminco/Mobil Oil Corp.	RF157-1
June 5, 1985	APCO/Lucas Oil Co.	RF83-133

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/name of refund applicant	Case No.
Do.	APCO/Tony's Gas House	RF83-132
Do.	APCO/Two States Petroleum Co., Inc.	RF83-131
Do.	APCO/Rakies Oil Co.	RF83-130
Do.	APCO/Eldon Spencer Co.	RF83-129
Do.	Stinnes Interol/Lucky Stores, Inc.	RF125-8
June 3, 1985	Vickers/Arkansas	RFQ1-200
June 4, 1985	Swift/Orbit Oil Co.	RF159-1
June 3, 1985	Northwest Pipeline/Enterprise Products Co.	RF116-3
Do.	Arkla Chemical/Seis Motor Freight Line, Inc.	RF153-4
Do.	Stinnes Interol/Tesoro Petroleum Corp.	RF125-5
June 4, 1985	Northwest Pipeline/Degado Oil Co., Inc.	RF116-4
Do.	Arkla Chemical/Norwel Equipment Co.	RF153-5
Do.	Arkla Chemical/Welsco, Inc.	RF153-6
June 3, 1985	Seminole/Sellers Oil Co., Inc.	RF111-13
Do.	US Oil/Herbst Oil, Inc.	RF110-2
Do.	US Oil/Southeast Petroleum Corp.	RF110-3
Do.	Witco-Campbell Oil Co., Inc.	RF115-4
June 4, 1985	Arkla Chemicals/M&S Lumber Co.	RF153-7
Do.	Seminole/Autry Petroleum Co.	RF111-14
Do.	Seminole/Oil Dri Corp. of Georgia	RF111-15
Do.	Aminol/Millers' L.P. Gas, Inc.	RF139-6
Do.	Aminol/Domex, Inc.	RF139-7
Do.	Stinnes Interol/Scallop Corp.	RF125-7
June 3, 1985	Stinnes Interol/Exxon Co., USA	RF125-6
June 6, 1985	JOC/Consolidated Edison Co. of New York	RF100-2
June 4, 1985	JOC/Amerada Hess	RF100-3
June 6, 1985	Hertz/Chesapeake-Ponds, Inc.	RF76-159
Do.	Aminol/Chevron, USA	RF157-2
Do.	Northwest Pipeline/Chevron, USA	RF116-5
Do.	Stinnes Interol/Northville Industries Corp.	RF125-10
Do.	Stinnes Interol/Chevron, USA	RF125-9
May 31, 1985	Enterprise/Osceola Refining Co.	RF158-1
June 5, 1985	C.C. Dillon/Green Park Texaco	RF148-2
June 6, 1985	Warrior Asphalt/Chevron, USA	RF160-1
Do.	Husky/Cavalry Petroleum Co.	RF161-1
June 7, 1985	Arkla Chemical/Percy Mingo	RF153-8
Do.	McCarty/Hancock Landmark, Inc.	RF143-8
Do.	Franks/Kerr-McGee Corp.	RF156-2
Do.	Bayou State/Ida/Tate Oil Products	RF117-9
June 5, 1985	Gulf-Biddle Gulf Service	RF40-3031
June 7, 1985	Gulf/Lansdowne Ice & Coal Co.	RF40-3032
Do.	Gulf/James Halligas & Son	RF40-3033
Do.	Gulf/Atlantic Gas Corp.	RF40-3034
June 3, 1985 thru June 7, 1985	Large refund applications	RF112-37 thru RF112-157

[FR Doc. 85-18075 Filed 7-30-85; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of a total of \$144,730.81 (plus accrued interest) obtained as a result of two consent orders which the DOE entered into with Champlain Oil Company of South Burlington, Vermont (Case No. HEF-0048) and Cibro Gasoline Corporation of Bronx, New York (Case No. HEF-0049). The funds will be available to customers who purchased motor gasoline from either Champlain or Cibro during the relevant consent order periods.

DATE AND ADDRESS: Applications for refund of a portion of the consent order

funds must be postmarked within 90 days of publication of this notice in the **Federal Register** and should be addressed to either the Champlain Oil Company Proceeding or the Cibro Gasoline Corporation Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All applications should conspicuously display a reference to the appropriate case number.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to two consent orders entered into by the DOE and Champlain Oil Company of South Burlington, Vermont and Cibro Gasoline Corporation of Bronx, New York. The consent orders settled possible pricing violations with

respect to the firms' sales of motor gasoline to customers during the respective consent order periods, November 1, 1973 through June 30, 1974 (Champlain) and June 6, 1979 through December 30, 1979 (Cibro).

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order funds. The Proposed Decision and Order discussing the distribution of the consent order funds was issued on October 5, 1984. 49 FR 42625 (October 23, 1984).

As the Decision and Order indicates, applications for refunds from the consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Applications will be accepted from customers who purchased motor gasoline from either Champlain or Cibro during the relevant consent order periods. The specified information

required in an application for refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: July 19, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 19, 1985.

Decision and Order

Special Refund Procedures

Names of Firms: Champlain Oil Company and Cibro Gasoline Corporation.

Date of Filing: October 13, 1983.

Case Numbers: HEF-0048 and HEF-0049.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed Petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 13, 1983. The petitions request that the OHA formulate and implement procedures for the distribution of funds received pursuant to Consent Orders entered into by the DOE and the following parties: Champlain Oil Company (Champlain) of South Burlington, Vermont and Cibro Gasoline Corporation (Cibro) of Bronx, New York (hereinafter collectively referred to as the consent order firms).

I. Background

Each of the consent order firms is a "reseller-retailer" of motor gasoline, as this term was defined in 10 CFR 212.31. ERA's audits of the consent order firms revealed possible violations of the Mandatory Petroleum Price Regulations. Subsequently, each of these firms entered into a separate Consent Order with the DOE in order to settle its disputes with the DOE concerning certain sales of motor gasoline. Each Consent Order refers to the ERA's allegations of overcharges, but notes that no findings of violations were made. In addition, each Consent Order states that the consent order firm does not admit that it committed any such violations.

Pursuant to these Consent Orders, the firms agreed to pay to the DOE specified amounts in settlement of their potential liability for alleged overcharges in sales of motor gasoline to their respective customers during the consent order periods. The firms' payments are currently being held by the DOE in separate interest-bearing escrow accounts pending distribution by the

DOE. The names and locations of the firms, the settlement amounts, and the dates of the consent order periods are set forth in Appendix A to this Decision and Order.

On October 5, 1984, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the consent order funds. 49 FR 42625 (October 23, 1984). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of any alleged overcharges made by one of the consent order firms during the relevant consent order period.

A copy of the PD&O was published in the Federal Register on October 23, 1984 and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was sent to those purchasers whose names and addresses were listed in the ERA audit files (see Appendices B-1 and B-2). While none of the consent order firms' customers filed comments on the proposed procedures, comments were filed on behalf of the States of California, New Mexico, Arkansas, Delaware, Kansas, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia. Most of these comments, however, discuss the distribution of any residual funds that might remain after refunds have been made to first stage claimants. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the present refund proceeding. This Decision sets forth the information that a purchaser of motor gasoline from a consent order firm should submit in an Application for Refund in order to establish eligibility for a portion of the consent order fund. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. See *Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address at this time the issues raised by the States' comments concerning the disposition of any funds remaining after all the meritorious first stage claims have been paid.¹

¹ It is not clear, however, that any of these States have a direct interest in this proceeding because none of the motor gasoline sales involved took place in these states.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR part 205, Subpart V. It is DOE policy to use the Subpart V process in order to distribute such funds. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements see *Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the two consent order funds. We will therefore grant the ERA's petitions and assume jurisdiction over these funds.

III. Determination of Injury and Refund Amounts

In the PD&O we proposed that reseller claimants be required to demonstrate that they did not pass on to their customers the price increases implemented by the consent order firms. See, e.g., *Vickers*. We have received no comments objecting to our proposal. Accordingly, in order to qualify for a refund, resellers of a consent order firm's motor gasoline must show that during the consent order period, market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. In addition, resellers must show that they maintained a "bank" of unrecovered costs in order to demonstrate that they did not subsequently recover these costs by increasing their prices.²

As we noted in the PD&O, however, the maintenance of a bank will not automatically establish injury. See *Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co. (Indiana)*, 10 DOE ¶ 85,036 (1982); *Vickers Energy*

² In the PD&O, we noted that most of the Cibro consent order period occurred subsequent to the amendment of the retailer price rule that eliminated the banking provision for retailers. See 10 CFR 212.93(a)(2), 44 FR 42542 (July 19, 1979) (effective July 15, 1979). We therefore proposed that retailers who purchased from Cibro not be required to submit bank information. We have received no comments objecting to this proposal, and will adopt it in the Cibro proceeding.

Corp./Koch Industries, Inc., 10 DOE ¶ 85,038 (1982).

In the PD&O, we also proposed to adopt certain presumptions which have been used in many prior refund cases. First, we set forth a presumption that the alleged overcharges were dispersed equally in all sales of motor gasoline made by the consent order firms during the relevant consent order period. The OHA has referred to this presumption in the past as a volumetric refund amount. Second, we proposed to establish a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions proposed in the PD&O, and being adopted here, will permit claimants to participate in the refund process without incurring disproportionate expenses, and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The volumetric refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

In the PD&O, we stated that the information available in the ERA audit files is insufficient to base refunds on the amount each individual applicant was allegedly overcharged. While the ERA audit files identify a number of customers who purchased motor gasoline directly from the consent order firms during the relevant audit periods, they do not set forth any specific alleged overcharge amounts for these customers.³

We have received no comments objecting to our proposed use of the volumetric refund presumption. Accordingly, we will use the volumetric method to allocate the consent order funds.⁴ The volumetric refund amounts, determined by dividing each consent order fund by the estimated total volume of motor gasoline sold by the consent order firm during the relevant consent order period, are set forth in Appendix A.⁵ In each case, a successful applicant will receive a volumetric refund amount for each gallon of gasoline which it purchased from the consent order firm. The interest which has accrued on the money in each escrow account will be added to the refund of each successful applicant in proportion to the size of its refund.

The presumption that reseller claimants seeking smaller refunds were injured by the pricing practices settled in each Consent Order is based on a number of considerations. See, e.g., *Urban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information, and the cost to the OHA of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions for small claims is also

desirable from an administrative standpoint because it allows the OHA to process a large number of refund claims quickly and use its limited resources more efficiently. Finally, we know that these smaller claimants purchased motor gasoline from one of the consent order firms and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The small claims presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions proposed in the PD&O, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level.⁶ The PD&O expressed the threshold in terms of ceilings on purchases from the consent order firm. In its comments, the State of California noted that the threshold volume of 25,000 gallons a month proposed in the case of Cibro would allow resellers and retailers refunds of over \$10,000 without requiring a showing of injury. California suggested that the threshold be reduced to a level that would produce a maximum refund "closer to the usual \$5,000 presumption amount." See Comments filed by Kenneth Cory, Controller, State of California.

California's comments have merit. Because a threshold based on a ceiling on purchases is not directly linked to the size of the applicants' potential refund, describing the threshold in terms of a dollar amount rather than a purchase volume figure could better effectuate our goal of facilitating disbursements to

85,116 (1984). Champlain Islands is therefore ineligible to receive a refund in this proceeding.

⁴ We recognize, however, that the impact of a firm's pricing practices on an individual purchaser could have been greater, and any purchaser will therefore be allowed to file a refund application based on a claim that it suffered a disproportionate injury as a result of the pricing practices of one of the consent order firms during the relevant audit period. A refund application for an amount greater than the amount calculated using the volumetric presumption must document the disproportionate impact of the alleged overcharges. See, e.g., *Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233-34 (1984).

⁵ In the Cibro PD&O, we tentatively established a per gallon volumetric refund amount of \$0.07112 based upon our estimate of total motor gasoline sales to resellers. Subsequent to the issuance of the PD&O, we reviewed the audit files and contacted Cibro regarding its motor gasoline sales to resellers. Based upon the more accurate information we now have available regarding the volume of motor gasoline sold by Cibro to resellers, we have recalculated the volumetric refund amount. That amount is \$0.04177 as shown in Appendix A.

⁶ Resellers who made only spot purchases from the consent order firms will be presumed to have suffered no injury. They will therefore be ineligible for any refund, even a refund at or below the threshold level. As we have previously stated with respect to spot purchasers:

[T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396-97. See *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982). The same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, in addition to the proof of injury required of these resellers claiming more than the threshold amount, any reseller claimants who were spot purchasers must submit additional evidence to establish that they were unable to exercise considerable discretion as to where and when they made the purchase(s) on which their refund claims are based.

³ One of the firms listed in Appendix B-1, Champlain Islands, appears to be affiliated with Champlain. As we proposed in the PD&O and in past cases, we will adopt a rebuttable presumption that affiliates of a consent order firm experienced no injury as a result of the consent order firm's pricing practices. See *Artec Energy Co.*, 12 DOE ¶

applicants seeking relatively small refunds. See *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984). We will therefore follow that approach in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In the present case, where the time periods of the audits are fairly distant, and, in the case of Champlain, the volumetric refund amount fairly low, we believe that the establishment of a presumption of injury for all claims of \$5,000 or less is reasonable.⁷ See *Texas Oil & Gas Corp.*, *Marion Corp.*, 12 DOE ¶ 85,014 (1984).

In the PD&O, we made a finding that end-users or ultimate consumers, including businesses that are unrelated to the petroleum industry, were injured by the alleged overcharges settled in the consent orders.⁸ Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and thus were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. See *Office of Enforcement*, 10 DOE ¶ 85,072 (1983); see also *Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. We have received no comments objecting to this finding. We will therefore adopt our proposal that end-users of motor gasoline purchased from one of the consent order firms need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges.

We shall also adopt our proposal to establish a minimum amount of \$15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than

\$15 outweighs the benefits of restitution in those situations. See, e.g., *Urban Oil Co.*, 9 DOE at 85,225. See also 10 CFR 205.286(b).

IV. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the two consent order funds. Accordingly, we shall now accept applications for refunds from customers who purchased motor gasoline from one of the consent order firms during the relevant consent order period.

In order to receive a refund, each claimant will be required to report the monthly volume of motor gasoline purchased from one of the consent order firms for which it is claiming a refund. It must also state how it used the motor gasoline, i.e., whether it was a reseller or an ultimate consumer. Retailers and resellers who request refunds in excess of the \$5,000 threshold amount must submit evidence to establish that they did not pass on the alleged overcharges to their customers. In addition, each applicant must state whether there has been a change in ownership of the firm since the relevant audit period and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Applicants should also report any past or present involvement as a party in DOE enforcement proceedings. If these proceedings have terminated, the applicant should furnish a copy of the final Order issued in the matter and indicate the status of any remedial action required by the Order. If the proceeding is ongoing, the applicant should briefly describe the proceeding and its current status. The applicant is

under a continuing obligation to keep the OHA informed of any change in status while its refund application is pending. See 10 CFR 205.9(d).

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the Federal Register. Each application must be in writing, signed by the applicant, and specify that it pertains to either the Champlain Consent Order Fund, Case No. HEF-0048, or the Cibro Consent Order Fund, Case No. HEF-0049. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." See 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by the consent order firms listed in Appendix A to this Decision and Order may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Dated: July 19, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX A

Name of firm	Consent order period	Consent order amount	Product covered	Volumetric amount
Champlain Oil Co., P.O. Box 216, So. Burlington, VT 05401	11/1/73-8/30/74	\$60,966.81	Motor gasoline	\$0.008271
Cibro Oil Co., 1096 Zarega Ave., Bronx, NY 10462	6/6/79-12/30/79	\$83,764.00	do	0.04177

¹ Includes principal of \$56,997 and interest of \$3,969.81 which accrued prior to payment.

⁷ As in prior refund cases, resellers whose potential refund exceeds the threshold amount may elect to apply for a refund based on the threshold amount.

⁸ Under the terms of the Cibro Consent Order, Cibro was required to refund \$335,055 directly to its end-user customers. The \$83,764 Cibro escrow account discussed in this proceeding is therefore primarily intended for distribution to the firm's reseller and retailer customers. Accordingly, Cibro's end-user customers will be ineligible for a refund in this proceeding unless they did not receive a direct refund from Cibro.

Appendix B-1.—Customers Identified in the Champlain Audit File

A. Addresses Known

*B&F Service	Wayne Kingsland
Baird's Citgo	*Leroy Lacroix
Ken Bannister	*Lake Shore Citgo
Walter Benoune	Carroll Larcoque
*Roy Benway	Wayne Larrow
*Millard Benoit	Jerry Latouche
Bill's Citgo	Frank Leffler
Velma Billado	Roy Lemare
Blain's Auto Service	Lemery's Citgo
Bradford Auto Service	*The Market
*Oliver Broughton	N.C. McCulloch, Agent
*Dave Brunelle	*Larry Mobbs
*Henry Brunelle	Chloe Morrill
*Lewis Burns	*Harold Murray
*Glen Bushey	North End Citgo (J. Steven)
*Champlain Islands	Nothen Sales
Karl Chanski	*Orleans Body Shop
Dick Chase	Alex Parent
Ronald Colton	*Parker's Auto Service
Robert Cota	George Perry
Wendell Creighton	Maurice Pion
*Arthur Cutler	*Seth Reynolds
James L. Decato	Dick Ryan
Laurent Desjardins	Sam's Citgo
Doe's Garage	Howard Sanborn
Robert Dostic	Severance Service
*Robert Dupaw	Station
*Chet Fassett	Gene Smith
Walt & Ethel Gallup	*Sportwest Inc.
*Milton Groat	*Eustace Thomas
*Lawrence Haskins	*Janice Torrey
L.B. Hatch	*Walt's Citgo
*Heydt's Citgo	Bruce Ward
*William Humphrey	George Gary Watkins
*Jarvis Citgo	Robert West
*Joseph Keith	Wolcott Garage
Kennedy's Citgo	

*Copies of the PD&O were sent to these firms at the addresses indicated above but were returned to this Office unclaimed. Accordingly, we will not send these firms copies of the final Decision and Order, but (with the exception of Champlain Islands) they may still submit an application for refund in the present proceeding.

B. Addresses Unknown

Louis Bates	Laigle Car Wash
Ed Blanchard	Perlie Lemery
Richard Booska	Richard Lemery
William Hood	Richard Lockerby
Art Howath	Jasper Rushford
J&M County Outlet	Michele
A. Laigle	Vermont Truck Lease

Appendix B-2.—Customers Identified in the Cibro Audit File

A. Addresses Known

*A.A. Fuel Service	C&S Fuel
*Adelfi Fuel	Choice Oil Co.
*Adelfi Fuel Co.	Columbia Utilities
Advance Oil	Combined Oil Co.
Allegheny Petroleum	Consolidated Fuel
Aloha Oil	Conval Oil Co.
Ambassador Fuel	*Crater Fuels
Arcade Fuel Co.	Cypress Fuel Oil
*J. Barr Service Station	Sel-Jen Motor Services
*Bandolene Fuels	Cino Oil Inc.
*Barrier Oil Corp.	Erie Fuel
Barrow Oil Corp.	*Leo Fuel Oil
*Baurley Fuel	Lawrence Heat & Power
Beatty Coal	Ledwith Oil Co.
Beato Fuel	*Leigh Oil Chem.
Benson Oil Inc.	JP Leonard Oil
Blue Diamond Fuel	*Long Island Oil
Bridge Oil Co.	Martimacci Oil Co.
Brusco Fuel Oil Co.	Mores Fuel
*Burns/Preferred	Morrow Fuel
Bronx Coastal Oil	*Erie Fuel Oil
Heating	Fairmont Fuel

Fazio Brothers Fuel	Nn. Way Fuel Oil
*Federal Oil Co.	Nulite Utilities
Filtered Petroleum	Old Hudson River Fuel
Fordham Fuel Oil	Don Paul
Fort Schuyler Fuel	Patchogue Oil Tex.
Grassland Fuel Corp.	*V. Mazzarella Auto
*H&L Service Station	*Merit Oil Heating
*Hartsdale Coal & Oil	Midtown Heating
Hasko Utilities	*Modern Oil Supply
Herbert Fuel	*Modroe Fuel
*Highland Oil Service	*Monarch Fuel
*Highway Essex Fuel	Montebello Coal & Fuel
Hillcrest Fuel	Morania Oil
*Four Brothers Auto	Pel-Town Petroleum
Service	Perrillo Brothers Fuel
Frank's Fuel	Pilgrim Oil
Fulweight Fuel Service	Public Fuel Service
Gassman Coal & Oil	Radisch Brother
George Oil Corp.	Relite Fuel
*Gerard Fuel	T & C Fuel Co.
Globe Fuel Oil	*Tamara S. Fuel
Goetzel Fuel	Torch Fuel Co.
Hillside Service	Trico Fuel Corp.
Isoldi Service Station	Tru Fuel Oil
J&J Fuel	Shoreline Motor Fuel
Jed Fuel Service	Sibizzi Fuel
Joe's Service Station	Skyview Fuel
Kavanagh Oil Corp.	VS Smyth Fuel Service
*Kings County Trans.	Stallone Fuel
Kleen Heat Oil Co.	Starlight Fuel Corp.
LaForgia Fuel	Stayvesant Fuel Oil
Rivoli Fuel Oil	Super Fuel Corp.
Rockway Fuel	Tullo Oil
Ron-See Heating	Vijax Fuel Corp.
Ruggiero Bros.	West End Fuel Oil
Sallustio & Sons Oil	Westchester Hudson
Sail S. Garage	*WHAM Petroleum
*F.M. Schildwachter	Whaleco Fuel Oil
Schneider Fuel Oil	Re-gal Fuel
*Sure Fire Corp.	Rex Oil Co.
New Utrecht Fuel	

*Copies of the PD&O were sent to these firms at the addresses indicated above but were returned to this Office unclaimed. Accordingly, we will not send these firms copies of the final Decision and Order, but they may still submit an application for refund in the present proceeding.

B. Addresses Unknown

F&B Fuel Five M
[FR Doc. 85-18179 Filed 7-30-85; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30096; FRL-2673-1]

Addenda on Data Reporting to Pesticide Assessment Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for Comments.

SUMMARY: The Environmental Protection Agency announces that a proposed addendum to the following series in the Pesticide Assessment Guidelines is now available for public comment: Avian acute oral, avian acute dietary, and avian reproduction studies, teratology studies, rotational crop studies, storage stability studies, reporting of analytical method and supporting data, and crop field trials. The addenda will supersede paragraphs in the Guidelines on data

reporting and will provide a format for the preparation of study reports by those submitting data to EPA. This will increase the efficiency of pesticide registration and other regulatory activities. Copies of the proposed addenda are available at the address listed below.

DATE: Comments, identified by the document control number [OPP-30096], must be received on or before September 30, 1985.

ADDRESS: Submit three copies of written comments, identified with the document control number "OPP-30096," by mail to:

Information Service Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, Va.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Copies of the draft guidelines are also available at this address.

FOR FURTHER INFORMATION CONTACT:

Elizabeth M.K. Leovey, Hazard Evaluation Division (TS-769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 807, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-0576).

SUPPLEMENTARY INFORMATION: 40 CFR 158.115, published in the Federal Register of October 24, 1984 (49 FR 42856) describes the organization of the pesticide guidelines and their relationship to data requirements and includes the necessary information to order Guidelines from the National Technical Information Service. The specific subdivision and series to be amended are: Avian studies; acute oral

LD₅₀, acute dietary LC₅₀, and reproduction (Subdivision E, 71-1, 71-2 and 71-4 respectively), teratology (Subdivision F, Series 83-3), field accumulation studies on rotational crops (Subdivision N, 165-2), and storage stability, analytical method(s), and magnitude of the residue-crop field trials (Subdivision O, 171-4). Comments on this initial series of reporting formats will be used in their revision and in the development of formats for other studies contained in the Guidelines. Once completed, these data reporting guidelines will also be published by the National Technical Information Service. Drafts have been sent to a number of organizations and a list is available from the public record.

Dated: July 18, 1985.

John W. Malone,

Director, Hazard Evaluation Division, Office of Pesticide Programs.

[FR Doc. 85-18103 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-42061; FRL-2872-9]

Intent To Approve Fort Berthold Indian Reservation Plan for Certification of Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Approve a State Plan.

SUMMARY: The Tribal Chairman for the Fort Berthold Indian Reservation in the State of North Dakota has submitted to EPA, through the Department of the Interior (DOI), a plan for the certification of applicators of restricted use pesticides for approval. Notice is given of the intention of the Regional Administrator, EPA, Region VIII, to approve this plan. Approval of this plan constitutes delegation of this authority. A summary of the plan appears below. Interested persons are invited to comment.

DATE: Comments should be submitted on or before August 30, 1985.

ADDRESS: Address comments, identified by the control number OPP-42061 to: Edward L. Stearns, Air and Toxics Division (8AT-TS), Region VIII, Environmental Protection Agency, 999 18th Street, Suite 1300, Denver, CO 80202-2413. See **SUPPLEMENTARY INFORMATION** for addresses where the plan and comments are available for public inspection.

FOR FURTHER INFORMATION CONTACT: Edward Stearns (303.293-1745).

SUPPLEMENTARY INFORMATION: In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136b) and 40 CFR Part 171, Alyce Spotted Bear, Chairman, Three Affiliated Tribes, Fort Berthold, Reservation, North Dakota, has submitted a State Plan for the Certification of Commercial and Private Applicators of Restricted Use Pesticides to EPA for approval.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region VIII, to approve this plan.

Summary of State Plan

The Natural Resources Department of the Fort Berthold Tribe has been designated the lead agency for the administration of the pesticide applicator and enforcement program.

Cooperating agencies include the North Dakota Department of Agriculture and North Dakota Cooperative Extension Service. The North Dakota Department of Agriculture is the lead agency for the Pesticide Applicator Certification Plan for the State of North Dakota. North Dakota certification provides the basis for certification on the Reservation. The North Dakota Cooperative Extension Service conducts the training necessary for private applicators and the training and testing necessary for commercial applicators to be certified by the State. The Extension Service will be responsible for any training needed on the Reservation.

Legal authority for the program is contained in the Fort Berthold Reservation Pesticide Code. A copy of this code is attached to the State Plan.

The plan lists the personnel available within the Natural Resources Department that will carry out the certification and enforcement. Because of the small size of the program, only one part-time person will be needed. The funding for this program comes primarily from grants from EPA. The Tribe does have the authority to levy taxes should Federal funding stop. The current annual cost of the program is \$25,333.00.

The Natural Resources Department will submit an annual report to EPA by October 1 of each year and other reports as requested by the Administrator of EPA.

The Tribe estimates that approximately 100 applicators will need to be certified. Both certified commercial and private applicators will be issued a certification credential indicating the category or limitations. The certification credential is to be presented to the pesticide dealer at the time a restricted use pesticide is purchased.

The certification plan for Fort Berthold requires that applicators be certified by the State of North Dakota or by the DOI as a prerequisite to Tribal certification. Both the State of North Dakota and the DOI have certification plans previously approved by EPA. The DOI Plan does not have provisions for certification of private applicators. The Tribe will not recognize certification in the Forest Pest Control category as meeting the prerequisite for certification since there is no forest pest control work on the Reservation. The applicator categories and standards of competency in the North Dakota and DOI plans are basically the same as those listed in 40 CFR Part 171. The Tribe will not require any additional demonstration of competency by the applicator. Certifications issued by the Tribe will be valid until the expiration date on their current certificate from the State of North Dakota or the DOI. Both the State of North Dakota and the DOI provide a 3-year certification for commercial applicators and the State provides a 5-year certification for private applicators. The Tribe will not allow certification for a period longer than that allowed by these two agencies.

The Fort Berthold Indian Reservation has entered into a Cooperative Agreement with the North Dakota Department of Agriculture to share enforcement information on pesticide applicators and work cooperatively to avoid questions of jurisdiction.

Other pesticide regulatory activities and authorities include a regular program of applicator inspection, product sampling, and investigations of accidents and complaints.

Public Comment

Copies of the plan and the Tribal code are available for review at the following locations during normal business hours:

1. Three Affiliated Tribes, Department of Natural Resources, Tribal Office Building, New Town, ND 58763, (701-627-3627).
2. Region VIII, Environmental Protection Agency, Toxic Substances Branch, Rm. 2456, 999 18th St., Denver, CO 80295, (303-293-1730).
3. Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (202-557-3262).

Interested persons are invited to submit written comments on the proposed State Plan.

Dated: July 19, 1985.

John G. Welles,
Regional Administrator, Region VIII.

[FR Doc. 85-18104 Filed 7-30-85; 8:45 am]
BILLING CODE 6560-50-M

[OPP-30000/8D FRL 2873-3]

**Intent To Cancel Registration of
Certain Pesticide Products Containing
Sodium Fluoroacetate ("1080");
Availability of Position Document 4**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final notice of determination
concluding the Special Review/
Rebuttable Presumption Against
Registration Review of Sodium
Fluoroacetate; notice of intent to cancel
registration.

SUMMARY: This Notice concludes the
Agency's Special Review, formerly
called Rebuttable Presumption Against
Registration (RPAR), of products
containing sodium fluoroacetate
(commonly called "1080") used for
control of rodents and describes EPA's
final determinations regarding the risks
and benefits associated with the uses of
these pesticide products. EPA has
concluded that the current use of 1080 to
control field rodents may be having
adverse effects on nontarget wildlife,
and that these risks can be reduced by
modifying the labeling of the products
and, in certain cases, reducing the
concentration of 1080 on these
rodenticide baits. With such changes,
the Agency has determined that the
benefits of using 1080 appear to
outweigh the risks. The information
available to assess the risks to nontarget
species, particularly threatened and
endangered species, is very limited,
however. Accordingly, the Agency has
decided to condition any future use of
1080 rodenticides both on the
submission of additional data and on
the immediate adoption of certain risk
reduction measures.

DATE: Requests for a hearing by a
registrant or other adversely affected
party must be received on or before
August 30, 1985, or for a registrant,
within 30 days after receipt by mail of
this notice, whichever is the later
applicable deadline.

ADDRESS: Hearing Clerk, (A-110),
Environmental Protection Agency, 401 M
St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Walter Waldrop, Special
Review Branch, Registrant Division
(TS-767C), Office of Pesticide
Programs, Environmental Protection
Agency, 401 M St., SW., Washington,
D.C. 20460.

Office location and telephone number:
Rm. 711, Crystal Mall #2, 1921
Jefferson Davis Highway, Arlington,
VA, (703 557-7400).

SUPPLEMENTARY INFORMATION: This
Notice is organized into five units. Unit I
is the introduction. Unit II, entitled
"Legal Background," provides a general
discussion of the regulatory frame work
within which this action is taken. Unit
III sets forth a summary of the Agency's
determinations regarding the risks and
benefits of using 1080 rodenticides, and
Unit IV describes the Agency's
regulatory actions. Unit V contains the
comments of the Scientific Advisory
Panel and the Secretary of Agriculture
and the Agency's responses to those
comments. Finally, Unit VI, entitled
"Procedural Matters," provides a brief
discussion of the procedures which will
be followed in implementing the
regulatory actions announced in this
notice.

I. Introduction

Pesticide products containing the
active ingredient sodium fluoroacetate
(commonly called "1080") have been
used for rodent control in the United
States since the 1940's. Compound 1080
is usually formulated in baits of grain,
rolled oats, or chopped greens at
concentrations ranging between .02
percent and .12 percent. These baits are
applied aerially or by hand for control of
field rodents such as ground squirrels,
prairie dogs, meadow mice, and pocket
gophers. Compound 1080 is also mixed
with water and placed inside tamper
resistant bait boxes serviced by pest
control operators to control commensal
rodents (mice and rats).

A technical grade formulation of 1080
(90 percent pure), which bears label
directions for end-use to control
commensal rodents but which can also
be used to formulate other end-use
products, is federally registered by Tull
Chemical Co. Compound 1080 is not
imported, and Tull is the sole U.S.
producer of 1080. In addition to Tull,
Klamath County in Oregon holds a
Federal registration for a 1080 product
used to control ground squirrels. This
product, which was registered under the
authority of section 24(c) of the Federal
Insecticide, Fungicide, and Rodenticide
Act (FIFRA), was approved to meet a
"special local need" in Klamath County
in Oregon.

All other products containing 1080
used for rodent control are "intrastate
products." As explained more fully in
Unit II.B, intrastate products are State-
registered pesticides that were not
subject to regulation under FIFRA prior
to 1972 because they were produced and
used within a single State. In 1972, when
it amended FIFRA, Congress gave the
Agency authority to regulate intrastate
products for the first time. Pursuant to
regulations promulgated in 1975, the
Agency allowed the continued
production and use of these products,
subject to certain regulatory restrictions,
until the Agency required the
submission of applications for Federal
registration.

When the Special Review for 1080
rodenticides was initiated, there were 46
intrastate products in California, three
in Nevada, and one in Colorado. In 1977,
California accounted for approximately
83 percent of 1080 rodenticide use,
Colorado 12 percent, and Nevada and
Oregon about 5 percent. It was
estimated that approximately 610,000
pounds of 1080-treated bait (containing
about 600 lbs of active ingredient) were
applied in 1977. Recent comments from
California stated that only about 100
pounds of 1080 active ingredient were
used, indicating a significant decline in
the amount used. Of the total 1080 used,
about 75 percent is applied for ground
squirrel control, and about 7 percent is
for prairie dog control. The remaining
uses are for control of meadow mice,
deer mice, wood rats, cotton rats,
chipmunks, and several other rodent
species.

Notice of EPA's Rebuttable
Presumption Against Registration, now
called Special Review, for the
rodenticidal use of pesticide products
containing 1080 was published in the
Federal Register of December 1, 1976.
(41 FR 52792). Issuance of the Special
Review Notice initiated the Agency's
public review of the risks and benefits
of Compound 1080. The rebuttable
presumption was issued on the basis of
(1) the acute toxicity of 1080 to
mammals and birds, (2) a risk of a
significant reduction in populations of
nontarget organisms and fatalities to
members of endangered species, and (3)
the lack of emergency treatment for 1080
poisoning. The reasons for the Agency's
determinations were explained in detail
in a supporting technical document
referred to as Position Document 1 (PD
1). The Agency requested comment on
the grounds for issuing the Special
Review Notice and on the risks and
benefits of 1080 rodenticides.

After reviewing all available
information, EPA issued a notice of its

preliminary determinations concerning the risks and benefits of the use of 1080 rodenticides and of the Agency proposed regulatory actions, as published in the *Federal Register* of November 4, 1983. (48 FR 40935). This notice and the supporting Position Document (PD 2/3) set forth the Agency's determination that 1080 rodenticides continued to exceed the risk criteria which provided the basis for the Special Review. The Agency determined, however, that the risks posed by 1080 to nontarget wildlife and to humans could be reduced through changes in the label directions and in some cases, by reducing the concentration of 1080 in the rodenticide baits. The Notice and PD 2/3 also contained a discussion of and responses to the comments received and a detailed analysis of the risks and benefits of each use of 1080.

With respect to many uses of 1080, including the two major uses on ground squirrels and prairie dogs, EPA concluded that modification of the terms and conditions of use would reduce the risks to the point where they would exceed the benefits of use, and therefore EPA proposed to allow such uses to continue provided the prescribed changes were made. In some instances, however, EPA determined that risks could not be reduced sufficiently to warrant continued use, and accordingly EPA proposed to deny applications for registration. (Denial, rather than cancellation, was appropriate because the products were intrastate products and were not federally registered.)

The Agency's preliminary determinations were submitted to the FIFRA Scientific Advisory Panel (SAP) and the U.S. Department of Agriculture (USDA) for review pursuant to sections 6(b) and 25(d) of FIFRA. Comments were also solicited from the registrants and other interested persons. The comments which were received by the Agency were carefully considered in the development of this final determination, and certain changes were made in the final decision based on the comments. The comments received by the Agency in response to the PD 2/3 and changes made in the final decision based on those comments are discussed in detail in the Agency's supporting Position Document (PD 4).

As explained more fully below, this Notice initiates actions to require modification of the terms and conditions of use of most 1080 rodenticide products in accordance with the requirements set forth in this notice. This notice also describes the related regulatory actions which EPA is taking to acquire

additional data to evaluate further the risks of 1080 rodenticides.

II. Legal Authority

FIFRA requires generally that every pesticide sold or distributed in commerce must be federally registered. Two 1080 rodenticide products, a ground squirrel control product used only in Oregon and a commensal rodenticide, are federally registered; the remaining 50 rodenticides containing 1080 are "intrastate products" which, as explained below, have never been subjected to Federal registration requirements.

Prior to 1972, pesticides produced and distributed solely in intrastate commerce were not subject to registration or any other requirements of FIFRA. The National Environmental Pesticide Control Act of 1972 (Pub. L. 92-516) extensively amended FIFRA and for the first time, it became a violation of Federal law to sell or distribute unregistered intrastate pesticide products. EPA issued registration regulations under 40 CFR Part 162 implementing the 1972 amendments which, among other things, required immediate registration of all intrastate products unless the products were currently registered by a state and the producer submitted a notice of application for Federal registration to the Agency under 40 CFR 162.17. Under this regulation, notices of application were filed for numerous 1080 rodenticide products which comprise the vast majority of products reviewed in this Special Review proceeding. The regulation further provided that producers could continue to sell and distribute their products solely in intrastate commerce without obtaining Federal registration, so long as they complied with certain provisions of FIFRA. Moreover, EPA's regulations provided that, before taking any enforcement action against any unregistered intrastate product complying with 40 CFR 162.17, the Agency would notify the producer of the product that he was required to submit a complete application for Federal registration, and the Agency would review and rule on the application.

In order to obtain a registration for a pesticide under FIFRA, an applicant for registration must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment," as stated in FIFRA sec. 3(c)(5). The term "unreasonable adverse effects on the environment" is defined in FIFRA sec. 2(bb) as "any

unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide." This standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in compliance with the terms and conditions of registration or in accordance with commonly recognized practice. If an applicant's product does not meet the standard for registration, EPA may deny the application under FIFRA sec. 3(c)(6).

The burden of proving that a pesticide satisfies the standard for registration is on the proponents of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide or require modification of the terms and conditions of registration whenever it is determined that the pesticide causes unreasonable adverse effects on the environment.

The Agency created the Special Review process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide an informal procedure to gather and evaluate information about the risks and benefits of these uses.

The regulations governing the Special Review process provide that a rebuttable presumption against new or continued registration shall arise if a pesticide meets or exceeds risk criteria set out in the regulations under 40 CFR 162.11. Revised Special Review criteria and procedures were published in the *Federal Register* for comment on March 27, 1985. (50 FR 12188). The Agency announces that a Special Review has arisen by issuing a notice for publication in the *Federal Register*. Registrants and other interested persons are invited to review the data upon which the Special Review is based and to submit data and information to rebut the presumption by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant risk to humans or the environment. In addition to submitting evidence to rebut the risk presumption, comments may include evidence as to whether the economic, social, and environmental benefits of the use of the pesticide outweigh the risks of use. Unless all presumptions of risk are rebutted, or the benefits of use outweigh the risks, the Special Review is concluded by issuance of a Notice of Intent to Cancel and/or a Notice of Denial, as appropriate.

In determining whether the use of a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risks, and the impacts of such modification on the benefits of use. If the Agency determines that such changes could reduce risks to the level where the benefits would outweigh the risks, it may require that such changes be made in the terms and conditions of the registrations. Alternatively, the Agency may determine that no change in the terms and conditions of a registration will adequately assure that use of the pesticide will not pose an unreasonable adverse effect. In either case, the Agency will issue a Notice of Intent to Cancel the registration. Cancellation may be avoided by making the specified corrections set forth in the Notice, if possible. Adversely affected persons may request a hearing on the cancellation of a specified registration and use, and, if they do so in a legally effective manner, that registration and use will be maintained pending a decision at the close of an administrative hearing.

III. Summary of Determinations of Risks and Benefits

The Agency has considered the available information concerning the risks of using 1080 rodenticides, as well as the economic and other benefits associated with the use of these products. Detailed discussion of the risk and benefit information considered by the Agency is found in the PD 2/3 and the PD 4. These documents fully set forth the Agency's reasons for concluding the Special Review on 1080 rodenticides. Copies of PD 2/3 and PD 4 are available from the contact person listed at the beginning of this document.

A. Determinations Concerning Risk

In general terms, the 1080 rodenticide Special Review was based on the Agency concerns in three broad areas: (1) The risks to humans, in view of the extremely toxic properties of 1080 and the absence of any antidote for 1080 poisoning; (2) the risk to threatened and endangered species feeding directly on 1080 bait (primary poisoning) or scavenging 1080-poisoned animals (secondary poisoning); and (3) the risk to other nontarget species, particularly wildlife. As numerous comments emphasized and EPA acknowledged in its notice of preliminary determination and supporting PD 2/3, only very limited information is available to assess the risks of using 1080 rodenticides. For that reason, the Agency decided that one of the most important regulatory actions it

could take was to require submission of additional data needed to evaluate better the effects of using 1080 rodenticides. See Unit IV.F.

1. *Risks to humans.* Compound 1080 is an extremely toxic substance, which has no proven antidote. The early use history of 1080 includes several incidents in which humans were poisoned, some fatally. Most of these incidents involved use of 1080 for control of commensal rodents in and around buildings, rather than in field rodent control programs.

Over the last 25 years, the number of incidents involving 1080 poisoning of humans is significantly lower. The decline in poisoning incidents appears to have resulted from the prohibition of use in occupied buildings, a requirement to place bait in tamper resistant bait boxes, the imposition of other regulatory restrictions by both the Federal Government (e.g., classification for restricted use) and State governments, and clarification of the directions for use. The Agency has determined that these measures appear adequate to reduce the risk of human poisoning from accidental exposure to acceptable levels.

2. *Risks to threatened and endangered species.* Based on its own review of the available information, as well as the biological opinion of the Office of Endangered Species in the U.S. Department of the Interior, EPA concluded that the use of 1080 to control field rodents could pose a risk to threatened and endangered species. In estimating the risk to threatened and endangered species, the Agency relied primarily on acute toxicity data on related species. Because EPA generally lacks data on the relative sensitivity to 1080 of threatened and endangered species compared with species on which acute toxicity studies have been performed, the Agency determined that it was appropriate to use a "margin of safety" approach. In other words, to evaluate whether threatened or endangered species would be adversely affected, EPA compared the estimated exposure with the dose causing adverse effects in a related species, and assumed that adverse effects were possible if the margin between the two levels was not adequate.

EPA concluded that application of 1080 to control ground squirrels could pose a risk to California condors. This conclusion was based on information showing that condors scavenge dead ground squirrels and field data estimating that a potentially toxic amount of 1080-treated grain could remain in the cheek pouches of poisoned

squirrels. Using the golden eagle as a surrogate species and taking into account the variability observed in tests involving related species, EPA estimated that ingestion of only a few 1080-poisoned ground squirrels could be fatal to a condor. This concern is strengthened by data showing the presence of 1080 residues in a dead California condor, although the source of the 1080 could not be determined.

Although the reliability of EPA's conclusions about the risk posed by use of 1080 rodenticides to condors has been questioned on a number of grounds, no public comments have demonstrated that such use is substantially free from risk to the endangered condor. In view of the risk and the critically low number of condors—some current population estimates are fewer than 10 to a few dozen—the Agency thinks that even a small risk must be a basis of substantial concern.

In addition to these concerns, the Office of Endangered Species (OES) recently submitted a biological opinion to the Agency stating that the use of the 1080 livestock protection collar would jeopardize the continued existence of the condor. Although there are substantial differences in potential 1080 exposure from the collar and rodent baits, the precarious status of the condor will necessitate further discussions with OES on the use of 1080 rodenticides in the condor's range. The Agency considers the condor's range to be those counties in California identified by OES in their biological opinion on the livestock protection collar. They are the counties of: Fresno, Kern, King, Los Angeles, Monterey, San Benito, San Luis Obispo, Santa Barbara, Tulare, and Ventura.

The Agency anticipates a decision prior to January 1, 1986, on whether 1080 baits may continue to be used in the range of the condor. Beginning in 1986, use in the range of the California condor, if permitted, will be at a maximum bait concentration of .02 percent until bait efficacy data are submitted establishing the lowest efficacious bait concentration. If the .02 percent bait is found to be ineffective, the Agency will consider changes in the bait concentration, provided data are submitted showing that the higher concentration is effective and will not adversely affect the condor.

The Agency also determined that use of 1080 rodenticides would pose some risk to the endangered San Joaquin kit fox. Based on acute toxicity studies using a subspecies of kit fox that was not endangered, EPA estimated that the LD50 dose at 0.22 mg/kg of 1080. This

dose suggests that kit foxes are very sensitive to 1080 and could be poisoned by scavenging on 1080-poisoned rodents.

Although there is no hard evidence, i.e. confirmatory laboratory analysis, that any San Joaquin kit fox has been killed with 1080, there is convincing evidence that indicates a potential for kit fox loss from 1080 baiting programs. This evidence includes the feeding habits of the kit fox, LD50 values of surrogate species and the California ground squirrel, old field reports (Spencer, 1946) indicating that kit foxes died following ground squirrel control programs, and a field study of a ground squirrel control project in which researchers observed substantial mortality of coyotes, another scavenger species which is only slightly more sensitive to 1080 (LD50 = 0.1 mg/kg) than kit foxes.

The Agency further determined that the use of 1080 to control prairie dogs posed a risk to the endangered black-footed ferret, a species which inhabits prairie dog colonies and preys primarily as prairie dogs. Using LD50 values for related species (mink and European ferrets), EPA estimated that prairie dogs poisoned by feeding on 1080 bait could contain an amount of 1080 lethal to black-footed ferrets. The extent of this risk would depend on many factors including the amount of 1080 grain bait ingested by a prairie dog, the extent of metabolic detoxification of the 1080 residues, the feeding behavior of the ferret, and the amount of 1080-tainted tissue consumed. Because the data available to evaluate these factors are limited, there is considerable uncertainty about the extent of this risk.

The Agency determined that three other endangered species were at risk from direct ingestion of 1080 rodenticides, the Morro Bay kangaroo rat, the salt marsh harvest mouse, and the Aleutian Canada goose. Both the kangaroo rat and the harvest mouse are found in California and could be killed by a control program directed at other rodent species in their habitat. The Aleutian Canada goose migrates through California and is known to feed on the dikes of rice fields, where 1080 is used to control ground squirrels. Since geese might feed on 1080-treated bait, and geese are somewhat sensitive to 1080, it is possible that geese could be killed from feeding on the dikes of rice fields. Although it found that 1080 rodenticide jeopardized the Morro Bay kangaroo rat and the salt marsh harvest mouse, the Office of Endangered Species concluded that use of 1080 in rice fields would not jeopardize the continued existence of the Aleutian Canada goose.

3. *Impacts on nontarget wildlife.* In addition to its concerns about endangered and threatened species, the Agency also concluded that 1080 rodenticide baits might have significant impacts on the levels of local populations of nontarget wildlife. This conclusion rested on a variety of information including acute LD50 studies on numerous species, field reports, and a field study performed by Hegdal *et al.* on the impacts of ground squirrel control on nontarget wildlife. The Hegdal study, in particular, provided data indicating that coyotes and bobcats could be killed by feeding on poisoned ground squirrels. Prior to application of 1080 bait, researchers placed radio-transmitters on 6 coyotes and 10 bobcats. Five of the coyotes and three of the bobcats were found dead following baiting. In addition, three dead striped skunks were recovered, one of which contained residues of 1080. Although these data fall short of providing a precise quantitative measurement of the impacts on the local populations of coyotes, skunks, and bobcats, EPA concludes that the data do indicate that there is a risk of secondary poisoning not only of these species but also other nontarget wildlife. Because of the difficulty of extrapolating from limited data on field kills to population effects, EPA recognizes that there is considerable uncertainty in quantifying this risk.

B. Determination of Benefits

As with its risk assessment, the Agency faced severe data limitations in its analysis of the benefits of 1080 rodenticides. Therefore, the Agency had to use considerable judgment in evaluating the potential economic consequences of cancelling the uses of 1080. The analysis often provided qualitative estimates of impact due to the lack of sufficient usage or comparative efficacy data to support precise quantitative estimates. Although PD 3 and PD 4 contain specific numerical estimates, they represent rough predictions of 1080 bait distribution and economic impact. The Agency used reasonable assumptions in its estimates of the general economic consequences of cancelling 1080 usage.

In general, the economic impacts of cancelling the uses of 1080 would not significantly affect U.S. production or prices of major commodities or services. Impacts on agricultural productivity and production costs would generally be limited to users in Western States. Regional or local impacts on users were estimated where registered alternatives are more costly, impractical, or

ineffective, or where no registered alternatives exist.

If eventually 1080 is federally registered, it would become available for field rodent control programs in States where no intrastate product is currently available. At the individual producer level, control costs in States where rodenticides are currently unavailable are somewhat higher than in States where 1080 is available. If States where 1080 is not currently available decided to sponsor control programs in a manner similar to States with existing 1080 control programs, individual producers would benefit through reduced control costs. The extent of the cost reduction will depend on several factors.

Where prebaiting—the application of toxicant-free bait to condition the target species to consume the bait—is practiced prior to using either strychnine or zinc phosphide, the new 1080 programs will be somewhat less expensive because 1080 control programs generally do not require prebaiting. Thus, the individual producer would save the cost of prebaiting where 1080 replaces either strychnine or zinc phosphide. Where prebaiting is not practiced with either strychnine or zinc phosphide, the cost of a 1080 program would be very similar to the current cost of using either zinc phosphide or strychnine. Producers would gain a somewhat more effective poison where 1080 would replace either strychnine or zinc phosphide. While the Agency recognizes that individual users in States without a 1080 registration could benefit from the use of 1080, the extent to which benefits would accrue in these areas cannot be quantified with available data.

In addition to simple changes in producer level control costs, States would incur some administrative costs if they choose to implement a 1080 control program. To the extent that new resources are required at the State level to coordinate and monitor a new State-sponsored program, these costs would somewhat offset the producer level benefit (in terms of lower control cost). The net effect of these distributional impacts cannot be quantified with available data.

The uses of 1080 which are subject to this Special Review were grouped into three categories: (1) Rodents on rangelands and pastures, (2) rodents on croplands, and (3) rodents on nonagricultural sites.

1. *Rodents on rangelands and pastures.* Compound 1080 is available primarily as an intrastate product when used for the control of ground squirrels,

prairie dogs, deer mice, meadow mice, cotton rats, kangaroo rats, chipmunks and pocket gophers on rangelands and pastures. (One product is registered in Oregon for ground squirrel control under sec. 24(c) of FIFRA.) Federally registered alternatives for ground squirrels include strychnine, gas cartridges, carbon disulfide, paradichlorobenzene, and carbon tetrachloride. Anticoagulants, methyl bromide, and zinc phosphide are also available in some States for ground squirrel control. Zinc phosphide is federally registered for the control of prairie dogs, cotton rats, kangaroo rats, and field and meadow mice. Strychnine is federally registered for the control of prairie dogs, chipmunks, cotton rats, kangaroo rats, deer mice and pocket gophers, although the Agency is currently conducting a proceeding to cancel the prairie dog use. Several anticoagulants are available in California for the control of field rats and mice.

The use of 1080 bait to control rodents on rangelands accounts for nearly three-fourths of the annual use, with the majority used for the control of ground squirrels. The unavailability of 1080 for the control of rodents on rangelands could increase the costs for ground squirrel control by approximately several million dollars annually, depending on the alternative used and the continued registration of strychnine. The cost of prairie dog control could increase by approximately several hundred thousand dollars annually. No estimates are available for other rodents since these account for less than 1 percent of the total 1080 use.

2. Rodents on croplands. Compound 1080 is available in intrastate products used for the control of ground squirrels, prairie dogs, Norway rats, cotton rats, wood rats, meadow mice, and pocket gophers on croplands. Registered alternatives for this category are the same as those for rangelands. For the Norway rats, zinc phosphide, three anticoagulants, and four fumigants are federally registered. The use of 1080 to control rodents on croplands accounts for approximately one fifth of the annual use of 1080, with the majority used for the control of meadow mice.

The unavailability of 1080 for the control of ground squirrels on croplands could result in an increase in annual control costs of approximately \$200,000 to \$1.2 million, depending on the alternative used. The unavailability of 1080 for prairie dog control could result in an increase in annual control costs of approximately \$20,000. The unavailability of 1080 for meadow mouse control could result in an

increase in annual control cost of approximately \$28,000. No estimates are available for other rodents on croplands.

3. Rodents on nonagricultural sites. Compound 1080 is available in intrastate products used for the control of ground squirrels, cotton rats, kangaroo rats, deer mice, meadow mice, wood rats, chipmunks, roof rats, Norway rats, and pocket gophers on nonagricultural sites. It is federally registered for the control of Norway rats, roof rats, and house mice in and around structures. For this analysis, nonagricultural sites are defined as areas which are not involved in the direct production of crops or livestock. These include structures, premises, embankments, nonagricultural turf area, and private forest areas.

Federally registered alternatives for the field rodents are the same as mentioned for rangeland, pasture, and cropland rodent control. For commensal rodent control, zinc phosphide is federally registered as are several anticoagulants and fumigants. The use of 1080 for this category accounts for approximately 5 percent of the annual 1080 use. Limited data are available to estimate benefits. The unavailability of 1080, assuming alternatives are not used, would result in an increase in embankment failures. Each incident can cost in excess of \$10,000 to repair. Also, although the benefits of controlling commensal rodents cannot be quantified, 1080 is generally used as a last resort.

IV. Regulatory Position

Based on its review of the risks and benefits of using 1080 rodenticides, EPA has determined that the risks appear to outweigh the benefits of use of 1080 for control of rodent species. The Agency has further determined that those risks can be reduced, to a point at which the benefits appear to exceed the risks, by: (1) Changing the directions for use; (2) requiring that 1080-treated bait be colored; and (3) in certain cases, lowering the concentration of 1080 in bait. The regulatory position of the Agency on the different uses of 1080 rodenticides is set forth below.

A. Ground Squirrels: Rangeland, Cropland, and Non-Agricultural Sites

Use of 1080 to control ground squirrels may continue provided that:

1. Bait concentration. If 1080 is permitted to be used in the range of the California condor, the label of any product used in California to control ground squirrels must contain the following statement:

Baits at concentrations greater than .02 percent may not be used in the range of the California condor.

2. Hand-baiting and post-baiting procedures. The label of any product used to control ground squirrels and applied by hand must contain the following label statements:

i. Baiting should not be done unless tests indicate satisfactory bait acceptance will occur in areas to be treated.

ii. Do not expose baits in a manner which presents a likely hazard to pets, poultry, or livestock.

iii. Clean up all accidentally spilled bait immediately.

iv. Do not place bait in piles.

v. Where possible, pick up and burn or bury deeply all visible carcasses of animals killed by 1080.

vi. Do not use within ¼ mile of a dwelling without first notifying the occupants.

3. Aerial baiting and post-baiting procedures. The label of any product used in California to control ground squirrels and containing directions for aerial application must contain the following label statements:

i. Use in accordance with the Guidelines for Applying Rodent Baits by Aircraft for Control of Ground Squirrels in the California Vertebrate Pest Control Handbook.

ii. Where possible, pick up and burn or bury deeply all visible carcasses of animals killed by 1080.

Guidelines for aerial application of 1080 in States other than California must be submitted with applications for Federal registration. These guidelines will be reviewed and, following approval, must be referenced on appropriate product labels.

4. Endangered species protection. The label of any product used to control ground squirrels in California must contain the following statements:

Notice: The killing of a member of an endangered species during compound 1080 baiting operations may result in a fine and/or imprisonment under the Endangered Species Act. Before baiting, the user must contact the local Fish and Game Office for specific information on endangered species. Do not use compound 1080 baits in the geographic ranges of the following species except under programs and procedures approved by the USEPA: California condor, San Joaquin kit fox, Aleutian Canada goose, Morro Bay kangaroo rat, and salt marsh harvest mouse.

The label of any product used to control ground squirrels in other States must contain the following statement:

Notice: The killing of a member of an endangered species during compound 1080 baiting operations may result in a fine and/or imprisonment under the

Endangered Species Act. Before baiting, the user must contact the local Fish and Game Office or the Regional Office of the Fish and Wildlife Service for specific information on endangered species.

The label of any product used to control ground squirrels within 5 miles of a prairie dog colony must contain the following statement:

Do not use for ground squirrel control within 200 yards of prairie dog colonies unless a precontrol survey for the black-footed ferret has been performed prior to control and the use of such a survey produces no evidence that a black-footed ferret is present in the survey area. Do not use within five miles of a prairie dog colony where a black-footed ferret has been confirmed to be present.

5. Nontarget species protection. The label of any product used to control ground squirrels must contain the following statement:

This product is very highly toxic to wildlife. Birds and mammals feeding on target organisms or treated bait may be killed. Keep out of any body of water. Apply this product only as specified on this label.

6. Bait dyes. Any bait containing directions for use to control ground squirrels must be dyed yellow. The label of any 1080 product that contains directions for formulating end-use baits or that may be used for that purpose must contain the following statement:

Formulators must ensure that all compound 1080 grain baits used for field rodent control are dyed yellow.

7. Restricted use classification. The label of any product used to control ground squirrels must contain the following statement:

RESTRICTED USE PESTICIDE FOR RETAIL SALE TO AND USE ONLY BY CERTIFIED APPLICATORS OR PERSONS UNDER THEIR DIRECT SUPERVISION AND ONLY FOR THOSE USES COVERED BY THE CERTIFIED APPLICATOR'S CERTIFICATION.

Modifications in the above statement will be permitted to reflect State requirements limiting sale, distribution and possession of 1080.

Every product covered by Unit IV.A of this notice that is sold, used, distributed, or released for shipment after December 31, 1985, must conform to restrictions 1 through 7. Existing products may be sold, used, distributed, or released for shipment after December 31, 1985, provided they are relabeled and conform to the conditions indicated in items 1 through 7. Compliance with these restrictions does not negate the necessity of maintaining other limitations on supervision, use, possession, storage, and disposal of 1080 required on current product labels.

B. Prairie Dogs: Rangeland and Cropland

Use of 1080 to control prairie dogs may continue provided that:

1. Bait concentration. The label of any product used to control prairie dogs must contain the following statement:

Baits at concentrations greater than .02 percent may not be used for the control of prairie dogs.

2. Hand-baiting and post-baiting procedures. The label of any product used to control prairie dogs and applied by hand must contain the following statement:

i. Baiting should not be done unless tests indicate satisfactory bait acceptance will occur in areas to be treated.

ii. Do not expose baits in a manner which presents a likely hazard to pets, poultry, or livestock.

iii. Clean up all accidentally spilled bait immediately.

iv. Do not place bait in piles.

v. Where possible, pick up and burn or bury deeply all visible carcasses of animals killed by 1080.

vi. Do not use within 1/4 mile of a dwelling without first notifying the occupants.

3. Use only by government employees. The label of any product used to control prairie dogs must contain the statement:

The use of 1080 for prairie dog control is restricted to governmental agencies or persons under the direct supervision of members of governmental agencies.

4. Endangered species protection. The label of any product used to control prairie dogs must contain the following statement:

Notice: The killing of a member of an endangered species during compound 1080 baiting operations may result in a fine and/or imprisonment under the Endangered Species Act. Before baiting, the user must contact the local Fish and Game Office or the Regional Office of the Fish and Wildlife Service for specific information on endangered species.

5. Nontarget species protection. The label of any product used to control prairie dogs must contain the following statement:

This product is very highly toxic to wildlife. Birds and mammals feeding on target organisms or treated bait may be killed. Keep out of any body of water. Apply this product only as specified on this label.

6. Pre-control survey for black-footed ferrets. The label of any product used to control prairie dogs must contain the following statement:

Compound 1080 can be used for the control of prairie dogs only if an EPA-approved survey for the black-footed

ferret has been performed prior to control and the use of such a survey produces no evidence that a black-footed ferret is present in the survey area.

7. Bait dyes. Any bait containing directions for use to control prairie dogs must be dyed yellow. The label of any 1080 product that contains directions for formulating end-use baits or that may be used for that purpose must contain the following statement:

Formulators must ensure that all compound 1080 grain baits used for field rodent control are dyed yellow.

8. Restricted use classification. The label of any product used to control prairie dogs must contain the following statement:

RESTRICTED USE PESTICIDE FOR RETAIL SALE TO AND USE ONLY BY CERTIFIED APPLICATORS OR PERSONS UNDER THEIR DIRECT SUPERVISION AND ONLY FOR THOSE USES COVERED BY THE CERTIFIED APPLICATOR'S CERTIFICATION.

Modifications in the above statement will be permitted to reflect State requirements limiting sale, distribution and possession of 1080.

Every product covered by Unit IV.B of this notice that is sold, used, distributed, or released for shipment after December 31, 1985, must conform to restrictions 1 through 8. Existing products may be sold, used, distributed, or released for shipment after December 31, 1985, provided they are relabeled and conform to the conditions indicated in items 1 through 8. Compliance with these restrictions does not negate the necessity of maintaining other limitations on supervision, use, possession, storage, and disposal of 1080 required on current product labels.

C. Other Rodents: Rangeland, Cropland and Non-Agricultural Sites Except Around Ships and Buildings

The requirements of this unit apply to 1080 products labeled with directions to control the following rodents:

Rangeland: chipmunks, cotton rats, deer mice, kangaroo rats and meadow mice.

Cropland: meadow mice, Norway rats, cotton rats, and wood rats.

Non-Agricultural Sites: chipmunks, cotton rats, Norway rats, kangaroo rats, wood rats, deer mice, and meadow mice.

1. Bait concentration. If 1080 is permitted to be used in the range of the California condor, the label of any product used in California to control the rodents listed above must contain the following statement:

Baits at concentrations greater than .02 percent may not be used in the range of the California condor.

2. Hand-baiting and post-baiting procedures. The label of any product used to control the rodent species on the sites listed above and applied by hand must contain the following label statements:

- i. Baiting should not be done unless tests indicate satisfactory bait acceptance will occur in areas to be treated.
- ii. Do not expose baits in a manner which presents a likely hazard to pets, poultry, or livestock.
- iii. Clean up all accidentally spilled bait immediately.
- iv. Do not place bait in piles.
- v. Where possible, pick up and burn or bury deeply all visible carcasses of animals killed by 1080.
- vi. Do not use within ¼ mile of a dwelling without first notifying the occupants.

3. Aerial baiting and post-baiting procedures. The label of any product used to control the rodents listed above in California and containing directions for aerial application must contain the following label statements:

- i. Use in accordance with the Guidelines for Applying Rodent Baits by Aircraft for Control of Ground Squirrels in the California Vertebrate Pest Control Handbook.
- ii. Where possible, pick up and burn or bury deeply all visible carcasses of animals killed by 1080.

Guidelines for aerial application of 1080 in States other than California must be submitted with applications for Federal registration. These guidelines will be reviewed and, following approval, must be referenced on appropriate product labels.

4. Endangered species protection. The label of any product used to control the rodents listed in this unit in California must contain the following statements:

Notice: The killing of a member of an endangered species during compound 1080 baiting operations may result in a fine and/or imprisonment under the Endangered Species Act. Before baiting, the user must contact the local Fish and Game Office for specific information on endangered species. Do not use compound 1080 baits in the geographic ranges of the following species except under programs and procedures approved by the USEPA: California condor, San Joaquin kit fox, Aleutian Canada goose, Morro Bay kangaroo rat, and salt marsh harvest mouse.

The label of any product used in Colorado or Nevada to control the

rodents listed in this section must contain the following statement:

Notice: The killing of a member of an endangered species during compound 1080 baiting operations may result in a fine and/or imprisonment under the Endangered Species Act. Before baiting, the user must contact the local Fish and Game Office or the Regional Office of the Fish and Wildlife Service for specific information on endangered species.

5. Nontarget species protection. The label of any product used to control the rodents listed in this section must contain the following statement:

This product is very highly toxic to wildlife. Birds and mammals feeding on target organisms or treated bait may be killed. Keep out of any body of water. Apply this product only as specified on this label.

6. Bait dyes. Any bait containing directions for use to control the rodents listed in this section must be dyed yellow. The label of any 1080 product that contains directions for formulating end-use baits or that may be used for that purpose must contain the following statement:

Formulators must ensure that all compound 1080 grain baits used for field rodent control are dyed yellow.

7. Restricted use classification. The label of any product used to control the rodents listed in this section must contain the following statement:

RESTRICTED USE PESTICIDE FOR RETAIL SALE TO AND USE ONLY BY CERTIFIED APPLICATORS OR PERSONS UNDER THEIR DIRECT SUPERVISION AND ONLY FOR THOSE USES COVERED BY THE CERTIFIED APPLICATOR'S CERTIFICATION.

Modifications in the above statement will be permitted to reflect State requirements limiting sale, distribution and possession of 1080.

Every product covered by Unit IV.C of this notice that is sold, used, distributed, or released for shipment after December 31, 1985, must conform to restrictions 1 through 7. Existing products may be sold, used, distributed, or released for shipment after December 31, 1985 provided they are relabeled and conform to the conditions indicated in items 1 through 7. Compliance with these restrictions does not negate the necessity of maintaining other limitations on supervision, use, possession, storage, and disposal of 1080 required on current product labels.

D. Pocket Gophers

Use of 1080 to control pocket gophers may continue provided that:

1. **Bait dyes.** Any bait containing

directions for use to control pocket gophers must be dyed yellow. The label of any 1080 product that contains directions for formulating end-use baits or that may be used for that purpose must contain the following statement:

Formulators must ensure that all compound 1080 grain baits used for field rodent control are dyed yellow.

2. Restricted use classification. The label of any product used to control the rodents listed in this unit must contain the following statement:

RESTRICTED USE PESTICIDE FOR RETAIL SALE TO AND USE ONLY BY CERTIFIED APPLICATORS OR PERSONS UNDER THEIR DIRECT SUPERVISION AND ONLY FOR THOSE USES COVERED BY THE CERTIFIED APPLICATOR'S CERTIFICATION.

Modifications in the above statement will be permitted to reflect State requirements limiting sale, distribution, and possession of 1080.

Every product covered by Unit IV.D of this notice that is sold, used, distributed, or released for shipment after December 31, 1985, must conform to restrictions 1 and 2. Existing products may be sold, used, distributed, or released for shipment after December 31, 1985, provided they are relabeled and conform to the conditions indicated in items 1 and 2. Compliance with these restrictions does not negate the necessity of maintaining other limitations on supervision, use, possession, storage, and disposal of 1080 required on current product labels.

E. Compound 1080 Technical Product

All products consisting of the technical grade of the active ingredient 1080, released for shipment after December 31, 1985, must bear the following label statement relating to the dyeing of baits:

Formulators must ensure that all compound 1080 grain baits used for field rodent control are dyed yellow. Compound 1080 grain baits used for commensal rodent control must be dyed in accordance with USDA regulations.

F. All 108 Uses—Additional Data Requirements and Submission Schedule

EPA will require that additional data be submitted to support the continued use of 1080 rodenticides. The following tables list these data requirements under 40 CFR 158.120, 158.125, 158.130, 158.135, and 158.45, and the time allowed to submit study results to the Agency:

Table I.—Product Chemistry Data Requirements

	Guideline reference	Time allowed to submit study results to EPA
Product identity:		
Identity of ingredients	61-1	6 mo.
Statement of composition	61-2	1 yr.
Discussion of formation of ingredients	61-3	Do.
Analysis and certification of product ingredients:		
Certification of limits	62-2	6 mo.
Analytical method of enforcement of limits	62-3	1 yr.
Physical and chemical properties:		
Color	63-2	Do.
Physical state	63-3	Do.
Odor	63-4	Do.
Melting point	63-5	Do.
Boiling point	63-6	Do.
Density, bulk density, or specific gravity	63-7	Do.
Solubility	63-8	Do.
Vapor pressure	63-9	Do.
Dissociation constant	63-10	Do.
Octanol/water partition coefficient	63-11	Do.
pH	63-12	Do.
Stability	63-13	Do.
Oxidizing or reducing action	63-14	Do.
Flammability	63-15	Do.
Explosibility	63-16	Do.
Storage stability	63-17	Do.
Viscosity	63-18	Do.
Miscibility	63-19	Do.
Corrosion characteristics	63-20	Do.
Dielectric breakdown voltage	63-21	Do.

Table II.—Residue Chemistry Data Requirements

Registrants and producers must submit a detailed description of each of the cropland and rangeland uses of 1080 appearing on their product labels. This information will be used by the Agency to determine if a particular use is a food or non-food use. The information needed for each use site includes:

1. How the bait is applied, e.g., bait box, broadcast ground application, aerial application.
2. Rate of application.
3. The number or frequency of applications.
4. The minimum interval between applications.

If EPA determines that a particular use is a food use, applicants will be notified of which data requirements listed below will be applicable.

	Guideline reference	Time allowed to submit study results to EPA
Chemical identity	171-2	1 yr.
Directions for use	171-3	Do.
Nature of residue:		
Plants	171-4	3 yr.

	Guideline reference	Time allowed to submit study results to EPA
Livestock	171-4	2 yr.
Residue analytical method and magnitude of the residue:		
Crop field trials	171-4	Do.
Processed food/feed	171-4	Do.
Meat-milk/poultry/eggs	171-4	Do.
Potable water	171-4	Do.
Reduction of residue	171-5	Do.
Proposed tolerance (includes \$40,000 filing fee)	171-6	Do.
Reasonable grounds in support of petition	171-7	Do.
Submission of analytical reference standards	171-13	1 yr.

Note.—Time allowed begins following determination of food use.

Table III.—Environmental Fate Data Requirements

	Guideline reference	Time allowed to submit study results to EPA
Degradation studies (lab):		
Hydrolysis	161-1	1 yr.
Photodegradation: On soil	161-3	Do.
Metabolism studies (lab):		
Aerobic soil	161-1	3 yr.
Anaerobic aquatic	162-3	Do.
Mobility studies:		
Leaching (adsorption/desorption)	163-1	1 yr.

Table IV.—Toxicology Data Requirements

	Guideline reference	Time allowed to submit study results to EPA
Acute testing:		
Dermal LD50—Rabbit (preferred species)	81-2	1 yr.
Primary eye irritation—Rabbit	81-4	Do.
Primary dermal irritation—Rabbit	81-5	Do.
Dermal sensitization—Guinea pig	81-6	Do.

The following tests will be necessary if 1080 tolerances are required. Subchronic Testing:

	Guideline reference	Time allowed to submit study results to EPA
90-day Feeding:		
Rodent	82-1	9 mo.
Non-Rodent (Dog)	82-1	15 mo.
21-day dermal—Rabbit	82-2	6 mo.
90-day dermal	82-3	9 mo.
90-day inhalation	82-4	Do.
90-day neurotoxicity—Hen, mammal	82-5	Do.
Chronic testing:		
Chronic feeding: 2 spp. rodent and nonrodent (dog)	83-1	4 yr.
Oncogenicity study: 2 spp. rat and mouse (preferred)	83-2	Do.

	Guideline reference	Time allowed to submit study results to EPA
Teratogenicity (2 species)—Rat, mouse, hamster, rabbit	83-3	9 mo.
Reproduction (2-generation) rat or other species	83-4	2½ yr.
Mutagenicity testing:		
Gene mutation (Ames test)	84-2	6 mo.
Chromosomal aberration	84-2	Do.
Other mechanisms of mutagenicity	84-4	Do.
Special testing:		
General metabolism—Rat	85-1	1 yr.
Dermal penetration	85-2	6 mo.
Special requirement: Domestic animal safety	86-1	(¹)

¹ Variable depending on species and type of study.

Table V.—Wildlife and Aquatic Organism Data Requirements

	Guideline reference	Time allowed to submit study results to EPA
Avian and mammalian testing:		
Field efficacy data to establish the lowest effective bait concentration		1 yr.
Avian and mammalian testing:		
Protocol for ferret survey study		4 mo.
Ferret survey study		1 yr.
Ferret mortality study		Do.
Avian oral LD50	71-1	Do.
Avian dietary LC50	71-2	Do.
Avian reproduction	71-4	3 yr.
Avian and mammalian secondary hazard studies		1 yr.
Simulated and actual field testing—Mammals and birds	71-5	1.5-3 yr. ²
Aquatic organism testing:		
Freshwater fish LC50	72-1	1 yr.
Acute LC50 freshwater invertebrates	72-2	Do.
Fish early life stage and aquatic invertebrate life cycle		Do.
Fish—Lifecycle	72-5	1.5 yr.
Aquatic organism accumulation	72-6	9 mo.
Simulated or actual field testing—Aquatic organisms	72-7	1.5-3 yr. ²

¹ Reserved—depends on results of above tests.

² Depends upon number of years to be examined.

³ Depends upon number of years.

Agency review of these data may require the development of additional safety data or benefits data. The specific data requirements that apply to basic producers and end users will be identified in the Notice of "Calling In" intrastate products for registration and in the "data call in notice" sent to Federal registrants under FIFRA sec. 3(c)(2)(B). Some of the data required for registration may have already been submitted to the Agency in conjunction with the registration of the livestock protection collar. If the basic producers do not agree to generate the required data, end users must agree to submit such data.

V. Statutory Review

Sections 25(d) and 8(b) of FIFRA require that, prior to issuing a notice of intent to cancel the registration of any pesticide product, EPA shall notify the Scientific Advisory Panel and the U.S. Department of Agriculture of the proposed action. The Panel and USDA have 30 days within which to file comments. The Agency transmitted its preliminary determinations to the Panel and USDA on July 8, 1983, and subsequently received comments from the Panel on July 2, 1984, and from USDA on November 8, 1983. As required by FIFRA, these comments, together with EPA's responses, are set forth below:

A. Comments of the Scientific Advisory Panel

Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Review of Preliminary Notice of Determination Concluding the Rebuttable Presumption Against the Registration (RPAR) of Pesticide Products Containing Sodium Monofluoroacetate (Compound 1080)

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) has completed its review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on pesticide products containing sodium monofluoroacetate (Compound 1080) under the provisions of section 8(b)(1) of FIFRA as amended. The review was initially conducted in an open meeting in Sacramento, California, on November 29-30, 1983, and subsequently in an open meeting held in Arlington, Virginia, on June 12, 1984.

All members of the SAP were present for the June 1984 meeting. Dr. David Davis, a specialist in wildlife biology, had participated in the Panel's November 1983 deliberations on an ad hoc basis.

Public notice of the June meeting was published in the *Federal Register* on Thursday, May 10, 1984.

Oral and written statements were received from a number of sources at the Sacramento meeting, but were not encouraged for the June 1984 meeting.

In consideration of all matters brought out during the meeting and careful review of all documents presented by the Agency and other parties, the Panel unanimously submits the following report:

Final Report of SAP Recommendations Compound 1080

The FIFRA Scientific Advisory Panel (SAP) refers to its December 20, 1983, report of findings on Compound 1080, and wishes to reiterate the views it expressed originally in its December 1983 report as follows:

The lapse of more than six months since the November 1983 meeting in Sacramento has not resulted in the submission of significant new information from any source which would cause the Panel to change the views it expressed in its December 1983 report. There is still very little definitive data to support the contention that Compound

1080 presents a serious hazard to non-target species, including endangered or threatened species. The Panel continues to find that the rationale for the actions proposed in Position Document 2/3, especially the reduction of the bait concentration to 0.02 percent and reduction of the rate of application to 4 lbs/acre is not adequately explained or justified. Furthermore, the Panel still believes that the specific actions proposed in PD 2/3 are not in general, well supported. It should be noted parenthetically that the above findings relate to the rodenticide uses only of Compound 1080.

For the Chairman:

Certified as an accurate report of Findings:

Philip H. Gray, Jr.,

Executive Secretary, FIFRA Scientific Advisory Panel.

Date: July 3, 1984.

B. Comments of the U.S. Department of Agriculture

Nov. 8, 1983.

Mr. Edwin L. Johnson,

Director, Office of Pesticide Programs (TS-766C), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Dear Mr. Johnson: This is the response of the Department pursuant to section 8(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to your July 8 letter, forwarding to us the proposed Position Document 2/3 for sodium monofluoroacetate (Compound 1080). We appreciate the agreement by your staff that comments will be received from the Department at any time during the public comment period and published in the *Federal Register* with the proposed final action.

Our staff, in reviewing the PD 2/3, found frequent inconsistencies in interpretation of the available scientific evidence. A number of conclusions appear to be drawn from conjecture rather than from analysis of the scientific evidence. In addition, the PD 2/3 does not draw upon the previously submitted agriculture research and benefit/use documents.

We are attaching a few specific comments relating to Part V, Section D—Proposed Actions; and Section E—Summary of Part V, Risk/Benefit Analysis and Regulatory Options, which exemplify our points about the inconsistencies.

We are currently cooperating with the USDI Fish and Wildlife Service, South Dakota State University, and Colorado State University, in a number of studies concerning the management of prairie dogs. These studies address many of the data gaps identified in the PD 2/3. For example, one study is directed at evaluating the efficacy of reduced dosages of 1080 to determine the optimum concentration on a grain bait needed to adequately control black-tailed prairie dogs. Acute toxicity and secondary hazard to nontarget animals will also be investigated. Results from this study should enhance the data on which to base a proposed reduction in standard bait concentration for control of black-tailed prairie dogs. Two other studies involving the University of California are designed to

determine the parameters of 1080 and strychnine doses needed to control pocket gophers, the environmental fate of the baits, and the secondary poisoning hazard to raptors and coyotes. All of these studies are designed to provide critical information to the land manager on environmental impacts, efficacies, and costs so that rodents can be controlled safely and effectively. These studies are targeted to be completed in 1984. We have received a request from the Secretary of Agriculture for the State of South Dakota (attached) urging us to request EPA to refrain from making a final decision on the rodenticide uses of Compound 1080 as well as strychnine for at least one year to allow adequate review of the document EPA has proposed. We further request that the comments provided on June 8, 1983, by the California Department of Food and Agriculture, be given serious consideration.

In light of the above, we suggest that further action on 1080 be delayed pending receipt and review of the research results and State comments. At that time an evaluation of all information may be made and, if appropriate, the PD 2/3 rewritten and resubmitted for public comment.

Sincerely,

Orville G. Bently,

Assistant Secretary, Science and Education.

Technical Staff Response to EPA's Position Document 2/3 on Compound 1080

This document attempts to respond to the following pertinent sections of the EPA Position Document 2/3: Part V, Section D—Proposed Actions; and Section E—Summary of Part V, Risk/Benefit Analysis and Regulatory Options.

Section D

1. *Rangeland Rodents—Ground Squirrels.* The Agency proposes adoption of the modification of the terms and conditions of registration option. These are:

a. "Standardize bait concentrations at a maximum of 0.02 percent active ingredient (a.i.) and use at the following rates—hand application, 1 teaspoon/burrow; broadcast application, 4 pounds/acre; 5-10 pounds/acre for broadcast of green bait."

To standardize bait concentration for 1080 to less than the percentage which has proven effective over the past 30 to 40 years is not acceptable. Any reduction of a.i. not based on efficacy data, may significantly reduce efficacy which not only would render the bait ineffective for achieving control of the target animal, but would be cost prohibitive because any control achieved would be so reduced that it would require multiple applications at not necessarily optimum times, thus potentially affording more hazard to nontarget species. Regardless of the concentration, if the target animal does not ingest enough bait to cause death, the control is ineffective and future control may become more difficult. The recommendations contained in the PD 2/3 concerning risk and changes in dosage rates appear to be based on conjecture rather than analysis of scientific evidence. Thus, we recommend any standardization in bait concentration and dose be based on scientific studies. Studies

like the one currently being conducted on black-tailed prairie dogs can be done rapidly at reasonable costs.

b. "Standardize hand baiting and post-baiting procedures—"

The requirement to "keep pets and domestic animals away from treated areas" is not practical on rangeland since domestic animals cannot be kept out of these areas without special fencing. A more feasible modification would be "Do not expose baits in a manner which presents a likely hazard to domestic animals." Also, the requirement to "Pick up and burn or bury deeply all visible carcasses of animals killed by compound 1080" is not practical under range conditions because the risk of plague or parasite infestations to those humans responsible for disposal. An additional problem on the range is that soil conditions may prohibit burying and fire hazards prohibit burning of carcasses. As noted in the PD, most of these carcasses would not be visible, and at the presently recommended dosages, no significant hazard has been proven to domestic livestock or pets.

c. Standardize aerial baiting and post-baiting procedures—"

The guidelines in the California Handbook may not be applicable in other states and such guidelines are subject to change. Also, the recommendation to pick up and dispose of carcasses is not feasible on portions of most rangeland as mentioned above.

d. "Reducing the concentration of a.i. in the bait—to reduce the risk to the California Condor" (page 92).

As stated in the very next sentence, "The risk analysis was based on a number of assumptions.—". These restrictions are based on conjecture, with no scientific facts. Since the Agency has already prohibited the use of strychnine for ground squirrels in the range of the California condor consistent with current California policy and since the risk analogy was based on assumptions, we recommend that the Agency take no action on 1080 except that consistent with California policy and regulations.

e. "The risk of secondary poisoning of the San Joaquin kit fox can be mitigated—"

The EPA, in regard to the kit fox, has chosen to ignore the data of Swick (1973) and Morrell (1975), page 14, but chooses to draw assumptions based on LD₅₀ studies on another species, the coyote, page 34. The Agency admits they are unaware of any reports verifying that kit foxes (or even other fox species) have been killed by Compound 1080 used to control ground squirrels and other rodents. We recommend that the EPA concur with the current California policy/regulations for protection of the San Joaquin kit fox as written.

f. g. For the protection of the Morro Bay kangaroo rat and the Saltwater (sic) Harvest mouse, EPA proposed to prohibit application in the ranges of these species. Scientific justification for this proposal is not provided. PD 2/3 does not contain discussion of the potential impact such action could have. We suggest EPA define the impact such action would cause as well as the scientific justification for its proposed action. California State officials indicate that rodenticide use has never adversely affected these species.

2. Rangeland Rodents—Prairie Dogs. For this use the Agency's proposed modifications are:

a. "Standardize bait concentration at a maximum of 0.02 percent a.i. at a dosage of one teaspoon per burrow spread over a three square foot area."

The proposed reduction in bait concentration is not supported by scientific data. As stated on page 86, "The Agency has no direct data to specify an active ingredient concentration of less than 0.11 percent." Therefore, we recommend that the bait concentration of 1080 prairie dogs remain at 0.11 percent a.i. until the studies being conducted by the Fish and Wildlife Service are completed.

b. "Standardize baiting and post-baiting procedures in the same manner as proposed for Rangeland Rodents—Ground Squirrels."

The same objections that we provided to these modifications for ground squirrels apply here, except that in the case of prairie dogs, it appears that the primary hazard to nontarget species is to the black-footed ferret, even though few, if any, black-footed ferrets are known to exist in Colorado.

c. "Restrict use to governmental agencies or persons under the direct supervision of members of governmental agencies."

We recommend that certified pesticide applicators be allowed to use 1080 as registered. We do not agree that its use be restricted to just governmental agencies or persons under their supervision. There is no justification provided for this restriction and the impact would be to add significant additional costs with no evidence of increased efficacy or reduced risk. This is because no government agency has sufficient trained people to carry out a large program without the assistance of the private landowner.

d. "Allow the use of compound 1080 in a prairie dog town only if a pre-control survey, conducted in accordance with a protocol approved by EPA, in consultation with USFWS, does not indicate the presence or possible absence of a black-footed ferret."

We recommend that the Colorado Division of Wildlife or appropriate States be consulted and their historical records of black-footed ferret presence or absence be considered. We do not support the need for a costly and needless survey when there is no sign nor record of the species in the area for the last 20 to 30 years. We further recommend that informal consultation or even Section 7 consultation involving the States would suffice rather than such costly or restrictive modifications being put into place.

3. Rangeland Rodents—Other Rodents.

"The Agency proposes the cancellation of the registrations and denials of applications for the control of chipmunks, cotton rats, deer mice, kangaroo rats, and meadow mice on rangelands."

Since EPA is also proposing cancellation of the registration for use of strychnine on these rodents and as stated on page 77 no risk to nontarget animals has been substantiated, we question the logic of such a proposal. Since less than one percent of the total usage of 1080 is for use on these species, logic dictates that potential nontarget impacts must be minimal. We recommend that 1080 not be

canceled for use on these species. If strychnine and 1080 are canceled for use on these species we will be denied yet another effective tool for animal damage control when needed.

4. The proposed action for this is the same as for ground squirrels on rangeland; that is, modification of the terms and conditions of registration. Our same recommendations apply to these species on cropland as on rangeland. Furthermore, we suggest that EPA not propose any additional restrictions other than those recommended by the California Department of Agriculture and the California Fish and Game Commission or as is recommended in the California Vertebrate Control Handbook.

5. Cropland Rodents—Prairie Dogs.

"Proposed action same as for prairie dogs on rangeland . . ."

We suggest the same action as we proposed for prairie dogs on rangeland.

6. Cropland Rodents—Other Rodents. "The Agency proposes cancellation of the registration and denial of applications for control of Norway rats, cotton rats, and wood rats on croplands."

If as stated on page 96, "The amount of Compound 1080 used to control these three rodents is not quantifiable . . .", only minor amounts are being used for these species on croplands with no significant risks delineated in this document. We question the removal of this tool when as stated on page 73,

"Producers would gain a somewhat more effective poison where Compound 1080 would replace either strychnine or zinc phosphide." Also, as noted on page 28, "Except for an incident in which high mortality in geese was associated with the use of both Compound 1080 and zinc phosphide to control meadow voles (Hegdal et al., 1979), there appears to be no direct evidence regarding risk to nontarget species from the use of Compound 1080 to control prairie dogs, chipmunks, cotton rats, kangaroo rats, wood rats, deer mice, and meadow mice (voles)." When as noted on page 59, "In general, the Preliminary Benefit Analysis concluded that Compound 1080 is the most efficacious and cost-effective single-dose rodenticide available for control of field and commercial rodents." We recommend that use of this material be maintained since it is primarily being used only to control highly irruptive population of rodents that have proven difficult to control in some situations with alternative rodenticides.

7. Rodents on Nonagricultural Sites. "The EPA proposes cancellation of 1080 for control of chipmunks, cotton rats, kangaroo rats, wood rats, Norway rats and deer mice on nonagricultural sites, because these uses potentially endanger nontarget animals and safer alternatives are available."

We fail to understand how the potential risks are any greater for use on non agricultural sites than for use in and around buildings and ships. Such risks were not demonstrated via scientific evidence in this document. As it pertains to use of 1080 to control ground squirrels on ditch banks, levees, canals and earthen dams—the modifications of the terms and conditions suggested by the EPA are not acceptable.

Salmon and Lickliter (1982) have shown that standard bait concentrations cannot be applied across species. Our concern about the baiting and post-baiting procedures are the same as those express under "Rangeland Rodents—Ground Squirrels." Regarding modification number 2, if this is in accord with the recommendations of the concerned California governmental agencies regarding this species, we concur.

Conclusion

As wildlife managers, we have a sincere and abiding interest in the stewardship of all wildlife species. This commitment to wise stewardship obviously includes the protection of threatened or endangered wildlife, as well as the perpetuation, protection, and use of other wildlife species. However, we are equally concerned about the habitat and its management on which all wildlife species are produced. With these considerations in mind, we must examine the reasonable alternatives open to a landowner/manager if, when faced with a significant vertebrate pest problem, he has no efficacious, cost effective, and law-abiding means of controlling this species. In this case (which realistically exists already), there are several choices, e.g.:

(1) Take a chance and hope the amount of damage will not put them out of business and will not occur again.

(2) Use other alternatives if available and not too cost prohibitive and hope that some population reduction via use of these alternatives will not increase the species fecundity for the next year.

(3) Change crops, or means of livelihood, or in some cases, quit farming or ranching, move to town or sell the land to a real estate developer, or other equally undesirable choices.

(4) Attempt IPM measures, one of the most important of which is to use efficacious, available tools and techniques registered at the most effective times of the year, except the tools and techniques available or registered for some species have been so reduced that control may not be achieved.

(5) And finally, if all efficacious, cost-effective, and safe tools and techniques are eliminated and the farmer or rancher wants to stay in business, the last alternative left at his disposal is to "eliminate the remaining available habitat that harbours not only the pest species, but the desirable wildlife species also." This is happening daily across the Nation because tools to control problem species have been eliminated. If one wants examples, they are easy to find, e.g., (1) Roosting sites used by blackbirds in agricultural areas where habitat for wildlife species is already extremely limited because we have no tools to control these populations and the damage they cause; (2) ditchbanks or levees cleared of vegetation with herbicides or burning because no cost-effective means for controlling rodent damage or damage caused by other pest species is available; (3) brush, trees, and cover eliminated from rangelands to reduce pest species; (4) fencerows, shelterbelts and other habitat in agricultural areas cleared up or eliminated in many cases because of vertebrate pest problems that cannot otherwise be feasibly

controlled, because control materials and tools have been cancelled from registration or otherwise eliminated. There are many other examples that can be used; however, the point is "We can, through ignorance, apathy, or overzealous elimination of effective tools without reasonable and proven risk reduce the farmers, ranchers or other land managers effectiveness to control vertebrate pests, but we cannot regulate their ability to eliminate wildlife from their lands if this is the only alternative they are left with to control damaging vertebrate species."

We certainly concur that we should be concerned, monitor and restrict the use of materials and techniques which present a real and significant to: humans, domestic animals, and to any nontarget wildlife species.

However, we do not believe that we can afford to eliminate or regulate to an ineffective status, those needed, efficacious, cost effective control tools based on assumptions, presumptions, conjecture or noncomparative analogies and a lack of sufficient field data as has been presented in this Position Document 2/3 on Compound 1080. We suggest that no final decision to further restrict or limit the use of 1080 be rendered until and unless significant risks are demonstrated. This may require several months or a few years to obtain; however, if we weigh the potential benefits against the potential risks as responded to herein and elsewhere, we believe it would prove to be wise stewardship in the long run.

C. EPA Response to SAP Comments

The Agency agrees with the Panel's comments that there are data gaps with 1080, but also believes there are enough data available to provide a basis for concern about potential risks to nontarget wildlife, especially endangered species. The Agency also notes that the responsibility for establishing the safety of a pesticide rests with the proponent of use and not EPA.

The Agency concludes that the risks from the use of 1080 can likely be reduced by the measures required by this Notice and that most 1080 field rodent control uses may continue at current rate levels while additional data are generated.

The exceptions to use at current bait concentrations is in the range of the California condor and use in Colorado to control prairie dogs. As explained earlier in this notice, use in the range of the condor, if permitted, and for prairie dog control will be at a maximum bait concentration of .02 percent beginning in 1986. A recent biological opinion from the Office of Endangered Species (OES) on the use of the 1080 livestock protection collar requires the Agency to pursue further discussions with OES on the use of 1080 rodenticides in the range of the condor.

D. EPA Response to USDA Comments

Concerning the proposal to reduce and standardize bait concentrations and application rates, the Agency agrees that any reduction to levels that are ineffective could have adverse consequences. The Agency also agrees that the soundest way to determine the optimum bait concentration and application rate is with valid test data and agrees with USDA's comment that such tests could be performed quickly and at reasonable cost. However, no data have been submitted to EPA during the RPAR or in the last year since the issuance of PD 2/3. The Agency has modified its position to permit use at current bait concentrations and application rates until data for registration are submitted except in the range of the condor and to control prairie dogs.

A recent biological opinion submitted to the Agency by the Office of Endangered Species (OES) on the use of the 1080 livestock protection collar necessitates further evaluation of the use of 1080 baits in the range of the condor. OES stated that the use of the collar would jeopardize the continued existence of the condor. In 1985 EPA will permit the continued use of baits containing currently accepted concentrations. Beginning in 1986, however, the use of 1080 in the condor's range if permitted at all, will be at a maximum bait concentration of .02 percent until field efficacy data are generated. If the .02 percent level is not effective, the level will be changed when data establishing the lowest effective bait concentration are submitted as well as data showing that this level will not adversely impact on the condor.

The Agency anticipates that efficacy data will soon be available from an ongoing U.S. Forest Service study on prairie dog control that will indicate the lowest effective bait concentration for this use. However, the Agency is not prepared to permit the continued use of 1080 at the current bait concentration of .11 percent for prairie dog control beyond 1985, because of the potential risk to the endangered black-footed ferret.

Concerning the standardization of hand baiting and post-baiting procedures, the Agency agrees that the requirement to keep pets and domestic animals away is overly restrictive, and would, as a practical matter, prohibit use since there are very few places where free-roaming pets and livestock do not occasionally occur. The requirement has been revised.

The Agency also agrees that the proposed requirement to bury or burn all visible carcasses cannot be reasonably implemented in some situations. This requirement too has been revised.

The Agency agrees that the guidelines in the California Vertebrate Pest Control Handbook concerning aerial application may not be applicable in other states and has modified this requirement. Registrants of 1080 products whose labels permit aerial application will have to submit guidelines governing such application for EPA review when they apply to EPA for Federal registrations.

The Agency has withdrawn the proposed seasonal and geographic restrictions for the San Joaquin kit fox, Aleutian Canada goose, Morro Bay kangaroo rat, and the salt marsh harvest mouse in favor of the oversight provided by the California Department of Food and Agriculture, the California Department of Fish and Game, and the California Agricultural Commissioners Association as specified in the joint Policy statement regarding rare and endangered species signed by these agencies.

EPA will require that specific programs developed for endangered species by California officials be submitted to the Agency for review and approval prior to 1080 use in the range of the California condor and kit fox. Existing programs for the Canada goose, Morro Bay Kangaroo rat, and salt marsh harvest mouse are now acceptable. Any subsequent program changes must also be submitted to EPA for review. As part of EPA's review the Office of Endangered Species, USDI, will be consulted.

The Agency believes that because of the endangered status and rarity of the black-footed ferret, relying solely on training provided as part of the applicator certification requirements is not sufficient to provide an adequate level of protection. The Agency's intent in PD 2/3 was to allow use by farmers and ranchers under the direct supervision of governmental agency personnel. A final decision regarding the distribution and possession of 1080 for prairie dog control will depend on an assessment of the data being required to support Federal registration of 1080 for prairie dog control, as well as the Colorado program for the protection of the black-footed ferret. Clarification of these and other issues, such as the type of training for surveyors and what constitutes "direct supervision," etc. will be addressed following approval by EPA of a precontrol survey.

The Agency disagrees with USDA's suggestion to rely only on historical

records of black-footed ferret presence or absence and that consultation with State wildlife agencies be relied upon in reaching decisions on whether 1080 treatment for prairie dogs should proceed. The range of the black-footed ferret currently is not known, and the ferret is very rarely spotted even in areas it is believed to inhabit. In fact, the one known viable population of black-footed ferrets, the group in the Meteteetsee Mountains of Wyoming, was discovered outside what was then considered the range of the species. This argues for the continued use of a precontrol survey in areas of potential black-footed ferret habitat.

The Agency has modified its proposal to deny the use of 1080 to control several rodent species. The Agency maintains that these uses pose some risk to nontarget species, that they have very low benefits, and alternative pesticides are available. However, the Agency is concerned about the control of irruptive populations of rodents and the possibility of increased risk to avian species from use of alternative chemicals. Therefore, the Agency will allow the continued use of 1080 to control all of the rodent species proposed for denial in PD 2/3, provided that registrants agree to generate the data necessary for Federal registration and make certain use modifications and labeling changes.

VI. Procedural Matters

This unit of the notice describes the different procedures by which the Agency will implement the regulatory positions described in Unit IV for intrastate products (Unit VI.A) and products which are currently registered under FIFRA (Unit VI.B).

A. Intrastate Products

This unit of the notice explains the procedures that must be followed to file an application for Federal registration of an intrastate product. It also describes the obligation to provide data to support the application. Finally, it explains the consequences of a failure to file a proper application in a timely manner or to provide data required to support an application according to the schedule established by EPA.

1. *Procedure for filing for Federal registration of an intrastate product.* Producers of intrastate products containing 1080 will be permitted to continue to sell and distribute their products if they file a timely, proper application for Federal registration. This application must be filed within 30 days of receipt of this notice, or within 30 days of publication of this notice, whichever occurs later.

Applications must be submitted to:
By mail: William E. Miller, Product Manager 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

Office location and telephone number:
Rm. 211, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-577-2600).

An application for registration of an intrastate product must comply with the requirements set forth in Unit IV of this notice. The applicant must also promise to satisfy the applicable data requirements in Unit IV.F of this notice, according to the schedule specified by the Agency.

In addition, intrastate products sold, used, distributed or released for shipment after December 31, 1985, must comply with the applicable requirements in Unit IV.A through E of this notice regarding bait concentration, labeling, and dyeing of baits. Compliance with these requirements does not eliminate the requirement to maintain any restrictions on the purchase, possession, supervision, use or disposal on the current label of the product.

2. *Consequence of filing or failing to file a proper, timely application and consequences of submitting or failing to submit required data in a timely manner.* Producers of intrastate products are required to submit applications for Federal registration when so instructed by EPA. 40 CFR 162.17. As long as a producer submits a timely application, provides the required data in a timely manner, and complies with the other requirements in 40 CFR 162.17, he may continue to produce, sell, and distribute, his product in intrastate commerce. If a producer fails to submit a timely application, the Agency may take appropriate enforcement action against the producer for selling and distributing an unregistered pesticide under FIFRA sec. 12(a)(1)(A).

If the application submitted for Federal registration of an intrastate product containing 1080 does not comply with the provisions of this notice, EPA may deny the application. Similarly, failure to submit required data on the schedule established by the Agency would also serve as a basis for denial of the application. If EPA finally denies an application for Federal registration of an intrastate product, sale or distribution of that product would be a violation of FIFRA and subject to possible enforcement actions.

Finally, if an applicant fails to implement the changes specified in Unit IV.A through E of this notice for products sold, used, distributed, or released for shipment after December 31, 1985, the Agency may regard the product as misbranded and subject to enforcement action under FIFRA sec. 12(a)(1)(E).

B. Federally Registered Products

This unit of the notice applies only to the two federally registered pesticides containing 1080, the Oregon special local needs product used for ground squirrel control and the technical grade product used for commensal rodent control and for formulating other end-use products. This unit of the notice announces the Agency's intent to cancel the registrations of these products unless the change(s) required by Unit IV of the notice are made. Under section 6(b)(1) of FIFRA, registrants and certain other adversely affected parties may also request a hearing on the cancellation action that this notice initiates. Unless the registrant makes the required change or a hearing is properly requested with regard to a particular registration, the registration will be cancelled by operation of law.

This unit of the notice explains how such persons may request a hearing (and the consequences of requesting or failing to request a hearing in accordance with the procedures specified in this notice) and how a registrant may amend its registrations as required by this notice.

1. *Procedure for amending the terms and conditions of registration to avoid cancellation.* The registrants may avoid cancellation by filing an application for an amended registration which complies with the requirements detailed in Unit IV.A and Unit IV.E of this notice, as appropriate. Such an application must be filed within 30 days of receipt of this notice, or within 30 days from publication of this notice, whichever occurs later.

The Application must be submitted to Mr. William E. Miller at the address given under Unit VI.A.1.

If Klamath County, Oregon, does not request a hearing but applies to amend its registered product to conform to the requirements in Unit IV.A, it must comply with those requirements by December 31, 1985. Thus, after December 31, 1985, this product may be sold, used, distributed, or released for shipment only if it bears conforming labels and has properly dyed bait. The labels may be either a final printed label conforming to that approved by the Agency or a "supplemental label," i.e., an adhesive sticker containing the

approved statements. In addition, the registrant must use final labels on all quantities of the product released for shipment more than 6 months after EPA approves the application for amended registration.

If the registrant of the 1080 technical product does not request a hearing but applies to amend its registered product to conform to those requirements in Unit IV.E., it must comply with those requirements by December 31, 1985. Thus, by December 31, 1985, any technical product released for shipment by the registrant must bear conforming labels. The labels may be either a final printed label conforming to that approved by the Agency or a "supplemental label," i.e., an adhesive sticker containing the approved statements. In addition, the registrant must use final labels on all quantities of the product released for shipment more than six months after EPA approves the application for amended registration.

2. *Procedure for requesting a hearing.* To contest the cancellation action set forth by this notice, federal registrants may request a hearing within 30 days of receipt of this notice, or within 30 days from publication of this notice, whichever occurs later. Any other person adversely affected by the action described in this notice, may request a hearing within 30 days of publication of this notice in the *Federal Register*.

A registrant or other adversely affected party who requests a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings under 40 CFR Part 164. These procedures require, among other things, that all requests must identify the specific pesticide product(s) by registration number(s) and the specific use(s) for which a hearing is requested, and that all requests must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requirements will result in denial of the request for a hearing. Requests for a hearing should also be accompanied by objections that are specific for each use of each pesticide product for which a hearing is requested.

Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Consequences of filing or failing to file a hearing request—*a. *Consequences of filing a timely and effective hearing request.* If a hearing on the action initiated by this notice is requested in a timely and effective manner, the hearing will be governed by the Agency's Rules of Practice for hearings under FIFRA

sec. 6 (40 CFR Part 164). The hearing will be limited to the specific uses and specific product registrations for which the hearing is requested.

In the event of a hearing, the specific use or uses of the specific registered product which is the subject of the hearing will not be cancelled except pursuant to an order of the Administrator at the conclusion of the hearing, or pursuant to an Accelerated Decision issued under 40, CFR 164.91.

b. *Consequences of failure to file in a timely and effective manner.* If a hearing concerning the registration of a specific pesticide product subject to this notice is not requested by the end of the applicable 30-day period, registration of that product will be cancelled, unless the registrant files a request for an amended label within the statutory period provided herein.

If the registration of a product is cancelled by operation of law, no quantity of a that product produced after the effective date of cancellation may be sold or distributed in commerce. Any quantity of a cancelled pesticide already in channels of trade on the effective date of this notice may be sold or distributed with its existing labeling for no more than 6 months after this notice becomes effective.

4. *Separation of functions.* The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives.

Accordingly, the following Agency offices, and the staffs thereof, are designated as the judicial staff to perform the judicial function of the Agency in any administrative hearing on this Notice of Intent to Cancel: the office of the Administrative Law Judge, the Office of the Judicial Officer, the Administrator, and the members of the staff in the immediate office of the Administrator. None of the persons designated as the judicial staff may have any *ex parte* communication with the trial staff or any other interested person not employed by EPA, on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

5. *Additional data.* As explained in Unit IV.F of this notice, EPA will require registrants to provide additional data to support continued registration of 1080 rodenticides. Using the authority in

section 3(c)(2)(B) of FIFRA, the Agency will send a letter, separate from this notice, to the registrants identifying the required data, and directing them to provide the data by a specified date. Failure to comply with the requirements of the letter may be the basis for suspending the registration of the product.

Dated: July 24, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85-18136 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

[AD-FRL-2872-7]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held on September 17 and 18, 1985, at the Sheraton University Center, Greenbriar Ballroom (2nd Floor), 2800 Middleton Avenue at Morreene Road and 15-501, Durham, North Carolina 27705. The commercial telephone number is (919) 383-8575.

The tentative agenda for the meeting is as follows:

September 17 (Tuesday)—9:00 a.m.

SULFURIC ACID PLANTS, Review of Standards of Performance for New Stationary Sources (Section 111 of the Clean Air Act)

CALCINERS AND DRYERS IN MINERAL INDUSTRIES, New Source Performance Standards (Section 111 of the Clean Air Act)

ASPHALT CONCRETE PLANTS, Review of Standards of Performance for New Stationary Sources (Section 111 of the Clean Air Act)

RESIDENTIAL WOOD COMBUSTION UNITS, Status Report to the Committee on Regulatory Development

September 18 (Wednesday)—9:00 a.m.

CONTINUATION OF SEPTEMBER 17—AS REQUIRED

VOLATILE ORGANIC COMPOUND EMISSIONS FROM STATIONARY SOURCES, Control Techniques Document (Section 108 of the Clean Air Act)

POLYMERIC COATING OF SUPPORTING SUBSTRATES, New Source Performance Standards (Section 111 of the Clean Air Act)

All meetings are open to the public. Anyone wishing to make a presentation

should contact Ms. Mary Jane Clark at the Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by September 9, 1985. The commercial telephone number is (919) 541-5571, and the FTS number is 629-5571.

The dockets containing material relevant to sulfuric acid plants (A-85-20), calciners and dryers in mineral industries (A-82-39), asphalt concrete plants (A-83-26), residential wood combustion (A-84-49), and polymeric coating of supporting substrates (A-83-42) are located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby-Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

Dated: July 23, 1985.

Charles L. Elkins,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 85-18107 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100025; FRL-2873-7]

Transfer of Data to Forest Service, U.S. Department of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer selected information from health and safety studies submitted under sections 3 and 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to the Forest Service of the U.S. Department of Agriculture. The Forest Service has requested this information to help evaluate the toxicity and environmental fate of pesticides used in forestry and forest nurseries. Some of the information that will be made available to the Forest Service may have been claimed by the submitters to be confidential business information (CBI). This transfer is being made in accordance with 40 CFR 2.209(c) and this notice serves to notify affected persons.

DATE: This transfer of information will take place no sooner than August 12, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: William C. Grosse, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-2613)

SUPPLEMENTARY INFORMATION: The Forest Service is preparing risk assessments on the selected pesticides listed below that are used in forestry and forest nursery applications. The Forest Service is requesting information to help make its risk assessments as accurate as possible. The Forest Service has requested primarily EPA-developed reviews of submitted studies and does not foresee a need for access to the studies themselves. EPA reviews of submitted studies normally contain selected information from the studies, often including information claimed to be CBI—hence the requirement for this notice. The Forest Service intends to make its risk assessments available for unrestricted release to the public; therefore, the Forest Service will limit references to information supplied by EPA to non-CBI summaries and excerpts that fall safely within EPA criteria for avoidance of unauthorized release under FIFRA section 10(g). Information provided by EPA that falls within the definitions contained in FIFRA section 10(d)(1)(A) through (C) and (2) will not be included in the Forest Service's risk assessments. The subject chemicals are:

Acephate
Amitrole
Amilazine
Atrazine
Bacillus thuringiensis
Benomyl
Bifenox
Cacodylic acid
Captan
Carbaryl
Carbofuran
Chloropicrin
Chlorothalonil
Chlorpyrifos
2,4-D
Dacthal
Dalapon
Dazomet
Diazinon
2,6-dichloro-4-nitroaniline
1,3-dichloropropene
Diflubenzuron
Dimethoate
Diphenamid
2,4-DP
Fenvalerate
Ferbam
Fosamine ammonium
Glyphosate
Hexazinone
Lindane
Malathion
Maneb

Methyl bromide
 Napropamide
 Oxydemeton methyl
 Oxyfluorfen
 Picloram
 Sethoxydim
 Simazine
 Strychnine
 Tebuthiuron
 Thiram
 Triadimefon
 Trichlorfon
 Triclopyr
 Zinc phosphide
 Zineb

The Forest Service has requested this transfer in writing, including an explanation of the official purpose for requesting the information. EPA has obtained from the Forest Service a signed agreement not to disclose confidential business information to any third party. The Forest Service will maintain the information in conformance to EPA requirements for protecting CBI from unauthorized release and will return all documents to EPA when it is finished with them.

Under 40 CFR 2.209(c) information that is considered by the submitter to be CBI (described by FIFRA section 10(d) as trade secret or commercial or financial information) may be disclosed to another Federal Agency under specific conditions. The transfer of information described in this notice meets the necessary conditions.

Dated: July 25, 1985.

Susan H. Sherman,
 Acting Director, Office of Pesticide Programs.
 [FR Doc. 85-18264 Filed 7-30-85; 8:45 am]
 BILLING CODE 5560-50-M

[PF-416; FRL-2871-2]

Certain Companies; Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and food additive petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-416] and the petition number, attention Product Manager (PM) named in each petition, at the following address:

Information Services Section (TS-757C),
 Program Management and Support
 Division, Office of Pesticide Programs,

Environmental Protection Agency, 401
 M Street, SW., Washington, D.C.
 20460.

In person, bring comments to:
 Information Services Section (TS-
 757C), Environmental Protection
 Agency, Room 236, CM#2, 1921
 Jefferson Davis Highway, Arlington,
 VA 22202

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Registration Division (TS-
 767C), Attn: (Product Manager (PM)
 named in each petition),
 Environmental Protection Agency,
 Office of Pesticide Programs, 401 M
 Street, SW., Washington, D.C. 20460

In person: Contact the PM named in
 each petition at the following office
 location/telephone number:

Product manager	Office location/ telephone No.	Address
PM-17: Timothy A. Gardner	Rm. 207, CM#2 (703-557-2690)	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202
PM-21: Henry Jacoby	Rm. 229, CM#2 (703-557-1900)	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and food additive petitions (FAP) relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial Filing

PP 5F3267. Rhone-Poulenc Inc., P.O.
 Box 125, Black Horse Lane, Monmouth
 Junction, NJ 08852. Proposes amending
 40 CFR 180.415 by establishing a
 tolerance for residues of the fungicide
 aluminum tris (*O*-ethylphosphonate) in
 or on the commodity citrus at 0.1 part
 per million (ppm). (PM-21)

II. Amended Petition

FAP 5H5457. Roussel Uclaf, 163
 Avenue Gambetta, 75020 Paris, France.
 EPA issued a notice, published in the
 Federal Register of April 1, 1985 (50 FR
 12869), which announced that Roussel
 Uclaf had submitted FAP 5H5457 to the
 Agency proposing to amend 21 CFR Part
 193 by establishing a regulation
 permitting residues of the insecticide
 tralomethrin: (1*R*,3*S*)-3-[(1*R*,2*S*,2'*S*,2'-
 tetrabromoethyl)-2,2-
 dimethylcyclopropanecarboxylic acid
 (S)-alpha-cyano-3-phenoxybenzyl ester
 and its major metabolites, deltamethrin:
 (1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-
 dimethylcyclopropanecarboxylic acid
 (S)-alpha-cyano-3-phenoxybenzyl ester
 and *trans*-deltamethrin: (1*S*,3*R*)-3-(2,2-
 dibromovinyl)-2,2-
 dimethylcyclopropanecarboxylic acid
 (S)-alpha-cyano-3-phenoxybenzyl ester
 in or on the commodity cottonseed oil
 (crude and refined) at 0.16 ppm.

Roussel Uclaf has amended the
 petition by increasing the tolerance level
 from 0.16 ppm to 0.2 ppm. (PM-17)

Authority: 21 U.S.C. 346 and 346a.

Dated: July 19, 1985.

Douglas D. Campi,
 Director, Registration Division, Office of
 Pesticide Programs.

[FR Doc. 85-17880 Filed 7-30-85; 8:45 am]

BILLING CODE 5560-50-M

[OPP-00210; FRL-2870-6]

SFIREG Applicator Certification and Training Task Force; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA State FIFRA Issues Research and Evaluation Group (SFIREG) Applicator Certification and Training Task Force will hold a public meeting. There will be a limited opportunity for public participation.

DATE: Tuesday, August 20, 1985, beginning at 8:30 a.m. and ending when the Task Force concludes its deliberations.

ADDRESS: The meeting will be held at: Environmental Protection Agency, Crystal Mall Building #2, Room. 1112, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:
 Betty L. Winter, Office of Pesticides and
 Toxic Substances (TS-788),
 Environmental Protection Agency,
 Room. E-639A, 401 M Street SW.,
 Washington, D.C. 20460, (202-382-2916).

SUPPLEMENTARY INFORMATION: The Task Force will prepare a final report on its recommendations for improving the pesticide applicator certification and training programs and the Agency's implementation of the restricted use classification.

Dated: July 22, 1985.

John A. Moore,
Assistant Administrator for Pesticides and
Toxic Substance.

[FR Doc. 85-17883 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100026; FRL-2871-8]

Transfer of Data to Lawrence Johnson and Associates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer information submitted under sections 3, 6, and 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to Lawrence Johnson and Associates under Contract No. 68-02-4219. This contractor shall perform services for the Office of Pesticide Programs (OPP) of EPA. Some of the information that will be made available to the contractor has been claimed to be confidential business information (CBI). Information will be made available to the contractor consistent with the requirements of 40 CFR 2.301(h). This action will enable the contractor to fulfill the obligations of the contract, and this notice serves to notify affected persons.

DATE: Lawrence Johnson and Associates will be given access to these documents no sooner than Monday, August 5, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: William C. Grosse, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.
Office location and telephone number: Room 222, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703-557-2613).

SUPPLEMENTARY INFORMATION: Under this contract, Lawrence Johnson and Associates will support the processing of claims for indemnification and requests for Federal disposal of EDB products, and may review chemical data, including CBI, submitted to EPA under FIFRA.

Section 10(e) of FIFRA provides that information that is considered by the submitter to be trade secret or commercial or financial as described by

FIFRA section 10(d) may be disclosed to an authorized contractor when such disclosure is necessary for the performance of the contract. EPA routinely receives such information as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA sections 3, 6, and 7.

Contractors are authorized to receive such data if the EPA program office managing the contract makes the determinations specified in 40 CFR 2.301(h)(2) as referenced in § 2.307. Such determinations have been made concerning the contract with Lawrence Johnson and Associates.

FIFRA section 10(f) provides a criminal penalty for wrongful disclosure of confidential business information, whether such disclosure is made by an EPA employee or an EPA contractor.

The contract with Lawrence Johnson and Associates, specifically prohibits disclosure of confidential business information to any third party in any form without written authorization from EPA, and personnel of this contractor will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: July 23, 1985

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-18003 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Burwood Broadcasting of Memphis; Ltd, et al.; Hearing Designation Order

In re Applications of:

Jack Townes	MM Docket No. 85-205, file No. BPCT-841022KG.
Burwood Broadcasting of Memphis, Ltd.	File No. BPCT-841127KF.
Dwain J. Kyles and Gwendolyn H. Kyles, d/b/a Kyles Broadcasting, Ltd.	File No. BPCT-850108KF.
Wesley Godfrey and Harriet Pruitt, d/b/a Wolf River Broadcasting.	File No. BPCT-850108KG.
George S. Flinn, Jr. and Ernest W. Williamson, d/b/a Channel 50 of Memphis.	File No. BPCT-850108KH.
Dorothy B. Evans	File No. BPCT-850108KL.
EAM Broadcasting Co. of Memphis.	File No. BPCT-850108KZ.

For Construction Permit for New Television Station Memphis, Tennessee.

Adopted: June 20, 1985.

Released: July 17, 1985.

By the Chief, Video Services Division,

1. The Commission, by the Chief Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television station on Channel 50, Memphis, Tennessee.

2. No determination has been reached that the tower heights and locations proposed by Burwood Broadcasting Corp. (Burwood), Wolf River Broadcasting (Wolf), Dorothy B. Evans and EAM Broadcasting Co. of Memphis would not each constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. Kyles Broadcasting (Kyles) proposes to side mount its antenna on the existing tower of Station WKNO(TV), Memphis, Tennessee. Kyles's application shows the WKNO(TV) tower to be 1115 feet above ground level (AGL), but the Commission's records show the height of the tower to be 1114 feet AGL. Channel 50 of Memphis also proposes to side mount its antenna on the WKNO(TV) tower, but the coordinates specified in the application and the tower height AGL do not agree with the Commission's records. Both applicants will be required, therefore, within 20 days of the date of release of this Order, to amend their applications to correct these discrepancies.

4. Burwood's proposed tower is to be located 1.81 miles from the directional tower of AM station WLVS, Memphis, Tennessee. Because of the proximity of the proposed tower to WLVS, grant of a construction permit to Burwood will be conditioned to ensure that WLVS's radiation pattern is not adversely affected by the construction of the proposed station.

5. Wolf's proposed tower is to be located 1.99 miles from the directional tower of AM station WMC, Memphis, Tennessee, and 0.97 miles from the directional tower of AM station WXSS, Memphis, Tennessee. Because of the proximity of the proposed tower to WMC and WXSS, grant of a construction permit to Wolf will be conditioned to ensure that WMC's and WXSS' radiation patterns are not adversely affected by the construction of the proposed station.

6. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. While Channel 50 of Memphis proposes to use a directional antenna, its tabulation is not sufficient

because it has not supplied relative field values. Accordingly, the applicant will be required to submit an amendment with the appropriate information to the presiding Administrative Law Judge and a copy each to the Chief, Television Branch, and Chief, Hearing Branch, Mass Media Bureau, within 20 days after the release of this Order.

7. Section 73.3555(a)(3) of the Commission's Rules states that no license for a television station shall be granted to any party if such party directly or indirectly owns, operates, or controls one or more TV broadcast stations and the grant of such license will result in any overlap of the Grade B contours of the existing and proposed TV stations, computed in accordance with § 73.684 of the Rules. Note 4 to this rule provides, *inter alia*, that applications for UHF television facilities "... will be handled on a case-by-case basis in order to determine whether common ownership, operation or control of the stations in question would be in the public interest." George S. Flinn is a general partner with a 90% equity interest in Channel 50 of Memphis. He is also a minority shareholder of Station WMKW-TV, Memphis, Tennessee. However, Mr. Flinn states that he will divest himself of all interest in WMKW-TV, prior to the commencement of operation on Channel 50, Memphis, Tennessee, if Channel 50 of Memphis is the successful applicant. Accordingly, any grant of a construction permit to Channel 50 Memphis will be conditioned upon Mr. Flinn's divestiture of all interest in Station WMKW-TV.

8. In Section III, Items 1 and 2, FCC Form 301, Dorothy B. Evans indicated that at some future date she "will certify to financial qualifications after completing the necessary documentation." Ms. Evans has not updated her financial qualifications since the initial filing of her application. Accordingly, the applicant will be given 20 days from the release date of this Order to review her financial proposal in light of the Commission's requirements, to make any changes that may be necessary, and if appropriate, to submit a certification to the presiding Administrative Law Judge in the manner called for in Section III, FCC Form 301, as to her financial qualifications. If the applicant cannot make the certification, she shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378 (released July 15, 1982).

9. Section II, Item 5(b), FCC Form 301, asks whether the applicant or any party

to the application, owns or has any interest in a daily newspaper or cable television system. An affirmative response requires an explanation in the form of an exhibit. Ms. Evans responded affirmatively, but she did not submit the required explanation. Ms. Evans will be required to submit the exhibit in the form of an amendment to the presiding Administrative Law Judge, within 20 days after the release of this Order.

10. Section II, Item 9, FCC Form 301, inquires whether there are any documents, instruments, contracts or understandings relating to ownership or future ownership rights including, but not limited to, non-voting stock interest, beneficial stock ownership interests, options, warrants, or debentures. A positive response to this question must be accompanied by particulars as exhibits. EAM has answered affirmatively to Item 9; however, it did not submit the required exhibits. EAM will be required to submit its exhibits in the form of an amendment to the presiding Administrative Law Judge, within 20 days after the release of this Order.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues.

1. To determine with respect to Burwood Broadcasting Corp., Wolf River Broadcasting, Dorothy B. Evans and EAM Broadcasting Co., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, that, Kyles Broadcasting, Ltd. shall submit an amendment correcting the discrepancies

in its tower height to the presiding Administrative Law Judge within 20 days after the order is released.

14. It is further ordered, that, in the event of a grant of the application of Burwood Broadcasting of Memphis Ltd., the construction permit shall be conditioned as follow:

Prior to construction of the tower authorized herein, permittee shall notify AM Station WLVS, Memphis, Tennessee, so that, if necessary, the AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

15. It is further ordered, that, in the event of a grant of the application of Wolf River Broadcasting, the construction permit shall be conditioned as follows:

Prior to construction of the tower authorized herein, permittee shall notify AM Stations WXSS and WMC, Memphis, Tennessee, so that, if necessary, the AM stations may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation patterns of the AM stations. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM arrays have not been adversely affected and, prior to or simultaneous with the filing of the applications for license to cover this permit, the results submitted to the Commission.

16. It is further ordered, that, Channel 50 of Memphis shall submit an amendment correcting the discrepancies in the coordinates and height of its tower to the presiding Administrative Law Judge within 20 days after this Order is released.

17. It is further ordered, that, Channel 50 of Memphis shall submit an amendment providing the information required by § 73.685(f) of the Commission's Rules to the presiding

Administrative Law Judge and a copy each to the Chief, Television Branch, and Chief, Hearing Branch, Mass Media Bureau, within 20 days after the release of this Order.

18. It is further ordered, that in the event of a grant of Channel 50 of Memphis' application, it will be conditioned as follows:

Prior to the commencement of operation of the television station authorized herein, permittee shall certify to the Commission that George Flinn has severed all interest in and connection with the licensee of Station WMKW-TV, Memphis, Tennessee.

19. It is further ordered, that, Dorothy B. Evans shall, within 20 days after the release of this Order, submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

20. It is further ordered, that Dorothy B. Evans shall submit her explanation for the affirmative response to Section II, Item 5(b), FCC Form 301, to the presiding Administrative Law Judge within 20 days after the release of this Order.

21. It is further ordered, that EAM Broadcasting CO. of Memphis shall submit its explanation for its affirmative answer to Section II, Item 9, FCC Form 301, to the presiding Administrative Law Judge within 20 days after the release of the Order.

22. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

23. It is further Ordered, that to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

24. It is further Ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85-18005 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

Castle Rock Communications, Ltd. et al.; Hearing Designation Order

In re Applications:

Castle Rock Communications, Ltd.	MM Docket No. 85-206, File No. BPCT-841221LA.
Virginia Cordova Kelso and Daniel Cordova, a General Partnership.	File No. BPCT-850214KF.
Non-Profit Television Concepts.	File No. BPCT-850214KH.
Dorothy O. Schulze.....	File No. BPCT-850215KG.
Christal Anne Phillips.....	File No. BPCT-850215KH.
Castle Rock TV Associates...	File No. BPCT-850215KK.
R & D Partners.....	File No. BPCT-850215LS.

For Construction Permit Castle Rock, Colorado:

Adopted: June 21, 1985.

Released: July 17, 1985.

By the Chief, Video Services Division:

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Castle Rock Communications, Ltd. (Communications), Virginia Cordova Kelso and Daniel Cordova, a General Partnership (Kelso), Non-Profit Television Concepts (Non-Profit), Dorothy O. Schulze (Schulze), Christal Anne Phillips (Phillips), Castle Rock TV Associates (Associates) and R & D Partnerships for authority to construct a new commercial television station on Channel 53, Castle Rock, Colorado.

2. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Phillips has made the required certification but noted that, although she believes that she is financially qualified, she does not yet possess the required documents. Accordingly, the applicant will be given 20 days from the date of release of this Order to review her financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in Section III, Form 301, as to her financial qualifications. If the Applicant cannot make the required certification, she shall so advise the Administrative Law Judge

who shall then specify an appropriate issue.

3. Section 73.2080(c) of the Commission's Rules requires applicants employing at least five persons full-time to file with the Commission programs designed to provide equal employment opportunities. Phillips indicates that she will employ five or more full-time employees. However, Phillips has not submitted an EEO program. Accordingly, Phillips will be required to submit a copy of her EEO program to the presiding Administrative Law Judge, within 20 days after this Order is released.

4. Section V-C, item 10, FCC Form 301, requires an applicant to submit figures for the area and population within its predicted Grade B contour. Schulze has not submitted these figures. In addition, Associates has not submitted figures for the population. Consequently, we are unable to determine whether there would be a significant difference in the size of the area and population that each applicant proposes to serve. Schulze and Associate will each be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant disparity between the areas and populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

5. No determination has been reached that the tower height and location proposed by any of the applicants would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

6. The vertical tower sketch submitted by Associates is patently incorrect (all three dimensions are labeled incorrectly) and does not agree with the figures appearing in Section V-C, item 5, FCC Form 301. Associates will be required to submit a new vertical tower sketch showing the correct heights to the Administrative Law Judge within 20 days after this Order is released.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, that pursuant to section 309(e) of the

Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

10. It is further ordered, that within 20 days of the release of this Order, Christal Anne Phillips shall submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the required certification cannot be made.

11. It is further order, that Christal Anne Phillips shall file her Equal Employment Opportunity Program with the presiding Administrative Law Judge within 20 days after this Order is released.

12. It is further ordered, that Dorothy O. Schulze and Castle Rock TV Associates shall each submit an amendment providing the information required by Section V-C, item 10, FCC Form 301 to the presiding Administrative Law Judge within 20 days after this order is released.

13. It is further ordered, that Castle Rock TV Associates shall submit a new vertical tower sketch showing the correct height as required by Section V-C, items 5, FCC Form 301, to the presiding Administrative Law Judge within 20 days after this Order is released.

14. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

15. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594

of the Commission's Rules give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85-18064 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

Elim Broadcasting, Inc., et al.; Hearing Designation Order

In the re Applications of:

Elim Broadcasting, Inc.	MM Docket No. 85-210, File No. BPCT-850130KJ.
Emily Laforett	File No. BPCT-850214KE.
Marlin Broadcasting of Central Florida, Inc.	File No. BPCT-850319KF.
Mary L. Demetree, Barbara C. Roper, et. al., d/b/a Orlando Television Partners.	File No. BPCT-850320KK.
Sanford Seminole Television Network.	File No. BPCT-850320KL.
Second Millennium Group	File No. BPCT-850320KN.
Spanish American Broadcasting, Inc.	File No. BPCT-850320KO.
Reece Associates Limited	File No. BPCT-850320KR.
Orlando Telecasting Company, Inc. ¹	File No. BPCT-850320KS.
RCTV, Inc.	File No. BPCT-850320KT.
Magic City Broadcasting, Inc.	File No. BPCT-85020KU.
Marylynn J. Craig	File No. BPCT-850320KV.
Orlando 27, Inc.	File No. BPCT-850320KX.
Suburban Broadcasting, Ltd.	File No. BPCT-850320KY.
U.S. Communications, Inc. ²	File No. BPCT-850320KZ.
Highland Communications, Ltd.	File No. BPCT-850320LA.
Matthews D. Wiggins	File No. BPCT-850320LB.
Central Florida Television, Ltd.	File No. BPCT-850320LD.
Westlake Television, Ltd.	File No. BPCT-850320LH.
Orlando TV Partners, Inc.	File No. BPCT-850320LL.
Florida Television Company.	File No. BPCT-850320LM.

¹ The deadline for filing amendments to the above-captioned applications was May 6, 1985 ("B" cut-off date). On June 10, 1985, Orlando Telecasting Company, Inc. filed an amendment to its application pursuant to Section 1.63 of the Commission's Rules. Accordingly, the amendment will be accepted for Section 1.63 purposes only.

² U.S. Communications, Inc. filed an amendment to its application on May 6, 1985, (the "B" cut-off date) with a facsimile signature. An original signature page was submitted on May 22, 1985. In view of the fact that all parties were put on timely notice concerning the contents of the amendment, none were prejudiced. The amendment was timely filed; only the original signature was missing. These circumstances are governed by a long-standing Commission policy which dictates that the amendment and signature be accepted *nunc pro tunc*. *Bocanegra/Gerald Broadcasting Group*, Mimeo No. 1470, released December 22, 1982; *Communications Gaithersburg, Inc.*, 60 FCC 20 537 (1979); *B.J. Hart*, 44 FCC 2080 (1960). Accordingly, the signature page will be accepted *nunc pro tunc*.

For Construcion Permit Orlando, Florida.

Adopted: June 28, 1985.

Released: July 19, 1985.

By the Chief, Video Services Division.

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 27, Orlando, Florida; a petition to dismiss the application of Magic City Broadcasting, Inc. filed by Orlando Television Partners, a competing applicant;¹ and related pleadings.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by each applicant indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. No determination has been reached that the tower height and location proposed by each applicant would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. Section V-C, item 10(e), FCC Form 301, requires the applicant to specify the area and population within its proposed Grade B contour. Marlin Broadcasting of Central Florida, Inc. (Marlin

¹ On May 6, 1985, (the "B" cut-off date) Fausto Sanchez filed an amendment to his application to change the applicant from a sole proprietorship to a corporation and to change the name of the applicant to Magic City Broadcasting, Inc. On June 5, 1985, Orlando Television Partners filed a petition to dismiss the Sanchez application on the grounds that the amendment was a major change under the provisions of § 73.3572(b) of the Commission's Rules. In changing from a sole proprietorship to a corporation, Sanchez retained 50% of the corporation's voting stock and three new parties held the remaining 50%. Under normal circumstances, this would be a major change because Sanchez would have lost positive control. The corporation's by-laws, however, provide that in the case of a tie vote of the stockholders, "... the single holder of 50% of the voting shares shall be entitled to cast the deciding vote." Under this provision, it is clear that Sanchez retained positive control and the amendment was, therefore, a minor amendment. Accordingly, the petition to dismiss will be denied. Additionally, on May 24, and June 12, 1985, Magic City submitted amendments to its application, which were not accompanied by petitions for leave to amend. We have reviewed the amendments and determined that good cause exist for accepting them; however, no comparative advantage will accrue to Magic City because of our action herein.

Broadcasting) did not specify the population within its Grade B contour. Accordingly, Marlin Broadcasting will be required to submit an amendment which states the population within its Grade B contour, to the presiding Administrative Law Judge within 20 days after this Order is released.

5. Reece Associates Limited, RCTV, Inc., U.S. Communications, Inc. and Florida Television Company each failed to certify its financial qualifications, but each applicant has indicated that certification would be forthcoming. Each of these applicants will be given 20 days from the release date of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in Section III, FCC Form 301, as to its financial qualifications. If an applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378 (released July 15, 1982).

6. Marilyn J. Craig indicates that the applicant is a limited partnership. The general partner has been identified; however, the applicant indicates that the limited partners are to be determined. Section 73.3514(a) of the Commission's Rules requires an applicant to provide all information called for by FCC forms, unless the information is inapplicable. However, in *Attribution of Ownership Interests*, 97 FCC 2d 997 (1984), *recon. granted in part*, FCC 85-252, released June 24, 1985, the Commission stated that henceforth limited partnership interests were not attributable for the purposes of the multiple ownership rules, if the applicant certifies that the limited partners will "not be involved in any material respect in the management or operation of" the proposed station, 97 FCC 2d at 1023. The Commission defined the degree of noninvolvement in paragraphs 48-50 of the June 24 decision on reconsideration. Further, the Commission directed that Form 301, among others, be amended to conform to the new attribution standards, 97 FCC 2d at 1034. Although changes in the form have not yet been made, there is now no need to provide information as to the limited partners if Ms. Craig can submit the necessary certification and showing that limited partnership interests will be sold only to individuals or entities that are sufficiently insulated. If the certification or showing is not appropriate, of course, the necessary

information as to them would have to be filed as an amendment. Further, the Commission retained the cross-interest policy as to other attributable media interests in the same area. *Id.* at 1030. Accordingly, Ms. Craig, upon determining the limited partners, will be required either to state that the limited partners have or will have no other media interests subject to the cross-interest policy or identify the limited partners with such interests, identify the other local media and state the nature or extent of the ownership interest.

7. Jeanette S. Austin, general partner of Orlando Television Partners, is currently employed as news director of Station WMFE-FM, Orlando, Florida. Rebecca Randall, secretary, director and owner of 20 percent of the voting stock of Orlando 27, Inc., is presently employed as news director, news anchor and co-host of "Newsline" a Station WDBO(AM), Orlando, Florida. The present employment of each of these individuals may be inconsistent with the Commission's cross-interest policy. Accordingly, an issue will be specified to determine if the proposals of Orlando Television Partners and Orlando 27, Inc. are each consistent with the Commission's cross-interests policy and, if not, whether grant of either application would be consistent with the public interest.

8. Barbara C. Roper, general partner and 20 percent owner of Orlando Television Partners, is presently director and .99 percent stockholder of Comco, Inc., licensee of Station WKIQ(AM), Inverness, Florida. Her husband, Bert Roper, is also a director of Comco, Inc. and is the beneficiary of a trust which holds a 3.96 percent stockholder interest in Comco, Inc.² Section 73.3555 of the Commission's Rules states that no license for a Television broadcast station shall be granted to any party if such party directly or indirectly owns, operates or controls an AM broadcast station and the grant of such license will result in the Grade A contour of the television station encompassing the entire community of license of the AM station. Inverness, Florida, is within the applicant's proposed Grade A contour. However, Orlando Television Partners has represented to the Commission that, if it is the successful applicant for Channel 27, Ms. Roper and her husband will divest themselves of all interest in Comco, Inc. Accordingly, any grant of a construction permit to Orlando Television Partners will be conditioned upon the Ropers' divestiture of all

interest in and connection with the licensee of Station WKIQ.

9. Section 73.3555 of the Commission's Rules states that no license for a broadcast station shall be granted to any party if such party directly or indirectly owns, operates or controls one or more broadcast stations in the same service and the grant of such license will result in any overlap of the Grade B contours of the existing and proposed stations. Robert A. Bednarek, a 40 percent non-voting shareholder in Orlando TV Partners, Inc., is a 50 percent non-voting shareholder in Gainesville Television Group, Inc., applicant for a new commercial UHF television station in Gainesville, Florida. The Grade B contours of the proposed stations overlap. Although Mr. Bednarek is a non-voting shareholder in both applicants, we do not have sufficient information before us to determine whether Mr. Bednarek is insulated and will not be involved in the management and operation of the proposed stations. Accordingly, Mr. Bednarek's interests in both Orlando TV Partners, Inc. and Gainesville Television Group, Inc., may violate Section 73.3555 of the Rules. However, Orlando TV Partners, Inc. has represented that, in the event that Gainesville Television Group, Inc. is the successful applicant in the Gainesville proceeding, Mr. Bednarek will divest himself of all interest in, and connection with Orlando TV Partners, Inc. Accordingly, any grant of a construction permit to Orlando TV Partners, Inc. will be conditioned upon such divestiture.

10. Section II, Item 10, FCC Form 301, inquires whether documents, instruments, agreements or understandings for the pledge of stock of a corporate applicant, as security for loans or contractual performance, provide that (a) voting rights will remain with the applicant, even in the event of default on the obligation; (b) in the event of default, there will be either a private or public sale of the stock; and (c) prior to the exercise of stockholder rights by the purchaser at such sale, the prior consent of the Commission (pursuant to 47 U.S.C. 310(d)) will be obtained. A negative response to this question must be accompanied by an explanation. Orlando TV Partners, Inc. answered negatively to item 10; however, it did not submit the required explanation. Orlando TV Partners, Inc. will be required to submit its response in the form of an amendment, to the presiding Administrative Law Judge, within 20 days after this Order is released.

Except as indicated by the issues specified below, the applicants are

² The media interests of spouses are presumed attributable to one another.

qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to each of the applicants, whether the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine, with respect to Orlando Television Partners, whether its application is consistent with the Commission's cross-interests policy and, if not, whether grant of the application would be consistent with the public interest.

3. To determine, with respect to Orlando 27, Inc., whether its application is consistent with the Commission's cross-interests policy and, if not, whether grant of the application would be consistent with the public interest.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, that the petition to dismiss the application of Magic City Broadcasting, Inc., filed by Orlando Television Partners, is denied.

14. It is further ordered, that the amendments filed by Magic City Broadcasting, Inc. on May 24 and June 12, 1985, are accepted for § 1.65 purposes only.

15. It is further ordered, that, the amendment filed by Orlando Telecasting Company, Inc., on June 10, 1985, is accepted for § 1.65 purposes only.

16. It is further ordered, that the Federal Aviation Administration IS MADE A PARTY RESPONDENT with respect to issue 1.

17. It is further ordered, that the signature page filed by U.S. Communications, Inc., on May 22, 1985, is accepted *nunc pro tunc*.

18. It is further ordered, that Marlin Broadcasting of Central Florida, Inc. shall submit an amendment which

specifies the population within its proposed Grade B contour, to the presiding Administrative Law Judge, within 20 days after this Order is released.

19. It is further ordered, that Reece Associates Limited, RCTV, Inc., U.S. Communications, and Florida Television Company shall each submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate, within 20 days after this Order is released.

20. It is further ordered, that Marilyn J. Craig shall submit the certification, statement and/or information required by paragraph 6, *supra*, to the presiding Administrative Law Judge, within 20 days after this Order is released.

21. It is further ordered, that, in the event of a grant of the application of Orlando Television Partners, the construction permit shall be conditioned as follows:

Prior to the commencement of the operation of the television station authorized herein, permittee must certify to the Commission that Barbara and Best Roper have divested themselves of all interest in and connection with the licensee of Station WKIQ (AM), Inverness, Florida.

22. It is further ordered, that, in the event that Orlando TV Partners, Inc. is the successful applicant for Channel 27, and Gainesville Television Group, Inc. is granted a construction permit for Gainesville, Florida, the construction permit in this proceeding will be conditioned as follows:

Prior to the commence of the operation of the television station authorized herein, permittee must certify to the Commission that Robert Bednarek has divested himself of all interest in, and connection with the permittee.

23. It is further ordered, that Orlando TV Partners, Inc. shall submit its explanation for its negative answer to Section II, item 10, FCC Form 301, to the presiding Administrative Law Judge within 20 days after this Order is released.

24. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

25. It is further ordered, that the applicants herein shall, pursuant to

section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85-18045 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

Suntime Radio, Inc., et al.; Hearing Designation Order

In re Applicants of:

Suntime Radio Inc., WREM, Pine Castle-Sky Lake, Florida.	MM Docket No. 85-195, file No. BP-830613AD.
Has: 1190 kHz, 1 kW, D	
Req: 1190 kHz, 5 kW, D	
Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr. d/b/s Treasure Coast Broadcasting, Port Saint Lucie, Florida.	File No. BP-831031AM
Req: 1190 kHz, 2.5 kW, DA-D	
Richard H. Rowland, Silver Springs, Florida.	File No. BP-831031AN
Req: 1190 kHz, 1 kW, DA-D	
Jerry J. Collins, Royal Palm Beach, Florida.	File No. BP-831031AS
Req: 1190 kHz, 1 kW, DA-N, U	

For Construction Permit

Adopted: June 10, 1985.

Released: July 17, 1985.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, had under consideration: (a) The above-captioned applications for new AM broadcast stations and for changes in the facilities of an existing AM broadcast station, which are lined to each other either directly or indirectly through the presence of intervening interlocking proposals; (b) a petition to dismiss the Suntime Radio, Inc., proposal filed by Nationwide Communications, Inc.; and (c) relevant pleadings.²

2. *Environmental Matters:* The application of Treasure Coast Broadcasting and Richard H. Rowland do not contain environmental narrative statements as required by § 1.1311 of the

¹ Groups of this nature commonly termed "daisy chains".

² These include requests for extensions of time in which to respond to various pleadings filed by Suntime Radio, Inc. The requests are unopposed and are hereby granted.

Commission's Rules and the Jerry J. Collins statement does not contain a complete description of the site in that information concerning access road, power lines and surrounding land use was omitted. Accordingly these applicants will be required to comply with the rules and file the required environmental narrative statement information with the presiding Administrative Law Judge within thirty days of the release of this Order. In addition, a copy shall be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of § 1.1313(b). Section 1.1317 of the Rules will be waived to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 F.C.C. 2d 229 (1979), *recon. denied sub nom. Old Pueblo Broadcasting Corp.*, 83 F.C.C. 2d 337 (1988).

3. *Site Photographs*: The applications of Treasure Coast Broadcasting and Richard H. Rowland do not contain photographs of the proposed antenna sites as required by Section V-A, question 8 of the application form (FCC Form 301). These applicants must, therefore, amend their applications and file the required site photographs with the presiding Administrative Law Judge within thirty days of the release of this Order.

4. *Suntime Radio, Inc.*: Nationwide Communications, Inc., (Nationwide) licensee of AM broadcast Station WCOT, Orlando, Florida, filed a petition to dismiss³ alleging that the proposal will cause prohibited overlap to third adjacent channel Station WMJK, Kissimmee, Florida. Suntime has conceded petitioner's allegations and has amended its application; it now proposes 5 kW power instead of the originally proposed 25 kW. Petitioner argues, however, that § 73.37(a) of the Rules requires that the application be dismissed because, according to petitioner, it would be improper to "retain the concededly defective application on file since it did not meet the standards for acceptance."

5. It has long been Commission practice to permit minor ameliorative amendments to substantially complete applications. See *James River Broadcasting Corp.*, v. FCC, 399 F.2d 581 (D.C. Cir. 1968). The Suntime application was substantially complete when filed and the amended proposal will not cause prohibited overlap with

any other station. We will deny the petition to dismiss.

6. Section 73.3580 of the Commission's Rules requires applicants to give local public notice of the filing of their applications. Suntime has not answered question 1 of section VII of the application form (FCC Form 301) and we cannot determine if the applicant has complied or will comply with the rule. Suntime must therefore file the required certification of its compliance or its intent to comply with the rule with the presiding Administrative Law Judge within thirty days of the release of this Order.

7. *Treasure Coast Broadcasting*: The Commission has not yet received Federal Aviation Administration clearance for the antenna towers proposed by this applicant. Accordingly, an appropriate issue will be specified.

8. *Jerry J. Collins*: This applicant's proposed nighttime operation will raise the RSS limits to Station HIAG, Santiago, Dominican Republic, in contravention of the North American Regional Broadcasting Agreement (NARBA). Jerry J. Collins must therefore amend its application to protect Station HIAG's 2.5 mV/m nighttime interference-free contour if the Dominican Republic has not agreed to apply the terms of the Region 2 Agreement in lieu of NARBA.

9. Except as indicated by the issues specified below the applicants are qualified to construct and operate as proposed.⁴ However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. As the proposals are for different communities, we will specify issues to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which proposal (or combination of proposals) would best provide a fair, efficient and equitable distribution of radio service. We will also specify a contingent comparative issue, should such an evaluation of the proposals prove warranted.

10. Accordingly, it is Ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for Hearing in a consolidated Proceeding, to be held before an Administrative Law Judge at a time and

³The facilities specified by Jerry J. Collins herein are subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the heights and locations of the antenna towers proposed by Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr., d/b/a Treasure Coast Broadcasting.

2. If a final environmental impact statement is issued with respect to the proposal of Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr., d/b/a Treasure Coast Broadcasting, Richard H. Rowland or Jerry J. Collins which concludes that the proposed facility is likely to have an adverse effect on the quality of the environment, to determine:

a. Whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301-1319 of the Commission's Rules; and,

b. Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed

3. To determine: (a) The areas and populations which would gain or lose primary aural service from the proposal of Suntime Radio, Inc., and the availability of other primary service to such areas and populations, (b) the areas and populations which would receive primary aural service from the remaining proposals and the availability of other primary service to such areas and populations, and (c) in light thereof and pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine in light of the evidence adduced pursuant to the foregoing issues, which the applications, if any, should be granted.

11. It is further Ordered, that the Federal Aviation Administration is made a party to these proceedings.

12. It is further Ordered, that the petition to dismiss filed by Nationwide Communications, Inc., is denied.

13. It is further Ordered, that § 1.1317 of the Commission's Rules is waived to the extent indicated herein. Within thirty (30) days of the release of this Order Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr., d/b/a Treasure Coast Broadcasting.

⁴Nationwide Communications, Inc., has standing as an economic competitor. *Sanders Brothers Radio Station v. FCC*, 309 U.S. 570 (1940).

Richard H. Rowland and Jerry J. Collins shall submit environmental narrative statements containing the information (as set out in paragraph 2, *supra*) required by § 1.1311 of the Commission's Rules to the presiding Administrative Law Judge, with a copy to the Chief, Audio Services Division.

14. It is further Ordered, that Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr., d/b/a Treasure Coast Broadcasting and Richard H. Rowland file the required antenna site photographs with the presiding Administrative Law Judge within thirty (30) days of the release of this Order.

15. It is further Ordered, that Suntime Radio, Inc., comply with the local notice requirements of § 73.3580 of the Commission's Rules, if it has not done so, and submit the required certification with the presiding Administrative Law Judge within thirty (30) days of the release of this Order.

16. It is further Ordered, that Jerry J. Collins amend its proposal to conform with international agreements as set out in paragraph eight (8), *supra*.

17. It is further Ordered, that in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919, NW., Washington, D.C. 20554.

18. It is further Ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the parties shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

19. It is further Ordered, that pursuant to section 311(a) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rules, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division,
Mass Media Bureau.

[FR Doc. 85-18066 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 85-207]

Zeather Willis, et al. d/b/a Kilgore Broadcasting, et al.; For Construction Permit Oklahoma City, OK; Hearing Designation Order

Adopted: June 25, 1985.

Released: July 19, 1985.

By the Chief, Video Services Division:

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 62, Oklahoma City, Oklahoma.

2. Non-profit Television Concepts (Non-Profit) proposes to mount its antenna on the existing tower of Station KKNB(FM), Oklahoma City, Oklahoma, which is jointly owned by Swanson Broadcasting, Inc. (Swanson), licensee of Station KKNB(FM), and Clear Channel Communications, Inc., licensee of Station KTOK, Oklahoma City. On May 7, 1985, each of these licensees, as co-owners of the tower, wrote to the Commission advising that they had given no assurance to any television applicant that the tower would be available; that, in fact, the tower was not available; and that neither licensee had been contacted by any television applicant. In view of the above, a question is raised as to whether Non-Profit had reasonable assurance of the availability of its specified transmitter site. The Commission has held that although an applicant need not have a binding agreement or absolute assurance of the availability of its proposed site, an applicant must show that it has obtained reasonable assurance that its proposed site is available. *Alabama Citizens for Responsive Television, Inc.*, 59 FCC 2d 1, 2-3 (1976). Some indication by the property owner that he is favorably disposed toward making an arrangement is necessary. A mere possibility that the site will be available will not suffice. *William F. Wallace and Anne K. Wallace*, 49 FCC 2d 1424 (Rev. Bd. 1974). Accordingly, an appropriate issue will be specified.

3. The specification of a site is an implied representation that an applicant has obtained reasonable assurance that the site will be available. A failure to inquire as to the availability of a site until after the application is filed in inconsistent with such a representation and, therefore, warrants a character qualifications issue. See *William K. Wallace, supra*. Accordingly, a misrepresentation issue will be specified.

4. Kilgore Broadcasting (Kilgore) originally proposed to mount its antenna on the KKNB(FM) tower. However, on April 30, 1985, Kilgore submitted a motion for leave to amend and an accompanying amendment¹ to specify a new transmitter site, which is at the same coordinates as the original site. Kilgore now proposes to mount its antenna on an existing tower adjacent to that of KKNB(FM). Since the Commission's records show only the KKNB(FM) tower at the coordinates specified by Kilgore, the application raises a question as to whether Kilgore has a site. Accordingly, a site availability issue will be specified. Moreover, for the reasons set forth in paragraph 3, *supra*, a misrepresentation issue will also be specified against Kilgore.

5. No determination has been made that the tower height and location proposed by Kilgore and Richard Mendoza each would not constitute a hazard to air navigation. Since a question exists as to whether Kilgore has a site available to it, it would be futile to specify the conventional air hazard issue as to Kilgore. Therefore, a contingent air hazard issue will be specified as to Kilgore which will require trial only if it is established that the applicant has a site available. The conventional air hazard issue will be specified with respect to the application of Richard Mendoza.

6. Non-Profit states that the overall height above ground level (AGL) of the KKNB-FM tower is 375 feet. Commission records show the KKNB-FM tower to be 1,003 feet AGL. If Non-Profit establishes the availability of its proposed site, it will be required to submit an amendment showing the proper tower height AGL, to the presiding Administrative Law Judge.

7. The vertical tower sketches submitted by Kilgore and Non-Profit are not properly labelled. Section V-G, item 6, FCC Form 301, requires each applicant to submit a vertical plan sketch for the proposed total structure (including supporting building, if any) giving heights above ground in feet for all significant features. The sketch must clearly indicate existing portions, noting lighting and distinguish between the sketch or other main supporting structure and the antenna elements. Accordingly, Kilgore and Non-Profit will each be required to submit a vertical tower sketch which complies with section V-G, item 6, to the presiding

¹ Kilgore's motion for leave to amend and the accompanying amendment have been reviewed and good cause exists for accepting the amendment.

Administrative Law Judge, within 20 days after this Order is released, assuming that each establishes the availability of its specified site.

8. Kilgore and Non-Profit each proposes a site that is 1.37 miles from AM Station WKY, Oklahoma City, Oklahoma. Richard Mendoza proposes a site that is 1.08 miles from Station WKY. Accordingly, grant of a construction permit to any of the applicants will be conditioned to ensure that States WKY's radiation pattern will not be adversely affected.

9. Section V-C, item 10(e), FCC Form 301, requires an applicant to submit the area and population within its proposed Grade B contour. Kilgore submitted this information in its original application but not in its April 30, 1985, amendment. However, the changes in the contour require that the information in item 10(e) also be amended. Accordingly, Kilgore will be required to submit an amendment with its response to item 10(e) to the presiding Administrative Law Judge, within 20 days after this Order is released.

10. Since Kilgore did not give the area and population within its proposed Grade B contour, we are not able to determine if there would be a significant difference in the size of the area and population that each proposes to serve. The presiding Administrative Law Judge will consider any significant difference in the areas and populations served under the standard comparative issue.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is Ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for Hearing in a Consolidated Proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to the application of Kilgore Broadcasting:

(a) Whether the applicant has reasonable assurance that its specified site will be available to it;

(b) Whether the applicant had reasonable assurance at the time it filed its application that the site it originally specified would be available to it;

(c) Whether, in the light of the evidence adduced pursuant to the foregoing issues, the applicant misrepresented to the Commission the availability of its present or originally specified site;

(d) If issue (1c), above, is resolved in the affirmative, the effect thereof on the applicant's comparative or basic qualifications;

2. To determine, with respect to the application of Non-Profit Television Concepts:

(a) Whether the applicant has reasonable assurance that its specified site will be available to it;

(b) Whether, in the light of the evidence adduced pursuant to the foregoing issue, the applicant misrepresented to the Commission the availability of its specified site;

(c) If issue (2b), above, is resolved in the affirmative, the effect thereof on the applicant's comparative or basic qualifications;

3. In the event that it is determined, pursuant to the foregoing issues, that Kilgore has reasonable assurance that its specified site will be available whether the tower height and location proposed by Kilgore would constitute a hazard to air navigation;

4. To determine, with respect to the application of Richard Mendoza, whether the tower height and location proposed would constitute a hazard to air navigation.

5. To determine which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, that the Federal Aviation Administration is made a party respondent with respect to issues 3 and 4.

14. It is further ordered, that the motion for leave to amend submitted by Kilgore Broadcasting is granted and the accompanying amendment is accepted.

15. It is further ordered, that, in the event that it is determined that Non-profit Television Concepts, has reasonable assurance that its specified tower site will be available, the applicant shall submit an amendment to the presiding Administrative Law Judge, correcting the overall tower height AGL.

16. It is further ordered, that, in the event that it is shown that Kilgore Broadcasting and Non-Profit Television Concepts each has reasonable assurance of the availability of its transmitter site, each shall submit a vertical tower sketch that is in accordance with Section V-G, item 6,

FCC Form 301, to the presiding Administrative Law Judge.

17. It is further ordered, that, any construction permit granted in this proceeding shall be conditioned as follows:

Prior to construction of the tower authorized herein, permittee shall notify AM Station WKY, Oklahoma City, Oklahoma, so that, if necessary, the AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by Section 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

18. It is further ordered, that Kilgore Broadcasting shall submit an amendment with its response to section V-C, item 10(e), FCC Form 301, to the presiding Administrative Law Judge, within 20 days after this Order is released.

19. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

20. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,
Chief, Video Services Division Mass Media Bureau.

[FR Doc. 85-18067 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

July 25, 1985.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received on or before August 14, 1985.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the

agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3822)

Proposal to approve under OMB delegated authority the extension with revision of the following report:

1. Report title: Weekly Report of Assets and Liabilities for Large U.S. Branches and Agencies of Foreign Banks
Agency form number: FR 2069
OMB Docket number: 7100-0030
Frequency: Weekly
Reporters: U.S. Branches and Agencies of Foreign Banks
Small businesses are not affected
General description of report: This information collection is voluntary (12 U.S.C. 3105) and is given confidential treatment (5 U.S.C. 552(b)(4) and b(8)).

This report provides current information on credit developments and sources of funds at U.S. branches and agencies of foreign banks. These data are used to estimate bank credit and nondeposit funds and for analyzing banking and monetary conditions.

Board of Governors of the Federal Reserve System, July 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-18087 Filed 7-30-85; 8:45 am]

BILLING CODE 6210-01-M

Colpatria-Sociedad Colombiana de Capitalizacion, S.A.; 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 22, 1985.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Colpatria-Sociedad Colombiana de Capitalizacion, S.A.*, Bogota, Columbia, and its subsidiary *Banco Colpatria, S.A.*, Bogota, Columbia (parent of *Banpatría U.S.A., Inc.*, Miami, Florida), have applied to become bank holding companies by acquiring 99 percent of the voting shares of *Metropolitan National Bank, Miami, Florida*, a *de novo* bank.

Board of Governors of the Federal Reserve System, July 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-18089 Filed 7-30-85; 8:45 am]

BILLING CODE 6210-01-M

First Sarasota Bancorp., 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 22, 1985.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104

Marietta Street N.W., Atlanta, Georgia 30303.

1. *First Sarasota Bancorporation*, Tampa, Florida; to become a bank holding company by acquiring 50.5 percent of the voting shares of City Commercial Bank, Sarasota Florida.

B. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Centra Financial, Inc.*, West Allis, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of Central Bank, West Allis, Wisconsin.

C. *Federal Reserve Bank of St. Louis* (Delmer P. Weisz, Vice President) 411 Locust State, St. Louis, Missouri 63166:

1. *Aviston Bancorp, Inc.*, Aviston, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Aviston, Aviston, Illinois.

2. *F & M Bancshares, Inc.*, Trezevant, Tennessee; to become a bank holding company by acquiring 90 percent of the voting shares of Farmers & Merchants Bank, Trezevant, Tennessee.

3. *Marked Tree Bancshares, Inc.*, Marked Tree, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Marked Tree Bank, Marked Tree, Arkansas.

D. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Hillsboro Financial Corporation*, Wichita, Kansas; to become a bank holding company by acquiring 93.7 percent of the voting shares of The First National Bank of Hillsboro, Hillsboro, Kansas.

2. *Regency Bancorporation*, Pueblo, Colorado; to become a bank holding company by acquiring 97 percent of the voting shares of Pueblo Boulevard Bank, Pueblo, Colorado.

E. *Federal Reserve Bank of Dallas* (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Dallas Bancshares, Inc.*, Dallas, Texas; to acquire 100 percent of the voting shares of American Banc Corporation, Plano, Texas, thereby indirectly acquiring American National Bank of Plano, Plano, Texas.

2. *First Caprock Bancshares, Inc.*, Claude, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Claude, Claude, Texas.

3. *RepublicBank Corporation*, Dallas, Texas; to acquire 100 percent of the voting shares of RepublicBank

Delaware, Wilmington, Delaware, a *de novo* bank.

Board of Governors of the Federal Reserve System, July 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-18060 Filed 7-30-85; 8:45 am]

BILLING CODE 6210-01-M

Mercantile Bankshares Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 20, 1985.

A. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Mercantile Bankshares Corporation*, Baltimore, Maryland; to

engage *de novo* through its subsidiary, Mercantile Mortgage Corporation, Baltimore, Maryland, in the activities of making, acquiring or servicing loans or other extensions of credit for its own account and for the account of others, such as would be made by a mortgage company; and acting as agent with respect to insurance limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death or disability of the debtor, pursuant to section 4(c)(8)(A) of the Act.

B. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *J.E. Coonley Company*, Dows, Iowa; to engage *de novo* directly in providing data processing facilities, through a lease relationship, to Sheffield Savings Bank, Sheffield, Iowa.

Board of Governors of the Federal Reserve System, July 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-18091 Filed 7-30-85; 8:45 am]

BILLING CODE 6210-01-M

Security State Agency of Aitkin, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition,

conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 22, 1985.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Security State Agency of Aitkin, Inc.*, Aitkin, Minnesota; to acquire John F. Solien Agency, Aitkin, Minnesota, thereby engaging in general insurance agency activities in a place with a population not exceeding 5,000, pursuant to section 4(c)(8)(C)(i) of the Act. These activities would be conducted in the Aitkin, Minnesota, trade area.

Board of Governors of the Federal Reserve System, July 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-18088 Filed 7-30-85; 8:45 am]

BILLING CODE 8210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Health Information Policy Council; 1984 Revision of the Uniform Hospital Discharge Data Set

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the 1984 Revision of the Uniform Hospital Discharge Data Set (UHDDS) which has been approved by the Secretary for use within the Department of Health and Human Services (DHHS). The purposes of the 1984 revision are to update and improve the original version of the UHDDS which was promulgated by the Secretary in 1974 as a minimum, common core of data for use in programs of the Department which require data on individual hospital discharges on a continuing basis. Revisions to definitions and categories have been developed to update certain items and to improve their accuracy.

DATES: The 1984 Revision of the UHDDS will become effective on January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Gooloo S. Wunderlich, Division of Data Policy, Office of the Assistant Secretary for Health, Room 717-H, Hubert H. Humphrey Building, 200 Independent Avenue, SW., Washington, D.C. 20201. Commercial Phone: (202) 245-2100.

SUPPLEMENTARY INFORMATION

Background

A Uniform Hospital Discharge Data Set was promulgated by the Secretary of the U.S. Department of Health, Education, and Welfare in 1974 as a minimum, common core of data on individual hospital discharges in the Medicare and Medicaid programs. Its purpose was to improve the uniformity and comparability of hospital discharge data. Promulgation of the UHDDS was the culmination of a number of developmental activities involving both the public and private sectors.

In the eleven years since its promulgation, the UHDDS has achieved fairly widespread use as a minimum, common core of data within the Department in programs which require data on individual hospital discharges on a continuing basis. The data set is also used within other Federal Agencies and has gained acceptance and use as a standard in the non-Federal public and private sectors, such as in the operations of hospital discharge abstracting services.

The purposes of the 1984 Revision of the UHDDS are to update and improve the original version in the light of current needs and developments. Revisions to definitions and categories have been developed to update certain items and to improve their accuracy. In keeping with the original UHDDS concept, it is emphasized that the UHDDS is a minimum, common core of data on individual hospital discharges and is not intended to serve the entire data needs of a data program or activity. Individual programs and data collectors may obtain additional data elements beyond those in the UHDDS as necessary, and may obtain additional detail within the UHDDS items, provided that the detail can be aggregated to the UHDDS items, definitions, and categories.

The 1984 Revision of the UHDDS was developed by the Health Information Policy Council of the U.S. Department of Health and Human Services. The Council is the principal internal advisory body to the Secretary on departmentwide health data policy. In developing the 1984 Revision, the

Council consulted both with the National Committee on Vital and Health Statistics, the principal public advisory body to the Secretary on health statistical matters, and with a departmentwide interagency task force comprised of representatives of programs which would be affected by the revision. The Secretary has approved the revision with an effective date of implementation of January 1, 1986.

1984 Revision of the UHDDS

The 1984 Revision of the Uniform Hospital Discharge Data Set consists of the following items:

Number and item

- 1.—Personal Identification
- 2.—Date of Birth
- 3.—Sex
- 4.—Race and Ethnicity
- 5.—Residence
- 6.—Hospital Identification
- 7-8.—Admission and Discharge Dates
- 9-10.—Physician Identification: Attending and Operating
- 11.—Diagnoses
- 12.—Procedures and Dates
- 13.—Disposition of Patient
- 14.—Expected Payer for Most of This Bill (Anticipated Financial Guarantor for Services)

The following list contains an identification, definition, or subcategorization of each UHDDS element, and if appropriate, comments are given.

1. *Personal Identification.** The unique number assigned to each patient within a hospital that distinguishes the patient and his or her hospital record from all others in that institution.

2. *Date of Birth.* Month, day, and year of birth.

Comment: It is recommended that the year of birth be reported in four digits rather than usually accepted two digits. This will make the data element more accurate if dealing with persons over 100 years old.

3. *Sex.** Male or female.

4a. *Race.* White, Black, Asian or Pacific Islander, American Indian/Eskimo/Aleut, Other.

b. *Ethnicity.* Spanish origin/Hispanic, Non-Spanish origin/Non-Hispanic.

Comment: "Race" and "Ethnicity" have been separated for clarification purposes.

* Indicates no definitional change from the UHDDS recommended to the Secretary by the National Committee on Vital and Health Statistics in 1979, viz., National Committee on Vital and Health Statistics, *Uniform Hospital Discharge Data: Minimum Data Set*, DHEW Publication No. (PHS) 80-1157, U.S. Department of Health, Education and Welfare, Washington, April 1980.

5. *Residence.* Zip Code. Code for foreign residence.

Comment: A code (to be determined) has been added for foreign residence to include residences throughout the world.

6. *Hospital Identification.* A unique institutional number within a data collection system.

7-8. *Admission and Discharge Dates.* Month, day, and year of both admission and discharge. An inpatient admission begins with the formal acceptance by a hospital of a patient who is to receive physician, dentist, or allied services while receiving room, board, and continuous nursing service. An inpatient discharge occurs with the termination of the room, board, and continuous nursing services, and the formal release of an inpatient by the hospital.

9-10. *Physician Identification.* Each physician must have a unique identification number within the hospital. The attending physician and the operating physician (if applicable) are to be identified.

9. *Attending Physician.* The clinician who is primarily and largely responsible for the care of the patient from the beginning of the hospital episode.

10. *Operating Physician.* The clinician who performed the principal procedure (see item 12 for definition of a principal procedure).

11. *Diagnoses.* All diagnoses that affect the current hospital stay.

a. *PRINCIPAL DIAGNOSIS* is designated and defined as: the condition established after study to be chiefly responsible for occasioning the admission of the patient to the hospital for care.

b. *OTHER DIAGNOSES* are designated and defined as: all conditions that coexist at the time of admission, that develop subsequently, or that affect the treatment received and/or the length of stay. Diagnoses that relate to an earlier episode which have no bearing on the current hospital stay are to be excluded.

12. *Procedures and Date.* All significant procedures are to be reported.

a. A significant procedure is one that is:

- (1) Surgical in nature, or
- (2) Carries a procedural risk, or
- (3) Carries an anesthetic risk, or
- (4) Requires specialized training.

b. For significant procedures, the identity (by unique number within the hospital) of the person performing the procedure and the date must be reported.

c. When more than one procedure is reported, the principal procedure is to be designated. In determining which of

several procedures is principal, the following criteria apply:

The principal procedure is one that was performed for definitive treatment rather than one performed for diagnostic or exploratory purposes, or was necessary to take care of a complication. If there appear to be two procedures that are principal, then the one most related to the principal diagnosis should be selected as the principal procedure.

For reporting purposes, the following definitions and guidelines should be used:

(1) *Surgery* includes incision, excision, amputation, introduction, endoscopy repair, destruction, suture and manipulation.

(2) *Procedural risk.*—This term refers to a professionally recognized risk that a given procedure may induce some functional impairment, injury, morbidity, or even death. This risk may arise from direct trauma, physiologic disturbances, interference with natural defense mechanisms, or exposure of the body to infection or other harmful agents.

Traumatic procedures are those that are invasive, including nonsurgical procedures that utilize cutdowns, that cause tissue damage (e.g., irradiation), or introduce some toxic or noxious substance (e.g., caustic test reagents).

Physiologic risk is associated with the use of virtually any pharmacologic or physical agent that can affect homeostasis (e.g., those that alter fluid distribution, electrolyte balance, blood pressure levels, and stress or tolerance tests).

Any procedure in which it is obligatory (or usual) to utilize pre- or postmedications that are associated with physiologic or pharmacologic risk should be considered as having a "procedural risk," for example, those that require heavy sedation or drugs selected for their systemic effects such as alteration of metabolism, blood pressure or cardiac function.

Some of the procedures that include harmful exposures are those that can introduce bacteria into the blood stream (e.g., cardiac catheterization), those capable of suppressing the immune system, those that can precipitate idiosyncratic reactions such as anaphylaxis after the use of contrast materials, and those involving substances with known systemic toxicity.

Long-life radioisotopes pose a special kind of exposure risk to other persons as well as to the patient. Thus, these substances require special precautionary measures and the procedures using them carry procedural risk.

(3) *Anesthetic risk.*—Any procedure that either requires or is regularly

performed under general anesthesia carries anesthetic risk, as do procedures under local, regional, or other forms of anesthesia that induce sufficient functional impairment necessitating special precautions to protect the patient from harm.

(4) *Specialized training.*—This criterion is important for procedures that are exclusively or appropriately performed by specialized professionals, qualified technicians, or clinical teams that are either specifically trained for this purpose or whose services are principally dedicated to carrying them out. Whenever specially trained staff resources are necessary or are customarily employed in the performance of a procedure, it is considered significant.

Comment: The categorization of procedures into classes has been eliminated. This will remove the difficulty currently being experienced in selecting the proper classification. It will also allow new procedures to be properly reported. "Special facilities" and "special equipment" have been removed as requirements for a significant procedure. It is believed that the other defined significant procedures encompass these two categories.

13. *Disposition of Patient.*

- a. Discharged to home (routine discharge).
- b. Left against medical advice.
- c. Discharged to another short-term hospital.
- d. Discharged to a long-term care institution.
- e. Died.
- f. Other.

Comment: "Other" has been added to this definition to make "disposition of patient" all inclusive.

14. *Expected Payer for Most of This Bill.* (Anticipated Financial Guarantor for Services).

Single major source that the patient expects will pay for his or her bill.

- a. Blue Cross.
- b. Other insurance companies.
- c. Medicare.
- d. Medicaid.
- e. Workers' compensation.
- f. Other government payers.
- g. Self-pay.
- h. No charge (free, charity, special research or teaching).
- i. Other.

Comment: This definition has been updated and a clarifying statement has been added.

Dated: July 25, 1985.

James O. Mason,

Acting Agency Secretary for Health, and
Chairperson, DHHS Health Information
Policy Council.

[FR Doc. 85-18132 Filed 7-30-85; 8:45 am]

BILLING CODE 4150-04-M

Health Care Financing Administration

(BERC-347-NR)

Medicare Program; Criteria for Medicare Coverage of Inpatient Hospital Rehabilitation Services

AGENCY: Health Care Financing
Administration (HCFA), HHS.

ACTION: Notice of HCFA ruling.

SUMMARY: This notice announces a
HCFA ruling that restates HCFA's
longstanding criteria for Medicare
coverage of inpatient hospital
rehabilitation services.

FOR FURTHER INFORMATION CONTACT:

Tom Hoyer, (301) 594-9446.

SUPPLEMENTARY INFORMATION: We plan
to compile and publish all HCFA Rulings
in the "Health Care Financing
Administration Rulings" booklet which
will be indexed for citation purposes.
When this Ruling is republished in the
booklet, it will be known as HCFAR 85-
2. The text of the HCFA ruling is as
follows:

MEDICARE COVERAGE OF INPATIENT HOSPITAL REHABILITATION SERVICES— HCFAR 85-2

Purpose

This Ruling provides further public
notice of HCFA's criteria for Medicare
coverage of inpatient hospital
rehabilitation services.

Citations

Sections 1812, 1814, 1861 and 1862 of
the Social Security Act (the Act) (42
U.S.C. 1395d, 1395f, and 1395x, and
1395y).

Pertinent History

Under the Medicare program, there
has always been a statutory exclusion
of payment for services that "... are
not reasonable and necessary for the
diagnosis or treatment of illness or
injury. . . ." (section 1862 of the Act). It
is this authority, taken in conjunction
with the descriptions of the various
benefits, that the program uses to deny
payment when services required by a
patient could have been appropriately
provided in inpatient setting which is
less intensive than the hospital setting

or in an outpatient setting. (See also
section 1154 of the Act.)

Rehabilitation care is furnished in a
variety of settings ranging from the
inpatient hospital setting, through the
skilled nursing facility setting, to various
outpatient settings such as, for example,
home health care, and outpatient
physical therapy. To determine whether
inpatient hospital care is necessary for
the provision of rehabilitation services,
it is first necessary to determine what
rehabilitation services the patient
requires and then to determine whether
they need to be provided in the inpatient
hospital setting.

Typically, a preadmission screening is
done before a patient is admitted to a
rehabilitation hospital. This screening is
a preliminary review of the patient's
condition and previous medical record
to determine if the patient is likely to
benefit significantly from an intensive
hospital program or extensive inpatient
assessment. Further inpatient
assessment of a patient's potential for
rehabilitation may be done if it is
reasonable and necessary to perform the
assessment in the hospital.

We developed criteria early in the
program to assist medical review
entities in applying the basic
"reasonable and necessary" test to
inpatient rehabilitation services under
Part A. These criteria are used to help a
medical review entity determine
whether rehabilitative care in a hospital,
rather than in a SNF or on an outpatient
basis, is reasonable and necessary. The
criteria have been revised from time to
time to respond to new questions of
interpretation which have arisen.
Section 3101.11 of the Intermediary
Manual contains the current version of
these criteria. The HCFA Ruling
published in this notice restates the
criteria set forth in that manual.

Ruling

Criteria for Medicare Coverage of Inpatient Hospital Rehabilitation Services

A. General.—Physicians generally
agree on the circumstances that justify a
medical or surgical patient's
hospitalization, and, in some cases, an
admission to a rehabilitation hospital or
to the rehabilitation service of a short-
term hospital can be justified on
essentially the same medical or surgical
grounds. In other cases, however, a
patient's medical or surgical needs alone
may not warrant inpatient hospital care,
but hospitalization may nevertheless be
necessary because of the patient's need
for rehabilitative services.

A hospital level of care is required by
a patient needing rehabilitative services

if that patient needs a relatively intense
rehabilitation program that requires a
multidisciplinary coordinated team
approach to upgrade his ability to
function. There are two basic
requirements which must be met for
inpatient hospital stays for
rehabilitation care to be covered:

1. The services must be reasonable
and necessary (in terms of efficacy,
duration, frequency, and amount) for the
treatment of the patient's condition; and
2. It must be reasonable and
necessary to furnish the care on the
inpatient hospital basis, rather than in a
less intensive facility, such as a SNF, or
on an outpatient basis.

B. Preadmission Screening.—Before a
patient is admitted to a rehabilitation
hospital for treatment, a preadmission
screening is normally done. This
screening is a preliminary review of the
patient's condition and previous medical
record to determine if the patient is
likely to benefit significantly from an
intensive hospital program or extensive
inpatient assessment.

While preadmission screening is a
standard practice in most rehabilitation
hospitals and may provide useful
information for claims review purposes,
the absence of a preadmission screening
in a particular case should not be the
sole reason for denying a claim.
However, in a case where an inpatient
assessment showed a patient clearly
was not a good candidate for an
inpatient hospital program, then the
presence or absence of preadmission
screening information would be
important in determining whether the
inpatient assessment itself was
reasonable and necessary. If
preadmission screening information
indicated that the patient had the
potential for benefiting from an inpatient
hospital program, a period of inpatient
assessment could be covered, up to the
point where it was determined that
inpatient hospital rehabilitation was not
appropriate, since preadmission
screening cannot be expected to
eliminate all unsuitable candidates.

**C. Inpatient Assessment of
Individual's Status and Potential for
Rehabilitation 1. General.**—Coverage is
available for inpatient assessment of a
patient's potential for benefiting from an
intensive coordinated rehabilitation
program only if it was reasonable and
necessary to perform the assessment in
the hospital. This determination should
be made on the basis of information
available in the patient's medical
record. It is important to note that the
assessment process is not merely a
paperwork review, but rather an onsite
professional review of the patient's

condition by the necessary disciplines. Inpatient assessments conducted by a rehabilitation team through examination of the patient usually require between 3 to 10 calendar days, but on occasion may require more. This 3-10 day period is often one where the patient is receiving therapies rather than simple screening assessments. Where more than 10 days are required, the case should be carefully reviewed to ensure that such additional time was necessary. An inpatient assessment may be covered even if the assessment subsequently indicates that a patient is not suitable for an intensive inpatient hospital rehabilitation program, if the patient's condition on admission was such that an extensive inpatient assessment was considered reasonable and necessary for a final decision to be made on a patient's actual rehabilitation potential. Where the initial assessment has resulted in a conclusion that the individual is a poor candidate for rehabilitation care, coverage for further inpatient hospital care is limited to a reasonable number of days needed to permit appropriate placement of the patient.

The fact that an individual received therapy prior to admission to a hospital for a rehabilitation program would not necessarily mean that the initial assessment period was not reasonable and necessary. However, if during a previous hospital stay an individual completed such a program for essentially the same condition for which inpatient hospital care is now being provided, the assessment period could be covered only if:

- (1) Some intervening circumstance rendered such an assessment reasonable and necessary; or
- (2) The subsequent admission is to an institution utilizing techniques or technology not previously available or not available in the first institution.

2. Specific examples:

a. After an inpatient hospital stay for rehabilitation care which resulted in little improvement in the patient's condition, an individual who undergoes surgery for severe contractures as a result of arthritis may require a reassessment of his rehabilitation potential in light of the surgery.

b. The fact that an individual has some degree of mental impairment would not per se be a basis for concluding that a multidisciplinary team evaluation is not warranted. Many individuals who have had CVAs suffer both mental and physical impairments. The mental impairment often results in a limited attention span and reduced comprehension with a resultant problem in communication. With an intensive

rehabilitation program, it is sometimes possible to correct or significantly alleviate both the mental and physical problems.

c. Absent other complicating medical problems, the type of rehabilitation program normally required by a patient with a fractured hip during or after the nonweightbearing period or a patient with a healed ankle fracture would not require an inpatient hospital stay for rehabilitation care. Accordingly, an inpatient assessment would not be warranted in such cases. On the other hand, an individual who has had a CVA which has left the individual significantly dependent in the activities of daily living (even after physical therapy in a different setting) might be a good candidate for a more extensive inpatient assessment if the patient has potential for rehabilitation and his needs are not primarily of a custodial nature.

D. Inpatient Rehabilitation Hospital Care.—Rehabilitative care in a hospital, rather than in a SNF or on an outpatient basis, is reasonable and necessary for a patient who requires a more coordinated, intensive program of multiple services than is generally found out of a hospital. A patient who has one or more conditions requiring intensive and multidisciplinary rehabilitation care, or who has a medical complication in addition to his primary condition, so that the continuing availability of a physician is required to ensure safe and effective treatment, would probably require a hospital level of rehabilitation care. A patient in need of rehabilitation on an inpatient hospital basis requires all of the following:

1. *Close medical supervision by a physician with specialized training or experience in rehabilitation.*—A patient's condition must require the 24-hour availability of a physician with special training or experience in the field of rehabilitation. This need should be verifiable by entries in the patient's medical record that reflect frequent and direct and medically necessary physician involvement in the patient's care; i.e., at least every 2-3 days during the patient's stay. This degree of physician involvement, which is greater than would normally be rendered to a patient in a SNF, is an indicator of a patient's need for services generally available only in a hospital setting. A SNF patient's care would usually require only the general supervision of a physician, rather than the close supervision which hospital patients need.

2. *Twenty-four-hour rehabilitation nursing.*—The patient requires the 24-hour availability of a registered nurse

with specialized training or experience in rehabilitation. This degree of availability represents a higher level of care than would normally be found in a SNF. While a SNF patient may require nursing care, specialized rehabilitation nursing is generally not as readily available in such a facility.

3. *A relatively intense level of physical therapy or occupational therapy and, if needed, speech therapy, social services, psychological services, or prosthetic-orthotic services.*—The patient must require at least 3 hours a day of physical and/or occupational therapy, in addition to any other required therapies or services. In exceptional cases, an inpatient hospital stay for rehabilitation care can be covered even though the patient has a secondary diagnosis or medical complication that prevents him from participating in programs of physical or occupational therapy to the extent outlined above. Inpatient hospital care in these cases may be the only reasonable means by which even a low intensity rehabilitation program can be safely carried out. Documentation must be secured of the existence and extent of complicating conditions affecting the carrying out of a rehabilitation program to ensure that inpatient hospital care for less than intensive rehabilitation care is actually needed.

4. *A multidisciplinary team approach to the delivery of the program.*—A multidisciplinary team usually includes a physician, rehabilitation nurse, social worker and/or psychologist, and those therapists involved in the patient's care. At a minimum, a team must include a physician, rehabilitation nurse and one therapist.

5. *A coordinated program of care.*—The patient's records must reflect evidence of a coordinated program, i.e., documentation that periodic team conferences were held with a regularity of at least every 2 weeks to: (1) Assess the individual's progress or the problems impeding progress; (2) consider possible resolutions to such problems; and (3) reassess the validity of the rehabilitation goals initially established. A team conference may be formal or informal; however, a review by the various team members of each other's notes would not constitute a team conference. The decisions made during such conferences, such as those concerning discharge planning and the need for any adjustment in goals or in the prescribed treatment program, must be recorded in the clinical record.

6. *Significant practical improvement.*—Hospitalization after the initial assessment is covered only in

those cases where the initial assessment results in a conclusion by the rehabilitation team that a significant practical improvement can be necessary that there be an expectation of complete independence in the activities of daily living, but there must be a reasonable expectation of improvement that will be of practical value to the patient, measured against his condition at the start of the rehabilitation program. For example, a multiple sclerosis patient's condition may have deteriorated as a result of a secondary illness. To be restored to a level of function before the secondary illness, the patient may require an intensive inpatient hospital rehabilitation program. While such a program would not restore the level of function before multiple sclerosis developed, a return to pre-secondary illness level would be considered to be a "significant practical improvement" in the condition.

7. Realistic goals.—While there may be instances where an intense rehabilitation program may enable a Medicare patient to return to the labor market, vocational rehabilitation is generally not considered a realistic goal for most aged or severely disabled individuals. The most realistic rehabilitation goal for most Medicare beneficiaries is self-care or independence in the activities of daily living; i.e., self-sufficiency in bathing, ambulation, eating, dressing, homemaking, etc., or sufficient improvement to allow a patient to live at home with family assistance rather than in an institution. Thus, the aim of the treatment should be achieving the maximum level of function possible.

8. Length of Rehabilitation Program.—Coverage should stop when further progress toward the established rehabilitation goal is unlikely or it can be achieved in a less intensive setting. In deciding whether further care can be carried out in a less intensive setting, both the degree of improvement which has occurred and the type of program required to achieve further improvement must be considered. In some cases an individual may be expected to continue to improve under an outpatient program. There are other situations where further improvement in the individual's ability to function relatively independently in the activities of daily living can be expected only if a multidisciplinary team effort is continued.

While occasional home visits and other trips into the community are factors in determining whether continued stay in the hospital is necessary, such excursions would not alone be a basis for concluding that

further hospital care is not required. Planned home visits and trips to the community are frequently used to test the individual's ability to function outside the institutional setting and to assist in discharge planning for the individual.

It is also important to consider how close the patient may be to the planned end of his rehabilitation hospital stay when further progress becomes unlikely. If a patient is within a few days of discharge, it would usually not be appropriate to transfer him to a less intensive setting in another facility even though further progress in the hospital setting is unlikely. However, it could be appropriate to utilize a "swing bed" arrangement, if it exists in the same facility, for rendering necessary services to the patient pending discharge.

When discharge or transfer to another facility is appropriate, the cut-off point for coverage should not be the last day on which improvement actually occurred. Rather coverage should continue through the time it would have been reasonable for the physician, in consultation with the rehabilitation team, to have concluded that further improvement would not occur and to have initiated the patient's discharge.

Since discharge planning is an integral part of any rehabilitation program and should begin upon the patient's admittance to the facility, an extended period of time for discharge action would not be reasonable after established goals have been reached, or after a determination has been made that further progress is unlikely or that care in a less intensive setting would be appropriate.

(Secs. 1812, 1814, 1861 and 1862 of the Social Security Act, 42 U.S.C. 1395d, 1395f, 1395x, and 1395y)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

Dated: July 25, 1985.

Carolyn K. Davis,
Administrator.

[FR Doc. 85-18145 Filed 7-29-85; 10:13 am]

BILLING CODE 4120-03-M

Medicaid Program; Hearings; Reconsideration of Disapproval of the Effective Date of a Pennsylvania State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on August 29, 1985 in Philadelphia, Pennsylvania to reconsider our decision to disapprove

the effective date of Pennsylvania State Plan Amendment 84-9.

Closing Date: Requests to participate in the hearing as a party must be received by the Docket Clerk (on or before August 15 1985.)

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove the effective date of a Pennsylvania State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must position the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Pennsylvania's request to establish an effective date of July 1, 1984 for State Plan Amendment 84-9 violates Federal regulations at 42 CFR 447.253 and 42 CFR 447.205.

The plan amendment defines facility location by Metropolitan Statistical Area (MSA) levels and combines certain MSA levels for purposes of computing payment ceilings in order to avoid establishing ceilings based on a relatively small number of facilities. The amendment was approved except for the proposed effective date.

Federal regulations at 45 CFR 205.5(a) require a State plan to be amended to reflect new or revised Federal statutes or regulations or material change in any phase of State law, organization, policy,

or State agency operations. However, in accordance with Federal regulations at 42 CFR 447.253(f), the Medicaid agency must comply with the public notice requirements in § 447.205 when it is proposing significant changes to its methods and standards for setting rates for long-term care services. Section 447.205(d)(1) requires that the notice be published before the proposed effective date of the change. Section 447.205 (c) and (d) set forth additional requirements regarding the content of the notice.

The plan amendment was submitted by the Commonwealth on August 15, 1984, together with assurances and related rate information. Additional assurances and related information were submitted by the Commonwealth on January 7, 1985, following a request by the regional office. Additional information was submitted by the Commonwealth on March 18, 1985, concerning public notice.

The Commonwealth published a public notice which met all the requirements of § 447.205 on August 25, 1984. Accordingly, HCFA has determined that the effective date for the amendment cannot be July 1, 1984 because the requirements of regulations at 42 CFR 447.253 and 42 CFR 447.205 were not met until August 25, 1984.

Therefore, HCFA approved the plan amendment with an effective date of August 26, 1984, the day following publication of the Commonwealth's notice.

The notice to Pennsylvania announcing an administrative hearing to reconsider our disapproval of the effective date of its State plan amendment reads as follows:

Mr. Brian T. Baxter,
Executive Deputy Secretary, Pennsylvania
Department of Public Welfare, 515
Health and Welfare Building,
Harrisburg, Pennsylvania 17120

Dear Mr. Baxter: This is to advise you that your request for reconsideration of the decision to disapprove the effective date of Pennsylvania State Plan Amendment 84-9 was received on June 27, 1985. Pennsylvania State Plan Amendment 84-9 defines facility location by MSA/non-MSA and combines certain MSA levels for purposes of computing payment ceilings in order to avoid establishing ceilings based on a relatively small number of facilities. You have requested a reconsideration of the disapproval of the proposed effective date of the amendment.

I am scheduling a hearing on your request to be held on August 29, 1985 at 10 a.m., in Room 3020, 3535 Market Street, Philadelphia, Pennsylvania. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding official. If these arrangements present any problems, please contact the

Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594-8261.

Sincerely yours,

Carolyn K. Davis, Ph.D.

Dated: July 25, 1985.
(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Carolyn K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 85-18153 Filed 7-30-85; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Draft Environmental Impact Statement for the Jackpile-Paguate Uranium Mine Reclamation Project; Public Hearings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearings.

SUMMARY: Public hearings on the Jackpile-Paguate Uranium Mine Reclamation Draft Environmental Impact Statement (DEIS) will be held on:

Tuesday, September 10, 1985, 1:00 pm (afternoon session) and 7:00 pm (evening session) at the Albuquerque Convention Center (Acoma-Zuni Rooms) Albuquerque, NM; and,

Wednesday, September 11, 1985, 1:00 pm (afternoon session) and 7:00 pm (evening session) at the Community Hall, Village of Old Laguna, Laguna, NM.

The purpose of the hearings is to receive public comment on the merits of the mine reclamation alternatives and the technical adequacy of the DEIS. The hearings are not intended to serve as a forum for public debate or cross-questioning between participants. Persons wishing to give testimony will be limited to ten (10) minutes. Participants may also submit written statements at the hearing sessions which will be given the same consideration as oral statements. The presiding officer will provide additional details on how the hearings will be conducted at the beginning of each session.

DATE: All comments regarding the DEIS will be accepted up to and including October 4, 1985.

ADDRESS: Written comments from those unable to attend the hearings should be addressed to: Mike Pool (EIS) Team Leader, USDI—Bureau of Land Management, 3550 Pan American Freeway NE., P.O. Box 6770, Albuquerque, NM 87197-6770.

FOR FURTHER INFORMATION CONTACT: Mike Pool, Rio Puerco Resource Area (505) 766-3114.

Dated: July 29, 1985.

L. Paul Applegate,

District Manager, Bureau of Land Management.

[FR Doc. 85-18178 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-F9-M

[F-14837-A2; F-14837-C2]

Alaska Native Claims Selection; Beaver Kwit'chin Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a) will be issued to Beaver Kwit'chin Corporation for approximately 44,565 acres. The lands involved are in the vicinity of Beaver, Alaska.

Fairbanks Meridian, Alaska (Unsurveyed)

T. 18 N., R. 1 W.

T. 20 N., R. 3 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (900), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18123 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

[AA-8103-2]

**Alaska Native Claims Selection;
Doyon, Ltd.**

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance (DIC) to Doyon, Limited, notice of which was published in the Federal Register, 44 FR 25937 to 25939, on May 3, 1979, is modified by limiting the season of use on one easement and deleting another easement in accordance with the U.S. Office of Hearings and Appeals' Order of Dismissal and Remand, dated February 19, 1985.

A notice of the modified DIC will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Copies of the modified DIC may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given May 3, 1979, is final.

Helen Burleson,

Section Chief, Branch of ANCSA
Adjudication.

[FR Doc. 85-18122 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6661-C]

**Alaska Native Claims Selection;
Eklutna, Inc.**

In accordance with Departmental regulation 43 CFR 2650.7 (d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613 (1976), will be issued to Eklutna, Inc. for approximately 228 acres. The lands involved are located in T. 16 N., R. 1 E., Seward Meridian, Alaska, in the vicinity of Eklutna.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Olivia Short,

Section Chief, Branch of ANCSA
Adjudication.

[FR Doc. 85-18124 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6661-B]

**Alaska Native Claims Selection;
Eklutna, Inc.**

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Eklutna, Inc., for 4.67 acres. The lands involved are lots 82 and 83, section 11, T. 14 N., R. 2 W., Seward Meridian, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E

shall be deemed to have waived their rights.

Olivia Short,

Section Chief, Branch of ANCSA
Adjudication.

[FR Doc. 85-18125 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

**Alaska Native Claims Selection;
Eklutna, Inc.**

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613 (1976) will be issued to Eklutna, Inc. The lands involved are in the vicinity of Eklutna.

SEWARD MERIDIAN, ALASKA

Serial No.	Land description	Approximate acreage (acres)
AA-6661-B	T. 16 N., R. 1 W. Surveyed	55
AA-6661-C	T. 15 N., R. 1 W. Surveyed	187
	T. 16 N., R. 1 W. Surveyed	56
	T. 15 N., R. 2 W. Surveyed	1,944
Total		1,944

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decisions may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decisions shall have until August 30, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Olivia Short,

Section Chief, Branch of ANCSA
Adjudication.

[FR Doc. 85-18126 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

(F-14862-A)

**Alaska Native Claims Selection;
Kuitsarak, Inc.**

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Kuitsarak, Inc. for approximately 4.0 acres. The lands involved are in the vicinity of Goodnews Bay.

Seward Meridian, Alaska

T. 12 S., R. 73 W. (Unsurveyed)

A portion of Sec. 21.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Tundra Drums. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA
Adjudication.

[FR Doc. 85-18128 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

(F-14949-A)

**Alaska Native Claims Selection;
Tulkisarmute, Inc.**

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Tulkisarmute, Incorporated, for approximately 2.66 acres. The lands involved are in the vicinity of Tuluksak.

Seward Meridian, Alaska

T. 12 N., R. 86 W. (Surveyed)

Two tracts of land located within Secs. 26 and 27, also identified as being within unapproved U.S. Survey No. 4435, lot 1.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Tundra Drums. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA
Adjudication.

[FR Doc. 85-18127 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

**Public Review Draft Experimental
Stewardship Program Report;
Extension of Time for Public Comment**

AGENCY: Bureau of Land Management, Interior; Forest Service, Agriculture.

ACTION: Notice of extension of the public comment period to August 9, 1985.

SUMMARY: The Bureau of Land Management and the Forest Service have jointly completed a public review draft of a report on the Experimental Stewardship Program authorized by the Public Rangelands Improvement Act of 1978. The comment period on the report has been extended to August 9, 1985, to facilitate public comment.

DATES: Comments received by August 9, 1985, will be considered in developing the Secretaries' report to Congress on the program.

ADDRESSES: Requests for a copy of the report and comments on the report should be sent to:

Experimental Stewardship Program,
Director (221), Bureau of Land
Management, 18th and C Street, N.W.,
Washington, D.C. 20240

or

Experimental Stewardship Program,
Director, Range Management, Forest

Service, USDA, P.O. Box 2417,
Washington, D.C. 20013

ADDITIONAL INFORMATION:

Individuals desiring additional information may contact:

Bob Alexander (220) 653-9210, Bureau of
Land Management

Dated: July 24, 1985.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 85-18140 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

(U-31368)

**Utah; Proposed Continuation of
Withdrawal**

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a land withdrawal for the Stateline Dam and Reservoir, Lyman Project, continue until December 31, 2082. The lands remain closed to surface entry and mining location. The lands have been and will remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT:

Lillie Hikida, BLM Utah State Office, 324
South State, Suite 301, Salt Lake City,
Utah 84111-2303, 801-524-3074.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that the existing withdrawal made by Public Land Order 5609 dated November 17, 1976, be continued until December 31, 2082, pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land involved is located on the east fork of Smiths Fork approximately 28 miles south of Fort Bridger, Wyoming and contains 710 acres in Summit County.

The purpose of the withdrawal is to protect the Stateline Dam and Reservoir. The withdrawal segregates the land from the operation of the public land laws, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential

demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination of the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: July 22, 1985.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-18070 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-00-M

Fish and Wildlife Service

Alaska Peninsula National Wildlife Refuge Comprehensive Conservation Plan/Environmental Impact Statement and Wilderness Review, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service has prepared, for public review, a final Comprehensive Conservation Plan, Environmental Impact Statement (CCP/EIS), and Wilderness Review for the Alaska Peninsula National Wildlife Refuge, Alaska, pursuant to sections 304(g)(1) and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA); section 3(d) of the Wilderness Act of 1964; and section 102(2)(C) of the National Environmental Policy Act of 1969. The final CCP/EIS describes five strategies for long-term management of the 4.3 million-acre refuge. Lands suitable for wilderness designation are identified in four of the alternatives. Each one identifies lands that would be suitable for addition to the National Wilderness Preservation System.

DATES: Remarks on the final CCP/EIS must be submitted on or before September 9, 1985 to receive consideration by the Regional Director.

ADDRESS: Remarks should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503 (Attn: William Knauer).

FOR FURTHER INFORMATION CONTACT: William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3399.

A final CCP/EIS has been prepared for general distribution. Copies of it will be sent to all persons, organizations,

and agencies which participated in the public-review process (either scoping meetings, alternative workshops, and/or public meetings/hearing). In addition, copies will be sent to all persons who have requested them. Those wishing to review the final document may obtain a copy by contacting Mr. Knauer.

Copies of the final CCP/EIS are available for public review at the office of the Regional Director, at the above address; at the Alaska Peninsula/Becharof National Wildlife Refuges Office, King Salmon, Alaska; at the Izembek National Wildlife Refuge Office, Cold Bay, Alaska; and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuge Management, U.S. Department of the Interior Bldg., 18th and C Streets, NW, Washington, DC 20240

U.S. Fish and Wildlife Service, Wildlife Resources, 500 Gold Avenue SW, Room 1306, Albuquerque, NM 87103

U.S. Fish and Wildlife Service, Wildlife Resources, Federal Building, Fort Snelling, Twin Cities, MN 55111

U.S. Fish and Wildlife Service, Wildlife Resources, Richard B. Russell Federal Bldg., 75 Spring Street, Atlanta, GA 30303

U.S. Fish and Wildlife Service, Wildlife Resources, One Gateway Center, Suite 700, Newton Corner, MA 02158

U.S. Fish and Wildlife Service, Wildlife Resources, 134 Union Blvd., Lakewood, CO 80225

SUPPLEMENTARY INFORMATION: The final CCP/EIS for the Alaska Peninsula National Wildlife Refuge was developed by the U.S. Fish and Wildlife Service, Department of the Interior, to fulfill the requirements of section 304 of ANILCA relating to preparation of comprehensive conservation plans. In addition, the final CCP/EIS and Wilderness Review also describe the general wilderness suitability of various acreages of non-wilderness refuge lands, under each of the management alternatives, in order to comply with the requirements of section 1317(a) of ANILCA. This requires the Secretary of the Interior to review, in accordance with section 3(d) of the Wilderness Act, all non-wilderness refuge lands in Alaska as to their suitability for preservation as wilderness and report his/her recommendations to the President by 1987.

Issues addressed by the plan focus on fish and wildlife management; problems with intensive human use in subarctic, sensitive fish and wildlife habitats; potential conflicts between off-refuge commercial, sport, and subsistence harvest of adult salmon and its affect on the Refuge; lack of resource data; potential oil and gas exploration/development; development and use of adjacent State and private lands; and

management of refuge inholdings. Overall goal of the plan is to afford maintenance of fish and wildlife populations in their present state while creating opportunities for hunting, fishing, and other recreation uses, plus retention of historical subsistence use of the area.

This plan describes five strategies for management of the Refuge; the process pursued in their development; and the environmental consequences of implementing each alternative. The alternatives cover a broad spectrum of management emphasis, from Alternative A, the current situation which would maintain the Refuge in an undeveloped state, to one allowing for oil and gas leasing (Alternative E). Three alternatives, including the Fish and Wildlife Service's preferred proposal (Alternative B), occupy intermediate positions within that range. By ensuring the Refuge's natural diversity, Alternative B would support maintenance of key fish and wildlife populations and habitats by minimizing potential impacts from development. Furthermore, Alternative B will provide for maintenance of traditional access and for continued subsistence use of the Refuge's resources, while affording additional opportunities for public use and motorized access near the community of Cold Bay. The alternative preferred by the Service would furnish a future opportunity for development of a trans-peninsula transportation corridor, subject to the provisions of Title XI of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).

The final plan also describes the general wilderness suitability of differing acreages of non-wilderness refuge lands under each management alternative. This complies with section 1317(a) of ANILCA which requires the Secretary of the Interior to review, in accordance with section 3(d) of the Wilderness Act, all non-wilderness refuge lands in Alaska as to their suitability for preservation as wilderness and report his/her recommendations to the President by 1987. Currently, no part of the Refuge's 4.3 million acres is designated as wilderness. A range of recommendations is included in the plan's five alternative management strategies. Two alternatives (B and C) call for the same amount of acreage in designated wilderness while in one alternative (E) none is recommended; another (A) suggests as much as 3.4 million acres be considered for the National Wilderness Preservation System.

The Notice of Intent to prepare the draft CCP/EIS was published in the October 29, 1981, *Federal Register*. Other government agencies and the general public contributed to the development of this final CCP/EIS and Wilderness Review. After dissemination of the draft version eleven public meetings were held during September and November, 1984, in Pilot Point; Port Heiden; Chignik Bay; Chignik Lake; Ivanoff Bay; Perryville; Cold Bay; False Pass; King Cove; Nelson Lagoon; and Sand Point. A public hearing was held in Anchorage, on October 31, 1984.

The U.S. Fish and Wildlife Service will issue a Record of Decision on this CCP/EIS after September 9, 1985.

Dated: July 24, 1985.

Robert E. Gilmore,
Regional Director.

[FR Doc. 85-18069 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-55-M

Report to Congress on Artificially Propagated Fish for National Fishery Programs

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability and Request for Comments.

SUMMARY: This notice is to inform interested parties that the U.S. Fish and Wildlife Service is prepared to distribute for public comment a report mandated by Congress in the Department of the Interior and Related Agencies Appropriations Act, 1985 (Pub. L. 98-473). The report analyzes future Federal fish production needs, compares the cost of buying fish to the cost of producing fish, and discusses other related matters.

DATE: Comments must be received by August 30, 1985.

CONTACT: Copies of the report may be obtained by contacting: Mr. John T. Brown, Chief, Division of Program Operations—Fisheries, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (202/653-8746).

SUPPLEMENTARY INFORMATION: The Congress directed the U.S. Fish and Wildlife Service to "... prepare a report on additional fish rearing plans and include in that report a comparative analysis of the costs of Service production to private or commercial production. In addition, the report should provide a list of potential new hatchery sites including an evaluation of the Nisqually Tribe hatchery, plans for the future production outputs from the Makah National Fish Hatchery (NFH),

and an analysis of the effect of the Boldt case decisions, and the Salmon and Steelhead Enhancement Act on those hatcheries. In addition, the study should address other fishery issues including Atlantic salmon and striped bass recovery including the appropriate Federal role. That report should reflect public comment and be provided to the Committees in time for the fiscal year 1986 appropriations hearing."

The Service notified the public in the *Federal Register* of February 12, 1985, (50 FR 29) that this report was under development. Displayed below is the current Table of Contents of the report.

Artificially Propagated Fish for National Fishery Programs—An Analysis of Source, Cost, Purpose, and Need

1. Introduction
2. Survey of Propagation Capability
 - The National Fish Hatchery System
 - National Marine Fisheries Service
 - Tribal Hatcheries
 - State Hatcheries
 - Private Sector or Commercial Operations
3. Comparison of Production Costs
 - Introduction
 - Methodology
 - Federal/Service vs. State and Tribal Costs
 - Federal/Service vs. Private Sector or Commercial Costs
4. Review of Product Use
 - Restoration of Depleted Resources
 - Mitigation of Resource Impairment
 - Settlement of User Conflict
5. Evaluation of Future Product Use
 - Projected Needs
 - Production and Enhancement Plans
6. Summary of Findings
7. Synthesis of Public Comments
8. Introduction of References and Appendices
9. References, Appendices

Dated: July 26, 1985.

F. Eugene Hester,

Acting Director, Fish and Wildlife Service.

[FR Doc. 85-18135 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Requirements for Geological and Geophysical Permits

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of permit requirements.

SUMMARY: Geological and geophysical (G&G) exploration for mineral resources on the Outer Continental Shelf (OCS) as claimed by the United States requires an approved permit from the Department of the Interior (DOI)—Minerals Management Service (MMS) before exploration activities may be conducted.

FOR FURTHER INFORMATION CONTACT: George Tirey, Minerals Management Service, Mail Stop 643, 12203 Sunrise

Valley Drive, Reston Virginia 22091 or telephone (703) 860-7571.

SUPPLEMENTARY INFORMATION: Title 30 Code of Federal Regulations 251.4 provides as follows:

Section 251.4 Geological and geophysical activities requiring notices or permits.

Section 251.4-1 Geological and geophysical exploration for mineral resources.

Geological and geophysical exploration for mineral resources may not be conducted on the Outer Continental shelf (OCS) without an approved permit unless such activities are being conducted pursuant to a lease issued or maintained under the Act. Separate permits must be obtained for geological exploration for mineral resources and for geophysical exploration for mineral resources. If the Director disapproves an application, the statement of rejection shall state the reasons for the denial, and shall advise the applicant of those changes needed to obtain approval.

This notice reaffirms that the G&G exploration for mineral resources may not be conducted on the OCS without a permit unless such activities are being conducted pursuant to a lease [Title 30 Code of Federal Regulations § 251.4-1]. The "Outer Continental Shelf" means all submerged lands which lie seaward and outside the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control. Submerged lands for which a permit is required under § 251.4 prior to conducting exploration for mineral resources include all lands seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and are claimed by the United States as its OCS and subject to its jurisdiction and control.

Specific questions concerning these areas may be addressed to the Regional Director for the region in which the work is planned. These offices are at the following locations:

- A. For the OCS off the State of Alaska
Minerals Management Service,
Alaska Region, 949 E. 36th Avenue,
P.O. Box 101159, Anchorage, Alaska
99510, Telephone: (907) 261-4000
- B. For the OCS off the Atlantic Coast and Straits of Florida
Minerals Management Service,
Atlantic Region, 1951 Kidwell Drive,
Suite 601, Vienna, Virginia 22180,
Telephone: (703) 285-2165
- C. For the OCS in the Gulf of Mexico
Minerals Management Service, Gulf of Mexico Region, Imperial Office Building, 3301 North Causeway Boulevard, P.O. Box 7944, Metairie,

Louisiana 70010, Telephone: (504) 837-4720

D. For the OCS off the States of California, Oregon, and Washington Minerals Management Service, Pacific Region, 1340 West Sixth Street, Los Angeles, California 90017, Telephone: (213) 688-2850

Dated: July 18, 1985.

Richard B. Krah, Jr.

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 85-18114 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone 202-395-7340.

Title: 1985 National Recreation Survey (update)

Abstract: The survey requests information from the American public about types of outdoor recreation activities pursued, volume of activity and trends. The information is used for planning and management documents to ensure adequate resources and opportunities for outdoor recreation.

Bureau Form Number: NRS-1

Frequency: On occasion, at least every 5 years

Description of Respondents: Random sample of the general public

Annual Responses: 1,600

Annual Burden Hours: 128

Bureau clearance officer: Russell K. Olsen 202-523-5133

Russell K. Olsen,

Bureau Clearance Officer.

[FR Doc. 85-18137 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA-254 (Preliminary)]

Certain Red Raspberries From Canada

AGENCY: International Trade Commission:

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-254 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of fresh and frozen red raspberries in containers of a gross weight of over 20 pounds, provided for in items 146.54, 146.56, and 146.74 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Canada. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by September 3, 1985.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 18, 1985.

FOR FURTHER INFORMATION CONTACT:

Stephen A. Vastagh (202-523-0283), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on July 18, 1985, by the Washington Raspberry Commission, Olympia, WA, the Oregon Caneberry Commission, Salem, OR, the Red Raspberry Committee of the Northwest Food Processors Association, Portland, OR, the Red Raspberry Member Group of the American Frozen Food Institute, McLean, VA, Rader

Farms, Orting, WA, Ron Roberts, Gresham, OR, and Shuksan Frozen Foods, Inc., Lynden, WA, which represent approximately 20 packers and the majority of growers of red raspberries in the United States.

On June 17, 1985, the Commission completed Inv. No. 731-TA-196 (Final), Certain Red Raspberries from Canada, USITC Publication 1707, June 1985. The record of Inv. No. 731-TA-196 (Final) will be incorporated into the record of this investigation.

Participation in the investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list) and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on August 14, 1985, in Room 117 of the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Stephen A. Vastagh (202-523-0283) not later than August 13, 1985 to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before August 16, 1985, a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: July 25, 1985.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-18160 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-154]

Certain Dot Matrix Line Printers and Components Thereof; Issuance of Action and Order Denying Joint Motion To Withdraw Motion for Modification of Consent Order Agreement and To Maintain the Underlying Settlement Agreement as Confidential Business Information

AGENCY: International Trade Commission.

ACTION: Issuance of the Action and Order denying joint motion for withdrawal of "motion for modification of consent order agreement and declassification of information under protective order" and to maintain the underlying settlement agreement as confidential business information.

SUMMARY: The Commission has denied the joint motion of the parties in the above-captioned investigation to withdraw complainant's "motion for modification of consent order agreement

and declassification of information under protective order" and to maintain the underlying settlement agreement as confidential business information. Further, the parties were instructed that they may file a new joint motion seeking modification of the consent order on the basis of a new agreement among the parties, in accordance with the procedure contained in § 211.57 of the Commission's Rules of Practice and Procedure (19 CFR 211.57) and the instructions contained in the Action and Order.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1627.

SUPPLEMENTARY INFORMATION: The above-captioned investigation was terminated in March 1984 on the basis of a consent order incorporating a consent order agreement. On February 13, 1985, complainant Printronix, Inc. filed a motion, pursuant to §§ 210.44(e) and 211.57(a) of the Commission's rules, seeking to modify the consent order so that the quantities of printers and the dates for permissible importation and sales could be made public and to permit complainant to publicize "to whatever extent necessary the true terms and conditions of the agreement." The Commission provisionally accepted Printronix's motion, pursuant to § 211.57 of the Commission's rules, and referred the motion to the Chief Administrative Law Judge (ALJ) with instructions that a recommended determination (RD) be certified to the Commission as soon as practicable.

Subsequently, Printronix and the four respondents involved in this matter filed a joint motion (Motion No. 154-31) to withdraw the originally filed motion for modification of the consent order agreement, on the basis of a new settlement agreement among the parties, and to maintain that settlement agreement as confidential business information. On April 19, 1985, the ALJ issued an RD recommending that the joint motion be granted. By Action and Order, the Commission determined that the motion should be denied.

Issued: July 23, 1985.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-18161 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

Appointment of Individuals To Serve as Members of Performance Review Boards

AGENCY: International Trade Commission.

ACTION: Appointment of Individuals To Serve as Members of Performance Review Boards.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Terry P. McGowan, Director of Personnel, U.S. International Trade Commission, (202) 523-0182.

SUPPLEMENTARY INFORMATION: The Chairwoman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB).

Chairman of PRB—Susan W. Liebler,
Vice Chairman

Member—Commissioner Alfred E. Eckes, Jr.

Member—Commissioner Seeley G. Lodwick

Member—Commissioner David B. Rohr

Member—Charles W. Ervin

Member—E. William Fry

Member—Lorin L. Goodrich

Member—Erland H. Heginbotham

Member—Eugene A. Rosengarden

Member—Lyn M. Schlitt

Member—John W. Suomela

Notice of these appointments is being published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting out TDD terminal on (202) 724-0002.

By order of the Chairwoman.

Issued: July 24, 1985.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-18154 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-218]

Certain Automatic Bowling Machine Printed Circuit Control Boards; Commission Decision To Review Initial Determination Terminating Respondent and to Reverse

AGENCY: International Trade Commission.

ACTION: The Commission has determined to review and reverse the initial determination (ID) (Order No. 5) terminating respondent United Bowling Mechanics (UBM) as a respondent in the above-captioned investigation.

SUMMARY: The Commission has determined to review and reverse the presiding administrative law judge's ID granting the Commission's investigative attorney's motion (Motion No. 218-2) to terminate this investigation as to respondent UBM. The grounds for the termination were that UBM cannot be located and has been declared a bankrupt company in the Netherlands.

FOR FURTHER INFORMATION CONTACT: Marcia H. Sundeen, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0480.

SUPPLEMENTARY INFORMATION:

On June 5, 1985, the Commission investigative attorney moved for termination of this investigation as to respondent UBM. Complainant OMEGA-TEK filed an opposition to the motion. On June 20, 1985, the presiding administrative law judge issued an ID terminating respondent UBM, but she did not make a finding that UBM is not in violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). No petitions for review or Government agency comments were received.

Authority for the Commission's action is contained in Commission rules 210.55 and 210.56 (19 CFR 210.55 and 210.56).

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

By order of the Commission.

Issued: July 23, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18157 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-226, 229, and 232 (Final) and 731-TA-217, 222, 223, 228, and 229 (Final)]

Certain Carbon Steel Products From Romania and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Termination of investigations.

SUMMARY: On July 16, 1985, the Commission received letters from the U.S. Department of Commerce stating that, having received letters from petitioner in the subject investigations (United States Steel Corp.) withdrawing its petitions, Commerce was terminating its countervailing duty investigations on

certain carbon steel products from Venezuela and its antidumping investigations on certain carbon steel products from both Romania and Venezuela. Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the following investigations are terminated:

Countervailing duty investigations: Carbon Steel Plates Whether or not in Coils From Venezuela (investigation No. 701-TA-226 (Final));

Hot-Rolled Carbon Steel Sheets From Venezuela (investigation No. 701-TA-229 (Final)); and

Cold-Rolled Carbon Steel Plates and Sheets From Venezuela (investigation No. 701-TA-232 (Final)); and

Antidumping investigations: Carbon Steel Plates Whether or not in Coils From Venezuela (investigation No. 731-TA-217 (Final));

Hot-Rolled Carbon Steel Sheets From—
Romania (investigation No. 731-TA-222 (Final)); and
Venezuela (investigation No. 731-TA-223 (Final)); and
Cold-Rolled Carbon Steel Plates and Sheets From—
Romania (investigation No. 731-TA-228 (Final)); and
Venezuela (investigation No. 731-TA-229 (Final)).

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202-523-1369), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724-0002.

Authority: These investigations are being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.40 of the Commission's rules (19 CFR 207.40).

By order of the Commission.

Issued: July 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18149 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-207 (Final)]

Cellular Mobile Telephones and Subassemblies Thereof From Japan

AGENCY: United States International Trade Commission.

ACTION: Rescheduling of the hearing to be held in connection with the subject investigation.

SUMMARY: The Commission hereby announces the rescheduling of the hearing to be held in connection with the subject investigation from 10:00 a.m. on September 5, 1985 to 10:00 a.m. on October 30, 1985.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: July 23, 1985.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-523-0296), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

On June 11, 1985 the Commission instituted the subject investigation and scheduled a hearing to be held in connection therewith for September 5, 1985 to (50 FR 27496, July 3, 1985). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from August 19, 1985 to October 24, 1985. The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule. As provided in section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)(B)), the Commission must make its final determination in antidumping investigations within 45 days of Commerce's final determination, or in this case by December 9, 1985.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on October 15, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on October 30, 1985 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 15, 1985. All persons

desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on October 21, 1985 in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 25, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearings should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 6, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 6, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

By order of the Commission.

Issued: July 25, 1985.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-18150 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-224]

Cellulose Acetate Hollow Fiber Artificial Kidneys; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 24, 1985, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of CD Medical, Inc., 14600 N.W. 60th Avenue, P.O. Box 9308, Miami Lakes, Florida 33014-9308. A supplement to the complaint was filed on July 8, 1985. The complaint as supplemented alleges unfair methods of competition and unfair acts in the importation into the United States of certain cellulose acetate hollow fiber artificial kidneys, or in their sale, by reason of alleged direct, contributory and induced infringement of at least claims 1 and 2 of U.S. Letters Patent 4,276,173. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order.

FOR FURTHER INFORMATION CONTACT:

Juan Cockburn, Esq., or Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-523-1272 or 202-523-1273, respectively.

SUPPLEMENTARY INFORMATION:

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on July 19, 1985, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation into the United States of certain cellulose acetate hollow fiber artificial kidneys, or in their sale, by reason of alleged direct, contributory and induced infringement of claims 1 and 2 of U.S. Letters Patent 4,276,173, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: CD Medical, Inc., 14600 N.W. 60th Avenue, P.O. Box 9308, Miami Lakes, Florida 33014-9308.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Nissho Corporation, Ltd., 3-9-3, Honjo-nishi, Oyodo-ku, Osaka, Japan
Nippon Medical Industries, Ltd., 8-7, Hanukiyachi, Niida, Ohdate-shi, Akita, Japan

Toyobo Company Ltd., 2-8, 2-chome, Dojima Hama, Kita-ku, Osaka, Japan
Baxter Travenol Laboratories, Inc., One Baxter Parkway, Deerfield, Illinois 60015

(c) Juan Cockburn, Esq., and Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorneys, party to this investigation; and

(3) For the investigations so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefore is shown.

Failure of a respondent to file a timely response to each allegation in the

complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

By order of the Commission.

Issued: July 22, 1985.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-18163 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-197]

Compound Action Metal Cutting Snips and Components Thereof; Issuance of General Exclusion Order and Cease and Desist Orders

AGENCY: International Trade Commission.

ACTION: Issuance of Commission general exclusion order and cease and desist orders.

SUMMARY: Having determined that the issues of remedy, the public interest, and bonding are properly before the Commission. The Commission has determined that a general exclusion order and cease and desist orders directed to respondents J & C Wholesale and Coast Freight Salvage, pursuant to sections 337(d) and (f) of the Tariff Act of 1930 (19 U.S.C. 1337 (d) and (f)) are the appropriate remedies for the section 337 violations found to exist; that the public interest considerations enumerated in sections 337(d) and (f) do not preclude such relief; and that the amount of the bond during the Presidential review period under section 337(g) shall be 170 percent of the entered value of the imported articles.

FOR FURTHER INFORMATION CONTACT: Charles H. Nalls, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1626.

SUPPLEMENTARY INFORMATION: On April 18, 1985, the presiding administrative law judge issued an initial

determination (ID) that there is a violation of section 337 in the importation and sale of the compound action metal cutting snips subject to this investigation. On June 6, 1985, the Commission determined not to review the ID, which thereupon became the Commission's determination on violation of section 337. 50 FR 24712 (June 12, 1985). The Commission requested written submissions on the issues of remedy, the public interest, and bonding. Complainant Cooper Industries, Inc. and the Commission investigative attorney have submitted briefs on the issues of remedy, the public interest, and bonding. The Commission received no submissions from any respondent, Government agency, or the public.

Copies of the Commission's Action and Order, the Commission Opinion in support thereof, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

By order of the Commission.

Issued: July 19, 1985.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-18166 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-212]

Certain Convertible Rowing Exercises; Commission Decision Not To Review Initial Determination Amended Complaint and Notice of Investigation by Deleting U.S. Letters Patent 4,488,719

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination (ID) amending the complaint and notice of investigation by deleting all references to U.S. Letters Patent 4,488,719 (the '719 patent).

SUMMARY: Notice is hereby given that the Commission has determined not to review an ID of the presiding administrative law judge (ALJ) to amend the complaint and notice of investigation by deleting all references to the '719 patent.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.

SUPPLEMENTARY INFORMATION: Complainant Diversified Products (DP)

moved to amend the complaint and notice of investigation to delete all references to the '719 patent on the ground that prior art cited by respondent Weslo Design International raises substantial questions regarding the patent's patentability. DP, Weslo, and the Commission investigative attorney than stipulated to delete the '719 patent from the investigation on condition that (1) DP serve all papers regarding the reexamination on Weslo and the Commission, (2) DP not seek to reassert a reexamined or reissued version of the '719 patent in this investigation, and (3) Weslo may assert equitable defenses (but not legal defenses) to the '719 patent in this case. The ALJ issued an ID (Order No. 30) granting the motion. No party has petitioned for review of the ID and no comments regarding the ID have been received from any Government agency.

By order of the Commission.

Issued: July 24, 1985.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-18156 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-212]

Convertible Rowing Exercisers; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement:

Shinn Fu Company of America, Inc.; Ever Young Industries Co., Seasonal Merchandise Development Co., Ltd.; Sunstar International, Inc.; and National Sporting Goods Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on July 23, 1985.

Copies of the initial determination, the consent order agreement, and all

other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the *Federal Register*. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: July 23, 1984

Kenneth R. Mason,
Secretary.

[FR Doc. 85-18165 Filed 7-30-85; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-212]

Certain Convertible Rowing Exercisers; Commission Determination Not To Review Initial Determination Finding Respondent in Default and Imposing Procedural Sanctions

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination (ID) finding a respondent in default and imposing procedural sanctions.

SUMMARY: Notice is hereby given that the Commission has determined not to review an ID of the presiding administrative law judge (ALJ) that finds respondent H.C. Enterprise in default and imposes procedural sanctions.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493

SUPPLEMENTARY INFORMATION: By Orders Nos. 5 and 11, March 25 and April 9, 1985, respectively, H.C. Enterprise had been ordered to show cause why it should not be held in default. H.C. did not respond to either order. On June 25, 1985, the ALJ issued an ID (Order No. 29) finding H.C. in default. The ALJ also ordered that: (1) H.C. has waived its right to appear in the investigation, (2) no party is required to serve documents on H.C., and (3) H.C. has waived the right to contest the allegations at issue. No petition for review was filed. No comments on the ID were received from any Government agency.

By order of the Commission.

Issued: July 24, 1985.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-18155 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-215]

Double-Sided Floppy Drives and Components Therefore; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Sony Corp. and Sony Corp. of America.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on July 22, 1985.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the *Federal Register*. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: July 22, 1985.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-18162 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-269 (Preliminary)]

Nylon Impression Fabric From Japan Determination

On the basis of the record¹ developed in investigation No. 731-TA-269 (Preliminary), the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from Japan of nylon impression fabric, provided for in items 338.50 and 347.60 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).²

Background

On June 10, 1985, counsel for Bomont Industries and Burlington Industries, Inc. filed a petition with the Commission and

¹ The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

² Commissioners Eckes and Lodwick determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

the Department of Commerce alleging that imports of nylon impression fabric from Japan are being sold in the United States at LTFV, and that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of such merchandise. Accordingly, effective June 10, 1985, the Commission instituted a preliminary investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 19, 1985 (50 FR 25478). The conference was held in Washington, DC, on July 2, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 25, 1985. The views of the Commission are contained in USITC Publication 1726 (July 1985), entitled "Nylon Impression Fabric from Japan: Determinations of the Commission in Investigation No. 731-TA-269 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: July 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18147 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-255 and 256 (Preliminary) and 731-TA-275, 276 and 277 (Preliminary)]

Oil Country Tubular Goods From Argentina, Canada and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigations Nos. 701-TA-255 and 256 (Preliminary) under

section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada and Taiwan of oil country tubular goods,¹ which are alleged to be subsidized by the Governments of Canada and Taiwan. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in these cases by September 5, 1985.

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-275, 276 and 277 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Argentina, Canada and Taiwan of oil country tubular goods,¹ which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in these cases by September 5, 1985.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth (202-523-0289) or Bruce Cates (202-523-0369), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

¹ For purposes of these investigations the term "oil country tubular goods" includes drill pipe, casing and tubing for drilling oil or gas wells, of carbon or alloy steel, whether such articles are welded or seamless, whether finished or unfinished, and whether or not meeting American Petroleum Institute (API) specifications, provided for in Items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States.

Background

These investigations are being instituted in response to petitions filed on July 22, 1985, on behalf of Lone Star Steel Company, Dallas, TX, and CF&I Steel Corporation, Pueblo, CO.

Participation in the investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 207.3 of the rules (19 CFR 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on August 9, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Vera Libeau (202-523-0368), not later than August 7, 1985, to arrange for their appearance. Parties in support of the imposition of antidumping and/or countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before August 13, 1985, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15).

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules. All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.8 of the Commission's rules.

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: July 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18146 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

Investigations Nos. 731-TA-240 and 241 (Final)

Photo Albums and Photo Album Filler Pages From Hong Kong and the Republic of Korea

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-240 and 241 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Hong Kong and the Republic of Korea of photo albums and photo album filler pages, as provided for in items 256.60 (albums) and 256.87, 256.90, and 774.55 (filler pages) of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States of less than fair value

(LTFV). Unless the investigation are extended. Commerce will make its final LTFV determinations on or before September 23, 1985, and the Commission will make its final injury determination by November 12, 1985 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of these investigations, hearing procedures, and rule of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: July 16, 1985.

FOR FURTHER INFORMATION CONTACT: Maria Papadakis (202-523-0439), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of photo albums and photo album filler pages from Hong Kong and the Republic of Korea are being sold in the United States at LTFV within the meaning of section 731 of the act (19 U.S.C. 1673). The investigations were requested in a petition filed on January 30, 1985, by Esselte Pendaflex, Inc., Garden City, NY; The Holson Co., Wilton, CT; Kleer-Vu Plastics Corp., Brownsville, TN; and SPM Manufacturing Corp., Holyoke, MA. In response to that petition the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of these investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 12092, March 27, 1985).

Participation in the Investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be

referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), as amended by 49 FR 32569, Aug. 15, 1984, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in these investigations will be placed in the public record on September 17, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m. on October 2, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on September 12, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on September 17, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is September 27, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the

Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written Submissions

All legal arguments, economic analysis, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on October 8, 1985. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigation on or before October 8, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued July 24, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18148 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

Stainless Steel Plate From Sweden; Request for Comments Concerning the Institution of a Section 751(b) Review Investigation

AGENCY: International Trade Commission.

ACTION: Request for comments regarding the institution of a section 751(b) review

investigation concerning the Commission's affirmative determination in investigation No. AA1921-114. Stainless Steel Plate from Sweden.

SUMMARY: The Commission invites comments from the public on whether changed circumstances exist which warrant the institution of an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) to review the Commission's affirmative determination in investigation No. AA1921-114 regarding stainless steel plate from Sweden. The purpose of the proposed section 751(b) review investigation, if instituted, would be to determine whether an industry in the United States would be materially injured, would be threatened with material injury, or the establishment of an industry would be materially retarded, by reason of imports of stainless steel plate from Sweden if the antidumping order is modified or revoked with respect to such merchandise, provided for in items 607.76 and 607.90 of the Tariff Schedules of the United States.

SUPPLEMENTARY INFORMATION: On May 1, 1973, the Commission determined that an industry in the United States was injured within the meaning of the Antidumping Act of 1921 by reason of imports of stainless steel plate from Sweden determined by the Secretary of Treasury to be sold or likely to be sold at less than fair value (LTFV).

On June 5, 1973, the Department of the Treasury issued a finding of dumping and published notice of the dumping finding in the *Federal Register* (38 FR 15079).

On July 8, 1985, the Commission received a request to review its affirmative determination in investigation No. AA1921-114. The request was filed pursuant to section 751(b) of the Tariff Act of 1930 by Freeman, Wasserman & Schneider on behalf of Avesta AB, the sole Swedish producer and exporter of stainless steel plate, and its affiliated company, Avesta Stainless Inc., a U.S. producer of stainless steel plate.

Written Comments Requested

Pursuant to § 207.45(b)(2) of the Commission's Rules of Practice and Procedure (19 CFR 207.45(b)(2)), the Commission requests public comments concerning whether the following alleged changed circumstances are sufficient to warrant institution of a review investigation: (1) Imports of Swedish plate into the United States are commercially insignificant and statistically *de minimis*, representing less than one percent of apparent U.S.

consumption of plate in every year but one since 1976; (2) The number of companies producing stainless steel plate in Sweden has fallen from four producers with four mills in 1972 to one producer with two mills in 1985; (3) In 1976, a predecessor of Sweden's sole remaining producer of stainless steel plate acquired Borg Warner Corporation's Ingersoll Division mill at New Castle, IN, and by 1984 this mill's share of apparent U.S. consumption of stainless steel plate had greatly increased; and (4) In 1972, Sweden and the European Community (EC) entered into a bilateral trade agreement which allowed Swedish plate duty-free trade into the EC; today, Swedish exports to the EC are almost 20 times the quantity exported to the United States.

Additional Information

Under § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), the signed original and 14 true copies of all written submissions must be filed with the Secretary to the Commission, 701 E Street NW., Washington, DC 20436. All comments must be filed no later than 30 days after the date of publication of this notice in the *Federal Register*. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request business confidential treatment under section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984). Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must be clearly marked at the top "Confidential Business Data." The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

Copies of the request for review of the injury determination and any other public documents in this matter are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436; telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Cynthia Wilson, Office of Investigations, U.S. International Trade Commission (202-523-0291).

By order of the Commission.

Issued: July 23, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18159 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-266 Through 268 (Preliminary)]

Certain Steel Wire Nails From the People's Republic of China, Poland, and Yugoslavia

Determinations

On the basis of the record¹ developed in the subject investigations, the Commission determines,² pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the People's Republic of China (China), Poland, and Yugoslavia of one-piece steel wire nails made of round steel wire, provided for in items 646.25 and 646.26 of the Tariff Schedules of the United States (TSUS), and similar steel nails of one-piece construction whether over or under 0.065 inch in diameter, provided for in item 646.30 of the TSUS; two-piece steel wire nails, provided for in item 646.32 of the TSUS; and steel wire nails with lead heads, provided for in item 646.36 of the TSUS, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On June 5, 1985, a petition was filed with the Commission and the Department of Commerce by Atlantic Steel Co., Atlas Steel & Wire Corp., Continental Steel Corp., Davis-Walker Corp., Dickson Weatherproof Nail Co., Florida Wire & Nail Co., Keystone Steel & Wire Co., Northwestern Steel & Wire Co., Virginia Wire & Fabric Co., and Wire Products Co., alleging that an industry in the United States is materially injured and is threatened with material injury by reason of LTFV imports of certain steel wire nails from China, Poland, and Yugoslavia. Accordingly, effective June 5, 1985, the Commission instituted preliminary antidumping investigations Nos. 731-TA-266 through 268 (Preliminary). Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office

of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 13, 1985 (50 FR 24845). The conference was held in Washington, DC, on June 26, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on July 22, 1985. The views of the Commission are contained in USITC Publication 1730 (July 1985), entitled "Certain Steel Wire Nails from the People's Republic of China, Poland, and Yugoslavia: Determinations of the Commission in Investigations Nos. 731-TA-266 through 268 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: July 23, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18167, Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-202]

Telephone Base Housing and Related Packaging and Printed Materials; Decision Not To Review Initial Determination Terminating Investigation on the Basis of Consent Order; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: Termination of investigation on the basis of a consent order.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) terminating respondent Keytronics, Inc. in the above-captioned investigation on the basis of a consent order. As Keytronics is the only respondent, its termination terminates the investigation.

SUPPLEMENTARY INFORMATION: On December 7, 1984, complainant GTE Communications Systems, Corp., respondent Keytronics, and the Commission investigative attorney jointly moved (Motion No. 202-1) to terminate this investigation on the basis of a proposed consent order. On January 3, 1985, the presiding administrative law judge issued an ID terminating the investigation with respect to respondent Keytronics on the basis of the consent order. No petitions for review of the ID or comments from Government agencies or the public were received.

Termination of the investigation on the basis of the consent order furthers the public interest by conserving commission resources and those of the parties involved.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.51(c) and 210.53(h).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of Secretary, U.S. International Trade Commission, 701 E. Street, NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0311.

By order of the Commission.

Issued: July 22, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18164, Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importers of Controlled Substances; McNeillab Inc.; Registration

By Notice dated May 28, 1985, and published in the *Federal Register* on June 4, 1985, (50 FR 23537), McNeillab Inc., DBA First State Chemical Company Inc., 803 East Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Raw Opium (9600)	II
Concentrate of Poppy Straw (9670)	II

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import, and Export Act and in accordance with Title 21, Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of basic classes of controlled substances listed above.

¹ The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

² Chairwoman Stern and Vice Chairman Liebel dissenting.

Dated: July 24, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.

[FR Doc. 85-18117 Filed 7-30-85; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; MD Pharmaceutical, Inc.; Withdrawal

On May 16, 1985, the Drug Enforcement Administration published a Notice of Application in the Federal Register (Vol 50, No. 95, pg. 20509) stating that MD Pharmaceutical, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, had submitted an application for registration as an importer of the basic classes of controlled substances listed below:

Drug	Sched- ule
Methylphenidate (1724)	II
Diphenoxylate (9170)	II

On April 25, 1985, the Drug Enforcement Administration was advised that MD Pharmaceutical, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, wished to withdraw its application for registration as an importer of Methylphenidate (1724) and Diphenoxylate (9170).

The application having been withdrawn, any proceedings relating to the application have been terminated and the publication withdrawn.

Dated: July 24, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.

[FR Doc. 85-18118 Filed 7-30-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Penick Corp.; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 15, 1985, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Sched- ule
Pholcodine (9314)	I
Alphacetylmethadol (9603)	I
Codine (9050)	II
Dihydrocodeine (9120)	II

Drug	Sched- ule
Oxycodone (9143)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Pethidine (meperidine) (9230)	II
Methadone (9250)	II
Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane (9254)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium Extracts (9610)	II
Opium Fluid Extracts (9620)	II
Tincture of Opium (9630)	II
Powdered Opium (9639)	II
Granulated Opium (9640)	II
Mixed Alkaloids of Opium (9648)	II
Concentrate of Poppy Straw (9670)	II
Phenazocine (9715)	II
Fentanyl (9801)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than August 30, 1985.

Dated: July 24, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.

[FR Doc. 85-18119 Filed 7-30-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Syncates Associates Inc.; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 9, 1985, Syncates Associates Inc., 9307-M Harwin, Houston, Texas 77038, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substances Pentobarbital (2270).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed

to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representatives (Room 1112), and must be filed no later than August 30, 1985.

Dated: July 24, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.

[FR Doc. 85-18120 Filed 7-30-85; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85-48]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 45), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by August 12, 1985. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Carl Steinmetz, NASA Agency Clearance Officer, Code NIM, NASA Headquarters, Washington, DC 20546; Mike Weinstein, Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carl Steinmetz, NASA Agency Clearance Officer (202) 453-2941.

Reports

Title: Application for Volunteer Program, NASA, Goddard Space Flight Center, Greenbelt, MD.

Type of Request: New.

Frequency of Report: As Required.

Type of Respondent: Individuals or households.

Annual Burden Hours: 58.

Abstract-Need/Uses: The primary use of the data is to determine eligible candidates for the Goddard Space Flight Center Application for Volunteer Program.

L.W. Vogel,

Director, Logistics Management and Information Programs Division.

FR Doc. 85-18051 Filed 7-30-85; 8:45 am]

BILLING CODE 7510-01-M

[Notice 85-49]

Intent To Grant Exclusive Field of Use License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent To Grant an Exclusive Field of Use Patent License.

SUMMARY: NASA hereby gives notice of intent to grant to Celanese Corporation of New York, New York, an exclusive, field of use, royalty-bearing, revocable license to practice the inventions as described in U.S. Patent No. 4,065,345 for "Polyimide Adhesives," issued December 27, 1977; U.S. Patent No. 4,094,862 for a "Process for Preparing Thermoplastic Aromatic Polyimides," issued June 13, 1978; U.S. Patent No. 4,398,021 for a "Solvent Resistant Thermoplastic Aromatic Poly (imidesulfone) and Process for Preparing Same," issued August 9, 1983; and U.S. Patent No. 4,489,027 for a "Solvent Resistant, Thermoplastic Aromatic Poly (imidesulfone) and Process for Preparing Same," issued December 18, 1984. The proposed exclusive field of use license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written response to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by September 30, 1985.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453-2430.

Dated: July 24, 1985.

John E. O'Brien,

Deputy General Counsel.

FR Doc. 85-18052 Filed 7-30-85; 8:45 am]

BILLING CODE 7510-01-M

[Notice 85-50]

Government-Owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161, for \$6.00 each (\$10.00 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, John G. Mannix, Director of Patent Licensing, Code GP, Washington, D.C. 20546, telephone (202) 453-2430.

Patent Application 655,601: A Method and Apparatus for Operating on Companded PCM Voice Data; filed September 28, 1984.

Patent Application 686,959: Combined Riblet and Lebu Drag Reduction System; filed December 27, 1984.

Patent Application 732,321: Apparatus for Mounting a Field Emission Cathode; filed May 9, 1985.

Patent Application 719,796: High Performance Mixed Bisimide Resins and Composites Based Thereon; filed April 4, 1985.

Patent Application 727,035: Temperature Sensitive Oscillator; filed April 25, 1985.

Patent Application 729,767: Lightweight Piston; filed May 2, 1985.

Patent Application 727,034: Vibration-Free Raman Doppler Velocimeter; filed April 25, 1985.

Patent Application 711,551: Oscillating Pressure Device for Dynamic Calibration of Pressure Transducers; filed March 11, 1985.

Patent Application 719,797: Flow Thru Bacteria Detection System; filed April 4, 1985.

Patent Application 719,798: Ribbon Growing Method and Apparatus; filed April 4, 1985.

Patent Application 719,794: Fluidic Angular Velocity Sensor; filed April 4, 1985.

Patent Application 719,799: Improved Fluid Flow Meter for Measuring the Rate of Fluid Flow in a Conduit; filed April 4, 1985.

Patent Application 729,766: Double Window Viewing Chamber Assembly; filed May 2, 1985.

Patent Application 706,565: Laser Schlieren Crystal Monitor; filed February 28, 1985.

Patent Application 701,486: Ten Degree Kelvin Hydride Refrigerator; filed February 14, 1985.

Patent Application 703,847: Double Photon Excitation of High-Rydberg Atoms as a Longlive Submillimeter Detector; filed February 21, 1985.

Patent Application 739,792: Electro-Expulsive Separation System; filed May 31, 1985.

Patent Application 692,875: Damping Seal for Turbo Machinery; filed January 18, 1985.

Patent Application 727,931: Magnetically Switched Power Supply Systems for Lasers; filed April 29, 1985.

Patent Application 739,789: Jet Pump-Drive System for Heat Removal; filed May 31, 1985.

Patent Application 729,704: Fully Redundant Mechanical Release Actuator; filed May 2, 1985.

Patent Application 709,255: Remotely Operable Peristaltic Pump; filed March 7, 1985.

Patent Application 725,714: LDV Multiplexer Interface; filed April 22, 1985.

Patent Application 706,682: Light Weight Fire Resistant Graphite Composites; filed February 2, 1985.

Patent Application 692,802: Improvements in Tank Tread Assemblies; filed January 18, 1985.

Patent Application 706,564: Method for Growing Low Defect, High Purity Crystalline Layers; filed February 28, 1985.

Patent Application 729,768: Generation of Intense Negative Ion Beams; filed May 2, 1985.

Patent Application 729,719: Tone Calibrated Digital Radio Communication System; filed May 2, 1985.

Patent Application 725,726: Method for Ultrasonic Bonding to Soft Microelectronic Substrates; filed April 22, 1985.

Patent Application 739,788: Alignment and Assembly Tool for Very Large Diameter; filed May 31, 1985.

Patent Application 725,689: Non-Backdriveable Free Wheeling Coupling; filed April 22, 1985.

Dated: July 24, 1985.

John E. O'Brien,

Deputy General Counsel.

[FR Doc. 85-18053 Filed 7-30-85; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357-9421

OMB Desk Officer: Carlos Tellez, (202) 395-7340

Title: Request for Proposals (RFP)

Affected Public: Individuals, State or local governments, Business or other for-profit, Non-profit institutions, Small businesses or organizations.

Number of Responses: 380 responses; total of 45,600 hours

Abstract: Requests for Proposals used to competitively solicit proposals in response to NSF need for services. Impact will be on those individuals or organizations who elect to submit proposals in response to the RFP. Information gathered will be evaluated in light of NSF procurement requirements to determine who will be awarded a contract.

Dated: July 26, 1985.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 85-18101 Filed 7-30-85; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-208]

Columbia University; Order Terminating Facility License

By application dated January 14, 1985, as supplemented March 27, 1985, Columbia University (the licensee) requested the Nuclear Regulatory Commission (the Commission or NRC)

to terminate Facility Operating License No. R-128. A "Notice of Proposed Issuance of Order Terminating Facility License," was published in the Federal Register on May 6, 1985, at 50 FR 19098. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The licensee has never operated the facility and fuel was never obtained or installed in the reactor. The licensee modified certain systems to render the reactor inoperable. The area is available for unrestricted access. Therefore, pursuant to the application filed by Columbia University in the City of New York, Facility License No. R-128 is terminated as of the date of this Order.

For further details with respect to this action see: (1) The application for termination of facility license, dated January 14, 1985, as supplemented March 27, 1985, (2) the Commission's Safety Evaluation related to the termination of the license, and (3) the Notice of Proposed Issuance of Order Terminating Facility License, published in the Federal Register on May 6, 1985 (50 FR 19098). Each of these items is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of July 1985.

Hugh L. Thompson, Jr.,

Director, Division of Licensing.

[FR Doc. 85-18170 Filed 7-30-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423]

Northeast Nuclear Energy Company, et al.;¹ Issuance of Amendment to Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) has

¹ The following are the holders of construction Permit No. CPPR-113: Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, Connecticut Municipal Electric Energy Cooperative, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Massachusetts Municipal Wholesale Electric Company, Montauk Electric Company, New England Power Company, Northeast Nuclear Energy Company, Public Service Company of New Hampshire, The United Illuminating Company, Vermont Electric Cooperative, Inc., The Village of Lyndonville Electric Generation and Transmission Cooperative, Inc.

issued Amendment No. 12 to Construction Permit No. CPPR-113 for Millstone Nuclear Power Station, Unit 3. The amendment modifies the construction permit to reflect issuance, by the Commission, of an Exemption dated June 5, 1985. The amendment is effective as of the date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which is set forth in the amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to the action, see: (1) The application for amendment dated March 1, 1985, (2) Amendment No. 12 to Construction Permit CPPR-113, (3) the Commission's related Safety Evaluation, (4) the Exemption dated June 5, 1985, and (5) the Notice of Environmental Assessment and Finding of No Significant Impact dated May 29, 1985. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Local Public Document Room at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. In addition a copy of items (2), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 24th day of July 1985.

For the Nuclear Regulatory Commission.
B.J. Youngblood,
Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 85-18171 Filed 7-30-85; 8:45 am]
BILLING CODE 7590-01-M

(NUREG-0800)

Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants; Issuance and Availability, Revised SRP Section 13.5.2 and Appendix A to SRP Section 13.5.2

The U.S. Nuclear Regulatory Commission (NRC) has published a

revision to section 13.5.2, "Operating and Maintenance Procedures," and Appendix A to SRP section 13.5.2, "Review Procedures for the Evaluation of Procedures Generation Packages" of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," LWR Edition (SRP).

The revision consists of SRP section 13.5.2, Rev. 1, and an appendix to section 13.5.2, Appendix A, Rev. O. The revised SRP Section incorporates the resolution of TMI Action Plan item I.C.1, "Short-Term Accident Analysis and Procedure Revision" and the partial resolution of item I.C.9, "Long-Term Program Plan for Upgrading Procedures" of Supplement 1 to NUREG-0737—"Requirements for Emergency Response Capability" (Generic Letter 82-3). The acceptance criteria and guidelines incorporated into SRP section 13.5.2 and Appendix A to this Section are a formalization of criteria that were previously approved and issued in Supplement 1 of NUREG-0737 as Generic Letter 82-33 dated December 17, 1982. Appendix A to section 13.5.2 was formerly Draft NUREG-0799, "Draft Criteria for Preparation of Emergency Operating Procedures, Draft Report for Comment," and NUREG-0899, "Guidelines for the Preparation of Emergency Operating Procedures, Final Report." A notice of availability and request for public and industry comments on NUREG-0799 was published in the *Federal Register* on July 2, 1981 (46 FR 34735). The notice of availability for NUREG-0899 was published in the *Federal Register* on September 16, 1982 (47 FR 40958).

The revised SRP section is effective immediately. A copy is expected to be available in the NRC Public Document Room within two weeks. Copies of the revised SRP Section or the complete Standard Review Plan, NUREG-0800, Accession No. PD-81-920199, is available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; telephone (703) 487-4650.

Dated at Bethesda, Maryland, this 17th day of July 1985.

For the Nuclear Regulatory Commission,
Harold R. Denton,
Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-18172 Filed 7-30-85; 8:45 am]

BILLING CODE 7590-01-M

Bi-Weekly Notice of Applications and Amendments To Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Pub. L. (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on July 17, 1985 (50 FR 29006), through July 22, 1985.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING AND LICENSE PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission,

Washington, D.C. 20555, Attention: Docketing and Service Branch.

By August 30, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such as amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A

petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceedings, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700).

The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: April 26, 1985.

Description of amendment request: The proposed amendments would change the Unit 1 and Unit 2 Technical Specifications (TS) to: (1) reflect a clarification of surveillance requirements of TS 4.6.1.6.2, "Containment Structural Integrity", concerning containment tendon end anchorages and adjacent concrete surfaces; (2) reflect an increase in the required diesel generator test load specified in TS 4.8.1.1.2.c.2, "A.C. Sources"; (3) delete TS 3/4 3.3.8, "Radioactive Gaseous Effluent Monitoring Instrumentation" and incorporate these requirements in TS Tables 3.3-6 and 4.3-3, "Radiation Monitoring Instrumentation"; (4) provide simplification, additions and clarifications concerning the fire protection instrumentation in TS Table 3.3-11, "Fire Detection Instruments"; (5) revise limiting conditions and surveillance requirements for the hydrogen analyzers, TS 3/4.6.5, "Combustible Gas Control-Hydrogen

Analyzers"; and (6) revise limiting conditions and surveillance requirements for the auxiliary feedwater system (TS 3/4.7.1.2).

Basis for proposed no significant hazards consideration determination: The licensee has requested a change to TS 4.6.1.6.2 in order to provide clarification regarding inspection of containment tendon end anchorages and adjacent concrete surfaces. The wording of TS 4.6.1.6.2 would seem to indicate that all anchorages and adjacent concrete surfaces should be inspected. The licensee's requested change would provide for an inspection of a random sample of end anchorages and adjacent concrete surfaces consistent with the sample of tendons selected for surveillance.

As indicated in the TS Bases for TS 4.6.1.6.2, the inspection of the containment post-tensioning system (tendon, anchors, and related equipment and structures) is based upon Regulatory Guide (RG) 1.35, "Inservice Surveillance of UngROUTED Tendons in Prestressed Concrete Structures," January 1976. A review of Section C.3 of the subject RG clearly indicates that a random sample of tendon end anchorages and adjacent concrete surfaces (corresponding to the random selection of tendons to be tested) should be selected for testing. Thus, the proposed TS change for selection of tendon end anchorages and adjacent concrete surfaces is consistent with the provisions of R.G. 1.35.

Finally, with regard to observation of concrete surfaces during the containment "Type A" test, TS 4.6.1.6.2 requires observation of crack patterns in concrete adjacent to the end anchorages. The licensee proposes to continue the use of a program developed in cooperation with the Architect/Engineer for Calvert Cliffs, Bechtel Power Corporation, as described in BG&E's letter dated June 19, 1985. The program involves the observation of 11 preselected areas for each containment during the Type A test; each area is 50 to 100 square feet in size. A total of over 50, representative, end anchorages per containment are thus observed. This program has been used at Calvert Cliffs to date. While the RG 1.35 program would incorporate a smaller, random, observation of concrete surfaces (approximately a 1% sample of all tendon-adjacent surfaces), the Calvert Cliffs program involves a larger, fixed, tendon sample (approximately 6% of all tendon-adjacent surfaces per Calvert Cliffs containment). Although the random system of observation might eventually result in a greater range of

observed concrete locations, the Calvert Cliffs program incorporates a sufficiently diverse sample to be representative of overall containment concrete conditions.

Based upon the above, the licensee's proposed changes to TS 406.1.6.2 and associated Bases, to establish the use of random inspection of tendon end anchorages and adjacent concrete surfaces and the observation of preselected areas during Type A tests, is in accordance with RG 1.35, January 1978.

On April 6, 1983, the NRC published guidance in the *Federal Register* (48 FR 14870) concerning examples of amendments that are not likely to involve a significant hazards consideration. One such example, (iv), involves "a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. . . ." The proposed changes in end anchorage and concrete surveillance are in accordance with RG 1.35 which is an acceptance criteria in Standard Review Plan 3.8.1, "Concrete Containment". Accordingly, the Commission proposes to determine that the proposed changes to TS 4.6.1.6.2 involve no significant hazards considerations.

The licensee has requested a change to TS 4.8.1.1.2c.2 to increase the diesel generator load rejection test load from 450 to 500 hp. The purpose of the load rejection test is to assure that the diesel generator will not trip, due to load rejection, in the event that the electrical load with the highest horse power rating should trip.

The existing test load specified in TS 4.8.1.1.2c.2 is 450 hp. Since completion of modifications to the auxiliary feedwater system which added one motor operated pump per unit, the new maximum load is 500 hp. Accordingly, the test load specified in TS 4.8.1.1.2c.2 should be increased to 500 hp to assure that the load rejection test is conducted with the limiting (largest) electrical load.

The proposed change would increase the size of the load that must be periodically rejected by the diesel generator by about 10%. This would provide greater assurance of the generator's capability to respond to the loss of the single largest load. Therefore, the probability or consequences of previously analyzed accidents would not be affected and the margin of safety would not be reduced. In addition, since no physical modification is associated

with this proposed change, increasing the size of the load to be periodically rejected by surveillance testing would not create the possibility of a new or different accident. Accordingly, the Commission proposes to determine that the proposed change to TS 4.8.1.1.2c.2 involves no significant hazards considerations.

The licensee has proposed to delete TS 3/4.3.3.8 which contains limiting conditions for operation and surveillance requirements for radioactive gaseous effluent monitoring instrumentation. The licensee has further proposed that the requirements of TS 3/4.3.3.8 be incorporated in TS Tables 3.3-6 and 4.3-3 where requirements for similar equipment are located.

The licensee's proposal to relocate the requirements of TS 3/4.3.3.8 is appropriate since locating requirements for similar equipment in common areas within the TS will facilitate compliance. Since the proposed changes do not affect plant design, operating or safety analyses, the proposed changes do not reduce any safety margins, do not increase the probability or consequences of any accidents previously analyzed or create the possibility of a new or different type of accident. Accordingly, the Commission proposes to determine that the proposed changes to TS 3/4.3.3.8 and TS Tables 3.3-6 and 4.3-3, involve no significant hazards considerations.

The licensee has proposed changes to the fire detection instrumentation descriptions contained in TS Table 3.3-11. These instruments are required to be operable and to undergo surveillance in accordance with TS 3/4.3.3.7, "Fire Detection Instrumentation". The proposed changes are of several types as follows:

- One heat detector was replaced with a smoke detector and three more smoke detectors were added as a result of structural modifications to the 69 level access control area. The area includes a laboratory where a smoke detector would be more suitable for fire detection.

- Several duplicate entries occur in TS Table 3.3-11. Both the North South Corridor Room 410 and North South Corridor Room 308 were listed twice. The number of fire detectors in these areas has not been reduced, only the duplicate listings should be eliminated.

- Additional clarification has been proposed as follows: The room numbers and room names should be changed to reflect their proper names. The Intake Structure has been listed as a common structure. Although the Intake Structure is a single room, the equipment in each

side is dedicated to its respective unit. To provide clarification, the fire detector instrumentation serving the Unit 1 side of Intake Structure should be exclusively listed in the Unit 1 Technical Specification and similarly for Unit 2.

- The last clarification concerns the Protecto Wire Instrumentation. The existing entries in TS Table 3.3-11 list this instrument location as the Southwest and Northeast Containment Electrical Penetration Rooms. Actually, the instrument meters are located in these rooms, but the Protecto Wires monitor cable trays rather than the rooms themselves. The Protecto Wires are also not conventional heat detectors. If a fire occurs in the cable tray, the insulation between the wire melts and the wires short. The new electrical resistance corresponds to a wire length which can then be used to determine the location of the fire. A footnote is proposed for TS Table 3.3-11 to clarify the special nature of these detectors.

As noted above, the modification to the first detection instrument deployment strategy on the 69' level access control area provides a superior degree of fire detection capability; thus the safety margin associated with fire detection will not be reduced. The remaining proposed changes to TS Table 3.3-11 do not in any way impact existing fire detection capability. Thus, we conclude that the overall ability to detect and suppress fires has not been decreased; therefore, the probability or consequences of accidents involving fires will not be increased. In addition, no new or different kind of fire-related accidents are expected to occur. Accordingly, the Commission proposes to determine that the proposed changes to TS Table 3.3-11 involve no significant hazards considerations.

The licensee has proposed changes to TS 3/4.6.5 in response to NRC's Generic Letter (GL) 83-37, "NUREG-0737 Technical Specifications", dated November 1, 1983. The hydrogen monitors are required to determine post-LOCA, containment, hydrogen concentrations.

The purpose of GL 83-37 was to provide model TS associated with system/procedural improvements deemed necessary following the accident at Three Mile Island, Unit 2 (TMI-2). The proposed TS change clarifies the Limiting Condition for Operation (LCO) by providing an appropriate remedial action when two hydrogen monitors become inoperable. Although the LCO requires two hydrogen monitors to be operable, the required remedial action is only applicable when one hydrogen monitor

is inoperable. The existing LCO allows a single hydrogen monitor to be inoperable for up to 30 days after which the reactor must be shut down within 6 hours. The proposed LCO would require that, when both hydrogen monitors become inoperable, one monitor must be made operable within 72 hours or the reactor must be shut down within 6 hours.

Based upon our review, we conclude that the proposed remedial action, when two hydrogen monitors are inoperable, is consistent with the importance of the subject equipment.

The licensee has also proposed a change to the surveillance requirements for the hydrogen monitors. The proposed change would add periodic test to the existing calibration requirements of TS 4.6.5.1. The periodic test involves a biweekly demonstration of operability of which is performed by drawing and analyzing gas from the waste decay tank. The additional proposed surveillance requirement does provide a valid test of system operability at an appropriate frequency. Although the model TS also suggest a more frequent "check" of instrument operability, this type of qualitative observation is meaningless since the hydrogen monitors are maintained in a de-powered state until required.

The proposed changes to TS 3/4.6.5.1 result in increased reliability of the hydrogen monitors in accordance with GL 83-37. Since reliability of these monitors is improved, the probability or consequences of accidents involving hydrogen generation will not be increased and no new or different type of accident will result. Since no changes in equipment design or operation are involved, no reduction in safety margins will result. Accordingly, the Commission proposes to determine that the proposed changes involve no significant hazards considerations.

Finally, the licensee has proposed changes to the limiting conditions for operation and surveillance requirements for the Auxiliary Feedwater System (AFW) as specified in TS 3/4.7.1.2. At the present time, the Unit 1 TS 3.7.1.2a.1.(b) would allow up to 14 days for a motor-driven AFW pump to be inoperable. In addition TS 3.7.1.2a.2.(b) allows up to 30 days for a steam-turbine-driven AFW pump to be inoperable. The licensee has proposed that the maximum period of inoperability for either motor-driven or steam-turbine-driven AFW pumps be reduced to 7 days. This proposed change is consistent with the Unit 2 TS.

The proposed change to Unit 1 TS 3.7.1.2 would improve the availability of the Unit 1 AFW pumps by substantially

reducing the allowable out-of-service times. Since overall AFW reliability improvement would result, neither the probability of accidents resulting from AFW failure would increase nor would the consequences of accidents requiring AFW mitigation be more severe. No new or different type of accident would be created since there are no changes proposed in AFW operating modes. Finally, since the availability of AFW would improve, safety margins would increase for accidents that require AFW mitigation. Accordingly, the Commission proposes to determine that the proposed change to Unit 1 TS 3.7.1.2 involves no significant hazards considerations.

The licensee has also proposed a change to Unit 2 TS 3.7.1.2c which specifies remedial action to be taken when AFW components are inoperable for the purpose of testing. The wording of TS 3.7.1.2c would be changed to allow more than one AFW pump to be inoperable for the purpose of logic testing. For example, testing of the AFW automatic actuation system requires that two of three AFW pumps be momentarily made inoperable. This proposed change is consistent with the Unit 1 TS.

The proposed change to Unit 2 TS 3.7.1.2c would only insignificantly decrease the availability of the AFW system. Moreover, the existing TS 3.7.1.2c requires a dedicated operator to be stationed at the AFW pumps (with direct communication to the control room) to promptly restore full AFW capability in the event of an accident. For this reason, we conclude that neither the probability of accidents resulting from AFW failure would increase nor would the consequences of accidents requiring AFW mitigation be more severe. No new or different type of accident would be created since there are no changes proposed in AFW operating modes. Finally, since the availability of AFW would not be significantly reduced, safety margins would not be reduced for accidents requiring AFW mitigation. Accordingly, the Commission proposes to determine that the proposed changes to Unit 2 TS 3.7.1.2c involve no significant hazards considerations.

The licensee has proposed the following changes to the Unit 1 and Unit 2 TS 3/4.7.1.2:

- Delete the note addressing Unit 1, Cycle 7, system inoperability. This note is no longer applicable.
- Correct the spelling of "standby" in a note in the Unit 2 TS. This change would correct a typographical error.
- Correct the spelling of "characteristics" in the Unit 1 TS. This

change would correct a typographical error.

- Add the word "and" to a Unit 1 surveillance requirement. This change would correct a clerical error.
- Add a close parenthesis to a Unit 2 surveillance requirement. This change would correct a clerical error.

These proposed changes are minor in nature and do not affect the AFW system or related analyses and are administrative in nature. One example provided in 48 FR 14870 of amendments not likely to involve significant hazards considerations is example (i) which provides for "A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." These minor changes to the AFW TS are consistent with this example. Accordingly, the Commission proposes to determine that these changes to TS 3/4.7.1.2 involve no significant hazards considerations.

Local Public Document Room
location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Carolina Power & Light Company,
Docket Nos. 50-325 and 50-324,
Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment:
December 10, 1984, as supplemented
June 28, 1985.

Description of amendment request:
The proposed amendments would revise the Technical Specifications (TS) to accomplish the following:

(1) Make changes to properly reflect the direct current (DC) system design at the Brunswick (BSEP) facilities. The DC system designed at BSEP consists of four 125 Vdc batteries and chargers per unit. Each of the 125 Vdc batteries and its associated charger provide 125 Vdc control and instrumentation power for various safety-related and balance of plant (BOP) loads. Two of the batteries and their associated chargers are connected to form the Division I 250 Vdc power supply. The other two form the Division II 250 Vdc power supply. Therefore, an inoperable battery and/or an inoperable charger renders the 250V division inoperable. BSEP has been analyzed for the loss of one DC division. Results from this analysis reflect that sufficient emergency core cooling

system (ECCS) equipment is maintained to mitigate the postulated events.

Because the system has been analyzed for a complete loss of one division, the 7-day limiting condition for operation (LCO) is applicable regardless of the number of inoperable batteries and/or chargers in the one division.

(2) Provide for an orderly shutdown upon loss of both DC divisions. Loss of more than one division of DC power per unit could result in less than the minimum ECCS requirements. Therefore, an orderly shutdown of the unit is warranted with both DC divisions declared inoperable. When one or more batteries and/or its associated charger in both divisions is declared inoperable, the action statement requiring hot shutdown is applicable.

(3) Provide a means to verify that not more than two 37.5 KVA power conversion modules are aligned to the "B" division bus. The "B" Division Batteries provide the normal feed to the Lighting and Communication Inverter for its respective unit. It also provides the alternate feed to the Plant uninterruptible power supply (UPS) (normally fed from "A" Division) and the opposite unit reflects that the resultant value of all three of the 37.5 KVA power conversion modules aligned to the "B" Division Batteries during the design basis accident (DBA) would exceed the 916 ampere value. Therefore, a restriction will be placed to allow a maximum of two inverters (one Plant UPS and one Lighting and Communications Inverter) or (Both Lighting and Communications Inverters) to be fed from the "B" Division Batteries at the same time.

(4) Update the operability surveillance requirements. The present surveillance requirements to determine the battery's operability status are not as conservative as those specified in the Standard Technical Specifications. Because the present Technical Specifications are not within the battery manufacturer's recommended limits, adoption of the Standard Technical Specification surveillance requirements 4.8.2.3.2.a and 4.8.2.3.2.b is warranted. These surveillance requirements are within the battery manufacturer's recommended limits.

(5) Revise the test values and test duration based on the new DC load study. Carolina Power & Light Company (CP&L) has performed a detailed DC system load study. The study reflects that the 1-minute loading values are less than the 916 ampere maximum value. The first 1-minute duty cycle profiles were formulated in accordance with the IEEE-485-1983, IEEE-308-1971 and other BSEP-committed design codes and

standards. Therefore, the recommended test values of 916 amperes for the first 60 seconds of the profile test, adequately demonstrate the battery's capability to supply the worst case ampacities if required. By design, the Class 1E chargers will supply the DC load after the diesel generators reenergize the AC buses, approximately 10 seconds after the loss of off-site power. However, the battery's ability to supply the ampacities, without charger support will be demonstrated. This testing serves as an early warning of degradation between the required 60-month discharge capacity testing. The recommended test values for the remainder of the first 30 minutes and the remainder of the 4-hour test are greater than duty cycle profile ampere values. The total test time of 4 hours was selected as an adequate time to notice any signs of degradation. The 18-month test is to demonstrate the battery's ability to handle the duty cycle, profile discharge rates, rather than the ampere-hour capacity of the battery. Revisions made to the 30-minute and 4-hour test capacities are more restrictive.

(6) Allow performance of the 60-month discharge test to supersede the battery service test to be consistent with the Standard Technical Specifications (NUREG-0123).

(7) Provide a new table for the parameters to which the surveillance requirements of Section 4.8.2.3.2 must be performed.

(8) Provide limiting conditions for operation and surveillance requirements for distribution. The present TS treat the 125/250 Vdc system as a unitized system. The 250 Vdc divisions are not shared, while certain circuits of the 125 Vdc divisions are.

The 125 Vdc divisions are shared between units, because they provide 125 Vdc control power for the on-site Class 1E AC Power Distribution System. The on-site Class 1E AC Power Distribution System is shared between units in that three of the four AC divisions between the two units are required to maintain the minimum ECCS requirements. When the DC control power for diesel generators, 4160V emergency buses, 480V emergency buses, or electronic switching system (ESS) logic cabinets is transferred to its alternate source, a single failure to the DC system could make two of the four AC divisions inoperable.

The LCOs placed on both units when a transfer has been affected limits the amount of time the units are allowed to operate with the transfer in place. The surveillance requirements on these circuits will provide control of the

transfers and provide added assurance of DC power availability.

(9) To include associated administrative changes, such as update the index, change format, renumber certain items and renumber certain pages.

Basis for proposed no significant hazards consideration determination: Item 1 reflects the DC system design of BSEP which has been analyzed for the complete loss of one division, i.e., at least one battery plus the associated chargers. The proposed change is within this analyzed loss and is more restrictive.

Item 2 requires an orderly shutdown with no delay time if a battery and charger in each division is inoperable. Formerly, there was a delay time of 3 days to restore operability before shutdown was required. This is a more restrictive condition.

Item 3 permits only two 37.5 KVA power conversion modules to be aligned to the "B" Division Batteries rather than three. This is a more restrictive condition.

Item 4, the present surveillance requirements, are revised to conform to the Standard Technical Specifications (NUREG-0123). This is a more restrictive condition.

Item 5 represents some more restrictive requirements but also includes a less restrictive surveillance requirement because the 60-second load profile test has been reduced from values ranging from 1040 amps for some batteries to 1212 amps for the top value of battery 1A2, to a constant value of 916 amps for all batteries and the 8-hour load profile test has been reduced to 4 hours. However, based on the detailed load study, the first 1-minute loading values are less than the 916 amp maximum value and can supply the worst core ampacities.

Item 6 permits the 60-month discharge test to supersede the battery service test. The 60-month test is a more restrictive test.

Item 7 provides new parameters to which the surveillance test in TS 4.8.2.3.2 must be performed. These parameters are more restrictive than before and are also consistent with the Standard Technical Specifications (NUREG-0123).

Item 8 provides control and limits the time the unit is allowed to operate when the DC control power is transferred to its alternate source. This is a more restrictive limiting condition for operation.

Item 9 includes the remaining items which are administrative in nature.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e., example (i), relates to purely administrative changes to the Technical Specifications, for example to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature. Another of the examples of actions involving no significant hazards considerations, i.e., example (ii), relates to a change that constitutes an additional limitation, restriction or control not presently in the Technical Specifications.

Item 9 is in the category of example (i). Items 1, 2, 3, 4, part of 5, 6, 7 and 8 are in category (ii).

Item 5 also contains some limits that are less restrictive. Based on the above discussion of Item 5, the staff concludes that this item will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because, although the limits are less restrictive, the profiles were in accord with IEEE-485-1983, IEEE-308-1971 and other BSEP-committed design codes. In addition, the Class 1E chargers will supply the DC load from the diesel generators about 10 seconds after a loss of off-site power.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new mode of plant operation and no physical modifications are required to be performed to the plant.

(3) Involve a significant reduction in a margin of safety. It is anticipated that any reduction in the margin of safety would be insignificant for the same reason given in (1) above.

Based on the above evaluation, the staff finds that the criteria for a no significant hazards consideration determination, as set forth in 10 CFR 50.92(c), are met. The staff has, therefore, made a proposed determination that the proposed amendment involves no significant hazards consideration.

Local Public Document Room
location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

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NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company,
Docket Nos. 50-325 and 50-324,
Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment:
June 18, 1985.

Description of amendment request:
The proposed amendments would change Technical Specification (TS) Table 3.3.5.8-1 by 1) deleting the requirements for radioactivity monitors on the individual branches of the Reactor Building Component Cooling Water (RBCCW) (Service Water) System and 2) revising applicability condition note "****" to reflect the correct plant configuration. Both of these changes represent limiting conditions for operation (LCO) for equipment which was included in the TS on the basis of future plans for modifications. The modifications were part of the radiological environmental effluent review of the facilities and the current version of these TS was included as part of Amendment Nos. 62 and 88, dated December 27, 1983. The main service water effluent monitor is operable and is controlled by the TS. The monitor on the individual branches of the service water system has not been installed and change 1) above represents the licensee proposal not to install it. The stabilization pond effluent sampler and effluent flow measuring device have both been installed and change 2) and above represents the fact that they are now operable.

The stabilization pond effluent sampler and the stabilization pond effluent flow measuring device, both of which were part of the radiological environmental effluent review approved by our Safety Evaluation dated December 27, 1983, are now installed and operational. The related limiting condition of operation would be incorporated into the TS and this represents an additional limitation not currently in the TS.

The Service Water System provides cooling for Residual Heat Removal (RHR) Heat Exchangers A and B, Reactor Building Component Cooling Water Heat Exchangers, and RHR Division I and II Pump Seal Coolers. Table 3.3.5.8-1 of the TS indicates that effluent radiation monitors will be located on each of the components identified above. The purpose of this license amendment is to delete the reference to these five monitors.

The basis for the conclusion that these radioactivity monitors are not necessary is demonstrated by the following:

(1) Potential radioactivity level in the service water effluent is detected by the

main service water effluent monitors. These instruments are equipped with alarm setpoints, which are calculated in accordance with the Offsite Dose Calculation Manual (ODCM), to ensure the alarm will occur prior to exceeding limits set forth in 10 CFR 20. The operability and use of this instrumentation is consistent with General Design Criteria 60, 63 and 64 of Appendix A to 10 CFR 50.

(2) Procedures have been developed such that, if the main service water effluent monitor alarms, the source of contamination can be located by grab sampling at each component.

(3) As required by TS 3.3.5.8, during periods that the service water effluent radioactivity monitor is inoperable, service water samples are taken once per 12 hours and analyzed using gamma spectroscopy.

These service water radiation monitors were included in the Brunswick Technical Specifications as part of the Radiological Effluent Technical Specifications contained in NUREG-0473. The intent of NUREG-0473 specification 3.3.7.11 is to ensure compliance to 10 CFR 20 liquid effluent radioactivity limits. For the above reasons, the existing main service water effluent radioactivity monitors meet this intent. In addition, the installation of the service water monitor on each of the above-mentioned components is not cost-effective.

Basis for proposed no significant hazards consideration determination:
The NRC staff has reviewed this request and determined that the proposed amendments do not increase the probability or consequences of an accident previously evaluated, or create the possibility of a new accident as no physical alteration of plant configuration or changes to setpoints or operating parameters is involved. This change deletes the reference to radiation monitors that were to be added to the radioactive liquid effluent monitoring system. Because the RBCCW service water effluent is adequately monitored with the existing main service water effluent monitor, no reduction in a margin of safety is involved. This change also involves an increased control of effluents by adding a new limiting condition of operation for the stabilization pond. Based on the above reasoning, the staff has determined that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create a new or different kind of accident from any accident previously evaluated; or (3)

involve a significant reduction in a margin of safety. Therefore, the staff proposes that the amendments do not involve a significant hazards consideration.

Local Public Document Room
location: Southport, Brunswick County, Library, 109 W. Moore Street, Southport, North Carolina 28461.

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NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company,
Docket Nos. 50-325 and 50-324,
Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment:
July 1, 1985.

Description of amendment request:
The proposed amendment would revise the Technical Specifications (TS) to change the surveillance requirements for the Reactor Protection System Instrumentation and the Control Rod Withdrawal Block Instrumentation as given in Table 4.3.1-1 and 4.3.4-1 of the Brunswick-1 and Brunswick-2 TS.

At specified intervals and/or prior to each reactor startup, the monitors associated with the Control Rod Withdrawal Block and the Reactor Protection System are required to have channel functional tests performed. However, when the Reactor Mode Switch (RMS) is in the shutdown position, existing circuitry in the RMS prohibits testing of some of these instruments. In order to perform the channel functional test on these instruments without excessive circuit jumping, this TS change would allow the RMS to be temporarily placed in a position other than that corresponding to the actual plant Operational Condition (OC). It should be noted that no change in the actual plant operation condition, will occur, only a change in the position of the RMS. Instruments affected by these proposed changes are identified as Items 2.a and 2.b of TS Table 4.3.1-1 and Items 1.b, 1.d, and 4.a of TS Table 4.3.4-1.

A similar condition exists for other instruments associated with the Control Rod Block and Reactor Protection System when the plant is in OC 1 (Run). Section 4.0.4 of the TS prohibits entry into an operational condition unless all Surveillance Requirements associated with the Limiting Conditions for Operation (LCO) applicable to the OC to be entered have been performed within the applicable surveillance interval or as otherwise specified. Therefore, in order

to enter OC 2 (Startup/Hot Standby) from OC 1, the surveillance tests required for OC 2 must be performed. However, the channel functional test circuitry of some instrumentation is bypassed when the RMS is in the RUN position, thereby prohibiting performance of the channel functional test. The proposed TS change would allow for performance of the required surveillance test to be completed within 12 hours of entering OC 2 from OC 1 for the affected instruments. Instruments affected by this change are identified as Items 1.a and 1.b of TS Table 4.3.1-1 and Items 1.d, 3.a, 3.c, and 3.d of TS Table 4.3.4-1.

In addition to the changes described above, a weekly channel functional test is added to the Neutron Flux-High trip function of the Intermediate Range Monitors (IRM) during OC 2 (Item 1.a, Table 4.3.1-1). This ensures that the trip function is periodically tested during extended unit operation in OC 2 (greater than 7 days). This surveillance requirement is currently in effect for the IRM inoperative trip function and is consistent with the Standard Technical Specification (NUREG-0123).

Basis for proposed no significant hazards consideration determination:
We have reviewed this request and determined that the proposed amendment does not increase the probability or consequences of an accident previously evaluated as there is no physical alternation of the plant configuration or changes to setpoints or operating parameters. The operational condition of the plant is based on RMS position and average reactor coolant temperature. The RMS position controls only the logic circuitry of the plant; none of the other parameter dictating an OC will be varied when performing the required channel functional test.

Our review also verified that the proposed amendment does not create the possibility of a new kind of accident because the control rods will be fully inserted and remain so until all LCOs are met for the performance of required surveillance during Startup/Hot Standby, Shutdown or Refueling modes. Also, performing a channel functional test in the actual logic configuration in which the components will be required during the surveillance addressed by this request is preferable to the extensive use of jumpers currently employed to accomplish the channel functional test.

The addition of footnote (d) to Items 1.a and 1.b of Table 4.3.1-1 and to Items 1.d, 3.a, 3.b, 3.c, and 3.d of Table 4.3.4-1 allows for performance of the required surveillance within 12 hours of entering OC 2 from OC 1. This change is consistent with existing allowances for

the APRMs and IRMs in the respective tables and does not constitute a significant change in a margin of safety.

Based on our review of the amendment request and the above discussion, the Commission proposes to determine that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Therefore, this request involves no significant hazards consideration.

Local Public Document Room
location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

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NRC Branch Chief: Domenic B. Vassallo.

Commonwealth Edison Company,
Docket Nos. STN 50-454 and STN 50-455, Byron Station, Units 1 and 2, Ogle County, Illinois

Date of application for amendment: June 26, 1985.

Description of amendment request:
The amendment would revise the Technical Specification Section 6.12.2. The proposed change would allow personnel to enter areas with radiation levels greater than 1000 mR/h during certain emergencies without an approved Radiation Work Permit (RWP). During emergency situations involving personnel injury or potential damage to major equipment, the proposed change would allow for continuous surveillance and radiation monitoring of the area by a qualified individual in lieu of an approved RWP.

Basis for Proposed No Significant Hazards Consideration Determination:
Based on the three criteria in 10 CFR 50.92 for defining a significant hazards consideration, operation of Byron Station, Units 1 and 2, in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The probability of an accident previously evaluated remains unchanged since the proposed change only involves an administrative control associated with radiation protection or workers. The consequences of an accident previously evaluated also remain unchanged since the offsite doses that have been

predicted for previously evaluated accidents will remain unchanged.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because radiation protection for workers will still be in effect. The proposed change allows for an alternate means of providing radiation protection for workers during certain emergencies.

(3) Involve a significant reduction in a margin of safety because the administrative radiation exposure limits for workers are not affected by this change.

Therefore, the staff proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room
location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

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NRC Branch Chief: B.J. Youngblood.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Benton County, Illinois

Date of application for amendments: June 28, 1985.

Description of amendments request: These amendments would modify Sections 3.22, 4.22, and 6.5.B of the Technical Specifications. These changes are being submitted in order to convert these Sections to the Standardized Technical Specification's content. In all categories, with the exception of hydraulic snubber visual inspection and functional testing, the proposed Technical Specifications will impose additional restrictions that are not included in the present Technical Specifications.

While the proposed programs for hydraulic snubber visual inspections and functional testing have not been significantly altered, the acceptance criteria for these activities have been more closely defined. Thus, these constraints also constitute an additional control not included in the present Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission's examples of actions involving no significant hazards consideration (48 FR 14870) include: (ii) a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

The above changes to Sections 3.22, 4.22 and 6.5.B all involve additional

restrictions or controls that are not included in the present Technical Specifications, and fit example (ii).

The staff therefore proposes that these amendments do not involve significant hazards consideration.

Local Public Document Room
location: Zion-Benton Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Attorney for licensee: P. Steptoe, Esq., Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Branch Chief: Steven A. Varga.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: December 12, 1984, as supplemented June 27, 1985

Description of amendment request: Regarding the request for amendment dated December 12, 1984, the Commission has issued a proposed no significant hazards determination on February 27, 1985 (50 FR 7986). The June 1985 request, however, expands the scope of the December 1984 request as follows:

The expanded scope of the proposed amendment would revise applicable specifications to allow the use of the Low Head Safety Injection (LHSI) pumps with an open Reactor Collant System (RCS) vent of 3.14 square inches in place of a charging pump when in Modes 5 and 6. Applicable surveillance requirements would be added to require demonstration of LHSI pump operability and verification of an open vent when used in place of the charging pump. The Mode 5 and 6 Action statement would also be revised to specify action to be taken when no charging pump or LHSI pump is operable. The Bases would be revised to provide justification for using a LHSI pump in place of a charging pump.

The use of the LHSI pumps in conjunction with an open RCS vent in lieu of a charging pump when in Modes 5 and 6 will allow the removal of the latter from service for inspection, modification or maintenance.

Basis for proposed no significant hazards consideration determination: Modes 5 and 6 refer to cold shut down refueling, respectively. The requested amendment would permit use of either the charging pump or the LHSI pumps during these modes. Therefore, the plant would continue to have the capability to provide reactivity control and coolant makeup, via use of either type of pumps. On such basis, we conclude that the proposed amendment, as described in the June 27, 1985 submittal, would not

involve any significant increase in the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different kind of accident previously analyzed, and would involve no reduction in the margin of safety. We, therefore, propose to characterize the proposed amendment as involving no significant hazards consideration.

Local Public Document Room
location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 28, 1985, as supplemented May 5, and June 14, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) in the following areas: (1) Standby Gas Treatment System (SGTS) and Control Room Ventilation System flow and operability requirements; (2) Reactor Vessel Water Level trip settings; (3) clarification of Refueling Interlock requirements; (4) deletion of Equipment Qualification (EQ) program deadline date; and (5) correction of typographical errors and other editorial changes.

(1) **SGTS and Control Room Ventilation System.** The proposed changes to the SGTS and control room ventilation system TS would revise the limiting conditions for operation (LCO) for each system to specify the numerical values for design flow rate for filter bypass limits, flow velocity for filter effectiveness limits, and system fan capacities. At present, the numerical values for these parameters are not provided in the system LCOs. The proposed change would also add the numerical value of reactor building pressure that must be obtained from SGTS operation. The current SGTS LCO does not address this requirement. In addition to the above, wording changes are proposed to clarify the Bases section for both the SGTS and the control room ventilation systems.

(2) **Reaction Vessel Water Level Trip.** The proposed amendment would change the containment isolation trip setting for the reactor water sample valves from reactor low-low water level (greater than or equal to -37 in.) to reactor low-low water level (greater than

—145.5 in.). This change is reflected in the Notes to Table 3.2.A, "Primary Containment and Reactor Vessel Isolation Instrumentation." This change is proposed to permit closure of the reactor water sample valves on the same signal that is used to close the main steam isolation valves (MSIV). The use of the reactor low-low-low water level trip for MSIV closure was previously found to be acceptable in the NRC letter dated March 4, 1983 which issued Amendment No. 83 to the Cooper Nuclear Station Facility Operating License.

In conjunction with the above proposed change, the licensee also proposes to delete the entry for reactor low-low water level instruments from Table 3.2.A. With the change of trip setting for the reactor water sample valves from the low-low level to the low-low-low level, the low-low level instrumentation would not be used for any containment or reactor vessel isolation function and can be deleted from the table. In addition to the above, changes are proposed to clarify the Bases section for the primary containment isolation functions.

(3) *Refueling Interlock Requirements.* This proposed change would revise an LCO for refueling interlocks during core alteration operations. The objective of core alteration LCOs is to ensure that core reactivity is within the capability of the control rods and to prevent criticality refueling.

The current TS permit any number of control rods to be withdrawn or removed from the reactor when the reactor mode switch is locked in the "refuel" position and certain conditions are satisfied. That is, the refueling interlock, which prevents more than one control rod from being withdrawn, may be bypassed with one control rod withdrawn provided: (a) The fuel assemblies in the cell controlled by that control rod have been removed from the core and (b) all other refueling interlocks are operable. The proposed amendment would revise the latter condition to state that all other refueling interlocks shall be operable when fuel is present in the reactor vessel. The current requirement is for all other refueling interlocks to be operable whether fuel is present in the core or not. The intent of the proposed change is to bring this section of the TS into conformance with the Standard Technical Specifications for Boiling Water Reactors.

(4) *Equipment Qualification Program Deadline.* The administrative controls section of the current TS specifies a deadline of June 30, 1982 for the environmental qualification of all

safety-related electrical equipment at Cooper Nuclear Station (CNS). However, this deadline is no longer applicable and has been removed by the NRC from the final rule governing equipment qualification, 10 CFR 50.49. Effective November 19, 1984, 10 CFR 50.49(g) was revised (49 FR 45571) to include the following statement: "The schedule in this paragraph supersedes the June 30, 1982 deadline, or any other previously imposed date, for environmental qualification of a electric equipment contained in certain nuclear power operating licenses." Therefore, since the equipment qualification program at CNS is subject to the schedule in 10 CFR 50.49, the licensee proposes to delete the June 30, 1982 date from the TS.

(5) *Correction of Typographical Errors and Other Editorial Changes.* The proposed amendment would correct typographical errors in the TS sections related to the standby liquid control system (Section 4.4) and the reactor core isolation colling system (Table 4.2.B). In addition, the licensee proposes to modify the administrative section of the TS to improve readability and understanding. These changes involve a condensation of the material to delete gaps in the administrative section pages. The content of the material would remain completely unchanged, e.g., there would be no deletions, wording modifications, syntax or sequence changes.

Basis for proposed no significant hazards consideration determination:
(1) *SGTS and Control Room Ventilation System.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e., example (ii), related to a change that constitutes an additional limitation, restriction or control not presently in the Technical Specifications. The proposed change, by adding absolute numerical values for design flow rates and flow velocities and by specifying a value for reactor building pressure, results in more restrictive LCOs for the SGTS and control room ventilation system. The proposed change is therefore, similar to example (ii) above. The Commission therefore proposes to determine that this action involves no significant hazards considerations.

(2) *Reactor Vessel Water Level Trip.* The licensee submittal of June 14, 1985 provided an evaluation of the proposed action and a basis for a proposed no significant hazards consideration. The licensee's proposed determination is

based on a previously-submitted accident analysis discussed below.

The accident of concern for the proposed change is radiation release through the reactor water sample lines for a break in the line outside primary containment. Lowering the setpoint for isolation of this line has the potential for an increased inventory loss through the line and increase in the off-site radiation dose. This accident was analyzed to support lowering the trip setpoint to —145.5 inches for closure of the MSIVs. General Electric (GE) Company report DEFE-22223 was submitted by licensee letter dated December 17, 1982 to support the TS change to lower the MSIV trip setting. The analysis showed that the 3/4-inch reactor water sample valves represent 0.04 percent of the flow area for the main steam lines. Consequently, the analysis demonstrated that the increase in the amount of inventory loss through the reactor water sample lines at the lower trip setpoint would be insignificant and would not affect the calculated radiation doses.

Based on the above, the licensee concluded that the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because an analysis shows no increase in calculated radiation dose compared to the existing trip setting of —37 inches. This appears to be a reasonable result in view of the small size of the reactor water sample lines.

(2) Create the possibility for a new or different kind of accident from any accident previously evaluated because the calculated radiation dose is not affected and previous accident analyses remain bounding.

(3) Involve a significant reduction in the margin of safety because the increased inventory loss is insignificant compared with that from a main steam line break outside containment which has been previously evaluated and approved by the NRC. The calculated radiation dose is shown by the licensee's analysis to be unaffected by the proposed change.

Based on the above evaluation, the staff finds that the criteria for a no significant hazards consideration as set forth in 10 CFR 50.92(c) are met. The staff has, therefore, made a proposed determination that the proposed amendment involves no significant hazards consideration.

(3) *Refueling Interlock Requirements.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing

certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e., example (vi), relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (SRP). The proposed change, by specifying conditions for removal of refueling interlocks could, in some way, result in a reduction of a safety margin. However, the revised requirements would be consistent with NUREG-0123, the Standard Technical Specifications (STS). Since the STS serve as the basis for assessing conformance to SRP Chapter 16 and the change is consistent with the STS, this change is encompassed by example (vi). The Commission therefore proposes to determine that this action involves no significant hazards consideration.

(4) Equipment Qualification Program Deadline and

(5) Correction of Typographical Errors and Other Editorial Changes. The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e., example (i), relates to purely administrative changes to the Technical Specifications, for example to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature. The proposed deletion of the equipment qualification program deadline date represents a correction to the TS. This date has been superseded by the revised schedule in 10 CFR 50.49(g). This change is a purely administrative change as are the correction of typographical errors and other editorial changes of this proposed amendment. These proposed revisions are therefore encompassed by example (i) cited above. On this basis, the Commission proposes to determine that these changes involve no significant hazards consideration.

Local Public Document Room
location: Auburn Public Library, 118
15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit 2, New London County, Connecticut

Date of amendment request: June 11, 1985.

Description of amendment request: The proposed change to the Technical Specifications (TS) would eliminate the 18-month battery service test during every 60th month, since the more stringent performance discharge test is performed at that time. The present TS requires a performance discharge test once every 60 months to demonstrate battery capacity. The performance discharge test is performed subsequent to satisfactory completion of the required 18-month battery service test. The proposed change would eliminate the battery service test when the 60-month battery discharge test is performed. The battery discharge test is sufficient to demonstrate that the battery meets design requirements. The elimination of the battery service test when the discharge test is performed reduces unnecessary testing and will contribute to the battery life expectancy. The proposed change also conforms to Revision 4 of Westinghouse PWR Standard Technical Specifications (NUREG-0452, Revision 4, Section 4.8.2.1.e).

Basis for proposed no significant hazards consideration determination: Based on the above information, we conclude that the proposed Technical Specification change allows the more stringent performance discharge test to be used in lieu of the 18-month battery service test, thus eliminating unnecessary testing that would result in reduced battery life expectancy. Therefore, the proposed change would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Accordingly, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room
location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: Edward J. Butcher, Acting.

Pennsylvania Power & Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: November 26, 1984.

Description of amendment request: In the November 26, 1984 submittal the licensee requested a change to License Conditions 2.A and 2.B(2) of NPP-14.

These License Conditions presently read:

2.A. This license applies to the Susquehanna Steam Electric Station, Unit 1, a boiling water nuclear reactor and associated equipment (the facility), owned by the licensee. The facility is located in Luzerne County, Pennsylvania, and is described in the licensee's Final Safety Analysis Report as supplemented and amended through Amendment 48, and the licensee's Environmental Report as supplemented and amended through Amendment 48.

2.B.(2) PP&L, pursuant to the Act and 10 CFR Part 70, to receive, possess, and use at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor-operation, as described in the Final Safety Analysis Report, as supplemented and amended through Amendment 48.

The licensee has proposed to modify this wording such that the specific amendment number of the Final Safety Analysis Report (FSAR) and Environmental Report (ER) not be included in the License Conditions. For example: 2.A would read:

in the licensee's Final Safety Analysis Report as supplemented and amended, and the licensee's Environmental Report as supplemented and amended.

Basis for Proposed No Significant Hazards Consideration Determination: At the time of issuance of the Susquehanna Unit 1 license, it was determined that in order for the licensee to be explicitly committed to the FSAR and ER accepted at the time of licensing the specific amendment numbers to FSAR and ER ought to be reflected in the License Conditions. Subsequently the staff has found that this initial determination causes an unnecessary restriction or the licensee without any contribution to overall safety. The licensee's proposal for Unit 1 is consistent with the as issued license conditions contained in the Unit 2 license. The basis for the licensee's proposal is 10 CFR 50.71(e) which states:

the updated FSAR shall be revised to include the effects of: all changes made in the facility or procedures as described in the FSAR; all safety evaluations performed by

the licensee either in support of requested license amendments or in support of conclusions that changes did not involve an unreviewed safety question; and all analyses of new safety issues performed by or on behalf of the licensee at Commission request.

This regulation provides assurance that any FSAR change will be reviewed by the utility via the safety evaluation process and that any changes that result in a safety question not previously reviewed and approved by the staff shall be submitted at that time to the staff for review and approval. In addition 10 CFR 50.59(b) requires the licensee to maintain records that shall include a written safety evaluation which provides the bases for the determination that the change, test or experiment does not involve an unreviewed safety question. Additionally the staff finds the inclusion of the specific amendment number for the ER to be unnecessary as the licensee is not required and does not update the ER subsequent to licensing but is accountable for and abides by the plant specific Environmental Protection Plan.

In view of the present requirements, incorporation of specific FSAR and ER amendment numbers in License Conditions 2.A and 2.B(2) serves no useful purpose. Deletion of these FSAR and ER amendment numbers from these License Conditions thus would not: (1) Significantly increase the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) significantly reduce a margin of safety. On this basis, the staff proposes to determine that this license amendment does not involve significant hazards considerations.

Local Public Document Room
Location: Osterhout Free Library,
Reference Department, 71 South
Franklin Street, Wilkes-Barre,
Pennsylvania 18701.

Attorney for Licensee: Jay Silberg,
Esquire, Shaw, Pittman, Potts &
Trowbridge, 1800 M Street NW.,
Washington, D.C.

NRC Branch Chief: Walter R. Butler.

Pennsylvania Power & Light Company,
Docket Nos. 50-387 and 50-388,
Susquehanna Steam Electric Station,
Units 1 & 2, Luzerne County,
Pennsylvania

Date of amendment request: June 24,
1985.

Description of amendment request:
The NRC staff in NUREG 0737 Item
III.D.1.1 required the establishment of
the leakage reduction program outlined
in Technical Specification 6.8.4a. The
present listing in the Technical

Specifications is not complete. The licensee has proposed to change the Technical Specifications to add the Residual Heat Removal and Post Accident Sampling Systems to the listing of "Primary Coolant Sources Outside Containment" in Technical Specification 6.8.4a in order to complete the listing and accurately reflect that contained in the FSAR Section 18.1.69.

Basis for Proposed No Significant Hazards Consideration Determination:
The licensee in his letter dated June 24, 1985, stated that the proposed change does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new and different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in margin of safety. The NRC staff agrees with the licensee's evaluation in this regard and proposes to find the proposed change to not involve a significant hazards consideration.

The Commission has provided guidance concerning the application of the no significant hazards consideration standards by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration, example (ii), is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. Since the licensee has proposed to add systems subject to controls and requirements to the Technical Specifications, the staff proposes to find that this change does not involve a significant hazards consideration as it is encompassed by the example (ii).

Local Public Document Room
Location: Osterhout Free Library,
Reference Department, 71 South
Franklin Street, Wilkes-Barre,
Pennsylvania 18701.

Attorney for licensee: Jay Silberg,
Esquire, Shaw, Pittman, Potts and
Trowbridge, 1800 M Street, NW.,
Washington, D.C. 20036.

NRC Branch Chief: W. Butler.

Public Service Electric and Gas
Company, Docket Nos. 50-272 and 50-
311, Salem Nuclear Generating Station,
Unit Nos. 1 and 2, Salem County, New
Jersey

Date of amendments request: October
15, 1984.

Description of amendments request:
The amendments request would change
the APPLICABILITY Section of
Technical Specification 3.4.1.2 for Unit
No. 1, and 3.4.2 for Unit 2, Safety Valves
to read as follows:

"APPLICABILITY: MODE 4 when the
temperature of all RCS cold legs is
greater than 312°F."

Remove the reference to the
Overpressurization Protection System
from the Safety Value Technical
Specification Bases for Unit No. 2.

Basis for proposed no significant hazards consideration determination:
The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include changes which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (Example vi).

Technical Specification 3.4.9.3 requires that an Overpressure Protection System shall be OPERABLE when the temperature of one or more of the RCS cold legs is less than or equal to 312 °F, except when the vessel head is removed. As stated in the Technical Specification Bases, the OPERABILITY of this system ensures that the RCS will be protected from pressure transients which could exceed the limits of Appendix G to 10 CFR Part 50. Previously submitted analyses of the most limiting heat input and mass input transients indicate that the RCS pressure will not exceed the Appendix G curve limit of 460 psig with RCS temperatures above 100 °F. When the Overpressure Protection System is OPERABLE. Based on the results of these analyses, we have determined that the need does not exist for the OPERABILITY of a Pressurizer Code Safety Valve with a lift setting of 2485 psig \pm 1% when RCS cold leg temperature is less than or equal to 312 °F. The results of the change will remain within acceptable criteria with respect to Overpressure Protection Systems specified in Standard Review Plan 5.2.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room
location: Salem Free Library, 122 West
Broadway, Salem, New Jersey 08709.

Attorney for licensee: Conner and
Wetterhann, Suite 1050, 1747
Pennsylvania Avenue, NW.,
Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station Unit 1, Fairfield County, South Carolina.

Date of amendment request: March 15, 1985.

Description of amendment request: The amendment would make administrative changes to Technical Specifications. These administrative changes include a change in a position title, adding listings to the Index for a previously approved amendment, adding clarification to better identify monitoring instruments listed in the surveillance tables, and correcting the design negative pressure differential of the reactor building listed in Technical Specification bases to be in accordance with the Final Safety Analysis Report, which is also a more conservative value.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples (i) relates to administrative changes to Technical Specifications such as a change to achieve consistency throughout Technical Specifications, correction of an error, or a change in nomenclature. The amendment involved here is similar in that it corrects errors in Technical Specifications, updates the Index, and changes and clarifies titles in the Technical Specifications. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia 29218.

NRC Branch Chief: Elinor G. Adensam.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: June 26, 1985.

Description of amendment request: The amendments would modify the Technical Specifications (TS) to revise the definition of "secondary containment integrity". Under the current definition, secondary containment integrity does not exist when any penetration is isolated by only a single valve which is closed and deactivated. (The other valve in the

penetration must be operable). This condition does not permit maintenance on an automatic isolation valve when secondary containment integrity is required. Under the proposed amendment, a secondary containment penetration would be considered to have integrity if one of the two isolation valves serving a penetration is closed and deenergized. This will permit maintenance on the other valve.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). These examples include: (vi) A change which either may result in some increase to the probability of consequence of a previously-analyzed accident or reduce in some way a safety margin, but where the result of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (SRP); for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

If one of two valves in a penetration is made inoperable (for example, to perform maintenance), deactivating the other in the closed position provides integrity for that penetration. The revised definition would be consistent with Section 1.30.a.2 of the BWR Standard Technical Specifications (NUREG-0123) which serves as the basis for assessing technical specification conformance to the SRP. The proposed change is therefore encompassed by example (vi).

Since the application for amendment involves proposed changes that are encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South and Forest, Athens, Alabama 35611.

Attorney for licensee: H.S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Domenic B. Vassallo.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: (1) May 6, 1985. (2) May 21, 1985.

Description of amendment request: (1) Acoustic Monitoring System. Accident monitoring instrumentation is installed at Sequoyah to ensure that sufficient information is available to the operator on selected plant parameters to monitor and assess these variables following an accident. Sequoyah has four separate methods of determining safety valve positions, any two of which are required to be operable at all times. One method is acoustic flow monitors mounted on each safety valve line. The proposed change requires that one of the two required operable indications at all times must be the acoustic monitor system instead of any two of the other available methods. (2) Three loop plant operation. Sequoyah is a four loop plant operation; however, the Technical Specifications were originally issued with provisions for future 3-loop operations. The licensee requests deletion of this aspect of the Technical Specifications because TVA has no plans to pursue approval for this mode of operation. Deletion of this type of operation will eliminate the possibility of a Technical Specifications provision from being inappropriately applied.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The first request does not match any of those examples. However, the staff has reviewed the licensee's request and has determined that identifying the acoustic monitor as one of the two required operable indications of system parameters will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. Rather, the requirement for maintaining the acoustic monitor system operable at all times will increase the margin of safety for plant operations. Significant leakage rates from the safety or relief valves are more readily detected from acoustic devices than from water level indications. The combination of position and leakage flow indications from the valves will enable the operator to more accurately assess plant conditions. The second

request to eliminate 3-loop operational provisions does match example (i) namely, this proposed change is purely an administrative change to the technical specifications because the current provisions are not utilized in the operation of the facility. The Commission proposes to determine that the changes identified in this notice do not involve a significant hazards consideration.

Local Public Document Room
location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Herbert S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11 B33, Knoxville, Tennessee 37902.

NRC Branch Chief: Elinor Adensam.

Virginia Electric and Power Company and Old Dominion Electric Cooperative, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of amendment request: October 15, 1984 and February 14, 1985.

Description of amendment request: The proposed Technical Specification (TS) changes would revise the nominal Intermediate Range (IR) Neutron flux trip setpoint from a presently specified "equivalent to less than or equal to 4×10^{-4} (0.0004) amperes." The maximum allowable setpoint for the proposed IR setpoint of 0.0004 amperes would be 0.0005 amperes which is equivalent to 70 percent of rated thermal power. Because the IR flux detectors are located outside the core, the IR signal has been shown historically to be sensitive to the core loading pattern in use. For example, the high-burnup, low leakage patterns currently in use at North Anna give a different IR detector response than the more traditional type of pattern used for the initial core loadings. In addition, because the detectors do not cover the full core length as do the power range channels, the detector response is also sensitive to the core axial flux distribution. As a result, such effects as varying core burnups or control rod positions also can have a significant impact on the IR channel response. The variability in the channel response has made it difficult to maintain the channels in proper calibration. As a result of these difficulties, the licensee performed a safety evaluation which justifies a change to the Technical Specifications to allow the IR trip setpoint to be specified in terms of a fixed IR current. Upon implementation of this change, the IR trip will be consistent with all of the other reactor trips in that the trip

setpoint specified in the Technical Specifications and reflected in plant operating documents will be expressed in the same units as the channel's indicated output.

A review of the accident analysis provided in Chapter 15 of the North Anna Final Safety Analysis Report (FSAR) confirms that none of the accident analyses take credit for the IR high flux trips for protection or mitigation of accidents. Those accidents which are initiated from powers below permissive P-10 (where the IR trip would be unblocked) include the Hot Zero Power (HZZP) rod ejection event, the uncontrolled rod withdrawal from subcritical, inadvertent boron dilution from hot, cold or refueling shutdown, and excessive heat removal at no load conditions. The review showed that the results and conclusions as stated in the FSAR with respect to these accidents are not impacted in any way by the Intermediate Range channels.

In addition sensitivities studies were performed to assess the effects of varying assumed high power trip setpoints on the analysis of rod withdrawal from subcritical and rod ejection accidents (low power reactivity addition events). In this way a measure of the impact of the proposed IR setpoint on the effectiveness of the redundant protection afforded by the high power trip channels could be made. The results of these studies indicated energy release was increased by a fraction of a percent and peak fuel and clad temperatures increased by only a few degrees.

The significance of these results is that the potential increase in effective flux trip setpoint resulting from the proposed change will have no impact on its contribution to the overall reliability and effectiveness of the reactor protection system.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the no significant hazards consideration by providing certain examples (48 FR 14879). Example (vi) of a no significant hazards consideration involves a change which may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system as specified in the Standard Review Plan. The proposed change as discussed above falls within the scope of example (vi). The changes have been reviewed with respect to the accident analyses in the North Anna FSAR which are in accordance with the acceptance criteria of Standard Review Plan 7.2. Therefore, the staff proposes to determine that the proposed amendment

does not involve significant hazards considerations.

Local Public Document Room
locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: February 7, 1985.

Description of amendment request: The proposed change would allow NA-1&2 to operate at less than 70 percent of full power with a small, positive Moderator Temperature Coefficient (MTC). The present TS do not allow NA1&2 to be brought critical unless the moderator coefficient is negative, except during physics testing. The proposed change would allow a small positive MTC below 70 percent power and would change to a zero (0) MTC at 70 percent power and above. A power dependent MTC was chosen to minimize the effect of the MTC upon accidents initiated from high power levels. Also, normal core physical phenomena result in the MTC becoming more negative as the power level increases. The proposed change would provide a reasonable degree of flexibility in core design and plant operation for future cycles. The proposed change is similar to NRC approved TS for other facilities.

To assess the effect on accident analysis for plant operation with a slightly positive MTC, a safety analysis of transients sensitive to a zero or positive MTC was performed. These transients included control rod assembly withdrawal from subcritical, control rod assembly withdrawal at power, loss of reactor coolant flow, loss of external load, locked rotor, and control rod ejection. The analysis employed a constant moderator temperature coefficient independent of power level. The results of the analysis are therefore conservative, since a positive MTC is precluded by the proposed change for power operations at 70 percent of power and above. Analyses of the transients in Section 15 of the NA-1&2 Updated Final Safety Analysis Report (UFSAR) that are affected by a positive MTC indicated that the analyses meet the

appropriate transient acceptance criteria. In some cases the results showed a small incremental decrease in safety margins. However, in all cases the small increase was enveloped by appropriate safety margins specified in the NA-1&2 UFSAR.

Basis for proposed no significant hazards consideration determination: One of the Commission's examples (48 FR 14870) involving no significant hazards relates to a requested change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan; for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. The proposed change as described above falls within the scope of the Commission's example as stated above. Therefore, the Commission proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting.

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: March 29, 1985 and July 1, 1985.

Description of amendment request: The proposed change would extend the time period that one of the redundant Service Water System (SWS) headers could be out of service. The NA-1&2 Technical Specification (TS) 3.7.4.1 currently limits the time period that one of the SWS headers can be inoperable to 72 hours. The proposed change would extend the allowable time that one header could be out of service from 72 hours to 168 hours provided 3 out of 4 service water pumps and 1 out of 2 auxiliary service water pumps are operable during the 168 hour Limiting Condition of Operation (LCO). In addition, the proposed change is specified as being applicable only for

the period of time that the currently planned SWS mechanical and chemical cleaning of pipe and installation of new discharge headers and spray arrays and refurbishment of the SWS is in progress.

The (SWS) is a common system to both NA-1&2 and is designed for the removal of heat resulting from the simultaneous operation of various systems and components of the two reactor units. There are two independent sources of water that provide the ultimate heat sink for the NA units. These are the Service Water Reservoir and the North Anna Reservoir. The SWS is designed with redundant supply and return headers which are supplied by four service water pumps and two auxiliary service water pumps. Two pumps are required to provide adequate flow for both units during normal operation and design basis accident conditions as specified in the NA-1&2 Updated Final Safety Analysis Report (UFSAR).

In order to evaluate the impact on plant safety resulting from operation of the SWS in an extended 168 hour LCO condition, a probabilistic safety assessment was performed by the licensee. The analysis included: (1) A reliability study of the SWS in normal operation (two main headers operable); (2) a reliability study of the SWS in a 72 hour LCO; and (3) a reliability study of the SWS in the extended 168 hour LCO; and (4) sensitivity studies to investigate the reliability of systems supported by SW and potential changes in system operation or maintenance to enhance SWS reliability.

The analysis was based upon a qualitative and quantitative probabilistic evaluation of the reliability of the SWS. The qualitative system evaluation included the performance of a failure modes and effects analysis which identified potential failure mechanisms and evaluated their consequences in terms of system performance. The quantitative system evaluation consisted of a fault tree analysis of the SWS and applicable support system. The fault tree was analyzed assigning probabilities to the basic events contained in the tree. These were derived from system and component failure data and human error data and models. Industry data sources and NA-1&2 plant-specific operating experience were reviewed to develop the data base for the analysis.

The results of the quantitative analysis of the SWS (pumps and major headers) indicate that the system failure probability increases from 3.2×10^{-5} to 4.0×10^{-5} when the time period for the LCO is extended from 72 hours to 168 hours. This small increase in failure

probability of the SWS due to extension of the LCO condition would result in a negligible increase in overall plant risk. The results of sensitivity cases for investigating the reliability of service water flow to selected systems supported by service water also indicated an increase in failure probability due to extension of the LCO conditions. This increase in failure probability was also judged to be insignificant.

Based on the results of the reliability study, a significant contributor to SWS failures was determined to be pump unavailability due to maintenance. A sensitivity study was therefore performed to evaluate the impact of reducing the maintenance activity on the service water pumps during the extended LCO condition. This pre-condition would limit maintenance activities such that 3 out of 4 service water pumps and 1 out of 2 auxiliary service water pumps are available at the beginning of the extended LCO condition. The result of this action reduces the SWS failure probability for the extended LCO case from 4.0×10^{-5} to 2.0×10^{-5} . The failure probability of the selected systems supported by service water was also investigated for the reduced maintenance case. The result was that the failure probability for service water flow to the supported systems was also reduced for the extended LCO condition.

Based on the results of the probabilistic safety assessment, it was concluded that extension of the LCO time period would result in a negligible increase in risk. The probability of a service water system failure increases from 3.2×10^{-5} to 4.0×10^{-5} when the time period for the LCO is extended from 72 hours to 168 hours. However, since the proposed revision to the TS requires that 3 out of 4 service water pumps and 1 out of 2 auxiliary service water pumps be operable during the extended header outage, the failure probability will be reduced from 4.0×10^{-5} to 2.0×10^{-5} . Therefore, the reliability of the Service Water System for the 168 hour extended LCO condition will be by a small margin increased over that of the 72 hour LCO condition as governed by the current NA-1&2 TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance

with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Based on the probabilistic safety assessment as described above, it was concluded there will be no increase in the probability or consequences of any accident previously analyzed. The reliability of the SWS for the extended 168 hour LCO condition will be increased over that of the 72 hour LCO condition as allowed by the current NA-1&2 TS. In addition, the operation of the nuclear units under the extended LCO does not create the possibility of a new or different kind of accident not previously analyzed. The units are licensed to operate with only one heater operable under current LCO restrictions. This does not change as a result of extending the time period.

Finally, the margin of safety as defined in the bases to any technical specification will not be reduced. The probability of failure of the SWS during the extended LCO has not been increased under the proposed change to the TS.

Therefore, based on the above, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously considered, will not create the possibility of a new different accident from any evaluated previously, and will not significantly reduce a safety margin. On this basis, the NRC staff proposes to determine that the standards for determining that a license amendment involves no significant hazards consideration are met, and that operation of the facility in accordance with the proposed amendment would not involve a significant hazards consideration.

Local Public Document Room
locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hutton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendments request: April 12, 1985.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) by adding Limiting Conditions for Operation (LCOs) and Surveillance Requirements (SRs) for the reactor trip bypass breakers, undervoltage trip logic and shunt trip logic. The proposed changes are in accordance with the NRC Generic Letter 83-28 dated July 24, 1984 which addressed Auto Shunt Trip Modifications and the need for additional testing of Reactor Trip Breakers and associated equipment. To meet the requirements specified in Generic Letter 83-28, the proposed changes to the TS would add LCOs and SRs for reactor trip breakers, undervoltage trip logic and shunt trip logic. Revised LCO's SR's have been added to require reactor trip bypass breaker testing prior to the routine testing of the reactor trip breakers to provide added assurance for the operability of the bypass breaker during the testing of the main breaker. In addition, LCO's and SR's are being added which require operability and surveillance of both the undervoltage and shunt trip logic features.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, Example (ii), is explicitly considered not likely to involve significant hazards. The proposed changes add LCO's, action statements and surveillance requirements for reactor trip bypass breaker, undervoltage trip logic and shunt trip logic as required by the NRC Generic Letter 83-28. Therefore, the proposed change is enveloped by example (ii). Accordingly, the Commission proposes to determine that the changes involve no significant hazards consideration.

Local Public Document Room
locations: Board of Supervisors Office, Louisa County Courthouse, Louisa Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esquire, Hutton, Williams, Gay

and Gibson P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting.

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: April 30, 1985.

Description of amendment request: The proposed changes to the Technical Specifications (TS) would revise the pressure temperature limit curves and accompanying changes to the reactor heatup rate limits and the low temperature overpressure protection Power Operated Relief Valve (PORV) setpoints.

In accordance with TS Section 3/4.4.9 and 10 CFR Part 50, Appendices G and H, pressure-temperature limit curves have been updated to be applied during heatup and cooldown. The updated curves, which are valid through 10 Effective Full Power Years (EFPY), are based on conservative extrapolated vessel irradiation levels which reflect the results of evaluations of the first surveillance capsules removed as part of the Reactor vessel materials surveillance programs for the two units. Measured Cycle 1 flux data derived from these capsules were combined with an analytical study of predicted core power distributions for all cycles up to and including the current operating cycles to project 10 EFPY neutron fluence values. These projected neutron fluences were used to predict the irradiation-induced reference transition temperature (RTndt) increases at 10 EFPY. The increases were calculated on the methodology of Regulatory Guide 1.99, Revision 1, (Effects of Residual Elements on Predicted Radiation Damage to Reactor Vessel Materials). The updated RTndt values are compared to the values currently shown in the Technical Specifications in Table 1. The updated RTndt values were then used to develop revised heatup and cooldown pressure-temperature limits in accordance with the methods of 10 CFR Part 50, Appendix G. The assumptions used to develop the curves are consistent with the currently specified curves with the exception of the reactor coolant heatup rate limit, which was reduced from the current value of 100°F/hr to 60°F/hr. The heatup rate limit specified in TS 3.4.9.1. has been reduced accordingly. The limits include corrections for temperature and pressure measurement uncertainties as well as for the pressure drop from the reactor vessel bellline to the point of pressure

measurement. Updated PROV setpoints for overpressure protection at low reactor coolant temperatures have been developed based on the revised heatup and cooldown limits.

Section 3.4.9.3 of the Unit 1 TS has also been amended to reflect the fact that overpressure protection can also be provided by a pressurizer steam bubble when the temperature of the Reactor Coolant System cold legs is between 320 °F. and 375 °F. A maximum water volume of at least 457 cu. ft. has been selected in such a case to provide at least 10 minutes for operator response in the event of a malfunction resulting in maximum flow from one charging pump.

In summary, revised heatup and cooldown limits and the associated PORV setpoints have been developed to conservatively reflect the effects of irradiation on the North Anna Units 1 and 2 pressure vessel mechanical characteristics through 10 EFPY of operation. The evaluation indicates that all of the acceptance criteria for transient analysis specified in the Updated Final Safety Analysis Report (UFSAR) are met and appropriate safety margins maintained.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

As discussed above, none of the accidents evaluated in the UFSAR will be impacted by the proposed update, neither the probability of their occurrence nor the severity of the consequences will increase. In addition, since the proposed changes only serve to restrict the plant operating envelope, no new accident types or equipment malfunction scenarios are introduced. Finally, while the applicability of the pressure-temperature limit curves has been extended to 10 EFPY, the safety margins have been preserved by reductions in the limits and in the associated low-temperature overpressure protection setpoints.

Therefore, based on the above, the proposed amendments will not result in a significant increase in the probability

or consequences of an accident previously considered, will not create the possibility of a new or different accident from any evaluated previously, and will not significantly reduce a safety margin. Therefore, the NRC staff proposes to determine that the standards for determining that the proposed changes involves no significant hazards consideration are met, and that operation of the facility in accordance with the proposed changes would not involve a significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22912.

NRC Branch Chief: Edward J. Butcher, Acting.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: June 4, 1976 as modified January 28, 1980, October 7, 1983, December 20, 1984 and April 12, 1985

Description of amendment request: The proposed amendments would permit operation after approval of changes to the plant's Technical Specifications (TS) that would assure continued compliance with Appendix I, 10 CFR Part 50, and 10 CFR 50.36a, and 50.34a. These proposed TS are intended to ensure that releases of radioactive material to unrestricted areas during normal operation remain as low as is reasonably achievable. Specifically, the proposed TS define limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring. Additional environmental sampling locations have been added to the present sampling locations. Additional managerial review responsibilities and reporting requirements would be added relating to radioactive releases.

The NRC staff has issued previously its proposed determination that the earlier versions of these amendment requests did not involve a significant hazards consideration (48 FR 38382 at 38430, August 23, 1983, 48 FR 52804 at 52840, November 22, 1983; and 50 FR 7979 at 8011, February 27, 1985).

This newest version of the proposed amendments addresses NRC staff comments on previous submittals. The newest version of these proposed amendments adds definitions for

gaseous and liquid radioactive effluent treatment systems for clarification purposes, modifies Tables 15.7.7-2 and 15.7.7-3 for lower limit of detection and notification levels for I-131 in accordance with staff guidance, and modifies certain operability requirements which have been identified as unnecessary based on the revised cost benefit analysis contained in the April 12, 1985 submittal.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to additional limitations, restrictions or controls not presently included in the technical specification (ii). In the case of the proposed technical specifications, they constitute an additional requirement for monitoring and control of radioactive effluents not presently in the technical specifications and are intended to meet the intent of the Commission's regulations (10 CFR Part 50 Appendix I, 10 CFR 50.34a, and 10 CFR 50.36a) and related staff guidance NUREG-0472). Therefore, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Public Library, 1515 16th Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: April 10, 1985.

Description of amendment request: The proposed amendments provide Technical Specification (TS) changes revising the limiting conditions for operation (LCOS) for reactor coolant pumps. Specifically, they require that at least one reactor coolant pump shall be operating when the reactor is critical; above 10 percent power, both reactor coolant pumps shall be operating; if one reactor coolant pump ceases operating, power shall immediately be reduced below 10 percent; if both reactor coolant pumps cease operating, the reactor shall be shut down and reactor trip breakers opened within 1 hour. Further,

additional limitations have also been provided for reactor coolant pumps with regard to subcritical operation.

Administrative renumbering of several TS was also proposed.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples is example (ii), a change that constitutes an additional limitation, restriction or control not presently in the technical specifications. Another example is example (i), a purely administrative change to the technical specifications.

The licensee's proposed changes involve additional limitations and restrictions relating to reactor coolant pumps required for critical and subcritical operation and administrative renumbering of technical specifications. Therefore, they meet the Commission's examples of actions likely to involve no significant hazards considerations.

Based upon the above, the staff proposes to determine that the amendments involve no significant hazards considerations.

Local Public Document Room location: Joseph P. Mann Public Library, 1515 16th Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: April 26, 1985.

Description of amendment request: The proposed amendments would revise the Technical Specifications to remove the restrictions on movement of loads over the spent fuel pool following crane modification to meet the single failure criteria of NUREG-0612. Surveillance requirements for the auxiliary building crane have also been revised to reflect crane upgrades to meet single failure criteria and to delete limit switch inspection criteria previously in the Technical Specifications. Limit switches to restrict movement over the spent fuel pool were removed following the NUREG-0612 crane upgrades.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance by providing examples of actions likely to involve no significant hazards considerations (48 FR 14870). One of the

examples of actions likely to involve no significant hazards considerations is example (iv), a relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated.

License amendments No. 35 to DPR-24 and 41 to DPR-27 were issued imposing interim restrictions on operations involving movement of heavy loads over the spent fuel pool because of delays in the installation of a single failure proof crane. Further interim restrictions were requested as a result of the NRC staff's evaluation on heavy load handling on auxiliary building crane movement and loading. These were incorporated on April 28, 1985 into licenses DPR-24 and 27 by amendments 91 and 95, respectively.

The licensee plans to complete single failure proof crane modifications and testing by August 1, 1985. Upon completion of these modifications, the interim restrictions on movement of loads over the spent fuel pool imposed by the license amendments 41, 45, 91 and 95 would no longer be necessary. Therefore, the staff has determined that the licensee's proposed amendments meet the Commission's example (iv) of actions likely to involve no significant hazards considerations.

Based on the above, the staff proposes to determine that the proposed amendments involve no significant hazards considerations.

Local Public Document Room location: Joseph P. Mann Public Library, 1515 16th Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: June 17, 1985.

Description of amendment request: The amendments would revise the Technical Specifications (TS) by changing the Reactor Vessel Surveillance capsule Removal Schedule for Point Beach Units 1 and 2 contained in Tables 15.3.1-1 and 15.3.1-2 and the associated bases in the TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning which actions are likely to involve no significant hazards considerations (48 FR 14870). One of the

examples of actions likely to involve no significant hazards considerations is example (vii), "a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

The proposed changes to the capsule surveillance schedule were prompted by changes to 10 CFR 50 Appendix H which were made in May 1983. The new Appendix H deleted the surveillance capsule withdrawal schedules previously prescribed therein, and incorporated by reference ASTM E185-82 "Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels." ASTM E185-82 states that:

The withdrawal schedule of the final two capsules is adjusted by the lead factor so the exposure of the second to last capsule does not exceed the peak end-of-life (EOL) fluence on the inside surface of the vessel, and so the exposure of the final capsule does not exceed twice the EOL vessel inside surface peak fluence. The decision on when to test specimens from the final capsule need not be made until the results from the preceding capsules are known.

The proposed changes would extend the approximate removal dates for the final capsule in Unit 1 to a period corresponding to 110% of the peak EOL fluence on the inside surface of the vessel. The change would extend the approximate removal dates for the last two capsules in Unit 2 to the periods corresponding to 90% and 110% of the peak EOL fluence on the inside of the vessel.

The licensee's proposed changes agree with the guidance in ASTM E185-82 which has been incorporated by reference in 10 CFR 50 Appendix H. Therefore, the staff finds that the licensee's proposed changes meet the Commission's example (vii) of actions likely not to involve a significant hazards consideration.

Based on the above, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Yankee Atomic Power Company,
Docket No. 50-29, Yankee Nuclear
Power Station, Franklin County,
Massachusetts

Date of amendment request: March 18, 1985, as supplemented May 9, 1985 and May 30, 1985.

Description of amendment request: The proposed change would modify the pressurizer code safety value setpoint tolerance in the Technical Specifications (TS) Limiting Conditions for Operation and Surveillance Requirements for the Main Coolant system.

Basis for proposed no significant hazards consideration determination: As discussed in Licensee Event Report (LER) 84-11, the replacement pressurizer code safety values were set by the manufacturer to the ASME Boiler and Pressure Vessel Code Section III tolerance of $\pm 1\%$. One of the new safety values was found to be out of the existing TS tolerance of $+0, -3\%$. This is not in conformance with the existing TS tolerance. The existing tolerance is based on the ASME Boiler and Pressure Vessel Code Section VIII (which allowed a setpoint of $\pm 3\%$), and additional analysis, used as the design basis for the Yankee plant. The proposed change expands the existing tolerance to allow for a positive setpoint error, and provides the Overpressurization Protection Report as required by ASME Section III. Since the Yankee plant was designed to ASME Section VIII, the proposed change falls within the design code used for the design basis for the reactor vessel, pressurizer, and steam generators, and the Overpressurization Protection Report is intended to demonstrate the design basis for the Yankee plant remains acceptable with the new tolerance. The proposed change would, therefore: (1) Not involve any significant increase in the probability or consequences of an accident previously evaluated; (2) not create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) not involve a significant reduction in a margin of safety. Based on this discussion, the staff proposes to determine that the requested action would not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: John A. Zwolinski.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the *Federal Register* on the day and page cited. This notice does not extend the notice period of the original notice.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: February 28, 1985, as supplemented July 5, 1985.

Brief description of amendment: The amendment would revise the Technical Specifications to reflect revised pressure temperatures limitations for reactor coolant system heat up, cooldown and hydrostatic test through fifteen effective full power years.

Date of publication of individual notice in Federal Register: April 23, 1985 (50 FR 16002) and reissued July 10, 1985 (50 FR 28131).

Expiration date of individual notice: July 22, 1985, 5:00 p.m.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: February 14, 1985, as revised June 19, 1985.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TSs) to revise the Reactor Coolant System pressure/temperature curves in TS 3.4.9.1 to take into consideration the analysis of the previously removed Reactor Vessel Surveillance Capsule B and changes in the licensee's fuel management philosophy. These revisions will extend the applicability of the curves from 5 effective full power years (EFPY) to 8 EFPY and will assure compliance with 10 CFR 50, Appendix

G. In addition, the proposed amendment would delete the Criticality Limit Curve on Figure 3.4-2 and remove from TS 4.4.9.1.2 the Reactor Vessel Material Irradiation Surveillance Schedule (Table 4.4.5).

Date of publication of individual notice in Federal Register: June 26, 1985 (50 FR 26420).

Expiration date of individual notice: July 26, 1985.

Local Public Document Room location: Crystal River Public Library, 668 NW First Avenue, Crystal River, Florida.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: May 1, 1985, as revised June 14, 1985.

Brief description of amendment: The proposed amendment would modify the Technical Specification (TSs) related to the High Pressure Injection (HPI) Flow Balance Testing, HPI Pump and Valve Test, and the Emergency Diesel Generator (EDG) Load Test to allow testing during appropriate operating modes. Specifically, the proposed amendment is needed to provide clarification and resolve conflicts between current TSs and commitments made to the Commission involving low temperature over-pressurization protection, as follows:

1. TS 4.5.2.g currently requires HPI flow balance testing of pump and discharge lines during shutdown. However, pressure-temperature considerations prevent testing during Modes 4, 5, or 6. Thus, Mode 3 is the most appropriate time to perform the test.

2. TS 4.5.2.f currently requires that the HPI valve manual actuation be performed during shutdown (Modes 4 and 5), which conflicts with low temperature overpressure commitments which require "racking out" of these valves in these modes. The TS amendment would allow actuation of valves during Mode 6.

3. TS 4.8.1.1.2.c, presently requires that tests be performed during shutdown (Modes 4 or 5) which, for TS 4.8.1.1.2.c.3 and 5, conflict with low temperature over pressurization protection commitments. The amendment would permit those tests to be performed in Mode 3. In addition, the 18-month frequency requirement would also be changed for this cycle only to permit performance of these tests during the startup for Cycle 6. The specification would be changed to permit other tests

in this section to be performed in Mode 6.

Date of publication of individual notice in Federal Register: June 21, 1985 (50 FR 25802).

Expiration date of individual notice: July 22, 1985.

Local Public Document Room location: Crystal River Public Library, 66 NW, First Avenue, Crystal River, Florida.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the *Federal Register* as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see: (1) The applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluation and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington,

DC. 20555, Attention: Director, Division of Licensing.

Arkansas Power and Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of application for amendment: January 23, 1984.

Brief description of amendment: The amendment added a license condition pertaining to the IAEA safeguards inspection program at ANO-2.

Date of issuance: July 16, 1985.

Effective date: July 16, 1985.

Amendment No.: 67.

Facility Operating License No. NPF-6. Amendment added a license condition.

Date of initial notice in Federal Register: April 25, 1984 (49 FR 17850 at 17853 and 17854).

The Commission's related evaluation of the amendment is contained in a letter dated July 16, 1985.

No significant hazards consideration comments received. No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: March 6, 1985.

Brief description of amendment: The amendments change the Technical Specifications (TS) for Unit 1 with regard to Tables 3.3.5.3-1 and 4.3.5.3-1 (Accident Monitoring Instrumentation) and Section 3/4.6.2.1 (Suppression Chamber) to incorporate the inclusion of a suppression pool temperature monitoring system (SPTMS) which meets the acceptance criteria of NUREG-0661, Appendix A. The channel check for items 4.3.5.3-1.4 is being changed from monthly to daily to provide consistency with TS 4.6.2.1.d.1 for Unit 1 and Unit 2. In addition, TS sections 3/4.6.2.1 and 3/4.6.4.1 (Drywell-Suppression Chamber Vacuum Breakers) have been modified to more closely conform to the guidance of the BWR-4 Standard Technical Specifications (STS), NUREG-0123. The other Unit 2 change is made to eliminate redundancy in Surveillance Requirement 4.6.2.1.b.2.b.

Date of issuance: July 8, 1985.

Effective date: July 8, 1985.

Amendment Nos.: 85 and 111.

Facility Operating License Nos. DPR-71 and DPR-82. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 23, 1985 (50 FR 15999).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1985.

No significant hazards consideration comments received. No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Duke Power Company, Dockets Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units Nos. 1, 2 and 3 Oconee County, South Carolina

Date of application for amendment: March 19, 1985, as supplemented May 1, 1985.

Brief description of amendments: These amendments revise the Station's common Technical Specifications to allow a one-time extension of the allowable period of inoperability from 24 hours to 10 days per battery for the installation of new batteries and battery racks used to start the two Keowee Hydro Station power units, which units serve as the on-site emergency power source for the Oconee Nuclear Station.

Date of issuance: July 17, 1985.

Effective date: July 17, 1985.

Amendments Nos.: 141, 141 and 138.

Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: June 4, 1985 (50 FR 23547).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 17, 1985.

No significant hazards consideration comments received. No.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: March 21, 1985.

Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 as follows: (1) Section 3.5.5, "Refueling Water Storage Tank", is deleted and the same requirements are incorporated into Section 3.1.2.8.b, "Borated Water Sources", (2) Table 4.12-1 is revised to correct an editorial error, and (3) Section 6.13, "Environmental Qualification", is deleted to comply with the Commission's final rule for removal of the June 30, 1982 deadline for qualification of all safety-related electrical equipment.

Date of issuance: July 10, 1985.

Effective date: July 10, 1985.

Amendment No.: 95.

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 21, 1985 (50 FR 20976).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room

Location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power Corporation, et al.,
Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: August 30, 1984, as supplemented June 17, 1985.

Brief description of amendment: This amendment revises the location of several remote shutdown monitoring instruments from the ES Switchgear Room to the Remote Shutdown Panel. Incorporation of the new Remote Shutdown System into the Technical Specifications will be completed in a separate action.

Date of issuance: July 3, 1985.

Effective date: July 3, 1985.

Amendment No.: 75.

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 21, 1984 (49 FR 45949).

Since the initial notice, the licensee requested the Commission, by letter dated June 17, 1985, to consider at this time only that portion of the August 30, 1984 request dealing with revising the location of remote shutdown instrumentation. This change is encompassed by the initial notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room

Location: Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Florida Power Corporation, et al.,
Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: January 23, 1985, as supplemented June 6 and 28, 1985.

Brief description of amendment: The amendment changes the Technical Specifications (TSs) to include requirements for the upgraded Emergency Feedwater System (EFW). The new specifications provide operability and surveillance requirements for EFW manual initiation and automatic actuation logic and are in conformance with the B&W Standard Technical Specifications.

Date of issuance: July 16, 1985.

Effective date: July 16, 1985.

Amendment No.: 78.

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 21, 1985, 50 FR 20979.

Since the initial notice, the licensee informed the Commission by letters dated June 6 and June 28, 1985, of proposed corrections to TS Table 3.3-5 and deletes the previously proposed change in the main feedwater isolation time in Table 3.3-5. The Commission's staff found that these changes only corrected administrative errors in the January 23, 1985, submittal and did not affect the scope of the amendment referenced in the initial notice. The response time change deletion returned the requirement to that of the existing TS and therefore reduced the scope of the amendment. Accordingly, these changes did not warrant renoticing.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room

Location: Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Florida Power Corporation, et al.,
Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: February 27, 1985, as supplemented June 25, 1985.

Brief description of amendment: This amendment allows for the replacement of six manual valves with eight remote-manual valves to provide capability to install a hydrogen recombiner.

Date of issuance: July 3, 1985.

Effective date: July 3, 1985.

Amendment No.: 76.

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 21, 1985 (50 FR 20979).

Since the initial notice, by letter dated June 25, 1985, the licensee supplemented the February 27, 1985 application. This

supplement confirmed that the new valves meet or exceed the design and performance requirements of the original valves. In addition, the type of valve operator was corrected from solenoid to remote-manual when the licensee discovered a documentation error. Although the original notice identified the replacement valves as solenoid-operated, the purpose of the requested amendment was to add valves to provide the capability to install a hydrogen recombiner should that become necessary at some future time. The type of operator has little significance as long as containment isolation design and performance requirements are met. The number of valves and configuration of piping necessary to provide the capability to install a hydrogen recombiner have not changed from the original amendment request. Since the provision of that capability is the essential matter in this amendment request, and not the type of valve operators, it was determined that renoticing was not warranted.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room

Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Florida Power Corporation, et al.,
Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: April 25, 1985.

Brief description of amendment: This amendment revises the Technical Specifications to support the operation of Crystal River Unit No. 3 at full rated power during Cycle 6 operation.

Date of issuance: July 16, 1985.

Effective date: July 16, 1985.

Amendment No.: 77.

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 13, 1985 (50 FR 24849).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room

Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of application for amendment: February 5, 1981.

Brief description of amendment: The amendment revised the TSs for Hatch Unit 2 to clarify the definition of the term Operable and to specify certain conditions under which a system, subsystem, train, component or device may be considered operable when the normal or emergency power source providing power to the system, subsystem, etc. is Inoperable.

Date of issuance: July 16, 1985.

Effective date: July 16, 1985.

Amendment No.: 49.

Facility Operating License No. NPF-5. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 26, 1983 (48 FR 49586).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room

Location: Appling County Public Library, 301 Hall Drive, Baxley, Georgia.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: February 20, 1985.

Brief description of amendment: The amendment revises the DAEC operating license, extending the effectiveness of the licensee's Integrated Scheduling Plan for plant modifications from the current expiration date of May 3, 1985 to May 3, 1987.

Date of issuance: July 9, 1985.

Effective date: July 9, 1985.

Amendment No.: 125.

Facility Operating License No. DPR-49. Amendment revised the license.

Date of initial notice in Federal Register: April 23, 1985 (50 FR 16006).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 9, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room

Location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendment: April 5, 1985.

Brief description of amendment: The amendment changed the Technical Specifications by including the operability and surveillance requirements associated with the automatic actuation of the shunt trip attachment and the manual reactor trip circuits.

Date of issuance: June 26, 1985.

Effective date: Unit 1, June 26, 1985. Unit 2—Cycle 10 startup scheduled for November 1985.

Amendment No.: 75 and 68.

Facility Operating License Nos. DPR-42 and DPR-60. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 21, 1985 (50 FR 20967).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 26, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room

Location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Pacific Gas and Electric Company, Docket No. 50-133, Humboldt Bay Power Plant, Unit No. 3, Humboldt, California

Date of Application for amendment: July 30, 1984.

Brief description of amendment: This amendment modifies Facility Operating License No. DPR-7 to possess-but-not-operate status. Action on the balance of the above application will be taken at a later date.

Date of issuance: July 16, 1985.

Effective date: July 16, 1985.

Amendment No.: 19.

Facility Operating License No. DPR-7. This amendment revised the license.

Date of initial notice in Federal Register: March 27, 1985 (50 FR 12152).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room

Location: Eureka-Humboldt County Library, 421 I Street (County Courthouse), Eureka, California 95501.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 59-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: January 4, 1985.

Brief description of amendments: These amendments make the reporting requirements in the Technical Specifications (TSs) consistent with 10 CFR 50.72 and 50.73. These changes: (1) Add the definition of Reportable Events to the Definition Section 1.0. (2) delete the prompt and 30-day reporting specifications because these requirements have been superseded by 10 CFR 50.72 and 50.73. (3) revise specific nomenclature to conform with 10 CFR 50.73 and (4) delete from the TSs the reporting requirement for failures of a safety or relieve valve because 10 CFR 50.73 now requires reporting such failures.

Date of issuance: July 17, 1985.

Effective date: July 17, 1985.

Amendments Nos.: 110 and 113.

Facility Operating Licenses Nos. DPR-44 and DPR-56. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 27, 1985 (50 FR 7969).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 17, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room

Location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Units Nos. 1 and 2, Salem County, New Jersey

Date of application for amendment: February 8, 1985.

Brief description of amendments: The amendments provide four additional modifications to the Technical Specifications previously issued as part of the Radiological Effluent Technical Specifications in Amendment Nos. 59 and 28 for Salem Units 1 and 2, respectively.

Date of issuance: May 28, 1985.

Effective date: May 28, 1985.

Amendments Nos.: 63 and 65.

Facility Operating Licenses Nos. DPR-70 and DPR-75. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 27, 1985 (50 FR 12161).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: February 25, 1985.

Brief description of amendment: The amendment changes the Technical Specifications to reflect an updated management organization by illustrating those changes in an updated management organization chart.

Date of issuance: July 10, 1985.

Effective date: July 10, 1985.

Amendment No.: 7.

Facility Operating License No. DPR-18. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 21, 1985 (50 FR 20987).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: October 27, 1980, as supplemented May 30, 1984.

Brief description of amendment: The amendment revises the Technical Specifications to incorporate requirements for redundant decay heat removal capability during all modes of facility operation.

Date of issuance: July 3, 1985.

Effective date: July 3, 1985.

Amendment No.: 71.

Facility Operating License No. DPR-54. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 21, 1983 (48 FR 58509); and January 23, 1985 (50 FR 3054).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: December 21, 1984.

Brief description of amendments: The amendments change the Technical Specifications to correct typographical errors and clarify mechanical vacuum pump requirements. The proposed amendments relating to shift overtime limitations will be addressed separately in future correspondence and have not been included.

Date of Issuance: July 8, 1985.

Effective date: Within 90 days of the date of issuance.

Amendment Nos.: 119, 114 and 90.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 27, 1985 (50 FR 8009).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: March 16, 1979, as revised by letters dated December 23, 1982, July 13, 1983, August 18, 1983, March 15, 1984, and November 1, 1984.

Brief description of amendment: The amendment revises the Technical Specifications (TSs) to ensure compliance with 10 CFR 50.36a. The amendment updates those portions of the TSs addressing radioactive effluent management including monitoring, reporting and environmental surveillance. This amendment deletes Appendix B, Part I, TSs relating to these matters and adds appropriate Limiting Conditions for Operation, Surveillance Requirements, reporting requirements and environmental monitoring requirements to Appendix A.

Date of issuance: July 2, 1985.

Effective date: October 30, 1985.

Amendment No.: 86.

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 22, 1983 (48 FR 52836); May 23, 1984 (49 FR 21847); and February 27, 1985 (50 FR 8009).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 2, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2301 Bancroft Avenue, Toledo, Ohio 43606.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: May 20, 1983, as revised February 7, 1984, and superseded October 22, 1984, and supplemented November 6, 1984.

Brief description of amendment: The amendment revises the Technical Specifications pertaining to safety-related shock suppressors.

Date of issuance: July 9, 1985.

Effective date: July 9, 1985.

Amendment No.: 89.

Facility Operating License No. DPR-28. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 23, 1983 (48 FR 38426), April 25, 1984 (49 FR 17876) and January 23, 1985 (50 FR 3056).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 9, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of amendment request: April 19, 1985.

Brief description of amendment request: This amendment revises the WNP-2 license by modifying the Technical Specifications Drywell Average Air Temperature, Surveillance Requirements, 4.6.1.7, to provide a description of the locations of the thermocouples used to measure the drywell average temperature instead of the specific elevations and azimuths currently employed.

Date of issuance: July 18, 1985.

Effective date: July 18, 1985.

Amendment No.: 15.

Facility Operating License No. NPF-21. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 4, 1985 (50 FR 23557)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 18, 1985.

No significant hazards consideration comments received: None.

Local Public Document Room

Location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: February 29, 1984 as modified June 7, 1984.

Brief description of amendments: The amendments incorporate Limiting Conditions for Operation and surveillance requirements for accident monitoring instrumentation installed in response to NUREG-0737 "Clarification of TMI Action Plan Requirements".

Date of issuance: July 18, 1985.

Effective date: 20 days from the effective date.

Amendment Nos.: 92 and 96.

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revise the Technical Specifications.

Date of initial notice in Federal

Register: June 20, 1984 (49 FR 25350 at 25381). Renoticed September 28, 1984 (49 FR 38390 at 38413).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 18, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room

Location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the

Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see: (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By August 30, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of

the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Branch Chief): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors

specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

**Carolina Power & Light Company,
Docket No. 50-324, Brunswick Steam
Electric Plant, Unit 2, Brunswick County,
North Carolina**

Date of application for amendment:
July 12, 1985.

Brief description of amendment: The amendment changes the Technical Specifications by revising the allowed maximum average temperature of the primary containment air from 135 °F to 140 °F for a period of 30 days from the effective date of this amendment.

Date of issuance: July 12, 1985.

Effective date: July 12, 1985.

Amendment No.: 112.

Facility Operating License No. DPR-62. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are considered in a Safety Evaluation dated July 12, 1985.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

Dated at Bethesda, Maryland this 25th day of July 1985.

For the Nuclear Regulatory Commission,
Edward J. Butcher,
Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 85-18173 Filed 7-30-85; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Public Information Collection Request Submitted for OMB Review

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of information request submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act and its implementing regulations, agencies are required to submit information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public of such submission. The effect of this notice is to advise the public that the PBGC has requested OMB approval of a

collection of information from plan sponsors of multiemployer plans terminated by mass withdrawal and certain ongoing multiemployer plans from which substantially all employers have withdrawn.

ADDRESSEE: All written comments should be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 3201 New Executive Office Building, Washington, D.C. 20503. The proposed information collection request will be available for public inspection in the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, DC. 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ellen Hamilton Spring, Corporate Policy and Regulations Department (611), 2020 K Street, NW., Washington, D.C. 20006; telephone 202-254-6138 (202-254-8010 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) establishes policies and procedures for controlling the paperwork burdens imposed by Federal agencies on the public. The Act vests the Office of Management and Budget ("OMB") with regulatory responsibility over these burdens, and OMB has promulgated rules on the clearance of information requests by Federal agencies.

The PBGC has sought approval by OMB of the information collection request contained in a proposed regulation on "Redetermination of Withdrawal Liability upon Mass Withdrawal," (49 CFR 45018 (November 14, 1984)). The rule prescribes rules for computing employer's liabilities after a multiemployer plan experiences a mass withdrawal or terminates by mass withdrawal. It also establishes procedures for the issuance to employers and the PBGC of notices of mass withdrawal and of computation of the attendant liabilities.

Issued at Washington, D.C., on this 25th day of July, 1985.

David M. Walker,
Acting Executive Director, Pension Benefit Guaranty Corporation.

FR Doc. 85-18130 Filed 7-30-85; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE
COMMISSION

[Release No. IC-14648; File No. 812-6145]

Franklin Lakeshore Limited
Partnership; Application and
Opportunity for Hearing

July 25, 1985.

Notice is hereby given that Franklin Lakeshore Limited Partnership (the "Partnership"), One Post Office Square, Suite 1400, Boston, Massachusetts 02109, a Massachusetts limited partnership formed to invest in 445 East Ohio Partnership (the "Operating Partnership"), an Illinois limited partnership which will own and operate an apartment project in Chicago, Illinois (the "Project"), and Milk Street Residential Limited Partnership IV, the Partnership's general partner (the "General Partner") (together with the Partnership, "Applicants"), filed an application on July 1, 1985, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), to exempt the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, a summary of which is set forth below, and to the Act and rules thereunder for the provisions thereof which are relevant to a consideration of the application.

Applicants state that the Partnership was formed as a vehicle for private investment in government-assisted rental housing in accordance with the express determination of Title IX of the Housing and Urban Development Act of 1968. Applicants further state that the Partnership will operate as a "two-tier" entity, i.e., the Partnership, as limited partner, will hold a 99% interest in the Operating Partnership which, in turn, will acquire, develop, construct, own and operate the Project, as residential, commercial and retail project consisting of 567 units of rental housing for low and moderate income persons as well as approximately 54,400 square feet of commercial and retail space, and 254 parking spaces, all of which, Applicants contend, will be in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974). According to the application, the Operating Partnership is being assisted by mortgage financing provided by the Illinois Housing Development Authority.

Applicants represent that the Partnership will offer 100 units of limited partnership interest in the Partnership (the "Units"), pursuant to section 4(2) of

the Securities Act of 1933 ("1933 Act") and Regulation D thereunder, to investors meeting certain suitability standards. According to the application, the Units are being offered only to "Accredited Investors" as defined in Regulation D and to a limited number of "Non-Accredited Investors". Applicants represent that the Units will not be sold to any person unless such person or his duly authorized representative shall have signed certain representations to the Partnership that (a) the prospective purchaser has (i) a net worth (i.e., total assets in excess of total liabilities) of at least \$250,000 per unit purchased exclusive of home, furnishings and automobiles or (ii) a net worth of at least \$200,000 per Unit purchased, exclusive of home, furnishings and automobiles, and an annual income of at least \$100,000 per Unit purchased; (b) the prospective purchaser's overall commitment to investments which are not readily marketable is not disproportionate to his net worth, and his investment in this Units will not cause such overall commitment to become excessive; (c) the prospective purchaser has adequate means of providing for his current needs and personal contingencies and has no need for liquidity in his investment in the Units; (d) the prospective purchaser is an "Accredited Investor" or, if not an Accredited Investor, either alone or with his Purchaser Representative(s), as defined in Regulation D, has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of an investment in the Units and has consulted his own tax or other professional advisor in making his investment decision; (e) the marginal Federal income tax bracket of the prospective purchaser, after taking into account losses, if any, likely to be incurred as a result of his investment in the Units, is not less than 42%, and he expects to remain in that bracket, or higher, for several years; and (f) he is purchasing Units for his own account, for investment, and not with a view to resale.

The application summarizes the form and recipients of compensation to be paid to the General Partner and its affiliates. It states that all such compensation is believed to be fair and on terms no less favorable to the Partnership than would be the case if such arrangements had been made with independent third parties. It further states that the Partnership believes that such compensation meets all applicable guidelines to the extent necessary to permit the Units to be offered and sold in various states which prescribe such

guidelines, including the statement of policy adopted by the North American Securities Administrators Association, Inc.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Partnership be exempted from all the provisions of the Act. In support of this request, Applicants assert that such exemption is both necessary and appropriate in the public interest and would be consistent with the protection of investors and the purposes and policies underlying the Act. Applicants assert that investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and organizational advantages of the limited partnership structure. Applicants state that a limited partnership would be unable to function in the manner contemplated by the Partnership if it is deemed to be an investment company under the Act. In addition, it is maintained that application of the Act would discourage two-tier limited partnership arrangements and thus eliminate the best available means of attracting private equity capital into government-assisted housing and frustrate national policy.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 19, 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.

John Wheeler,
Secretary.

FR Doc. 85-18116 Filed 7-30-85; 8:45 am]
BILLING CODE 8010-01-M

[Release No. IC-14647; 812-6128]

**Prudential-Bache Securities Inc.;
Application for Order Permitting
Waiver of a Contingent Deferred Sales
Load**

July 25, 1985.

Notice is hereby given that Prudential-Bache Securities Inc. ("Applicant"), One Seaport Plaza, New York, NY 10292, filed an application on June 5, 1985, and an amendment thereto on July 11, 1985, for a Commission order, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting any existing or future Prudential-Bache Mutual Fund of which Applicant is distributor and manager or administrator and which imposes or may impose a contingent deferred sales load ("CDSL Funds"), from the provisions of section 22(d) of the Act to permit the waiver of the contingent deferred sales load on redemptions of shares of such CDSL Funds by the Bache Group Inc. Voluntary Employee Retirement Savings Account Plan ("Plan"). 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.

Applicant states that it is the distributor for and either the manager or administrator of each CDSL Fund as well as several additional investment companies constituting the Prudential-Bache Mutual Funds. Pursuant to an order of the Commission dated July 1, 1985 (Investment Company Release No. 14615), the CDSL Funds may impose a contingent deferred sales load ("CDSL") on redemptions of their shares, and may waive or reduce the CDSL with respect to the following redemptions: (i) Redemptions following the death or disability, as defined in section 72(m)(7) of the Code, of a stockholder, and (ii) redemptions in connection with certain distributions from qualified retirement plans. Applicant represents that the amount of the CDSL which it may receive under such exemptive order will vary depending on how long the shares being redeemed have been held.

According to Applicant, the Plan is a qualified retirement plan under section 401 of the Internal Revenue Code of 1954, and covers substantially all employees of the Bache Group Inc. Applicant states that the Plan provides for voluntary employee contributions with matching employer contributions and that contributions to the Plan are invested, at the option of the contributing employee, in one or more

investment companies designated by the Plan's Administrative Committee as eligible Plan investments. Applicant also states that no CDSL Funds are currently designated as eligible Plan investments because a Prohibited Transaction Class Exemption issued by the Department of Labor would prohibit Applicant's receipt of the proceeds of the CDSL. In order that one or more CDSL Funds may be designated an eligible Plan investment, Applicant requests an exemption from section 22(d) of the Act to permit the proposed waiver of the CDSL on redemptions by the Plan of shares of the CDSL Funds.

Applicant asserts that such an exemption is appropriate and in the public interest, and is consistent with the protection of investors and with the purposes fairly intended by the policy and provisions of the Act. In support thereof, Applicant submits that it is in the best interests of the CDSL Funds and the Plan that the Administrative Committee of the Plan have the flexibility to designate any CDSL Fund as an eligible Plan investment if such designation is deemed appropriate in light of the objectives of the Plan. Furthermore, since Applicant carries on no selling efforts and therefore incurs no sales costs in connection with purchases of shares by the Plan, Applicant believes it is fair and equitable that such cost savings be passed on to the Plan. In addition, Applicant asserts that the proposed waiver of the CDSL for redemptions of CDSL Fund shares by the Plan does not unfairly discriminate among stockholders or purchasers. Finally, Applicant represents that it and the CDSL Funds will comply in every respect with the provisions of Rule 22d-1 under the Act in connection with the proposed waiver of CDSL.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 19, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of this 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.

John Wheeler,

Secretary.

[FR Doc. 85-18115 Filed 7-30-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION**Region II Advisory Council; Meeting**

The U.S. Small Business Region II Advisory Council, located in the geographical area of New York, will hold a public meeting at 9:00 a.m., on Wednesday, August 7, 1985, at the Jacob K. Javits Federal Building, 26 Federal Plaza, Room 3108 (31st Floor), New York, New York, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Bert X. Haggerty, District Director, U.S. Small Business Administration, 26 Federal Plaza, New York, New York 10278 (212) 264-1318.

Jean M. Nowak,

Director, Office of Advisory Councils,
July 23, 1985.

[FR Doc. 85-18078 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area #2188]
Amdt. #1****Disaster Loan Area; Michigan**

The above declaration (50 FR 18757) is amended to extend the application filing period for economic injury loans to "January 26, 1986. All other information remains the same. The economic injury declaration number is 629900.

"This time period is subject to change in accordance with requirements of the Federal budget.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 22, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-18084 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

**Maximum Annual Cost of Money to
Small Business Concerns**

13 CFR § 107.302 (a) and (b) limit the maximum annual Cost of Money (as defined in 13 CFR § 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation

incorporates the term "FFB Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged by the Federal Financing Bank on ten-year debentures sold by Licensees to the Bank. Notice of this rate is generally published each month.

Accordingly, Licensees are hereby notified that effective August 1, 1985, and until further notice, the FFB Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 10.585% per annum. 13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as amended by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Dated: July 25, 1985.

Robert G. Lineberry,
Deputy Associate Administrator for
Investment.

[FR Doc. 85-18085 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0239]

Brentwood Capital Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Brentwood Capital Corporation (Brentwood), 11661 San Vicente Boulevard, Los Angeles, California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(b) (1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, Brentwood Capital Corporation proposes to provide funds to Ordain, Inc. for working capital use.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Brentwood Associates IV, an associate of Brentwood, owns greater than 10 percent of Ordain, Inc. and therefore Ordain, Inc. is considered Associate of Brentwood Capital Corporation as defined by § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit

written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in the Torrance, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 22, 1985.

Robert G. Lineberry,
Deputy Associate Administrator for
Investment.

[FR Doc. 85-18079 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0239]

Brentwood Capital Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Brentwood Capital Corporation (Brentwood), 11661 San Vicente Boulevard, Los Angeles, California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(b) (1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, Brentwood Capital Corporation proposes to provide fund to George W. Moody (U.S.), Inc. for working capital use.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Brentwood Associates IV, an associate of Brentwood, owns greater than 10 percent of George W. Moody (U.S.), Inc. and therefore George W. Moody (U.S.), Inc. is considered Associate of Brentwood Capital Corporation as defined by § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in the Broken Arrow, Oklahoma area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 22, 1985.

Robert G. Lineberry,
Deputy Associate Administrator for
Investment.

[FR Doc. 85-18080 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0239]

Brentwood Capital Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Brentwood Capital Corporation (Brentwood), 11661 San Vicente Boulevard, Los Angeles, California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(b) (1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, Brentwood Capital Corporation proposes to provide funds to DMA Systems Corporation for working capital use.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Brentwood Associates III, an associate of Brentwood, owns greater than 10 percent of DMA Systems Corporation and therefore DMA Systems Corporation is considered Associate of Brentwood Capital Corporation as defined by § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington D.C. 20416.

A Copy of this Notice will be published in a newspaper of general circulation in the Goleta, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 22, 1985.

Robert G. Lineberry,
Deputy Associate Administrator for
Investment.

[FR Doc. 85-18081 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0239]

Brentwood Capital Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Brentwood Capital Corporation (Brentwood), 11661 San Vicente Boulevard, Los Angeles, California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(b) (1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, Brentwood Capital Corporation proposes to provide funds to Prototype Corporation for working capital use.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Brentwood Associates IV, an associate of Brentwood, owns greater than 10 percent of Prototype Corporation and therefore Prototype Corporation is considered Associate of Brentwood Capital Corporation as defined in § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in the Sun Valley, California area.

Dated: July 22, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-18082 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

Brentwood Capital Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

[License No. 09/09-0239]

Notice is hereby given that Brentwood Capital Corporation (Brentwood), 11661 San Vicente Boulevard, Los Angeles, California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations

governing small business investment companies (13 CFR 107.903(b) (1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, Brentwood Capital Corporation proposes to provide funds to Multiplex Technology, Inc. (Multiplex) for working capital use.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Brentwood Associates IV, an associate of Brentwood, owns greater than 10 percent of Multiplex, and therefore Multiplex is considered Associate of Brentwood Capital Corporation as defined in § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in the Fullerton, California area.

Dated: July 22, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-18083 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 22-85]

Treasury Notes, Series X-1987

Washington, July 25, 1985.

The Secretary announced on July 24, 1985, that the interest rate on the notes designated Series X-1987, described in Department Circular—Public Debt Series—No. 22-85 dated July 18, 1985, will be 8% percent. Interest on the notes will be payable at the rate of 8% percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 85-18142 Filed 7-30-85; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Report of New Matching Program

AGENCY: Veterans Administration.

ACTION: Notice of matching program.

SUMMARY: Notice is hereby given that the VA (Veterans Administration) intends to conduct a recurring computer matching program matching DOL (Department of Labor) and SSA (Social Security Administration) records of Black Lung benefit recipients with VA pension and parent's dependency and indemnity compensation records.

The goal of these matches is to identify VA benefit recipients who are also receiving Black Lung benefits payments reportable to VA as countable income. For the information of all concerned, the text of the VA matching program report, describing the computer match follows. In accordance with the OMB guidelines for conducting matching programs, dated May 11, 1982, copies of this report are being sent to OMB and both houses of Congress.

DATE: It is anticipated the matches will commence in July 1985.

ADDRESS: Interested individuals may comment on the proposed matches by writing to the Director, Compensation and Pension Service (21), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Lawrence Nicholson (213A), (202) 389-3062.

SUPPLEMENTARY INFORMATION: Further information regarding the matching program is provided below. This information is required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: July 26, 1985.

Harry H. Walters,
Administrator.

Report of Matching Program: Veterans Administration Pension and Dependency and Indemnity Records with Department of Labor and Social Security Administration Black Lung benefit payment records.

a. **Authority:** Title 38 United States Code, section 3006.

b. **Program Description:** (1) Purpose: The VA (Veterans Administration) plans to match records of veterans and surviving spouses and children who receive pension and parents who receive DIC (dependency and indemnity compensation) from the VA with records of Black Lung benefit requirements maintained by DOL.

(Department of Labor) or SSA (Social Security Administration) to identify VA benefit recipients of pension and DIC who are also receiving Black Lung benefits reportable to VA as countable income. Currently, information about a VA beneficiary's receipt of Black Lung benefits is obtained from reporting by the beneficiary. The proposed matching program will enable the VA to ensure accurate reporting of Black Lung benefits.

(2) Procedure: The VA will prepare an extract file of beneficiaries receiving income dependent benefits whose VA records contain a valid social security number. The VA extract file will be matched against Black Lung benefit files from DOL and SSA. If a record and a Black Lung benefit record matches on social security number and name, the VA will update its master record with the amount of the Black Lung benefit. No information from the VA extract file will be accessed or obtained by DOL or SSA as a result of this matching program.

In the event of a "hit", i.e., the identification of a person in receipt of VA income dependent benefits and in receipt of Black Lung benefits, the case will be referred for field station development to assure the validity of the "hit" and to make any required award adjustment. Where there are reasonable grounds to believe there has

been a violation of criminal laws, the matter will be investigated and referred for prosecutive consideration in accordance with existing VA policies.

c. *Records to be Matched:* The DOL and SSA as "source agencies" will provide Black Lung benefit payment information from the systems of records designated respectively as Office of Workers' Compensation Programs, Black Lung Benefit Payments DOL/ESA-7 (47 FR 30378, July 13, 1982), and Black Lung Payment System HHS/SSA/OURV (47 FR 45610, Oct. 13, 1982) which will be matched against the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (47 FR 372, January 5, 1982).

d. *Period of Match:* The initial data exchange will occur during July 1985 and will occur annually thereafter following a legislative increase in Black Lung benefits.

e. *Safeguards:* The VA will maintain all administrative, technical and physical security safeguards for the DOL and SSA files while in the possession of the VA as it does for its own files. Records are maintained in areas not accessible to the public and are not permitted to be removed from VA offices. All magnetic tapes in use or in storage are maintained in areas to which access is restricted. The matching file will be used and accessed only to

match the files previously agreed to; it will not be used to extract information concerning "non-hit" individuals for any purpose; it will not be duplicated or disseminated within or outside the VA, the matching agency; and access will be limited to those persons who have a need for the information in order to conduct the matches or to perform follow-up actions. Specific information obtained from DOL or SSA as to the amount of DOL or SSA Black Lung benefits may be maintained in a matched individual's VA automated record and in the claims folder subject to release only under the Privacy Act of 1974 and 38 U.S.C. 3301 and 4132.

f. *Disposition of Source Records:* The DOL and SSA Black Lung benefit files will remain the property of the respective source agency and all records, including those not matched, will be returned to the agency which furnished the file within 30 days after each match is completed. Information extracted from DOL or SSA files on confirmed matched records will be incorporated into the VA Privacy Act system of records, Compensation, Pension, Education and Rehabilitation Records, and will be disposed of according to established record retention schedules for such records.

[FR Doc. 85-18076 Filed 7-30-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 50, No. 147

Wednesday, July 31, 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).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m. (eastern time), Tuesday 30, 1985.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50-141-30043.

CHANGE IN THE MEETING: The following matters were added to the agenda for the closed portion of the meeting:

Proposed Contracts for Expert Services in Connection With a Court Case

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of the change:

Clarence Thomas, Chairman
Tony E. Gallegos, Commissioner
William A. Webb, Commissioner
Fred Alvarez, Commissioner
Ricky Silberman, Commissioner

CONTACT PERSON FOR MORE

INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, at (202) 634-6748.

Date: July 29, 1985.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

This notice Issued July 29, 1985.

[FR Doc. 85-18272 Filed 7-29-85; 3:31 pm]

BILLING CODE 6750-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:12 p.m. on Thursday, July 25, 1985, the Board of Directors of the Federal

Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Citizens State Bank of El Dorado, El Dorado, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Thursday, July 25, 1985; (2) accept the bid for the transaction submitted by National Bank of El Dorado, El Dorado, Kansas, a newly-chartered national bank; and (3) Provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B)(1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Kansas American Bank, Overland Park, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Thursday, July 25, 1985; (2) accept the bid for the transaction submitted by MidAmerican Bank and Trust Company of Overland Park, Overland Park, Kansas, a newly-chartered State nonmember bank; (3) approve the applications of MidAmerican Bank and Trust Company of Overland Park, Overland Park, Kansas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in Kansas American Bank, Overland Park, Kansas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. Michael A. Mancusi, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 26, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-18223 Filed 7-29-85; 12:02 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, August 5, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to section 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed

to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: July 29, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85-18287 Filed 7-29-85; 3:58 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, August 5, 1985, to consider the following matter:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of Bank Supervision and the various Regional Directors pursuant to the Division of authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 500 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive

Secretary of the Corporation, at (202) 389-4425.

Dated: July 29, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85-18288 Filed 7-29-85; 3:58 pm]

BILLING CODE 6714-01-M

5

LEGAL SERVICES CORPORATION

Board of Directors Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published July 19, 1985, 50 FR 29510.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Wednesday, July 31, 1985, 8:00 p.m.

CHANGE IN TIME OF MEETING: The Executive Session Meeting of the Board of Directors of the Legal Services Corporation scheduled for 8:00 p.m. on July 31, 1985 will be held at 9:00 p.m. on July 31, 1985.

EXPLANATION OF CHANGE: The meeting is to be delayed one hour in order to permit the attendance of the Vice Chairman for whom earlier airline connections were not available.

CONTACT PERSON FOR MORE INFORMATION: Dennis Daugherty, Executive Office, (202) 272-4040.

Date issued: July 26, 1985.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85-18182 Filed 7-29-85; 10:46 am]

BILLING CODE 6820-35-M

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NUCLEAR REGULATORY COMMISSION

DATE: Weeks of July 29, August 5, 12, and 19, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of July 29

Monday, July 29

2:00 p.m.

Discussion of DOE High Level Waste Management Program (Public Meeting)

Tuesday, July 30

10:00 a.m.

Continuation of 5/15 Briefing on Proposed Revision of Part 20 (Public Meeting)

Wednesday, July 31

2:30 p.m.

Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, August 1

10:00 a.m.

Discussion/Possible Vote on Full Power Operating License for Diablo Canyon-2 (Public Meeting)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Final Backfit Rule (tentative)

Week of August 5—Tentative

Thursday, August 8

2:00 p.m.

Affirmation Meeting (Public Meeting) (if needed)

Week of August 12—Tentative

Thursday, August 15

11:00 a.m.

Affirmation Meeting (Public Meeting) (if needed)

Week of August 19—Tentative

No Commission Meetings

ADDITIONAL INFORMATION: Affirmation of "Applicant's Request for Exemption from 10 CFR Part 50, Appendix E (IV)(F)(1)" (Public Meeting) was held July 24. Affirmation of "Policy Statement on Confidentiality" scheduled for July 24, postponed.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE

INFORMATION: Julia Corrado (202) 634-1410.

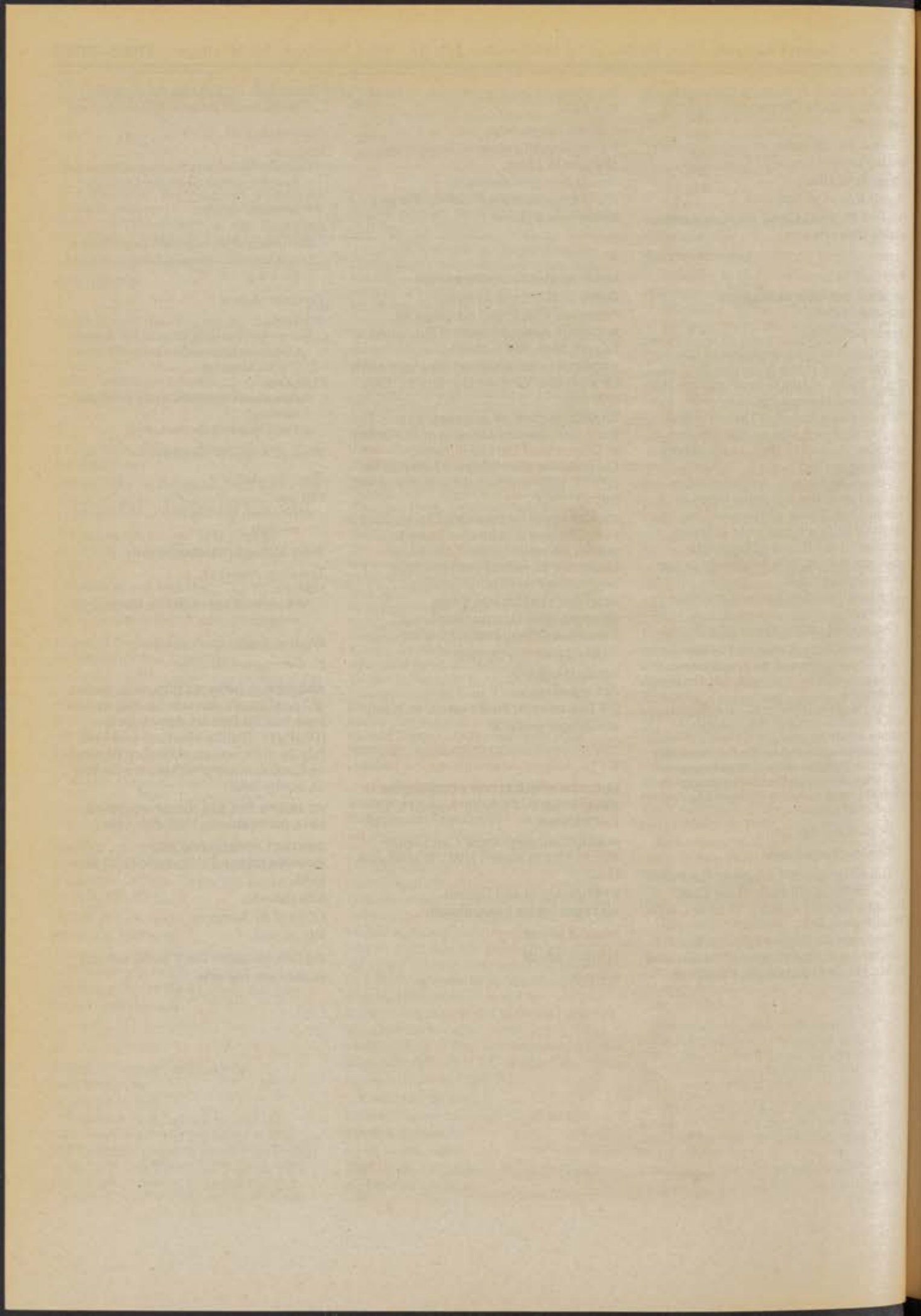
Julia Corrado,

Office of the Secretary.

July 25, 1985.

[FR Doc. 85-18158 Filed 7-26-85; 4:30 pm]

BILLING CODE 7590-01-M



federal register

**Wednesday
July 31, 1985**

Part II

Office of Personnel Management

5 CFR Part 737

**Post Employment Conflict of Interest;
Final Regulation**

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 737

Post Employment Conflict of Interest

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: The Office of Personnel Management is issuing a final regulation under the Ethics in Government Act of 1978 which (1) designates certain positions subject to the post employment conflict of interest regulations applicable to "Senior Employees," and (2) designates certain statutory and non-statutory agencies/bureaus for the purpose of limiting the application of 18 U.S.C. 207(c).

EFFECTIVE DATE: July 31, 1985.

ADDRESS: Office of Government Ethics, P.O. Box 14108, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Gary Davis or Robert Flynn at (202) 632-7642.

SUPPLEMENTARY INFORMATION:

Subsection 207(d)(1)(C) of title 18 U.S.C., contained in Title V of the Ethics in Government Act of 1978, as amended, ("the Act"), (Pub. L. 95-521), gives the Director of the Office of Government Ethics ("OGE") authority to designate (1) certain employee positions for purposes of the restrictions of 18 U.S.C. subsections 207(b)(ii) and 207(c), and (2) agencies and bureaus, within a parent department or agency, having separate and distinct subject matter jurisdiction; i.e., "separate non-statutory agencies/bureaus." Regulations implementing this authority were published on February 1, 1980 (45 FR 7402). Those regulations designated as "Senior Employees" all employees in a position in any pay system for which the basic rate of pay is equal to or greater than that for GS-17 of the General Schedule, as prescribed by 5 U.S.C. 5332, or positions which are established within the Senior Executive Service (SES) pursuant to the Civil Service Reform Act of 1978, subject to specific exemptions to be made by OGE. The regulations also set forth those separate statutory (18 U.S.C. 207(e)) agencies and bureaus and those separate non-statutory agencies/bureaus (18 U.S.C. 207(d)(1)(C)) as determined by the Director, OGE, to be qualified for designation at the time of publication.

Regarding "Senior Employee" designations, upon review of agency recommendations, made pursuant to the requirement set forth in 5 CFR 737.25(b)(1), the Director, OGE,

determined that only those non-exempted positions, i.e., those subject to the prohibitions of 18 U.S.C. 207(b)(ii) and (c), would be published in the **Federal Register**. A partial list of such "designated" positions was contained in the February 1, 1980 **Federal Register** publication (45 FR 7402). That list was followed by another partial list which was published on February 8, 1980 (45 FR 8544). Annual amendments to the list were published on November 14, 1980 (45 FR 75500); March 5, 1982 (47 FR 9694) and February 25, 1983 (48 FR 8188). The combined lists represented all 18 U.S.C. 207(d)(1)(C) positions which were not exempted by the Director, OGE. This regulation consolidates and amends the previously published lists and is based upon a review of agency annual submissions made pursuant to 5 CFR 737.25(b)(1). All positions designated pursuant to 5 U.S.C. 207(d)(1)(C) not previously designated are marked by an asterisk. In accordance with 5 CFR 737.25(d), designation of such positions shall not become effective until the last day of the fifth full calendar month after this publication.

Section 737.25 of the final regulations sets forth the standards and procedures to be applied in determining which positions shall be designated. OGE also issued a memorandum to heads of departments, independent agencies, commissions and Government corporations/designated agency ethics officials dated April 26, 1979, giving additional information and guidance on this subject. Section 737.11 sets forth the standards and procedures to be applied in determining which separate statutory and non-statutory agencies and bureaus shall be designated.

The Director, OGE, in consultation with each department and agency concerned, has determined that the positions set forth below qualify for designation as "Senior Employee" positions. 5 CFR 737.33 is hereby amended accordingly. The Director has further determined, in consultation with each department or agency concerned, the separate statutory and non-statutory agencies/bureaus set forth below qualify for such designation.

The "Senior Employee" positions listed constitute all such positions designated under the provisions of subsection 207(d)(1)(C) of title 18 U.S.C. for the departments and agencies listed. In accordance with 5 CFR 737.25(d), subsequent designation of positions within the department or agencies listed shall not be effective until the last day of the fifth full calendar month after the first publication of a notice by the Director, OGE, of intention to so designate. Such fair notice shall not

apply to subsequent designations made under the rule concerning positions shifting set forth in 5 CFR 737.25(i).

In several cases, a position in one agency has been designated while a position of similar title in another has not. OGE has, in the exercise of its discretion, accorded some deference to the decision of a department or agency to designate a position where that decision was in favor of designation above minimum OGE standards. As OGE conducted the review necessary for these designations, it became apparent that, because of the subject matter of a department's or agency's business, the gravity of the "revolving door" problems varied significantly from agency to agency. Moreover, positions which were ostensibly similarly titled and described nevertheless had different roles from agency to agency. Also, OGE believes it desirable that the balance between postemployment restrictions and impact on recruiting and retention be adjudged on an agency level, as long as minimum standards are met.

Positions automatically designated by 18 U.S.C. 207(d)(1) (A) and (B) are not included in this publication.

This is a final not a proposed regulation. The Director of the Office of Government Ethics, acting pursuant to 5 U.S.C. 553(b)(3)(A), has found good cause for waiving the general notice of proposed rulemaking and the 30 day delay in effectiveness. This regulation is interpretive in nature, exempt from 5 U.S.C. 553.

E.O. 12291, Federal Regulation

OGE has determined that this is not a major rule as defined under section 1(B) of E.O. 12291.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, because it only affects federal employees.

List of Subjects in 5 CFR Part 737

Conflict of interests, Government employees.

Office of Personnel Management.

David H. Martin,

Director, Office of Government Ethics.

Accordingly, the Office of Personnel Management is amending 5 CFR Part 737 as follows:

1. The authority citation for Part 737 continues to read as follows:

Authority: Titles II and IV of Pub. L. 95-521 (October 26, 1978), as amended by Pub. L. 96-

19 (June 13, 1979), 5 U.S.C. Appendix; Pub. L. 96-150 (November 11, 1983); 18 U.S.C. 207.

2. Section 737.31 is revised to read as follows:

§ 737.31 Separate statutory agencies: Designations.

In accordance with the provisions of 18 U.S.C. 207(e) and 737.13, each of the following departments or agencies is determined, for purposes of 18 U.S.C. 207(c), to have within it separate statutory agencies or bureaus as set forth below:

Parent Agency: EXECUTIVE OFFICE OF THE PRESIDENT

Separate Statutory Components:
Office of Management and Budget
Council of Economic Advisers
National Security Council
United States Trade Representation
Council for Environment Quality
Office of Science and Technology Policy
Office of Administration
White House Office and the Office of Policy

**Development
Office of the Vice President**

Parent Agency: DEPARTMENT OF THE TREASURY

Separate Statutory Components:
Bureau of Alcohol, Tobacco and Firearms
Bureau of Engraving and Printing
Bureau of the Mint
Comptroller of the Currency
Internal Revenue Service
United States Customs Service
United States Secret Service

Parent Agency: FEDERAL EMERGENCY MANAGEMENT AGENCY

Separate Statutory Components: United States Fire Administration

Parent Agency: OFFICE OF PERSONNEL MANAGEMENT

Separate Statutory Components: Office of Government Ethics

Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES

Separate Statutory Components:
Food and Drug Administration
Public Health Service
Social Security Administration

Parent Agency: DEPARTMENT OF TRANSPORTATION

Separate Statutory Components:
Federal Aviation Administration
Federal Highway Administration
Federal Railroad Administration
Maritime Commission
National Highway Traffic Safety Administration
Saint Lawrence Seaway Development Corporation
United States Coast Guard
Urban Mass Transportation Administration

Parent Agency: DEPARTMENT OF LABOR

Separate Statutory Components:
Bureau of Labor Statistics
Mine Safety and Health Administration
Occupational Safety and Health Administration

Parent Agency: DEPARTMENT OF JUSTICE

Separate Statutory Components:
Bureau of Prisons (including Federal Prison Industries, Inc.)

Community Relations Service
Drug Enforcement Administration
Federal Bureau of Investigation
Foreign Claims Settlement Commission
*National Institute of Justice
*Bureau of Justice Statistics
*Office of Justice Assistance, Research and Statistics

Immigration and Naturalization Service
Independent Counsel
United States Parole Commission

Parent Agency: DEPARTMENT OF DEFENSE

Separate Statutory Components:

Department of the Army
Department of the Navy
Department of the Air Force
Defense Mapping Agency

Parent Agency: DEPARTMENT OF ENERGY

Separate Statutory Components:
Federal Energy Regulatory Commission

Parent Agency: DEPARTMENT OF COMMERCE

Separate Statutory Components:
Economic Development Administration
Patent and Trademark Office
National Oceanic and Atmospheric Administration
Bureau of the Census

Parent Agency: NATIONAL CREDIT UNION ADMINISTRATION

Separate Statutory Component:

Central Liquidity Facility

Parent Agency: NATIONAL CREDIT UNION ADMINISTRATION

Separate Statutory Component:

Central Liquidity Facility

3. Section 737.32 is revised to read as follows:

§ 737.32 Separate components of agencies or bureaus; designations.

In accordance with the provisions of 18 U.S.C. 207(d)(1)(C) and § 737.14, each of the component agencies or bureaus as set forth below is determined, for purposes of 18 U.S.C. 207(d) and this Part 737, to be separate from the remaining agencies and bureaus of its parent agency (except such agencies and bureaus as specified):

Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES

Separate Components:
Health Care Financing Administration

Parent Agency: DEPARTMENT OF TRANSPORTATION

Separate Components:

Alaska Railroad

Parent Agency: DEPARTMENT OF LABOR

Separate Components:
Employment and Training Administration
Employment Standards Administration
Labor-Management Services Administration

Parent Agency: DEPARTMENT OF DEFENSE

Separate Components:
Defense Communications Agency
Defense Intelligence Agency
Defense Nuclear Agency

* These three components shall not, for purposes of 18 U.S.C. 207(c), be considered separate from one another but only from other separate components of the Department of Justice.

National Security Agency
Defense Logistics Agency
Parent Agency: DEPARTMENT OF STATE

Separate Components:

Foreign Service Grievance Board
International Joint Commission, United States and Canada (American Section)

Parent Agency: DEPARTMENT OF JUSTICE

Separate Statutory Components:

Office of the United States Attorney (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Marshall for the same judicial district.
Office of United States Marshall (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Attorney for the same judicial district.

Antitrust Division

Civil Rights Division

Land and Natural Resources Division

Tax Division

Criminal Division

Office for Improvements in the Administration of Justice

Parent Agency: DEPARTMENT OF COMMERCE

Separate Components:

International Trade Administration
Minority Business Development Administration
National Telecommunication and Information Administration
Bureau of Industrial Economics

4. Section 737.33 is revised to read as follows:

§ 737.33 "Senior Employee" designations.

In accordance with § 737.25(b)(1), the following employee positions have been designated as "Senior Employee" positions for purposes of subsections 207(b)(ii) and (c) of title 18, U.S.C. as amended.¹

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF ADMINISTRATION)

Positions:

AD Director, Automated Systems Division

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (COUNCIL OF ECONOMIC ADVISERS)

Positions: No section 207(d)(1)(C) designations.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (COUNCIL ON ENVIRONMENTAL QUALITY)

Positions: No section 207(d)(1)(C) designations.

¹ All positions designated pursuant to section 207(d)(1)(C) not previously designated are marked by an asterisk (*). Those positions marked by a double asterisk (**) are former Executive level positions which were converted to SES positions. Positions automatically designated by section 207(d)(1)(A) and (B) are not shown.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE)

Positions:

GS-17 Executive Director.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF MANAGEMENT AND BUDGET)

Positions:

SES Executive Associate Director for Budget and Legislation
 SES Associate Director
 SES Counsel to the Director for Policy Analysis and Law
 SES General Counsel
 SES Deputy General Counsel
 SES Assistant Director for Public Affairs
 SES Assistant Director for Legislative Affairs (House)
 SES Assistant Director for Legislative Affairs (Senate)
 SES Associate Director for Economic Policy
 SES* Deputy Associate Director for Economic Policy
 SES Assistant Director for Legislative Reference
 SES Deputy Assistant Director for Legislative Reference
 SES* Assistant Director for Special Projects
 SES Deputy Associate Director for Administration
 SES Assistant Director for Budget Review
 SES Deputy Assistant Director for Budget Review
 SES Administrator, Office of Information and Regulatory Affairs
 SES Deputy Administrator for Information and Regulatory Management
 SES Deputy Administrator for Regulatory and Statistical Analysis
 SES Associate Director for Management
 SES Assistant Director for Federal Personnel Policy
 SES Deputy Associate Director for Management Reform
 SES Deputy Associate Director for Finance and Accounting
 SES* Deputy Associate Director for Interagency Activities
 SES Associate Director for National Security and International Affairs
 SES Deputy Associate Director for Special Studies, National Security and International Affairs
 SES Deputy Associate Director for National Security
 SES Deputy Associate Director for International Affairs
 SES Associate Director for Human Resources, Veterans, and Labor
 SES Deputy Associate Director for Special Studies, Human Resources, Veterans and Labor
 SES Deputy Associate Director for Health and Income Maintenance
 SES Deputy Associate Director for Labor, Veterans and Education
 SES Associate Director for Natural Resources, Energy and Science
 SES Deputy Associate Director for Special Studies, Natural Resources, Energy and Science

SES Deputy Associate Director for Natural Resources
 SES Deputy Associate Director for Energy and Science
 SES Deputy Chief, Energy & Science Division
 SES Associate Director for Economics and Government
 SES Deputy Associate Director for Special Studies, Economics and Government
 SES Deputy Associate Director for Transportation, Commerce and Housing
 SES Deputy Associate Director for Justice, Treasury and Personnel

OFFICE OF FEDERAL PROCUREMENT POLICY

SES Principal Associate Administrator for Procurement

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (NATIONAL SECURITY COUNCIL)

Positions:

GS-18 Special Assistant to the President (7)
 SES 2 Senior Staff Member
 SES 4 Senior Staff Member (2)
 SES 5 Senior Staff Member (2)
 ES 5 Senior Staff Member
 FSO 1 Senior Staff Member (2)
 GS-17 Staff Member (2)
 O-8 Military Assistant to the Assistant to the President for National Security Affairs

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF SCIENCE AND TECHNOLOGY POLICY)

Positions:

SES* Executive Director
 SES* Assistant Director for Defense Technology and Systems
 SES* Assistant Director for Energy, Natural Resources, and International Affairs
 SES* Assistant Director for General Science
 SES* Assistant Director for Institutional Relations
 SES* Assistant Director for Life Sciences
 SES* Assistant Director for Space Science and Technology

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE)

Positions:

SES Assistant U.S. Trade Representative for Administration
 SES General Counsel
 SES Deputy General Counsel
 SES Chief Textile Negotiator (Ambassador)
 SES Director, Computer Services
 SES Assistant U.S. Trade Representative—Services
 SES Deputy Assistant U.S. Trade Representative—Services
 SES Assistant U.S. Trade Representative—Industrial
 SES Assistant U.S. Trade Representative—Investment Services
 SES Deputy Assistant U.S. Trade Representative—Investment Services
 SES Assistant U.S. Trade Representative—Agriculture

SES Chairman, TPSC
 SES Deputy Assistant U.S. Trade Representative—Agriculture
 SES Assistant U.S. Trade Representative—GATT Affairs
 SES Assistant U.S. Trade Representative—The Americas
 SES Assistant U.S. Trade Representative—Japan
 SES Assistant U.S. Trade Representative—East Asia and Pacific
 SES Deputy Assistant U.S. Trade Representative—East Asia and Pacific
 SES Deputy Assistant U.S. Trade Representative—GATT Affairs

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES)

Positions:

AD Chief of Staff

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (THE WHITE HOUSE OFFICE)

Positions: No section 207(d)(1)(C) designations.

AGENCY: DEPARTMENT OF AGRICULTURE

Positions:

OFFICE OF THE SECRETARY

SES Deputy Assistant Secretary for Administration
 SES Executive Assistant to the Secretary
 SES Deputy Assistant Secretary for Food and Consumer Services
 SES Deputy Assistant Secretary for Natural Resources and Environment (2)
 SES Deputy Under Secretary for Small Community and Rural Development
 SES Deputy Under Secretary for International Affairs and Commodity Programs
 SES Deputy Assistant Secretary for Marketing and Inspection Services
 SES Deputy Assistant Secretary for Economics
 SES Deputy Assistant Secretary, Science and Education
 SES Deputy Assistant Secretary for Governmental and Public Affairs

OFFICE OF THE INSPECTOR GENERAL

SES Deputy Inspector General
 SES Assistant Inspector General for Audit
 SES Assistant Inspector General for Investigations
 SES Assistant Inspector General for Analysis and Evaluation
 SES Deputy Assistant Inspector General for Audit
 SES Deputy Assistant Inspector General for Investigations
 SES Assistant Inspector General for Security and Special Operations

OFFICE OF THE GENERAL COUNSEL

SES Deputy General Counsel

Office of Administrative Law Judges

No section 207(d)(1)(C) designations.

OFFICE OF PERSONNEL

SES Director
SES Deputy Director

OFFICE OF EQUAL OPPORTUNITY

SES Director

OFFICE OF FINANCE AND MANAGEMENT

SES Director
SES Deputy Director
SES Director, National Finance Center (NFC)
SES Deputy Director, NFC

OFFICE OF INFORMATION RESOURCES MANAGEMENT

SES Director
SES Deputy Director

OFFICE OF OPERATIONS

SES Director

OFFICE OF BUDGET, AND PROGRAM ANALYSIS

SES Director

WORLD FOOD AND AGRICULTURAL OUTLOOK

SES Chairperson
SES* Deputy Chairperson

ECONOMICS RESEARCH SERVICE

SES Administrator
SES Deputy Administrator, ERS

STATISTICAL REPORTING SERVICE

SES Administrator
SES Deputy Administrator

ECONOMIC MANAGEMENT STAFF

SES Director

ECONOMIC ANALYSIS STAFF

SES Director

AGRICULTURAL COOPERATIVES SERVICE

SES Administrator

RURAL ELECTRIFICATION ADMINISTRATION

SES Deputy Administrator

FARMERS HOME ADMINISTRATION

SES Associate Administrator
SES Deputy Administrator, Financial and Administrative Operations
SES Deputy Administrator Program Operations

AGRICULTURAL RESEARCH SERVICE

SES Deputy Administrator, National Program Staff
SES Associate Deputy Administrator, National Program Staff
SES Deputy Associate Administrator, National Program Staff
SES Deputy Administrator for Administrative Management
SES Administrator, Agricultural Research Service
SES Associate Administrator, Agricultural Research Service

EXTENSION SERVICE

SES Administrator
SES Associate Administrator

COOPERATIVE STATE RESEARCH SERVICE

SES Administrator
SES Associate Administrator

OFFICE OF GRANTS AND PROGRAM SYSTEMS

SES Director, Grants and Program Systems

SOIL CONSERVATION SERVICE

SES Chief
SES Associate Chief
SES Deputy Chief for Administration
SES Deputy Chief for Assessment and Planning
SES Deputy Chief for Technology
SES Deputy Chief for Programs

FOREST SERVICE

SES Chief
SES Associate Chief
SES Deputy Chief for Administration
SES Deputy Chief for Research
SES Associate Deputy Chief for Research (2)
SES Deputy Chief, National Forest System
SES Associate Deputy Chiefs, National Forest System (2)
SES Deputy Chief, State and Private Forestry
SES Associate Deputy Chief, State and Private Forestry
SES Deputy Chief for Programs and Legislation
SES Associate Deputy Chief for Programs and Legislation

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SES Administrator
SES Associate Administrator
SES Deputy Administrator, State and County Operations
SES Deputy Administrator, Management
SES Deputy Administrator for Program Planning and Development
SES Deputy Administrator, Commodity Operations

FEDERAL CROP INSURANCE CORPORATION

SES Manager
SES Deputy Manager
SES Assistant Manager for Administration
SES Director of Operations

FOREIGN AGRICULTURAL SERVICE

SES Administrator
SES Associate Administrator
SES Associate Administrator and General Sales Manager

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT ADMINISTRATOR

SES Administrator
SES Associate Administrator

FOOD SAFETY AND INSPECTION SERVICE

SES Administrator
SES Associate Administrator
SES Deputy Administrator, Meat and Poultry Inspection Operations
SES Deputy Administrator, Meat and Poultry Technical Services

SES Deputy Administrator, Administrative Management
SES Deputy Administrator, Science
SES Deputy Administrator, International Programs

FOOD AND NUTRITION SERVICE

SES Administrator
SES Associate Administrator

HUMAN NUTRITION INFORMATION SERVICE

SES Administrator

AGRICULTURAL MARKETING SERVICE

SES Administrator
SES Deputy Administrator for Marketing Program Operations
SES* Deputy Administrator for Commodity Service
SES Assistant to Deputy Administrator, Marketing Program Operations
SES* Associate Deputy Administrator for Compliance

PACKERS AND STOCKYARDS

SES Administrator
SES Deputy Administrator

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SES Administrator
SES Associate Administrator
SES Deputy Administrator, Veterinary Services
SES Deputy Administrator, Plant Protection and Quarantine
SES Deputy Administrator for Management

FEDERAL GRAIN INSPECTION SERVICE

SES Deputy Administrator, Program Operations

OFFICE OF TRANSPORTATION

SES* Director

AGENCY: DEPARTMENT OF COMMERCE*Positions:***OFFICE OF THE SECRETARY**

SES Executive Assistant to the Secretary
SES Special Assistants to the Secretary

Office of the Associate Deputy Secretary

SES Director, Office of Business Liaison
SES Associate Deputy Secretary
SES Associate Deputy Secretary for Strategic Policy and Planning

Office of Congressional Affairs

SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Intergovernmental Affairs

Office of Public Affairs

SES Director

Office of General Counsel

SES Deputy General Counsel

Office of Under Secretary for Travel and Tourism

SES Deputy Under Secretary
SES Assistant Secretary for Tourism Marketing

Office of Inspector General

SES Deputy Inspector General

Minority Business Development Agency

SES Director

SES Deputy Director

Office of Assistant Secretary for Administration

SES Deputy Assistant Secretary for Administration

SES Director for Planning, Budget, and Evaluation

SES Director, Office of Budget

SES* Director for Procurement and Federal Assistance

Office of the Under Secretary for Economic Affairs

SES Chief Economist

SES Deputy Assistant Secretary for Automotive Industry Affairs

SES Director, Office of Productivity, Technology and Innovation

SES* Deputy Assistant Secretary for Productivity, Technology, and Innovation

SES Director, Office of Strategic Resources

Bureau of Economic Analysis

SES Director

SES Deputy Director

National Technical Information Service

SES Director

SES Deputy Director

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SES Deputy Assistant Secretary

Office of Planning and Policy Coordination

SES Chief Counsel

Office of Federal Systems and Spectrum Management

SES Associate Administrator

SES Deputy Associate Administrator

Office of Policy Analysis and Development

SES Associate Administrator

Office of Telecommunications Applications

SES Associate Administrator

Institute for Telecommunications Sciences

SES Associate Administrator

BUREAU OF THE CENSUS

SES Deputy Director

Demographic Fields

SES Associate Director

Management Services

SES Associate Director

Statistical Standards and Methodology

SES Associate Director

Field Operations

SES Associate Director

Economic Fields

SES Associate Director

ECONOMIC DEVELOPMENT ADMINISTRATION

SES Deputy Assistant Secretary

SES Deputy Assistant Secretary, Finance Directorate

SES Deputy Assistant Secretary, Operations Directorate

Office of Chief Counsel

SES Chief Counsel

INTERNATIONAL TRADE ADMINISTRATION

SES Deputy Under Secretary

SES Deputy Assistant Secretary for Commercial Services

Office of the Assistant Secretary for International Economic Policy

SES Deputy Assistant Secretary

SES Deputy Assistant Secretary for Europe

SEC Deputy Assistant Secretary for Western Hemisphere

SES Deputy Assistant Secretary for East Asia

SES Deputy Assistant Secretary for Africa, Near East, South Asia

Office of the Assistant Secretary for Trade Administration

SES Deputy Assistant Secretary

SES Deputy Assistant Secretary for Import Administration

SES Deputy to the Deputy for Import Administration (2)

SES Deputy Assistant Secretary for Export Administration

SES Deputy to the Deputy for Export Administration

SES Deputy Assistant Secretary for Export Enforcement

Office of the Assistant Secretary for Trade Development

SES Deputy Assistant Secretary

SES Deputy Assistant Secretary for Export Development

SES Deputy Assistant Secretary for Industry Projects

SES* Deputy to the Deputy Assistant Secretary for Industry Projects

SES* Deputy Assistant Secretary for Aerospace

SES Deputy Assistant Secretary for Trade Information and Analysis

SES Deputy Assistant Secretary for Trade Adjustment Assistance

SES* Director, Office of World Fairs and International Expositions

NATIONAL BUREAU OF STANDARDS

SES Deputy Director

Office of Associate Director for Programs, Budget and Finance

SES Associate Director for Programs, Budget and Finance

SES Director, Planning Office

National Measurement Laboratory

SES Director

SES Deputy Director for Resources and Operations

SES Deputy Director for Programs

National Engineering Laboratory

SES Director

SES Deputy Director

SES Deputy Director for Programs

Institute for Computer Sciences and Technology

SES Director

SES* Deputy Director

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**Office of the General Counsel**

SES General Counsel

Office of Policy and Planning

SES Director

National Marine Fisheries Service

SES Assistant Administrator for Fisheries

SES Deputy Assistant Administrator for Fisheries

SES* Deputy Assistant Administrator for Fisheries Resource Management

SES* Deputy Assistant Administrator for Science and Technology

Office of Oceanic and Atmospheric Research

SES Assistant Administrator for Oceanic and Atmospheric Research

SES Deputy Assistant Administrator

National Weather Service

SES Assistant Administrator for Weather Services

SES Deputy Assistant Administrator

National Ocean Service

SES Assistant Administrator for Ocean Services and Coastal Zone Management

SES Deputy Assistant Administrator for Ocean Services

National Environmental Satellite Data and Information Service

SES Assistant Administrator

SES Deputy Assistant Administrator for Satellites

SES Deputy Assistant Administrator for Information Services

NOAA CORPS

07-08 Director

PATENT AND TRADEMARK OFFICE

GS-18 Deputy Assistant Secretary and Deputy Commissioner

Office of Assistant Commissioner for Patents

GS-18 Assistant Commissioner

SES Deputy Assistant Commissioner

Office of Assistant Commissioner for Trademarks

GS-17 Assistant Commissioner

Office of Assistant Commissioner for External Affairs

SES Assistant Commissioner

Office of Assistant Commissioner for Finance and Planning

SES Assistant Commissioner

Office of Assistant Commissioner for Administration

SES* Assistant Commissioner

Office of the Solicitor

SES Solicitor

SES Deputy Solicitor

AGENCY: DEPARTMENT OF DEFENSE*Positions:***Office of the Secretary of Defense**

- SES Assistant to the Secretary of Defense (Intelligence Oversight)
- SES Assistant to the Secretary and Deputy Secretary of Defense
- SES Director, Small and Disadvantaged Business Utilization
- SES Director of Small Business and Economic Utilization Policy
- SES* Director, Disadvantaged Business Utilization

Office of the Deputy Under Secretary of Defense (Policy)

- SES Deputy Under Secretary of Defense (Policy)
- SES Assistant Deputy Under Secretary of Defense (Policy)
- SES Director, Counterintelligence & Security Programs
- SES Director, Information Security
- SES Director for Security Plans and Programs
- SES Director, Counterintelligence and Investigative Programs
- SES Director, Special Advisory Staff
- SES Director, Command and Control Policy
- 0-8* Director, Intelligence and Space Policy
- SES* Director, Public Diplomacy

Office of the Assistant Secretary of Defense (International Security Policy)

- SES Principal Deputy Assistant Secretary of Defense (International Security Policy)
- SES* Deputy Assistant Secretary of Defense (Negotiations Policy)
- SES* Director, Strategic Forces Policy
- SES Deputy Assistant Secretary of Defense (Strategic and Theater Nuclear Forces Policy)
- SES Director for Theater Nuclear Policy
- SES Director, Strategic Arms Control Policy
- SES Deputy Assistant Secretary of Defense (European and NATO Affairs)
- SES Director, Southern European Affairs
- SES Deputy Director, European and NATO Affairs
- SES Director, European Policy
- SES Deputy Assistant Secretary of Defense (International Economics, Trade, and Security Policy)
- SES Principal Director, International Economics, Trade and Security Policy
- 0-7* Principal Director, European and NATO Policy

Office of the Assistant Secretary of Defense (International Security Affairs)

- SES Principal Deputy Assistant Secretary of Defense (International Security Affairs)
- SES Deputy Assistant Secretary of Defense (East Asia and Pacific Affairs)
- SES Director, Africa Region
- SES Deputy Assistant Secretary of Defense (Inter-American Affairs)
- SES Deputy Assistant Secretary of Defense (Policy Analysis)
- SES Director, Policy Planning
- SES Director, Foreign Military Rights Affairs
- SES Director, Security Assistance Plans

- 0-8* Deputy Assistant Secretary of Defense (Near Eastern, African, and South Asian Affairs)

- 0-8 Director, Inter-American Region
- 0-7 Director, East Asia & Pacific Region

Defense Security Assistance Agency

- SES Deputy Director, Defense Security Assistance Agency
- SES Director, Security Assistance Operations
- SES Comptroller, Defense Security Assistance Agency
- SES Deputy Comptroller, Defense Security Assistance Agency
- SES Director, Joint Financial Management Office

Office of the Under Secretary of Defense (Research and Engineering)

- SES Principal Deputy Under Secretary of Defense for Research and Engineering
- SES Chairman, Military Liaison Committee/Assistant to the Secretary of Defense (Atomic Energy)
- SES Deputy Assistant to the Secretary of Defense (Chemical Matters)
- SES* Assistant Under Secretary of Defense (Plans and Development)
- SES Assistant Under Secretary of Defense Conventional Initiatives and Director, Conventional Initiatives Program Coordination
- SES Deputy Under Secretary of Defense (Acquisition Management)
- SES Assistant Deputy Under Secretary of Defense (Acquisition)
- SES Director, Contract Administration
- SES Director, Contract Policy
- SES Director, Cost, Pricing and Finance
- SES* Deputy Director Policy, Resources, and External Affairs (OT&E)
- SES* Assistant Deputy Director, Tactical and Electronic Warfare Systems (OT&E)
- SES* Assistant Deputy Director, Strategic, Space and C31 Systems (OT&E)
- SES* Director, Industrial Productivity
- SES* Director, Industrial Resources
- SES Director, Defense Acquisition Regulatory System
- SES* Assistant Deputy Under Secretary of Defense (Technology Programs)
- SES Director, Major Systems Acquisition
- SES Assistant Deputy Under Secretary of Defense (Production Policy)
- SES Director, Standardization and Acquisition Support
- SES Deputy Under Secretary of Defense (Research and Advanced Technology)
- SES Assistant Deputy Under Secretary of Defense (Research & Advanced Technology)
- SES Director, Very High Speed Integrated Circuits and Electron Devices
- SES Director, Engineering Technology
- SES Director, Directed Energy Programs
- SES Director, Research and Technical Information
- SES Deputy Under Secretary of Defense (Strategic and Theater Nuclear Forces)
- SES Deputy Under Secretary of Defense (Tactical Warfare Programs)
- SES Director, Mobility and Special Projects
- SES* Director, Computer Software and Systems
- SES* Assistant Deputy Under Secretary of Defense (Defensive Systems)

- SES* Assistant Deputy Under Secretary of Defense (Offensive and Space Systems)
 - SES* Assistant Deputy Under Secretary of Defense (Strategic Aeronautical and Theater Nuclear Systems)
 - SES* Assistant Deputy Under Secretary of Defense (START and Arms Control Office)
 - SES Director, Defense Test and Evaluation
 - SES Deputy Under Secretary of Defense (International Programs and Technology)
 - SES Assistant Deputy Under Secretary of Defense (International Programs)
 - SES Director, NATO Affairs
 - SES Director, Far East and Southern Hemisphere Affairs
 - SES Deputy Under Secretary of Defense (C3I)
 - SES Assistant Deputy Under Secretary of Defense (Communications, Command, and Control)
 - SES Director, Strategic and Theater Nuclear Forces C3
 - SES Director, Theater and Tactical C3
 - SES Director, Electronic Warfare and C3 Countermeasures
 - SES Director, Information Systems
 - SES Assistant Deputy Under Secretary of Defense (Intelligence)
 - SES Director, National Intelligence Systems
 - SES Director, Office of Munitions
 - SES Director, Tactical Intelligence Systems
 - SES Assistant Deputy Under Secretary of Defense (Systems Integration)
 - SES Director, Systems Architecture and Analysis
 - SES Director, Long-Range Planning and Systems Evaluation
 - SES Director, C3 Resources Management
 - 0-7* Deputy Director (Defense Test and Evaluation) and Deputy Director Tactical Air and Land Warfare Systems
 - 0-8 Deputy and Assistant for Directed Energy Weapons
 - SES Assistant Deputy Under Secretary of Defense (Land Warfare)
 - SES Assistant Deputy Under Secretary of Defense (Naval Warfare and Mobility)
 - 0-7* Assistant Deputy Under Secretary of Defense (Strategic and Theater Nuclear Forces)
 - SES Assistant Deputy Under Secretary of Defense (Air Warfare)
 - SES Director, Joint Tactical Communications Office (TRI-TAC), Ft. Monmouth, NJ
- Defense Advanced Research Projects Agency**
- SES Director, Defense Advanced Research Projects Agency
 - SES Deputy Director for Research
 - SES Deputy Director for Technology
 - SES Director, Directed Energy Office
 - SES Director, Information Processing Techniques Office
 - SES* Principal Research Manager (IPTO)
 - SES Director, Tactical Technology Office
 - SES Director, Program Management Office
 - SES* Director, International Command and Control
 - SES Director, Defense Sciences Office
 - SES Director, Strategic Technology Office

Office of The Assistant Secretary of Defense (Manpower, Installations, and Logistics)

SES Principal Deputy Assistant Secretary of Defense (Manpower, Installations, and Logistics)

SES Deputy Assistant Secretary of Defense (Equal Opportunity and Safety Policy)

SES Director for Civilian Equal Opportunity Programs

SES* Director, Communications and Community Liaison

SES Director for Safety and Occupational Health Policy

SES Deputy Assistant Secretary of Defense (Logistics & Materiel Management)

SES Principal Director, Office of the Deputy Assistant Secretary of Defense (Logistics and Materiel Management)

SES Director for Supply Management Policy

SES* Deputy Director, Office of Economic Adjustment

SES* Deputy Assistant Director for Mobilization Planning

SES Director for Maintenance Policy

SES* Assistant Director for Resource Management

SES Director, Weapon Support

SES Deputy Assistant Secretary of Defense (Civilian Personnel Policy and Requirements)

SES Director, Personnel Management

SES Director, Civilian Requirements and Analysis

SES Director, Overseas and Nonappropriated Fund Personnel Management

SES Deputy Director for Labor-Management Relations

SES Director, Management Studies

SES Deputy Assistant Secretary of Defense (Program Integration)

SES Principal Director, Office of the Deputy Assistant Secretary of Defense (Program Integration)

SES Director, Automated Systems

SES Director, Force Readiness and Sustainability Requirements and Analysis

SES Director, International Logistics

SES* Director, Energy and Transportation Policy

SES Director, Manpower Management

SES Deputy Assistant Secretary of Defense (Program Management)

SES Principal Director, Office of the Deputy Assistant Secretary of Defense (Facilities, Environment, and Economic Adjustment)

SES Director, Base Operations

SES Director, Facility Requirements and Resources

SES Director, NATO Programs and Foreign Construction

SES* Director, Logistics Planning and Analysis

SES Assistant Director for Installations Programs

SES Director, Installation Planning

SES Director, Office of Economic Adjustment

SES Director, Manpower Planning and Analysis

SES Director, Accession Policy

0-8 Military Executive Officer, Reserve Forces Policy Board

0-7 Director, Construction Operations & Facilities Management

0-8 Staff Director, 5TH QRMG

DOD Dependents Schools

SES Director, DOD Dependents Schools

Office of Economic Adjustment

SES Economic Advisor

Office of the Assistant Secretary of Defense (Legislative Affairs)

SES Deputy Assistant Secretary of Defense (Senate Affairs)

SES Deputy Assistant Secretary of Defense (House Affairs)

Office of the Assistant Secretary of Defense (Comptroller)

SES Principal Deputy Assistant Secretary of Defense (Comptroller)

SES Deputy Assistant Secretary of Defense (Management Systems)

SES Principal Assistant to the Deputy Assistant Secretary of Defense (Management Systems)

SES Director for Accounting Policy

SES Director for Cost Accounting Policy

SES Director, Financial Accounting Policy

SES Director, Policy Promulgation Division

SES Director for Information Resources Management Systems

SES Director for Banking, International Finance and Professional Development

SES Deputy Assistant Secretary of Defense (Cost and Audit)

SES Director for Acquisition and Cost Management

SES Deputy Comptroller for Audit Policy

SES Deputy Assistant Secretary of Defense (Administration)/Director, Washington Headquarters Services

SES Director for Organizational and Management Planning

SES Deputy Assistant Secretary of Defense (Program/Budget)

SES Deputy Comptroller (Program/Budget)

SES Director for Research and Development

SES Director for Construction

SES Director for Operations

SES Director for Procurement

SES Director for Military Personnel

SES Director for Program and Financial Control

SES* Director for Planning, Review, and Analysis

SES* Director for Management Improvement

SES* Director for Plans and Systems

Office of the Assistant Secretary of Defense (Health Affairs)

SES* Deputy Assistant Secretary of Defense (Health Promotion)

SES Deputy Assistant Secretary of Defense (Information Systems and Strategic Planning)

SES Deputy Assistant Secretary of Defense (Health Program Evaluation)

SES Director, Office of the Civilian Health and Medical Program of the Uniformed Services

0-7* Deputy Assistant Secretary of Defense (Medical Readiness)

Office of the Director, Program Analysis and Evaluation

SES Director, Program Analysis and Evaluation

SES Director, European Forces Division

SES* Director, Projection Forces and Analytical Support Division

SES Deputy Director (Strategic Programs)

SES Director, Strategic Defensive and Theater Nuclear Forces Division

SES Director, Strategic Offensive Forces Division

SES Deputy Director (General Purpose Programs)

SES Director, Tactical Air Division

SES Director, Land Forces Division

SES Director, Naval Forces Division

SES Deputy Director (Resource Analysis)

SES Director, Economic Analysis Division

SES Director, Cost Analysis Division

SES* Principal Deputy Director, Program Analysis and Evaluation

SES Director, Contingency Forces Division

SES Deputy Director (Theater Assessments and Planning)

Office of the Assistant Secretary of Defense (Public Affairs)

SES Principal Deputy Assistant Secretary of Defense (Public Affairs)

SES Director, Freedom of Information and Security Review

SES Director, Defense Audio-Visual Agency

SES Director, American Forces Information Service

Office of the General Counsel

SES Deputy General Counsel

Office of the Inspector General

SES* Deputy Inspector General

US Mission to the North Atlantic Treaty Organization

SES Defense Advisor, US Mission to NATO

SES Deputy Defense Advisor for Research, Engineering and Acquisition

SES Director, Defense Plans Division

SES Director, Infrastructure and Logistics Division

SES Director, Communications and Electronic Division

International Military Activities Staff

SES Director of Logistics (International Staff)

SES Director of Logistics (NAMSA)

SES Director of Finance, Central European Operating Agency (NATO Support Group)

SES Director, Nuclear Planning (International Staff)

Organization of the Joint Chiefs of Staff

SES* Deputy Joint Requirements Integration Manager

0-8* Vice Director, Joint Staff

0-8* Deputy Director, Logistics (Strategic Mobility)

0-7* Deputy Director, Logistics (Planning and Resources)

0-8* Vice Director, Plans and Policy Director

0-7* Deputy U.S. Commissioner, US-Soviet Standing Consultative Commission

0-8* Deputy Director, Force Development and Strategic Plans

0-8* Assistant Deputy Director, Force Development and Strategic Plans

0-7* Deputy Director, Politico-Military Affairs

0-7* Assistant Deputy Director, Politico-Military Affairs
 0-7* Deputy Director, International Negotiations
 0-7* Assistant Deputy Director, International Negotiations
 0-7* Joint Chiefs of Staff Representative for Intermediate Range Nuclear Forces
 0-8* Joint Chiefs of Staff Representative for START
 0-8* Deputy Director, Unified and Specified Command C3 Support
 0-7* Deputy Director, Defense-wide Command, Control, and Communications Connectivity and Evaluation

Office of the Assistant Secretary of Defense (Reserve Affairs)

SES Principal Director, Office of the Deputy Assistant Secretary of Defense (Reserve Affairs)

AGENCY: DEPARTMENT OF THE AIR FORCE

Positions:

Civilian

OFFICE OF THE SECRETARY OF THE AIR FORCE

Under Secretary of the Air Force

SES Deputy Under Secretary of the Air Force (Space Systems)

Assistant Secretary of the Air Force (Financial Management)

SES Principal Deputy Assistant Secretary of the Air Force (Financial Management)
 SES Deputy Assistant Secretary, Programs and Budget
 SES Deputy Assistant Secretary for Information Systems Management
 SES Deputy for Aerospace Economic Analysis
 SES The Auditor General

Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations)

SES Principal Deputy Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations)
 SES Deputy Assistant Secretary (Installations, Environment and Safety)
 SES Deputy Assistant Secretary (Manpower Resources and Military Personnel)
 SES Deputy Assistant Secretary (Reserve Affairs)

Assistant Secretary of the Air Force (Research, Development and Logistics)

SES Principal Deputy Assistant Secretary of the Air Force (Research, Development and Logistics)
 SES Deputy Assistant Secretary (Logistics and Communications)
 SES Deputy Assistant Secretary (Acquisitions Management)
 SES Deputy for Acquisition
 SES Deputy for Programs and Production
 SES Deputy for Supply and Maintenance
 SES Deputy for Transportation and Civil Aviation

Administrative Assistant to the Secretary of the Air Force

SES Administrative Assistant to the Secretary of the Air Force

General Counsel

SES The General Counsel
 SES Deputy General Counsel
 SES Assistant General Counsel, Procurement

Directorate of Administration

SES Chief, Publishing Division

COMPTROLLER OF THE AIR FORCE

SES Deputy Comptroller of the Air Force
 SES Deputy Director, Budget
 SES Chief, Budget Management Division
 SES Deputy Director, Air Force Accounting and Finance Center

DEPUTY CHIEF OF STAFF, LOGISTICS AND ENGINEERING

SES Associate Director, Engineering and Services
 SES Associate Director, Logistics Plans and Programs
 SES Deputy to the Commander, Air Force Commissary Service

DEPUTY CHIEF OF STAFF, MANPOWER AND PERSONNEL

SES Deputy Assistant Secretary (Civilian Personnel Policy and Equal Employment Opportunity); and Director of Civilian Personnel

DEPUTY CHIEF OF STAFF, RESEARCH, DEVELOPMENT AND ACQUISITION

SES Director, Office of Small and Disadvantaged Business Utilization
 SES Associate Director, Contracting and Manufacturing

AIR FORCE LOGISTICS COMMAND

SES Chairperson, Air Force Logistics Command Procurement Committee
 SES Assistant Deputy Chief of Staff, Logistics Management Systems
 SES Assistant Deputy Chief of Staff, Materiel Management
 SES Assistant Deputy Chief of Staff, Maintenance
 SES Assistant Deputy Chief of Staff, Plans and Programs
 SES* Deputy for Logistics Force Structure, Development and Acquisition, Air Force Acquisition Logistics Center
 SES Assistant Deputy Chief of Staff, Contracting and Manufacturing
 SES Deputy for Contracting and Manufacturing, Air Force Acquisition Logistics Center
 SES Deputy Director, Materiel Management, Ogden Air Logistics Center
 SES Deputy Director, Materiel Management, Oklahoma City Air Logistics Center
 SES Deputy Director, Materiel Management, Sacramento Air Logistics Center
 SES Deputy Director, Materiel Management, San Antonio Air Logistics Center
 SES Deputy Director, Materiel Management, Warner Robins Air Logistics Center

AIR FORCE SYSTEMS COMMAND (AFSC)

Headquarters AFSC

SES Principal Assistant Deputy Chief of Staff, Contracting and Manufacturing
 SES Chairperson, Contract Review Committee
 SES Director of Manufacturing

Air Force Office of Scientific Research

SES Director, Aerospace Sciences
 SES Director, Chemical Sciences
 SES Director, Electronics and Materiel Sciences
 SES Director, Life Sciences
 SES Director, Mathematical and Information Sciences

Aeronautical Systems Division

SES Assistant Deputy for Procurement and Manufacturing
 SES Deputy for Reconnaissance and Electronic Warfare Systems

Air Force Wright Aeronautical Laboratories

Air Force Materials Laboratory

SES Research and Development Executive (Director, AFML)
 SES Director, Manufacturing Technology Division

Electronic Systems Division

SES Assistant Deputy for Contracting and Manufacturing
 SES Assistant Deputy for Strategic Systems
 SES Assistant Deputy for Tactical Systems
 SES Deputy (Technical Operations and Product Assurance)

Space division

SES Assistant Deputy for Contracting and Manufacturing

ORGANIZATION OF THE JOINT CHIEFS OF STAFF

Joint Program Management Office, Worldwide Military Command and Control System (WWMCCS) Information Systems
 SES Chief, WWMCCS Information Systems Office
 SES Technical director

NATIONAL SECURITY COUNCIL

SES* Director, Crisis Management Planning Staff

Military

OFFICE OF THE SECRETARY OF THE AIR FORCE

0-7/0-8 Commander, Air Force Audit Agency; and Deputy Auditor General
 0-7/0-8 Director, Office of Space Systems
 0-7/0-8 Director of Special Projects; and Assistant Vice Commander, Space Division (AFSC)

OFFICE OF AIR FORCE RESERVE

0-7/0-8 Chief of Air Force Reserve; and Commander, Air Force Reserve

NATIONAL GUARD BUREAU

0-7/0-8 Director, Air National Guard

**ASSISTANT CHIEF OF STAFF,
INFORMATION SYSTEMS**

- 0-7/0-8 Assistant Chief of Staff,
Information Systems
0-7/0-8* Deputy Assistant Chief of Staff,
Information Systems

**ASSISTANT CHIEF OF STAFF, STUDIES
AND ANALYSES**

- 0-7/0-8 Assistant Chief of Staff, Studies
and Analyses

**OFFICE OF THE JUDGE ADVOCATE
GENERAL**

- 0-7/0-8 The Judge Advocate General; and
Commander, Air Force Legal Services
Center
0-7/0-8 Deputy Judge Advocate General

THE INSPECTOR GENERAL

- 0-7/0-8 Commander, Air Force Office of
Special Investigations

COMPTROLLER OF THE AIR FORCE

- 0-7/0-8 Director, Budget
0-7/0-8 Deputy Director, Budget
(Operations)
0-7/0-8 Commander, Air Force Accounting
and Finance Center; Assistant Comptroller
for Accounting and Finance; and Assistant
Director, Security Assistance Accounting,
Defense Security Assistance Agency

**DEPUTY CHIEF OF STAFF, LOGISTICS
AND ENGINEERING**

- 0-7/0-8 Director, Logistics Plans and
Programs
0-7/0-8 Deputy Director, Logistics Plans
and Programs
0-7/0-8 Director, Engineering and Services
0-7/0-8 Director, Transportation
0-7/0-8 Commander, Air Force Commissary
Service

**DEPUTY CHIEF OF STAFF, PROGRAMS
AND RESOURCES**

- 0-7/0-8 Assistant Deputy Chief of Staff,
Programs and Resources
0-7/0-8 Director, Programs and Evaluation
0-7/0-8 Director, International Programs

**DEPUTY CHIEF OF STAFF, RESEARCH,
DEVELOPMENT AND ACQUISITION**

- 0-7/0-8 Assistant Deputy Chief of Staff,
Research, Development and Acquisition
0-7/0-8 Director, Space Systems and
Command, Control, Communications
0-7/0-8 Director, Contracting and
Manufacturing Policy
0-7/0-8 Director, Development and
Production
0-7/0-8* Deputy for Strategic Forces
0-7/0-8 Special Assistant for ICBM
Modernization
0-7/0-8* Special Assistant for Tactical
Modernization
0-7/0-8 Joint Program Manager, Worldwide
Military Command and Control System
(WWMCCS) Information Systems; and
Assistant for WWMCCS Information
Systems

**DEPUTY CHIEF OF STAFF, PLANS AND
OPERATIONS**

- 0-7/0-8 Director, Plans

**AIR FORCE COMMUNICATIONS
COMMAND**

- 0-7/0-8 Commander, Air Force
Communications Command

AIR FORCE LOGISTIC COMMAND

- 0-7/0-8 Chief of Staff
0-7/0-8 Deputy Chief of Staff, Contracting
and Manufacturing
0-7/0-8 Deputy Chief of Staff, Logistics
0-7/0-8 Deputy Chief of Staff, Maintenance
0-7/0-8 Deputy Chief of Staff, Plans and
Programs
0-7/0-8 Staff Judge Advocate
0-8/0-9 Commander, Air Force Acquisition
Logistics Center
0-7/0-8 Commander, Air Force Logistics
Command International Logistics Center;
and Assistant for International Logistics
0-7/0-8* Commander, Air Force Logistics
Command Logistics Management Systems
Center; & Deputy Chief of Staff, Logistics
Management Systems
0-7/0-8 Commander, Ogden Air Logistics
Center
0-7/0-8 Commander, Oklahoma City Air
Logistics Center
0-7/0-8 Commander, Sacramento Air
Logistics Center
0-7/0-8 Commander, San Antonio Air
Logistics Center
0-7/0-8 Commander, Warner Robins Air
Logistics Center

AIR FORCE SYSTEMS COMMAND

- 0-7/0-8 Deputy Chief of Staff, Contracting
and Manufacturing
0-7/0-8 Deputy Chief of Staff, Systems
0-7/0-8 Deputy Chief of Staff, Test and
Evaluation
0-7/0-8 Deputy Chief of Staff, Acquisition
Logistics
0-7/0-8 Director, Laboratories
0-7/0-8 Staff Judge Advocate
0-7/0-8 Vice Commander, Aeronautical
Systems Division (ASD)
0-7/0-8 Deputy for Airlift and Trainer
Systems; and C-17 System Program
Director, ASD
0-7/0-8 Deputy for B-1B, ASD
0-7/0-8 Deputy for F-16, ASD
0-7/0-8 Vice Commander, Electronic
Systems Division (ESD)
0-7/0-8 Deputy for Airborne Warning and
Control Systems, ESD
0-7/0-8 Deputy for Strategic Systems, ESD
0-7/0-8 Vice Commander, Space Division
0-7/0-8 Deputy for Space Launch and
Control Systems; and System Program
Director, Space Transportation System
(Space Shuttle), Space Division
0-7/0-8 Commander, Armament Division
0-7/0-8* Vice Commander, Armament
Division
0-7/0-8 Deputy Commander, Development
and Acquisition, Armament Division
0-7/0-8 Commander, Air Force Contract
Management Division
0-7/0-8 Commander, Ballistic Missile
Office; and Program Director for
Peacekeeper
0-7/0-8* Program Manager, Small Missile
Systems Program Office

SPACE COMMAND

- 0-7/0-8* Deputy Chief of Staff, Systems
Integration

**ARMY AND AIR FORCE EXCHANGE
SERVICE**

- 0-7/0-8 Commander, Army and Air Force
Exchange Service

**MILITARY TRAFFIC MANAGEMENT
COMMAND**

- 0-7/0-8 Vice Commander, Military Traffic
Management Command

**AGENCY: DEPARTMENT OF THE
ARMY***Positions:***Office, Secretary of the Army**

- SES Administrative Assistant to the
Secretary of the Army
SES Deputy Administrative Assistant
SES* Special Assistant to the Assistant
Secretary of the Army (RDA)

Office of the General Counsel

- SES General Counsel
SES Principal Deputy General Counsel and
Chief of Legal Services

Office of the Under Secretary

- SES Deputy Under Secretary of the Army
SES Deputy Under Secretary of the Army
(Operations Res)

**Office, Assistant Secretary of the Army
(Installations, Logistics & Financial
Management)**

- SES Principal Deputy ASA (FM)
SES Principal Deputy ASA (IL)
SES Deputy for Installations & Housing
SES Deputy for Logistics
SES Deputy for Cost Analysis
SES Deputy for Financial Systems
SES Deputy for Resource Analysis
SES Deputy for Information Resource
Management
SES Assistant Deputy for Resource
Analysis
SES Deputy for Environmental Safety &
Occupational Health

**Office, Assistant Secretary of the Army
(Manpower & Reserve Affairs)**

- SES Principal Deputy ASA (MRA)
SES* Deputy Assistant Secretary of the
Army (Review Boards & Personnel
Security)
SES* Deputy Assistant Secretary of the
Army (Readiness, Force Management &
Training)

**Office, Small & Disadvantaged Business
Utilization**

- SES Director, Small & Disadvantaged
Business Utilization

**Office, Assistant Secretary of the Army (Civil
Works)**

- SES Principal Deputy ASA (CW)
SES Deputy for Program Planning, Review
and Evaluation (CW)
SES Deputy for Management and Budget
(CW)
SES* Deputy for Policy, Planning &
Legislative Affairs (CW)

**Office, Assistant Secretary of the Army
(Research, Development & Acquisition)**

SES Principal Deputy ASA (RDA) and
Deputy ASA (R&D)
SES Deputy ASA (Acquisition)
SES Deputy for Science & Technology
SES Deputy for Materiel Acquisition
Management
SES Deputy for Procurement Policy
SES Deputy for Management & Programs
SES Assistant Deputy for Management &
Programs
SES Deputy for Air & Missile Defense
SES Deputy for Communications & Target
Acquisition
SES Director Acquisition Management &
Review Agency

Defense Supply Service—Washington

SES Director, Defense Supply Service—
Washington

OFFICE OF THE CHIEF OF STAFF**Ballistic Missile Defense Program Office
(Washington)**

SES Deputy BMD Program Manager
SES Director, Technology Directorate
SES Chief, Scientist
SES Director, Programs & Systems Analysis
Directorate

**Ballistic Missile Defense Systems Command
(Huntsville)**

SES Chief, Contracts Office
SES Director, Systems Technology Project
Office
SES* Director, Sentry Project Office

**Ballistic Missile Defense Advance
Technology Center (Huntsville)**

SES Director, BMD Advance Technical
Center
SES Director, Study Program Management
Office

**US Army Operational Test and Evaluation
Agency (OCA)**

SES Scientific Advisor

**Deputy Chief of Staff for Operations and
Plans**

SES Deputy Assistant Chief of Staff for
Auto & Commo
SES Director, USA Management Systems
Spt Agency
SES* Director, US Army Center for Military
History
SES Director, US Army Computer Systems
Selection Acquisition Agency

US Army Concepts Analysis Agency

SES Director

Deputy Chief of Staff for Logistics

SES Special Assistant to the DCSLOG/
Chief Aviation Logistics
SES* Assistant Director for Energy & Troop
Support
SES* Assistant Director for Transportation

**Program Analysis and Evaluation Directorate
(OCA)**

SES Deputy Director, Program Analysis
Evaluation

Comptroller of the Army

SES Deputy Comptroller

SES* Director, Resource Management
SES* Assistant Comptroller for Economic
Policy

Army Audit Agency (OSA)

SES The Auditor General (OCA)
SES Deputy Auditor General (OSA)
SES Director, Personnel and Force
Management Audits (OSA)
SES Director, Audit Policy, Plans, &
Resources (OSA)
SES Director, Logistical and Financial
Audits (OSA)
SES Director, Acquisition and Systems
Audits (OSA)
SES* Regional Auditor General (European
Region)

Office of the Judge Advocate General

SES Special Assistant for Comm. Trans &
Utilities

**U.S. Army Materiel Development &
Readiness Command (DARCOM)
Headquarters**

SES Deputy Comptroller
SES Command Counsel
SES Deputy Command Counsel
SES Chief, Patent Law Division
SES Director, Management Information
Systems
SES Director of Product Assurance and Test
SES Principal Assistant Deputy for
Research, Development and Acquisition
SES Assistant Deputy for Resources and
Management
SES Assistant Deputy for Science &
Technology
SES Assistant Deputy for International
Research, Development and
Standardization
SES Director of Program Analysis and
Evaluation
SES Director of Manufacturing Technology
SES Deputy Director of Development
Engineering and Acquisition
SES Deputy for Weapon Systems
Management
SES Assistant Deputy for Materiel
Readiness
SES Deputy Director of Supply,
Maintenance and Transportation
SES Chief, Procurement Policy and Analysis
Division
SES Deputy Director of Security Assistance
SES Deputy Director of Procurement &
Production
SES Deputy Director, Product Assurance &
Test
SES Deputy Executive Director, TMDE

Nuclear Munitions Project Office

SES Deputy Project Manager

Project Office (PATRIOT)

SES Deputy Project Manager

**US Army Materiel Systems Analysis Agency
(AMSAA)**

SES Director, Army Materiel Systems
Analysis Agency

**U.S. Army Materials and Mechanics Research
Center (AMMRC)**

SES Director

Army Research Office (ARO) Durham

SES Director
SES Technical Director
SES Director, Electronics Division
SES Director, Metallurgy & Materials
Science
SES Director, Physics Division
SES Director, Mathematics Division
SES Director, Engineering Sciences Division
SES Director, Chemical & Biological
Sciences Division

**US Army Armament Materiel Readiness
Command (ARRCOM)**

SES Deputy for Procurement and Production
SES Chief Counsel

**US Army Armament Research &
Development Command (ARRADCOM)
Headquarters**

SES Technical Director
SES Chief Counsel
SES Director, Product Assurance

Ballistic Research Laboratory

SES Director, Ballistic Research Laboratory

Chemical Systems Lab

SES Deputy Director

Large Caliber Weapon Systems Laboratory

SES Deputy Director

**Fire Control & Small Caliber Weapon
Systems Lab**

SES Deputy Director

**US Army Aviation Systems Command
(AVSCOM)**

SES Technical Director
SES Director, Aeromechanics Lab
SES Director of Procurement and
Production
SES Director, Structures Lab
SES Director, Propulsion Lab
SES Director, Research & Technology Lab

**US Army Communication—Electronics
Command (CECOM)**

SES Chief Counsel
SES Technical Director
SES Director, Product Assurance and Test
SES Director, Communications System
Center
SES Director, Tactical Computer Systems
Center
SES Director, Systems Engineering and
Integration Center
SES Director, Procurement & Production
SES Technical Director (SATCOMA)

**US Army Depot Systems Command
(DESCOM)**

SES Deputy for Command Operations

**US Army Electronics R&D Command
(ERADCOM) Headquarters**

SES Technical Director
SES Chief Counsel
SES Director, Night Vision & Electronic
Optics Lab
SES Deputy Director, Night Vision &
Electronic Optics Lab
SES Director, Signals Warfare Lab
SES Director, Electronic Warfare Lab

SES Director, Electronics Technology & Devices Lab
 SES Deputy Director, Combat Surveillance & Target Acquisition Lab
 SES Technical Director, Harry Diamond Lab

US Army Missile Command (MICOM)

SES Technical Director and Director, Army Missile Lab
 SES Director for Procurement and Production
 SES Chief Counsel
 SES Director, Missile Logistics Center
 SES Deputy Project Manager, Roland
 SES Director, Product Assurance
 SES Assistant Deputy for Readiness
 SES Deputy Director, Missile Intelligence Agency

U.S. Army Troop Support Command (TROSCOM)

SES Technical Director, Belvoir Research and Development Center
 SES Technical Director, Natick Research and Development Center
 SES Director, Individual Protection Lab
 SES Director, Science and Advanced Technology Lab
 SES Director, Food Engineering Lab

Project Managers ABRAMS Tank System

SES Chief Engineer/Chief Systems Engineering Division

Office of the Project Manager, Bradley Fighting Vehicle Systems (FVS)

SES Deputy Project Manager

U.S. Army Tank-Automotive Command (TACOM)

SES* Technical Director
 SES* Director, Procurement and Production
 SES Chief Counsel
 SES Director, Product Assurance

U.S. Army Human Engineering Laboratory (HEL)

SES* Director

Program Manager, Joint Tactical Fusion Program

SES* Deputy Program Manager

U.S. Army Toxic and Hazardous Materials Agency (THAMA)

SES* Technical Director

U.S. Army Foreign Science & Technology Center (FSTC)

SES Deputy Director

U.S. Army Test & Evaluation Command (TECOM)

SES Technical Director
 SES Technical Director and Chief, Scientists, WSMR
 SES Scientific Director
 SES Technical Director, EPG
 SES Technical Director, National Range Operations
 SES Associate Director, Materiel Test
 SES Director for Analysis

U.S. Army Communications Command (USACC)

SES* Comptroller

TRADOC OPERATIONS RESEARCH ACTIVITY

SES Director, TRADOC Operations Research Activity (TORA)
 SES* Director, U.S. Army Combat Dev. Exp. Activity
 SES* Director, TRASANA

CORPS OF ENGINEERS

Directorate of Engineering & Construction (E&C)

SES* Deputy Director, Engineering & Construction
 SES* Chief, Engineering Division
 SES* Deputy Chief, Engineering Division
 SES* Chief, Construction Division
 SES* Deputy Chief, Construction Division

Directorate of Civil Works (CW)

SES* Chief, Operations & Readiness Division
 SES* Special Assistant for Emergency Water Planning

Office of the Assistant Chief of Engineers (ACE)

SES* Deputy Assistant Chief of Engineers for Planning, Programming & Congressional Affairs

Coastal Engineering Research Center (CERC)

SES* Chief, Coastal Engineering Research Center

US Army Engineer Topographic Laboratories (ETL)

SES* Technical Director

Directorate of Resource Management (DRM)

SES* Deputy Director, Resource Management

MRC and Lower Mississippi Valley (MRC/LMV)

SES* Chief, Construction-Operations Division

US Army Engineer Division, Europe (EUR)

SES* Chief, Construction Division

US ARMY FORCES COMMAND

SES* Deputy Comptroller

THE ARMY STAFF

0-8 Director, Management
 0-8 Chief, Army Force Modernization Coordination Office
 0-8 Director, Program Analysis and Evaluation
 0-8 Assistant Deputy Chief of Staff for Personnel
 0-8 Assistant Deputy Chief of Staff for Operations and Plans
 0-8 Director, Strategic Plans & Policy
 0-8 Assistant Deputy Chief of Staff for Logistics
 0-8 ADCSRDA
 0-8 Director of Army Budget
 0-8 Chief, Army Reserve
 0-7 Deputy Chief, Army Reserve
 0-8 Director, Army National Guard
 0-8 Assistant Chief of Staff for Operations & Plans (C4)/Director, Command and Control, Communications and Computers
 0-7 Deputy Directors, C4 (2)
 0-8 Assistant Chief of Staff for Intelligence

0-7 Deputy Assistants Chief of Staff for Intelligence for Intelligence Systems and Automation

0-7 Deputy Assistant Chief of Staff for Intelligence

0-8 The Adjutant General/CG, TAGCEN

0-7 Deputy TAG/DCG, TAGCEN

0-8 Chief of Chaplains

0-8 The Judge Advocate General

0-8 The Assistant Judge Advocate General

0-8 The Deputy Surgeon General

0-7/0-8 Assistant Surgeon General (Research & Development)

0-8 Deputy Chief of Engineers and Chairman, Board of Engineers for Rivers and Harbors

ARMY STAFF FIELD OPERATING AGENCIES

Office, Chief of Staff

0-7 Commanding General, Ballistic Missile Defense Systems Command, Huntsville, Alabama

0-8 Commanding General, US Army Operational Test and Evaluation Agency, Falls Church, Virginia

Office, Deputy Chief of Staff for Personnel

0-8 Commanding General, USA Military Personnel Center, Alexandria, Virginia

0-8 Commanding General, USA Recruiting Command, Fort Sheridan, Illinois

0-7 Deputy Commanding General, East USA Recruiting Command, Fort Sheridan, Illinois

0-7 Deputy Commanding General, West USA Recruiting Command, Fort Sheridan, Illinois

Office, Deputy Chief of Staff for Logistics

0-7 Commanding General, US Army Troop Support Agency, Fort Lee, Virginia

Office, Deputy Chief of Staff for Operations and Plans

0-8 Commanding General, US Army Computer Systems Command, Fort Belvoir, Virginia

Office, The Deputy Chief of Staff for Personnel

0-7 Commanding General, US Army Reserve Components Personnel and Administration Center, St. Louis, Missouri

Office, The Judge Advocate General

0-7 Commanding General, Chief Judge, US Army Legal Services Agency/United States Court of Military Review, Falls Church, Virginia

OFFICE OF THE SURGEON GENERAL

0-7/0-8 Commanding General, US Army Medical Research and Development Command, Fort Detrick, Maryland

US Army Research Institute for Infectious Diseases (USA MRIID)

SES* Special Advisor for Biotechnology

US Army Training and Doctrine Command—FORT MONROE, VIRGINIA

0-8 Chief of Staff

0-8 Deputy Chief of Staff, Combat Developments

0-8 Commanding General, TRADOC
Combined Arms Test Activity, Fort Hood,
Texas

**US Army Materiel Development and
Readiness Command, Alexandria, Virginia**

0-8 Deputy Commander, Resources and
Management
0-7/0-8 Director, Development, Engineering
& Acquisition
0-8 Director, Procurement & Production
0-7 Director, Supply, Maintenance and
Transportation
0-7/0-8 Director, Security Assistance/CDR,
USA Security Assistance Center
0-8 Comptroller
0-8 Commanding General, US Army Tank-
Automotive Command, Warren, Michigan
0-7 Deputy Commanding General for
Research & Development, US Army Tank-
Automotive Command, Warren, Michigan
0-8 Commanding General, US Army
Aviation Research and Development
Command, St. Louis, Missouri
0-8 Commanding General, US Army Troop
Support and Aviation Materiel Readiness
Command—St. Louis, Missouri
0-7 Deputy Commanding General, US Army
Troop Support and Aviation Materiel
Readiness Command—St. Louis, Missouri
0-8 Commanding General, US Army
Armament Munitions & Chemical
Command—Rock Island, Illinois
0-7 Deputy Commanding General for
Procurement and Readiness, US Army
Armament Munitions & Chemical
Command—Rock Island, Illinois
0-8 Commanding General, US Army
Armament Research and Development
Center—Picatinny Arsenal, New Jersey
0-7 Commanding General, USA Chemical
Research & Development Center—
Picatinny Arsenal, New Jersey
0-7* Commanding General, US Army
Armament Research and Development
Center—Picatinny Arsenal, New Jersey
0-8 Commander, US Army Missile
Command—Redstone Arsenal, Alabama
0-7 Deputy Commanding General for
Procurement & Readiness, US Army Missile
Command—Redstone Arsenal, Alabama
0-7 Deputy Commanding General for
Research and Development, US Army
Missile Command—Redstone Arsenal,
Alabama
0-8 Commanding General, US Army
Communications & Electronics Command
0-7 Deputy Commanding General for
Procurement and Readiness, US Army
Communications & Electronics Command
0-8 Commanding General, US Army
Electronics Research & Development
Command—Adelphi, Maryland
0-8 Commanding General, US Army Test &
Evaluation Command—Aberdeen Proving
Ground, Maryland
0-7 Commanding General, White Sands
Missile Range—White Sands, New Mexico
0-7 Commanding General, US Army Depot
System Command—Chambersburg,
Pennsylvania
0-8 Project Manager, M-1 Tank—Warren,
Michigan
0-8 Project Manager, Patriot—Redstone
Arsenal, Alabama
0-7 Project Manager, Fighting Vehicle
Systems—Warren, Michigan

0-7 Program Manager, Advanced Attack
Helicopter Program—St. Louis, Missouri
0-7 Project Manager, Saudi Arabian
National Guard Modernization—Saudi
Arabia

U.S. Army Communications Command

0-7 Commanding General, US Army
Communications Systems Agency, Fort
Monmouth, New Jersey

Other Commands

0-8 Commander, Military Traffic
Management Command, Washington, D.C.
0-8 Commanding General, US Army
Intelligence and Security Command,
Arlington, Virginia
0-8 Commanding General, US Army
Military District of Washington,
Washington, D.C.
0-8 Commanding General, US Army
Criminal Investigation Command, Falls
Church, Virginia
0-8 Commanding General, US Army Health
Services Command, Fort Sam Houston,
Texas

MAJOR OVERSEAS COMMANDS

US Army, Europe and Seventh Army

0-8 Chief of Staff
0-8 Deputy Chief of Staff, Engineer
SES* Assistant Deputy Chief of Staff,
Engineer (Engineering & Housing)
0-8 Commanding General, US Army
Southern European Task Force

U.S. Army Japan/IX Corps

0-7/0-8 Chief of Staff

Special Activities

Army and Air Force Exchange Service

0-8 Commander, Army and Air Force
Exchange Service—Dallas, TX

AGENCY: DEPARTMENT OF THE NAVY

Positions:

**Office of the Assistant Secretary of the Navy
(Manpower and Reserve Affairs)**

SES Principal Deputy Assistant Secretary of
the Navy (Manpower and Reserve Affairs)
SES Deputy Assistant Secretary of the Navy
(Manpower)
SES Deputy Assistant Secretary of the Navy
(Reserve Affairs)
SES Deputy Assistant Secretary of the Navy
(CPP/EEO)

**Office of the Assistant Secretary of the Navy
(Shipbuilding and Logistics)**

SES Principal Deputy Assistant Secretary of
the Navy (Shipbuilding and Logistics)
SES Director, Office of Small and
Disadvantaged Business Utilization
SES Director of Resources & Policy
Evaluation
SES Deputy Assistant Secretary of the Navy
(Installations and Facilities)
SES Deputy Assistant Secretary of the Navy
(Sealift & Maritime Affairs)
SES* Director, Acquisition Regulations

**Office of the Assistant Secretary of the Navy
(Research, Engineering and Systems)**

SES Deputy Assistant Secretary of the Navy
(Research & Applied Science)

SES Associate Deputy Assistant Secretary
of the Navy (Systems Engineering)
SES Principal Deputy Assistant Secretary of
the Navy (Research, Engin. and Systems)
SES Deputy Assistant Secretary of the Navy
(Command, Control, Communications &
Intelligence)

Office of the Under Secretary of the Navy

SES* Deputy Under Secretary of the Navy
(Policy)

**Office of the Assistant Secretary of the Navy
(Financial Management)**

SES Special Assistant for Data Automation

Office of the Auditor General of the Navy

SES Auditor General of the Navy

Office of the Comptroller of the Navy

SES Executive Assistant Comptroller for
Banking Cash Management Contract
Financing & Compensation Systems

Office of the General Counsel

SES General Counsel of the Navy
SES Principal Deputy General Counsel
SES Deputy General Counsel (Logistics)

Office of the Chief of Naval Operations

SES Asst. Dep. Chief of Naval Operations
(Civ. Pers./EEO)

Naval Data Automation Command

SES Technical Director

Military Sealift Command

SES Deputy Executive Director

**Office of the Chief of Naval Education and
Training**

SES Principal Advisor for Education &
Training/Deputy CNET for Ed.
Development & R&D

US Marine Corps Headquarters

SES Fiscal Director of the Marine Corps
SES Assistant Deputy Chief of Staff for
Installations and Logistics
SES Director, Contracts Division

Office of Naval Research

SES Director, Acquisition

Naval Material Command Headquarters

SES Executive Director for Contracts and
Business Management
SES Assistant Deputy Chief of Naval
Material (Operations and Logistics)
SES Deputy Chief of Naval Material for
Reliability, and Engineering
SES Director, Procurement Control &
Clearance Division
SES Deputy Chief of Naval Material

Strategic Systems Project Office

SES Director, Plans and Program Division

Joint Cruise Missile Project Office

SES Technical Director Joint Cruise Missiles
Project

Naval Air Systems Command HQ

SES* Deputy Commander
SES Executive Director for Procurement
Management

Naval Electronic Systems Command

SES Executive Director, Contracts

Naval Facilities Engineering Command Headquarters

SES Assistant Commander for Contracts

Naval Sea Systems Command HQ

SES Assistant Deputy Commander for Contracts

Naval Supply Systems Command Headquarters

SES Assistant Deputy Commander, Plans, Policy and Systems Design

Military

- 0-7 Assistant Deputy Commander for Surface Ships Logistics Management, NAVSEASYSKOM
- 0-7 Deputy Commander for Surface Ships, NAVSEASYSKOM
- 0-8 Vice Commander, Naval Air Systems Command
- 0-7/0-8 Deputy Commander for Plans and Programs, Naval Air Systems Command
- 0-7 Assistant Commander for Contracts, Naval Air Systems Command
- 0-8 Assistant Commander for Logistic and Fleet Support, Naval Air Systems Command
- 0-8 Assistant Commander for Systems and Engineering, Naval Air Systems Command
- 0-7 Assistant Commander for Test and Evaluation, Naval Air Systems Command
- 0-7 Commander, Naval Aviation Logistics Center, Naval Air Systems Command
- 0-7 Deputy Chief of Naval Material for Logistics, Plans & Programs Chief HDQTRS NAVMATCOMD
- 0-7/0-8 Deputy Chief of Naval Material for Acquisition, Plans & Programs Chief HDQTRS NAVMATCOMD
- 0-7/0-8 Project Manager, TRIDENT System, Project Office, Naval Material Command
- 0-7 Major Project Manager, LAMPS, NAVAIRSYSKOM
- 0-7 Project Manager, Saudi Naval Expansion Program, NAVMAT
- 0-7 Director, Joint Cruise Missile Project, Joint Cruise Missiles Project Office (JPM-3) NAVMAT
- 0-7/0-8 Director, Technical Division Strategic Systems Projects, SSPO
- 0-7 Program Manager, ASW Systems Project Office Anti-Submarine Warfare Systems Project Office ADDU: Deputy Director OP-92
- 0-8 Vice Commander, Naval Sea Systems Command and Chief of Staff
- 0-7 Deputy Commander for Contracts NAVSEASYSKOM
- 0-7/0-8 NAVSEA Deputy Commander for Acquisition, Logistics NAVSEASYSKOM
- 0-7/0-8 Deputy Commander for Combat, Systems, NAVSEASYSKOM ADDU: to OP-03X
- 0-7 Assistant Deputy Commander for AntiSubmarine Warfare and Underwater Systems, NAVSEASYSKOM
- 0-7/0-8 Project Manager, AEGIS Shipbuilding Project, NAVSEASYSKOM
- 0-7/0-8 Deputy Commander for Industrial and Facility Management, NAVSEASYSKOM
- 0-7/0-8 Deputy Commander for Submarines, NAVSEASYSKOM

0-7 Supervisor for Shipbuilding, Conversion & Repair, Newport News Shipbuilding & Drydock Co., USN

0-7/0-8 Deputy Commander for Command, Control, Communications and Intelligence Systems and Technology, Naval Electronic Systems Command

0-7/0-8 Deputy Commander for Ship Design and Integration, Naval Sea Systems Command

0-8 Commander, Naval Supply Systems Command and Chief of Supply Corps

0-7/0-8 Vice Commander, Naval Supply Systems Command

0-7/0-8 Commanding Officer, Navy Ships Parts Control Center, Mechanicsburg, PA

0-7 Supervisor of Shipbuilding Commanding Officer, Shore Activity, Pascagoula, MS

0-7/0-8 Commander, Navy Resale and Services Support Office, Staten Island

0-7/0-8 Commanding Officer, Navy Aviation Supply Office, Philadelphia, PA

0-8 Commander, Naval Electronics Systems Command

0-8 Vice Commander, Naval Electronics Systems Command

0-7/0-8 Commander, Naval Oceanography Command

0-8 Commander, Naval Telecommunications Command

0-8 Commander, Naval Facilities Engineering Command/Chief of Civil Engineering of the Navy

0-7/0-8 Vice Commander, Naval Facilities Engineering Command

0-7 Deputy Commander for Planning, Naval Facilities Engineering Command ADDU: to OP-04E

0-7/0-8 Commanding Officer, Shore Activity, Atlantic Division, Naval Facilities Engineering Command ADDU: ACOS Facilities Engineer CIN CLANTFLT

0-7/0-8 Deputy Commander for Life Cycle Engineering and Platform Integration, NELEXOP

0-8 Director, Strategic System Project Office, NAVMAT

0-8 Deputy Commander, Military Sealift Command

0-7/0-8 Commanding Officer Shore Activity, Pacific Division, Naval Facilities Engineering Command, ADDU: Fleet Civil Engineer CIN CPACFLT

0-7 Commanding Officer Shore Activity, Northern Division, Naval Facilities Engineering Command, Philadelphia

0-7 Commanding Officer Shore Activity, Western Division, Naval Facilities Engineering Command, San Bruno

0-7/0-8 Director, Multilateral Support Force, Amphibious, Mine and Advanced Naval Vehicles Ships Division, CNO

0-7/0-8 Director, Logistics Plans Division, CNO

0-7/0-8 Director, Material Division, CNO

0-7/0-8 Director, Ships Maintenance and Modernization Division, CNO

0-7/0-8 Director, Shore Activities Planning and Programming Division, CNO

Office of the Comptroller of the Navy

0-7/0-8 Deputy Comptroller of the Navy

0-7/0-8 Director of Budget and Reports/Fiscal Management Division, Office of the Navy Comptroller

0-7/0-8 Assistant Comptroller, Financial Management Systems/Commander, Navy Accounting and Finance Center

0-7 Deputy Chief for Contracts and Business Management, NAVMAT

0-7 Supervisor of Shipbuilding, Conversion and Repair, Groton, CT

Other Officers

0-7/0-8 Commanding General, Marine Corps Development and Education Command, Quantico, Virginia

0-7/0-8 Deputy Chief of Staff for Research Development and Studies, HQMC

0-7/0-8 Deputy Chief of Staff for Requirements and Programs HQMC

0-7/0-8 Director, Personnel Procurement, HQMC

0-7/0-8 Director of Material Division, HQMC

0-7/0-8 Director, Facilities and Services Division, HQMC

0-7/0-8 Director, Command, Control, Communications and Computer Systems Division, HQMC

0-7/0-8 Commanding General Marine Corps Logistics Base, Albany, Georgia

0-7/0-8 Commanding General Marine Corps Logistics Base, Barstow, California

0-7/0-8* Director of the Development Center, Marine Corps Development and Education Command, Quantico, Virginia

0-8* Assistant Deputy Chief of Naval Operations (Logistics)

0-8* Deputy Commander for Plans, Comptroller, NAVSEASYSKOM

0-8* Assistant Commander, Inventory & Systems Integrity, NAVSUPSYSKOM

0-8* Competition Advocate General of the Navy

0-7/0-8* Project Manager, Navy Space Project Office

0-7* Project Manager, REWSON Systems Project

0-7* Deputy Commander, Financial Management/Comptroller NAVSUPSYSKOM

0-8* Commander, Naval Medical Command

0-7* Commander, Readiness & Logistics, NAVMEDCOM

0-7* Deputy Auditor General, Naval Auditor Services Command

0-7* Commander, Naval Space Command

0-7* Commander, Fuel Supply Center, Alexandria, Virginia

AGENCY: DEFENSE COMMUNICATIONS AGENCY**Positions:**

0-7 Director, Defense Communications System Organization (DCSO)

0-7 Commander, White House Communications Agency

0-7 Director, Command & Control Technical Center (CCTC)

SES Deputy Director, WWMCCS ADP Technical Support, CCTC

SES Comptroller, DCA

SES Director, Planning & Systems Integration Center (PSIC)

0-8 Vice Director, Defense Communications Agency

SES Principal Deputy Director, DCEC

SES Deputy Director, CCTC

SES Associate Director for Integration Systems Design, DCEC
 SES Deputy Manager, National Communications System, DCA
 SES Chief, Strategic Connectivity Engineering Division, CCTC
 SES Deputy for Communications Architecture, PSIC
 SES Assistant Deputy Director, Plans & Programs, DCSO
 SES Deputy Director, Switched Systems, DCS
 SES General Counsel, DCA
 SES* Deputy Director for C³ Architecture and Mission Analysis, PSIC
 SES Deputy Director, Military Satellite Communications Systems, PSI
 SES Deputy Director for C² Engineering, CCTC
 SES Deputy Director, DCSO
 SES* Deputy Director, Switched Network Engineering Division, DCEC

AGENCY: DEFENSE CONTRACT AUDIT AGENCY

Positions:

SES Director
 SES Deputy Director
 SES General Counsel
 SES Assistant Director, Operations and Professional Development
 SES Assistant Director, Policy and Plans
 SES Assistant Director, Resources
 SES Director, Field Detachment
 SES Regional Director, Atlanta
 SES Regional Director, Boston
 SES Regional Director, Chicago
 SES Regional Director, Los Angeles
 SES Regional Director, Philadelphia
 SES Regional Director, San Francisco

AGENCY: DEFENSE INTELLIGENCE AGENCY

Positions:

DISES Deputy Director for Intelligence and External Affairs
 DISES* Deputy Director for Resources and Systems
 DISES* Assistant Deputy Director for Defense Intelligence Systems
 DISES Assistant Deputy Director for Plans and Policy
 DISES GDIP Staff Director
 DISES* Staff Director, Intelligence Communications Architecture Project Office
 0-8 Deputy Director, Defense Intelligence Agency
 0-8* Deputy Director for Management and Operations

AGENCY: DEFENSE INVESTIGATIVE SERVICE

Positions:

SES* Director
 SES* Deputy Director (Industrial Security)
 SES* Deputy Director (Investigations)

AGENCY: DEFENSE LOGISTICS AGENCY

Positions:

0-8 Deputy Director
 0-8 Deputy Director (Acquisition Management)

0-7 Executive Director, Supply Operations
 0-7/0-8 Executive Director, Office of Telecommunications and Information Systems
 0-7/0-8 Executive Director, Quality Assurance
 0-8 Commander, Defense Construction Supply Center
 0-7 Commander, Defense Electronics Supply Center
 0-8 Commander, Defense Fuel Supply Center
 0-7 Commander, Defense General Supply Center
 0-7 Commander, Defense Industrial Supply Center
 0-8 Commander, Defense Personnel Support Center
 0-7 Commander, Defense Contract Administration Services Region, Los Angeles

Headquarters

SES Comptroller, DLA
 SES General Counsel, DLA
 SES Executive Director, Technical and Logistics Services
 SES Executive Director, Contracting
 SES Deputy Executive Director, Supply Operations
 SES Executive Director, Contract Management
 SES Associate General Counsel, DLA
 SES Chief, Logistics Programs Division, Directorate of Supply Operations
 SES Chief, Contracts Division, Directorate of Contracting
 SES Deputy Assistant Director, Office of Telecommunications and Information Systems
 SES Deputy Executive Director, Quality Assurance
 SES Staff Director, Small and Disadvantaged Business Utilization
 SES Chief, Accounting and Finance Division, Office of Comptroller
 SES Financial Manager, Defense Personnel Support Center
 SES* Deputy Comptroller, Office of Comptroller
 SES* Chief, AIS Development and Control Division, Office of Telecommunications and Information Systems
 SES* Chief, ADP and Telecommunications Technology Division, Office of Telecommunications and Information Systems

AGENCY: DEFENSE MAPPING AGENCY

Positions:

SES Deputy Director, Management & Technology
 SES Deputy Director, for Programs, Production/Operations
 SES Deputy Director for Systems and Techniques
 SES Comptroller
 0-8 Director, Defense Mapping Agency
 0-7 Deputy Director, Defense Mapping Agency
 0-7 Deputy Director for Plans and Requirements
 SES Director of Personnel
 SES Assistant Deputy Director for Programming

SES Assistant Deputy Director for Production and Distribution
 SES Chief, Advanced Technology Division
 SES Chief, Acquisitions Systems Development Division
 SES Director, Special Program Office for Exploitation Modernization

AGENCY: DEFENSE NUCLEAR AGENCY

Positions:

AD Deputy Director, Science and Technology
 AD Scientific Assistant to the deputy Director, Science and Technology
 AD Assistant to the Deputy Director (Science and Technology) for Theoretical Research
 AD Assistant to the Deputy Director (Science and Technology) for Experimental Research
 AD Assistant to the Deputy Director (Science and Technology) for Testing
 AD Scientific Advisor to the Director, Armed Forces Radiobiology Research Institute
 0-8 Deputy Director (Operations and Administration)
 0-7 Commander, Field Command
 SES Director, Acquisition Management
 SES Comptroller

AGENCY: NATIONAL SECURITY AGENCY

Positions:

Military Positions

0-8 Assistant Deputy Director, NSA
 0-7 Chief of the Office of Support to Military Operations

AGENCY: DEPARTMENT OF EDUCATION

Positions:

Office of the Secretary

SES Counselor/Executive Assistant to the Secretary
 SES Executive Secretary to the Secretary

Office of the Under Secretary

SES Director of Regional Liaison

Deputy Under Secretary for Management

SES Comptroller
 SES Administrator for Management Services

Deputy Under Secretary for Planning, Budget and Evaluation

SES Director of Budget Services
 SES Director of Planning and Evaluation Services

Deputy Under Secretary for Intergovernmental and Interagency Affairs

SES Director, Intergovernmental Affairs

Assistant Secretary for Legislation and Public Affairs

SES Deputy Assistant Secretary for Legislation
 SES Deputy Assistant Secretary for Public Affairs

General Counsel

SES Deputy General Counsel for Department Services
 SES* Assistant to the Secretary for Regulatory Reform and Deputy General Counsel for Regulations and Legislation
 SES Associate General Counsel for Programs

Inspector General

SES Deputy Inspector General
 SES Assistant Inspector General for Investigation
 SES Assistant Inspector General for Policy, Planning and Management
 SES Assistant Inspector General for Audit

Office of Civil Rights

SES Deputy Assistant Secretary for Civil Rights (Operations)
 SES Director of Policy and Enforcement Service

Office of Bilingual Education and Minority Language Affairs

SES Director Office of Bilingual Education and Minority Language Affairs
 SES Deputy Director Office of Bilingual Education and Minority Language Affairs

Office of Special Education and Rehabilitative Services

SES Deputy Assistant Secretary
 SES Deputy Director, National Institute of Handicapped Research
 SES Director, Office of Special Education Programs
 SES Executive Administrator

Office of Postsecondary Education

SES Deputy Assistant Secretary for Student Financial Assistance
 SES Deputy Assistant Secretary for Higher Education Programs

Office of Vocational and Adult Education

SES Deputy Assistant Secretary for Vocational and Adult Education
 SES Director of Policy Analysis and Legislation

Office of Elementary and Secondary Education

SES Deputy Assistant Secretary for Programs and Administration
 SES Deputy Assistant Secretary for Dissemination and Special Initiatives

Office of Education Research and Improvement

SES Deputy Assistant Secretary for Educational Research and Improvement
 SES Deputy Director, National Institute of Education
 SES Administrator, National Center for Education Statistics
 SES Director, Center for Libraries and Education Improvement

AGENCY: DEPARTMENT OF ENERGY**Positions:****Office of the Secretary**

SES Executive Assistant to the Deputy Secretary
 SES Special Assistant to the Secretary for Programs and Policies

SES* Special Assistant to the Secretary for Outreach Programs

SES Manager, Albuquerque Operations Office

SES Deputy Manager, Albuquerque Operations Office

SES Regional Representative of the Secretary/Manager, Chicago Operations Office

SES Deputy Manager, Chicago Operations Office

SES Manager, Idaho Operations Office

SES Deputy Manager, Idaho Operations Office

SES Manager, Nevada Operations Office

SES Deputy Manager, Nevada Operations Office

SES Manager, Oak Ridge Operations Office

SES Deputy Manager, Oak Ridge Operations Office

SES Manager, Richland Operations Office

SES Deputy Manager, Richland Operations Office

SES* Executive Assistant to the Under Secretary

SES* Executive Assistant to the Secretary

SES* Associate Director of Storage and Systems Development

SES* Special Assistant to the Secretary for Nuclear Reactor Safety

SES* Principal Deputy Assistant Secretary for Defense Programs and Manager, Savannah River Operations Office

SES Manager, San Francisco Operations Office

SES Deputy Manager, San Francisco Operations Office

SES Deputy Manager, Savannah River Operations Office

Office of the Inspector General

SES Assistant Inspector General for Audits

SES Assistant Inspector General for Inspections

SES Assistant Inspector General for Investigations

Office of the General Counsel

SES Deputy General Counsel

SES Deputy General Counsel for Regulations

SES Deputy General Counsel for Enforcement and Litigation

SES Deputy General Counsel for Programs

SES Deputy General Counsel for Legal Services

Economic Regulatory Administration

SES Deputy Administrator, Office of the Administrator

SES Special Counsel for Compliance, Office of Special Counsel

SES Deputy Special Counsel for Compliance, Office of Special Counsel

SES Solicitor, Office of the Solicitor

SES Director, Office of Fuels Programs, Office of Fuels Programs

SES Deputy Director, Office of Fuels Programs, Office of Fuels Programs

SES Deputy Director, Office of Fuels Programs, Office of Fuels Programs

SES Deputy Director, Office of Fuels Programs, Office of Fuels Programs

SES Deputy Director, Office of Fuels Programs, Office of Fuels Programs

SES Deputy Director, Office of Fuels Programs, Office of Fuels Programs

SES Deputy Director, Office of Fuels Programs, Office of Fuels Programs

Assistant Secretary for Conservation and Renewable Energy

SES Principal Deputy Assistant Secretary for Conservation and Renewable Energy

SES Administrator, Alaska Power Administration

SES Administrator, Bonneville Power Administration

SES Assistant Administrator for Engineering and Construction, Bonneville Power Administration

SES Assistant Administrator for Power Management, Bonneville Power Administration

SES Deputy Administrator, Bonneville Power Administration

SES Assistant Administrator for Conservation and Direct Application—Renewable Resource, Bonneville Power Administration

SES Administrator, Southeastern Power Administration

SES Administrator, Southwestern Power Administration

SES Deputy Administrator, Southwestern Power Administration

SES Deputy Assistant Secretary for Conservation

SES Deputy Assistant Secretary for Renewable Energy

Assistant Secretary for Policy, Safety and Environment

SES Director, Office of Environmental Compliance, Deputy Assistant Secretary for Environment, Safety and Health

SES Deputy Assistant Secretary for Environment, Safety and Health

SES Deputy Director, Office of Policy, Planning and Analysis

SES Deputy Director, Office of Policy, Planning and Analysis

SES Deputy Director, Office of Policy, Planning and Analysis

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SES Deputy Director, Office of Policy, Planning and Analysis

SES Deputy Director, Office of Policy, Planning and Analysis

Deputy Assistant Secretary for Nuclear Materials
 SES* Deputy Assistant Secretary for Intelligence
 08 Deputy Assistant Secretary for Military Applications/Director of Military Applications

Assistant Secretary for International Affairs and Energy Emergencies

SES Deputy Assistant Secretary for Environmental Protection, Safety and Emergency Preparedness
 SES Principal Deputy Assistant Secretary for International Affairs
 SES Deputy Assistant Secretary for Energy Emergencies
 SES Deputy Director, Office of Technical Cooperation

Office of Energy Research

SES Deputy Director, Office of Energy Research
 SES Associate Director, Office of Health and Environmental Research
 SES Deputy Associate Director, Office of Health and Environmental Research
 SES Associate Director, Office of Fusion Energy
 SES Deputy Associate Director, Office of Fusion Energy
 SES Director, Office of Field Operations Management
 SES Director, Office of Program Analysis
 SES Associate Director, Office of Basic Energy Sciences
 SES Deputy Associate Director for Basic Energy Sciences, Office of Basic Energy Sciences
 SES Associate Director of High Energy and Nuclear Physics

Assistant Secretary for Fossil Energy

SES Principal Deputy Assistant Secretary for Fossil Energy
 SES Deputy Assistant Secretary for Strategic Petroleum Reserve
 SES Deputy Assistant Secretary for Management, Planning and Technical Coordination
 SES Deputy Assistant Secretary for Coal Utilization, Advanced Conversions and Gasification
 SES Deputy Assistant Secretary for Oil, Shale and Coal Liquids

Assistant Secretary for Nuclear Energy

SES Principal Deputy Assistant Secretary for Nuclear Energy
 SES Deputy Director for Naval Reactors, Deputy Assistant Secretary for Naval Reactors
 SES Deputy Assistant Secretary for Uranium Enrichment
 SES Deputy Assistant Secretary for Breeder Reactor Programs

Assistant Secretary, Management and Administration

SES Director, Office of Equal Opportunity
 SES* Deputy Director, Office of Equal Opportunity
 SES Deputy Director, Office of Administrative Services
 SES Director of Administration
 SES Deputy Director of Administration
 SES Director, Office of Personnel

SES Director, Office of Organization and Management Systems
 SES Deputy Director, Office of Organization and Management Systems
 SES Deputy Director Of Project and Facilities Management
 SES Director, Office of Project and Facilities Management
 SES Director, Office of Administrative Services
 SES Director, Office of ADP Management
 SES Deputy Director, Office of ADP Management
 SES Director, Office of Computer Services and Telecommunications Management
 SES Deputy Director, Office of Computer Services and Telecommunications Management
 SES Director, Office of Industrial Relations
 SES Director, Office of Small and Disadvantaged Business Utilization
 SES Director, Office of Policy
 SES* Assistant Controller, Budget Policy and Compliance
 SES* Assistant Controller, Financial Systems and Accounting
 SES Director, Office of Procurement Support
 SES Director, Office of Procurement Review, Office of Procurement Review
 SES Director, Office of Procurement Operations
 SES Deputy Director, Office of Procurement Operations
 SES Controller
 SES Director, Office of Budget
 SES Director, Procurement and Contract Management
 SES* Deputy Director, Office of Budget
 SES Deputy Director, Procurement and Contract Management

Assistant Secretary, Congressional, Intergovernmental and Public Affairs

SES Deputy Assistant Secretary for House Liaison
 SES Principal Deputy Assistant Secretary for Congressional, Intergovernmental and Public Affairs

AGENCY: DEPARTMENT OF HEALTH AND HUMAN SERVICES

Positions:

Office of the Secretary

Immediate Office of the Secretary

SES Chief of Staff
 SES Executive Assistant to the Secretary
 SES Executive Secretary
 SES Deputy Executive Secretaries to the Department (2)
 SES* Executive Administrative Assistant
 SES* Senior Advisor to the Secretary/Executive Officer
 SES* Senior Advisor to the Secretary
 SES* Special Assistant to the Secretary (3)

Immediate Office of the Under Secretary

SES Counselor to the Under Secretary
 SES Deputy Under Secretary/Intergovernmental Affairs
 SES Principal Regional Official—Region I
 SES Principal Regional Official—Region II
 SES Principal Regional Official—Region III
 SES Principal Regional Official—Region IV
 SES Principal Regional Official—Region V

SES Principal Regional Official—Region VI
 SES Principal Regional Official—Region VII
 SES Principal Regional Official—Region VIII
 SES Principal Regional Official—Region IX
 SES Principal Regional Official—Region X
 SES Chairman, Departmental Grant Appeals Board

Office of Planning and Evaluation

SES Assistant Secretary for Planning and Evaluation
 SES Principal Deputy Assistant Secretary for Planning and Evaluation
 SES Deputy Assistant Secretary for Income Security Policy
 SES Deputy Assistant Secretary for Health Policy
 SES Deputy Assistant Secretary for Program Systems
 SES Deputy Assistant Secretary for Social Services Policy
 SES Deputy Assistant Secretary for Evaluation and Technical Analysis

Office of Inspector General

SES Assistant Inspector General for Audit
 SES Deputy Assistant Inspector General for Audit
 SES Senior Assistant Inspector General for Auditing and Systems
 SES Assistant Inspector General for Health Care and Systems Review
 SES Assistant Inspector General for Investigations
 SES Deputy Assistant Inspector General for Investigations
 SES Executive Assistant Inspector General
 SES Associate Director, Division of University and Non-Profit Audits, Inspector General
 SES Associate Director, Division of Social Security Audit, Inspector General
 SES Deputy Assistant Inspector General Social Security Program Integrity Division, Office of Investigation
 SES Deputy Assistant Inspector General Criminal Investigations Division, Office of Investigations
 SES Assistant Inspector General for Health Financing Integrity
 SES Director, Health Care Financing Audit Division, Office of Audit

Office of Management and Budget

SES Assistant Secretary for Management and Budget
 SES Deputy Assistant Secretary for Budget
 SES Deputy Assistant Secretary for Finance
 SES Deputy Assistant Secretary, Management Analysis and Systems
 SES Deputy Assistant Secretary, Procurement, Assistance and Logistics
 SES Director, Program Coordination
 SES Director, Division of Health Budget Analysis, Office of Budget, Office of Management and Budget
 SES Director, Division of Welfare Budget Analysis, Office of Budget, Office of Management and Budget
 SES Director, Office of Procurement, and Assistance Policy, Office of Procurement, Assistance, Logistics, Office of Management and Budget
 SES Director, Office of Procurement and Assistance Financial Management, Office

of Procurement, Assistance and Logistics,
Office of Management and Budget
SES Director, Office of Facilities and
Management Services, Office of
Management and Budget
SES Director, Office of Facilities
Engineering, Office of Facilities and
Management Services, Office of
Management and Budget
SES Director, Office of Computer and
Information Systems, Office of
Management Analysis and Systems, Office
of Management and Budget

Legislation

SES Deputy Assistant Secretary for
Legislation
SES Deputy Assistant Secretary for
Legislation (Health)
SES Deputy Assistant Secretary for
Legislation (Human Services)
SES Director of Program Coordination
SES Deputy Assistant Secretary for
Legislation (Special Projects)
SES Deputy Assistant Secretary for
Legislation (Congressional Liaison)

Office for Civil Rights

SES Special Assistant to the Secretary for
Civil Rights, Director, Office for Civil
Rights
SES Deputy Director for Program
Operations, OCR
SES Associate Deputy Director for Program
Operations, OCR
SES Deputy Director for Management and
Policy, OCR

Office for Personnel Administration

SES Assistant Secretary for Personnel
Administration
SES Deputy Assistant Secretary, Personnel
SES Director, Office of Personnel Systems
Integrity
SES Deputy Assistant Secretary, Equal
Employment Opportunity

Office of Public Affairs

SES Deputy Assistant Secretary for
Operations Management
SES Deputy Assistant Secretary for
Communication Planning
SES Special Assistant to Assistant
Secretary for Public Affairs
SES Deputy Assistant Secretary for Public
Affairs (Public Liaison)
SES* Deputy Assistant Secretary for
Planning and Initiative

Office of the General Counsel

SES Deputy General Counsel, Program
Review
SES Deputy General Counsel, Regulations
SES Deputy General Counsel, Litigation
SES Legal Counsel
SES Associate General Counsel for
Enforcement
SES Assistant General Counsel, Legislation
Division
SES Assistant General Counsel, Public
Health Division
SES Assistant General Counsel, Social
Security
SES Assistant General Counsel, Food and
Drug Administration
SES Assistant General Counsel, Health
Care Financing and Human Development

SES Assistant General Counsel, Civil Rights
Division
SES Assistant General Counsel, Business
and Administrative Law Division
SES Assistant General Counsel, Inspector
General Division
SES Associate General Counsel

Office of Consumer Affairs

SES Deputy Director, Office of Consumer
Affairs

Office of Human Development Services

SES Deputy Commissioner, Administration
on Aging
SES Deputy Assistant Secretary, Human
Development Services
GS-18 Commissioner, Administration for
Children, Youth and Families
SES Deputy Commissioner, Administration
for Children, Youth and Families
SES Commissioner, Administration for
Native Americans
SES Commissioner, Administration on
Developmental Disabilities
SES Director, Office of Program
Coordination and Review
SES Director, Office of Policy Development
SES Deputy Director, Office of Policy
Development
SES Deputy Director, Office of Program
Coordination and Review
SES* Associate Commissioner for Program
Development, Administration on Aging
SES* Director, Office of Management
Services
SES* Associate Director for Program
Operations, Administration on Aging

Health Care Financing Administration

SES Administrator, Health Care Financing
Administration
SES Deputy Administrator, Health Care
Financing Administration
SES Director, Bureau of Program Operations
SES Director, Health Standards and Quality
Bureau
SES Director, Office of Management and
Budget
SES Director, Office of Research and
Demonstrations
SES Associate Administrator for
Management and Support Services
SES Associate Administrator for Policy
SES Associate Administrator for
Operations
SES Deputy Associate Administrator for
Operations (Field)
SES Associate Administrator for External
Affairs
SES Director, Office of Executive
Operations
SES Regional Administrator, Region I
SES Regional Administrator, Region II
SES Regional Administrator, Region III
SES Regional Administrator, Region IV
SES Regional Administrator, Region V
SES Regional Administrator, Region VI
SES Regional Administrator, Region VII
SES Regional Administrator, Region VIII
SES Regional Administrator, Region IX
SES Regional Administrator, Region X
SES Director, Bureau of Eligibility
Reimbursement and coverage
SES Director, Bureau of Quality Control
SES Director, Office of Legislation and
Policy

SES Director, Bureau of Support Services
SES Director, Office of Public Affairs
SES Director, Bureau of Data Management
and Strategy

Public Health Service

Office of the Assistant Secretary for Health

SES Deputy Assistant Secretary, Health
Operations
SES Deputy Assistant Secretary, Planning
and Evaluation
SES Deputy Assistant Secretary, Population
Affairs
SES/0-7/0-8 Regional Health
Administrators—Regions I-X
SES Executive Director, President's Council
on Physical Fitness and Sports
SES Director, National Center for Health
Statistics
SES Deputy Director, National Center for
Health Statistics
SES Director, National Center for Health
Services Research
0-8 Deputy Surgeon General and Chief
Nurse Officer, Public Health Service
0-8 Senior Advisor for Environmental
Affairs
0-7 Deputy Assistant Secretary for Health,
for Disease Prevention and Health
Promotion

Center for Disease Control

0-8 Director, Centers for Disease Control
SES Deputy Director, Centers for Disease
Control
0-7 Assistant Director for International
Health
SES Directors, Office of Program Support,
Centers for Disease Control
SES Director, Licensure and Proficiency
Testing Division, Laboratory Program
Office
0-7 Program Manager, Expanded Program
on Immunization, World Health
Organization, International Health Program
Office
SES Director, Clinical Chemistry Division,
Center for Environmental Health
SES Assistant to Director, Center for
Environmental Health
SES Director, Center for Infectious Diseases
SES* Assistant Director for Management,
CDC
SES* Special Assistant for Policy
Development, CDC
SES Assistant Director for Laboratory
Science, Center for Infectious Diseases
SES Director, Center for Professional
Development and Training
SES Director, Center for Health Promotion
and Education
SES Director, National Institute for
Occupational Safety and Health
0-8 Deputy Director, National Institute for
Occupational Safety and Health
SES Assistant Director for Laboratory
Science, Division of Parasitic Diseases, CID

Health Resources and Services Administration

0-8 Administrator, Health Resources and
Services Administration
SES Deputy Administrator
0-8 Director, Bureau of Health Care
Delivery and Assistance

SES Deputy Director, Bureau of Health Care Delivery and Assistance
 SES Director, Bureau of Health Professions
 SES Deputy Director, Bureau of Health Professions
 0-8 Director, Indian Health Service
 SES Deputy Director, Indian Health Service
 0-8 Director, Bureau of Health Maintenance Organizations and Resources Development
 SES Deputy Director, Bureau of Health Maintenance Organizations and Resources Development

Alcohol, Drug Abuse, and Mental Health Administration

SES Deputy Administrator, ADAMHA
 SES Associate Administrator for Extramural Programs, ADAMHA
 SES Associate Administrator for Program Planning and Coordination, ADAMHA
 SES Director, National Institute on Alcohol Abuse and Alcoholism
 SES Deputy Director, National Institute on Alcohol Abuse and Alcoholism
 0-8 Director, National Institute of Mental Health
 SES Deputy Director, National Institute of Mental Health
 0-8 Director, National Institute on Drug Abuse
 SES Deputy Director, National Institute on Drug Abuse

National Institutes of Health

SES* Director, NIH
 SES Deputy Director, NIH
 SES Deputy Director for Intramural Research
 SES Deputy Director for Extramural Research and Training
 SES Associate Director for Program Planning and Evaluation
 SES Associate Director for Administration
 SES Associate Director for Communications
 SES Associate Director for Research Services
 SES Associate Director for Clinical Care, NIH and Director of Clinical Center
 SES* Associate Director for Intramural Affairs
 SES* Associate Commissioner for Extramural Affairs
 SES* Associate Director for Medical Applications of Research
 SES* Associate Director for International Research and Director, Fogarty International Center
 SES Director, Division of Computer Research and Technology
 SES Director, Division of Research Grants
 SES Deputy Director, Division of Research Grants
 0-8 Director, National Cancer Institute
 SES Deputy Director, National Cancer Institute
 SES Director, Division of Research Resources
 SES Deputy Director, Division of Research Resources
 SES Director, Division of Research Services
 SES Director, National Eye Institute
 SES Deputy Director, National Eye Institute
 SES Director, National Heart, Lung, and Blood Institute
 0-7 Deputy Director, National Heart, Lung, and Blood Institute

0-8 Director, National Institute of Allergy and Infectious Diseases
 SES Deputy Director, National Institute of Allergy and Infectious Diseases
 SES Director, National Institute of Arthritis, Metabolism and Digestive Diseases
 0-7 Deputy Director, National Institute of Arthritis, Metabolism and Digestive Diseases
 0-7 Director, National Institute on Aging
 SES Deputy Director, National Institute on Aging
 SES Director, National Institute of Child Health and Human Development
 SES Deputy Director, National Institute of Child Health and Human Development
 SES Director, National Institute of Dental Research
 0-8 Director, National Institute of Environmental Health Sciences
 SES Deputy Director, National Institute of Environmental Health Sciences
 SES Director, National Institute of General Medical Sciences
 0-7 Director, National Institute of Neurological and Communicative Disorders and Stroke
 SES Deputy Director, National Institute of Neurological and Communicative Disorders and Stroke
 SES Director, National Library of Medicine
 SES Deputy Director, National Library of Medicine

Food and Drug Administration

0-8 Commissioner of Food and Drugs
 SES Deputy Commissioner for Food and Drugs
 SES Associate Commissioner for Consumer Affairs
 SES Associate Commissioner for Legislation and Information
 SES Associate Commissioner for Health Affairs
 SES Associate Commissioner for Planning and Evaluation
 SES* Associate Commissioner for Science
 SES Associate Commissioner for Regulatory Affairs
 SES Director, Enforcement Policy Staff
 SES Director, Parklawn Computer Center
 SES Director, Orphan Products Development
 SES Deputy Associate Commissioner for Regulatory Affairs
 SES Associate Commissioner for Management and Operations

Center for Food Safety and Applied Nutrition

SES Director, Center for Food Safety and Applied Nutrition
 SES Deputy Director, Center for Food Safety and Applied Nutrition
 SES Associate Director for Toxicological Sciences
 SES Director, Division of Toxicology
 SES Associate Director for Laboratory Investigations
 SES Director, Division of Chemistry and Physics
 SES Director, Division of Microbiology
 SES Associate Director for Compliance
 SES Associate Director for Physical Sciences
 SES Deputy Associate Director for Physical Sciences

SES Director, Division of Food Technology
 SES* Director of Mathematics
 SES* Director, Division of Food and Color Additives
 SES Director, Division of Chemical Technology
 SES Associate Director for Nutrition and Food Sciences
 SES Director, Division of Regulatory Guidance
 SES Associate Director for Planning and Operations
 SES Deputy Associate Director for Nutrition and Food Sciences
 SES Director, Division of Nutrition

Center for Drugs and Biologics

0-8 Director, Center for Drugs and Biologics
 SES Deputy Director, Center for Drugs and Biologics
 0-7 Director, Office of Biologics Research and Review
 SES Deputy Director, Office of Biologics Research and Review
 SES Director, Office of Compliance
 SES Director, Office of Drug Research and Review
 SES Deputy Director for Program Management
 SES Director, Division of Oncology and Radiopharmaceutical Drugs Products Research
 SES Director, Division of Scientific Investigations Staff
 SES Director, Division of Anti-infective Drug Products
 SES Director, Division of Metabolism and Endocrine Drug Products
 SES Director, Division of Surgical-Dental Drug Products
 SES* Director, Office of Management
 SES* Director, Division of Cardio-Renal Drug Products
 SES* Deputy Director for Medical Activities
 SES* Director, Division of Biochemistry and Biophysics
 SES* Director, Division of OTC Drug Evaluation
 SES Director, Division of Neuropharmacological Drugs Products
 SES Director, Division of Drug Biology
 SES Director, Division of Drug Chemistry
 SES Director, Division of Product Quality Control
 SES Director, Division of Blood and Blood Products
 SES Director, Division of Biologics Evaluation
 SES Director, Office of Epidemiology and Biostatistics
 SES Deputy Director, Division of Epidemiology and Biostatistics
 SES Director, Division of Biometrics
 SES Director, Division of Drug and Biological Experience Products
 SES Director, Division of Diopharmaceutics

Center for Veterinary Medicine

SES Director, Center for Veterinary Medicine
 SES Deputy Director, Center for Veterinary Medicine
 SES Associate, Center for Veterinary Medicine
 SES Deputy Director for Scientific Evaluation

SES Director, Division of Therapeutic Drugs for Non-Food Animals
 SES Associate Director for Human Food Safety
 SES Associate Director for Surveillance and Compliance
 SES Associate Director for Research
 SES Director, Division of Veterinary Medical Research
 SES Associate Director for Voluntary Compliance and Operations
 SES Director, Division of Biometrics and Production Drugs
 SES Director, Division of Therapeutic Drugs for Food Animals
 SES Director, Division of Drug Manufacturing and Controls

Center for Devices and Radiological Health

SES Director, Office of Device Evaluation
 SES Associate Director for Standards
 SES Associate Director for Compliance
 0-8 Director, Center for Devices and Radiological Health
 SES Deputy Director, Center for Devices and Radiological Health

National Center for Toxicological Research

SES Director, National Center for Toxicological Research
 SES Director, Division of Biometry
 SES Associate Director for Research
 SES Deputy Director, National Center for Toxicological Research

Executive Director of Regional Operations

SES Executive Director of Regional Operations
 SES Deputy Executive Director of Regional Operations
 SES Associate Director for Field Support
 SES Regional Food and Drug Director, Region I
 SES Regional Food and Drug Director, Region II
 SES Regional Food and Drug Director, Region III
 SES Regional Food and Drug Director, Region IV
 SES Regional Food and Drug Director, Region V
 SES Regional Food and Drug Director, Region VI
 SES Regional Food and Drug Director, Region VII
 SES Regional Food and Drug Director, Region VIII
 SES Regional Food and Drug Director, Region IX
 SES Regional Food and Drug Director, Region X

Social Security Administration

SES Deputy Commissioner, Operations
 SES Deputy Commissioner, Programs and Policy
 SES Deputy to Deputy Commissioner, Programs and Policy
 SES Associate Commissioner, Policy
 SES Associate Commissioner, Assessment
 SES Deputy Associate Commissioner, Assessment
 SES Deputy Commissioner, Systems
 SES Associate Commissioner, Family Assistance
 SES Deputy Associate Commissioner, Family Assistance

SES Associate Commissioner, Central Operations
 SES Deputy Associate Commissioner, Centers Operations
 SES Associate Commissioner, Hearings and Appeals
 SES Deputy Associate Commissioner, Hearings and Appeals (Appeals)
 SES Deputy Commissioner, Management Support and Assessment
 SES Deputy Director, Office of Child Support Enforcement
 SES* Associate Deputy Director, OCSE
 SES Regional Commissioner, Boston—Region I
 SES Regional Commissioner, New York—Region II
 SES Regional Commissioner, Philadelphia—Region III
 SES Regional Commissioner, Atlanta—Region IV
 SES Regional Commissioner, Chicago—Region V
 SES Regional Commissioner, Dallas—Region VI
 SES Regional Commissioner, Kansas City—Region VII
 SES Regional Commissioner, Denver—Region VIII
 SES Regional Commissioner, San Francisco—Region IX
 SES Regional Commissioner, Seattle—Region X
 SES Senior Executive Officer
 SES Associate Commissioner, Field Operations
 SES Deputy Associate Commissioner for Field Operations
 SES Chief Actuary
 SES Associate Commissioner, Management, Budget and Personnel
 SES Deputy Associate Commissioner, Management, Budget and Personnel
 SES Associate Commissioner, System Operation
 SES Associate Commissioner, System Integration
 SES Director, Office of Refugee Resettlement
 SES Associate Commissioner, Governmental Affairs
 SES Associate Commissioner for System Requirement
 SES Deputy Associate Commissioner for Systems Operations
 SES Deputy Associate Commissioner, System Requirements
 SES Deputy Associate Commissioner for System Integration
 SES* Associate Commissioner, Disability
 SES* Deputy Associate Commissioner, Disability
 SES* Associate Commissioner, Supplemental Security Income
 SES* Deputy Associate Commissioner, Supplemental Security Income
 SES* Special Assistant to Deputy Commissioner, Programs and Policy
 SES* Associate Commissioner, Retirement and Survivors Insurance
 SES* Deputy Commissioner, Systems
 SES* Deputy Associate Commissioner, Hearings and Appeals (Management)

AGENCY: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Positions:

OFFICE OF THE SECRETARY

SES Deputy Undersecretary for Intergovernmental Relations
 SES General Deputy Assistant Secretary for Public Affairs
 SES Executive Assistant to the Secretary
 SES Executive Assistant to the Under Secretary
 SES Deputy Under Secretary for Field Coordination
 SES Assistant to the Secretary for International Affairs
 SES Assistant to the Secretary for Labor Relations

OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING

SES Deputy Assistant Secretary for Multifamily Housing Programs
 SES Deputy Assistant Secretary for Single-Family Housing and Mortgage Activities
 SES* General Deputy Assistant Secretary for Public and Indian Housing
 SES Deputy Assistant Secretary for Policy and Financial Management, and Administration
 SES General Deputy Assistant Secretary for Housing/Deputy Federal Housing Commissioner

OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT

SES Deputy Assistant Secretary for Program Policy Development and Evaluation
 SES Director, Office of Urban Development Action Grants
 SES General Deputy Assistant Secretary for Community Planning and Development
 SES Deputy Assistant Secretary for Program Management
 SES Deputy Assistant Secretary for Field Operations and Environment/Energy

OFFICE OF THE ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY

SES Deputy Assistant Secretary for Operations and Management
 SES General Deputy Assistant Secretary for Fair Housing and Equal Opportunity
 SES Deputy Assistant Secretary for Enforcement and Compliance

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH

SES Deputy Assistant Secretary for Housing Studies
 SES Deputy Assistant Secretary for Policy Development
 SES Deputy Assistant Secretary for Economic Affairs
 SES Deputy Assistant Secretary for Urban and Community Studies

OFFICE OF THE GENERAL COUNSEL

SES Deputy General Counsel
 SES Deputy General Counsel (Operations)

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

SES Deputy Assistant Secretary for Administration

OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL RELATIONS

SES Deputy Assistant Secretary for Legislation
SES Deputy Assistant Secretary for Congressional Relations

OFFICE OF THE INSPECTOR GENERAL

SES Deputy Inspector General

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SES Vice President, (Mortgage Finance)
SES Vice President, (Mortgage Backed Securities)
SES Executive Vice President

Solar Energy and Energy Conservation Bank

SES* Manager

FIELD OFFICES**Region I**

SES Regional Administrator
SES Deputy Regional Administrator

Region II

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, Newark Area Office

Region III

SES Regional Administrator
SES Deputy Regional Administrator
SES Manager, Pittsburgh Office

Region IV

SES Regional Administrator
SES Deputy Regional Administrator
SES Manager, Jacksonville Office

Region V

SES Regional Administrator
SES Deputy Regional Administrator
SES Manager, Detroit Office
SES Manager, Columbus Office
SES Manager, Minneapolis/St. Paul Office
SES Manager, Indianapolis Office

Region VI

SES Regional Administrator
SES Deputy Regional Administrator
SES Manager, New Orleans Office
SES Manager, Oklahoma City Office

Region VII

SES Regional Administrator
SES Deputy Regional Administrator

Region VIII

SES Regional Administrator
SES Deputy Regional Administrator

Region IX

SES Regional Administrator
SES Deputy Regional Administrator
SES Manager, Los Angeles Office

Region X

SES Regional Administrator
SES Deputy Regional Administrator

AGENCY: DEPARTMENT OF THE INTERIOR**Positions:****Office of the Secretary**

SES Principal Deputy Secretary
SES Deputy Under Secretary
SES Deputy Under Secretary
SES Counselor to the Secretary
SES Executive Assistant to the Secretary
SES Special Assistant to the Secretary
SES Assistant to the Secretary/Director of Public Affairs
SES Assistant to the Secretary and Director, Office of Congressional Affairs
SES Deputy Director—Senate
SES Deputy Director—House
SES Director, Office of Small and Disadvantaged Business Utilization
SES Director, Office of Historically Black College and University Programs
SES Director, Office of Youth Programs
SES Assistant to the Secretary
SES Legislative Counsel
SES Special Assistant (Field Representative—San Francisco)
SES Special Assistant (Field Representative—Sacramento)
SES Special Assistant (Field Representative—Denver)
SES Director, Office of Equal Opportunity
SES Assistant Director, Federal Employment Programs
SES Assistant Director, Title VI
AD Commissioner, Delaware River Basin Commission
AD Commissioner, Susquehanna River Basin Commission
AD Federal Co-Chairman, Alaska Land Use Council

Office of Hearings and Appeals

SES Director, Office of Hearings and Appeals
SES Member, Board of Surface Mining & Reclamation Appeals
SES Chief, Hearings Division (Indian Probate)
GS-18 Chairman, Board of Contract Appeals
GS-17 Vice Chairman, Board of Contract Appeals

Office of Territorial and International Affairs

SES Deputy Assistant Secretary
SES Director, Office of Technical Assistance
GS-18 High Commissioner of the Trust Territories

Office of Inspector General

SES Assistant Inspector General—Audit
SES Assistant Inspector General—Investigations

Office of the Solicitor

SES Deputy Solicitor
SES Special Assistant to the Solicitor
SES Associate Solicitor—Audit and Investigation
SES Associate Solicitor—Energy & Resources
SES Associate Solicitor—General Law
SES Associate Solicitor—Conservation & Wildlife
SES Associate Solicitor—Indian Affairs

SES Associate Solicitor—Surface Mining
SES Regional Solicitor—Portland
SES Regional Solicitor—Anchorage
SES Regional Solicitor—Denver
SES Regional Solicitor—Sacramento
SES Regional Solicitor—Boston
SES Regional Solicitor—Tulsa
SES Regional Solicitor—Atlanta

Office of the Assistant Secretary for Fish and Wildlife and Parks

SES Deputy Assistant Secretary
SES Special Assistant to the Assistant Secretary—FWP (Alaska)
SES Staff Assistant

U.S. Fish and Wildlife Service

SES Deputy Director
SES Associate Director, Wildlife Resources
SES Associate Director, Habitat Resources
SES Associate Director, Research and Development
SES Associate Director, Federal Assistance
SES Associate Director, Fishery Resources
SES Assistant Director for Administration
SES Assistant Director, Planning and Budget
SES Regional Director, Portland
SES Regional Director, Twin Cities
SES Regional Director, Atlanta
SES Regional Director, Boston
SES Regional Director, Anchorage
SES Regional Director, Denver
SES Regional Director, Albuquerque

National Park Service

SES Director
SES Deputy Director
SES Assistant Director—Legislative and Congressional Affairs
SES Associate Director—Natural Resource
SES Associate Director—Park Operations
SES Associate Director—Cultural Resources
SES Associate Director—Planning and Development
SES Senior Scientist
SES Director, National Capital Region
SES Regional Director, Seattle
SES Regional Director, Atlanta
SES Regional Director, Philadelphia
SES Regional Director, Omaha
SES Regional Director, Alaska
SES Regional Director, Boston
SES Regional Director, Santa Fe
SES Regional Director, San Francisco
SES Regional Director, Denver

Office of the Assistant Secretary for Water and Science

SES Deputy Assistant Secretary
SES Staff Assistant to Assistant Secretary
SES Deputy Assistant Secretary
SES Staff Assistant—Economics

Bureau of Reclamation

SES Special Assistant to the Commissioner
SES Assistant Commissioner, Planning and Operations
SES Assistant Commissioner, Administration
SES Chief, Office of Power
SES Special Assistant to Commissioner
SES Assistant Commissioner, Engineering
SES Regional Director, Lower Colorado (Boulder City)

SES Regional Director, Mid-Pacific (Sacramento)
 SES Regional Director, Pacific Northwest (Boise)
 SES Regional Director, Lower Missouri (Denver)
 SES Regional Director, Upper Colorado (Salt Lake City)
 SES Regional Director, Southwest (Amarillo)
 SES Regional Director, Upper Missouri (Billings)

Bureau of Mines

SES Deputy Director
 SES Chief Staff Officer
 SES Assistant Director, Mining Research
 SES Assistant Director, Minerals Information
 SES Assistant Director, Planning and Budget
 SES Assistant Director, Management Services
 SES Assistant Director, Minerals Data Analysis
 SES Assistant Director, Minerals and Materials Research

U.S. Geological Survey

SES Associate Director
 SES Assistant Director, Research
 SES Assistant Director, Engineering Geology
 SES Assistant Director for Information Systems
 SES Assistant Director, Administration
 SES Assistant Director for Programs
 SES Assistant Director, Intergovernmental Affairs

Office of the Assistant Secretary for Land and Minerals Management

SES Deputy Assistant Secretary
 SES Deputy Assistant Secretary
 SES Staff Assistant to the Assistant Secretary

Minerals Management Service

SES Director
 SES Associate Director for Royalty Management
 SES Associate Director for Offshore Minerals
 SES Assistant Director for Administration
 SES Assistant Director for Program Review
 SES Assistant to the Director for Offshore Rules & Regulations
 SES Regional Manager, Gulf of Mexico
 SES Regional Manager, Pacific OCS Region
 SES Regional Manager, Atlantic OCS Region
 SES Regional Manager, Alaska

Office of Surface Mining

SES Deputy Director
 SES Assistant Director for Technical Standards & Research
 SES Assistant Director for Program Operations and Inspection
 SES Assistant Director for Budget and Administration

Bureau of Land Management

SES Associate Director
 SES Deputy Director—Energy and Mineral Resources
 SES Assistant to the Deputy Director—Energy and Mineral Resources

SES Deputy Director—Lands and Renewable Resources
 SES Deputy Director Management Services
 SES Assistant Director for Administration
 SES Assistant Director—Technical Services
 SES Assistant Director—Renewable Resources
 SES Assistant Director—Land Resources
 SES Assistant Director—Solid Leasable Minerals
 SES Chief, Planning & Environmental Coordination
 SES Assistant Director—Fluid Leasable Minerals
 SES Associate Deputy Director—Energy & Mineral Resources/Assistant Director—Resources/Minerals Law
 SES State Director—Eastern States
 SES State Director—Utah
 SES State Director—Wyoming
 SES State Director—Montana
 SES State Director—Colorado
 SES State Director—California
 SES State Director—Alaska
 SES State Director—Oregon
 SES State Director—Arizona
 SES State Director—New Mexico
 SES State Director—Idaho
 SES State Director—Nevada
 SES Director, Denver Service Center (2)

Office of the Assistant Secretary for Policy, Budget and Administration

SES Deputy Assistant Secretary (3)
 SES Director, Office of Aircraft Services
 SES Special Assistant to the Assistant Secretary
 SES Director, Office of Acquisition and Property Management
 SES Chief, Division of Acquisition and Grants
 SES Director, Office of Information Resources Management
 SES Deputy Director, Office of Information Resources Management
 SES Director, Office of Environmental Project Review
 SES Director, Office of Administrative Services
 SES Director, Office of Budget
 SES Deputy Director, Office of Budget
 SES Chief, Division of Budget Operations (A)
 SES Chief, Division of Budget Operations (B)
 SES Director, Office of Policy Analysis
 SES Deputy Director, Office of Policy Analysis
 SES Assistant Director for Economics
 SES Assistant Director for Studies
 SES Director Office of Personnel
 SES Deputy, Director, Office of Personnel
 SES Director, Office of Financial Management
 SES Deputy Director, Office of Financial Management

Bureau of Indian Affairs

SES Deputy Assistant Secretary (Operations)
 SES Director—Indian Services
 SES Director of Trust Responsibilities
 SES Executive Management Officer
 SES Director of Indian Education Programs
 SES Director, Office of Data System
 SES Deputy Director of Indian Education Programs (Comptroller)

SES Assistant Director of Administration (Financial Management)
 SES Area Director, Muskogee
 SES Area Director, Anadarko
 SES Area Director, Navajo
 SES Area Director, Albuquerque
 SES Area Director, Portland
 SES Area Director, Juneau
 SES Area Director, Minneapolis
 SES Area Director, Eastern Area
 SES Area Director, Phoenix
 SES Area Director, Aberdeen
 SES Area Director, Billings
 SES Area Director, Sacramento

AGENCY: DEPARTMENT OF JUSTICE

Positions:

Office of the Attorney General

SES Counselor to the Attorney General
 SES Special Counsel to the Attorney General (Vacant)

Office of the Deputy Attorney General

SES All Associate Deputy Attorneys General (4) (2 Vacant)

Office of the Associate Attorney General

SES All Deputy Associate Attorneys General (4)
 SES* Assistant Associate Attorney General

Office of the Solicitor General

SES All Deputy Solicitors General (5)

Legal Divisions: Antitrust, Civil, Civil Rights, Criminal, Land and Natural Resources, and Tax

SES All Deputy Assistant Attorneys General in Legal Divisions (21)
 SES Special Counsel to the Asst. Attorney General, Tax Division
 SES Director of Operations, Antitrust Division
 SES Director, Economic Policy, Antitrust Division
 SES Chief, Organized Crime and Racketeering Section, Criminal Division

Office of Legal Counsel

SES All Deputy Assistant Attorneys General (3)

Office of Legislative and Intergovernmental Affairs

No section 207(d)(1)(C) designations.

Justice Management Division

SES Assistant Attorney General for Administration
 SES All Deputy Assistant Attorneys General (4)
 SES Senior Management Counsel
 SES Staff Directors (10)
 SES Deputy Director, Audit Staff

Office of Public Affairs

SES Director

Office of the Pardon Attorney

No section 207(d)(1)(C) designations.

United States Parole Commission

GS-18 All Commissioners (9)

United States Marshals Service

SES Director
 SES Deputy Director
 SES Assistant Director for Operations
 SES Assistant Director for Administration

United States Attorneys

SES All United States Attorneys (89)

Drug Enforcement Administration

GS-18 All Assistant Administrators (3)
 GS-17 All Deputy Assistant Administrators (8)

Federal Bureau of Investigation

GS-18 Executive Assistant Directors (3) (1 Vacant)
 GS-18 All Assistant Directors (12)
 GS-17 All Inspectors/Deputy Assistant Directors (18)
 GS-18 or GS-17 All Special Agents in Charge of Field Offices above GS-16 (25)
 GS-17 Special Assistant to the Director

Immigration and Naturalization Service

SES Deputy Commissioner
 SES All Associate Commissioners (4)
 SES All Regional Commissioners (4)
 SES General Counsel
 SES* Executive Associate Commissioner

Bureau of Prisons

SES All Assistant Directors (2)
 SES All Regional Directors (5)
 SES Associate Commissioner for Prison Industries
 SES Wardens (13)
 SES Deputy Associate Commissioner/Secretary for Prison Industries
 SES Deputy Associate Commissioner for Prison Industries
 SES General Counsel
 SES Director, National Institute of Corrections

Community Relations Service**Office of Justice Assistance, Research, and Statistics**

SES Comptroller
 SES General Counsel

National Institute of Justice

SES Assistant Director, Office of Development Testing and Dissemination
 SES Assistant Director, Office of Research Programs

Office of Juvenile and Delinquency Prevention

SES Deputy Administrator

Bureau of Justice Statistics

SES Deputy Director

Office of Legal Policy

SES Deputy Assistant Attorneys General (3)

Office of Intelligence Policy Review

SES Counsel for Intelligence Policy
 SES Deputy Counsel for Intelligence Policy
 SES Deputy Counsel for Intelligence Operations

Foreign Claims Settlement Commission

SES General Counsel

AGENCY: DEPARTMENT OF LABOR*Positions:***Office of the Inspector General (OIG)**

SES Deputy Inspector General
 SES Assistant Inspector General for Investigations
 SES Assistant Inspector General for Audit
 SES Deputy Assistant Inspector General for Audit
 SES Assistant Inspector General for Resource Management and Legislative Assessment

Women's Bureau

GS-17 Director
 SES Deputy Director

Office of the Assistant Secretary for Legislative Affairs

No section 207 (d)(1)(C).

Office of the Assistant Secretary, Administration and Management

SES Deputy Assistant Secretary
 SES Director, Office of Procurement and Grants Management
 SES Comptroller for the Department
 SES Deputy Comptroller

Office of Administrative Law Judges (ALJ)

No section 207(d)(1)(C) designations.

Office of the Assistant Secretary for Labor-Management Relations (LSMA)

SES Deputy Assistant Secretary for Management and Services
 SES Deputy Assistant Secretary for Program Operations
 SES Administrator for Pension and Welfare Benefit Programs (PWBP)
 SES Deputy Administrator for Pension and Welfare Benefit Programs (PWBP)
 SES Director, Office of Labor-Management Standards Enforcement (LMSE)

Office of the Assistant Secretary for Occupational Safety and Health Administration (OSHA)

SES Deputy Assistant Secretary for Occupational Safety and Health Administration
 SES Director, Policy Analysis, Integration and Evaluation
 SES Director, Federal Compliance and State Programs
 SES Director, Safety Standards Programs
 SES Director, Health Standards Programs
 SES Director, Technical Support, TECFAP

Office of the Assistant Secretary for Mine Safety and Health Administration (MSHA)

SES Deputy Assistant Secretary for Mine Safety and Health Administration
 SES Administrator for Metal and Nonmetal Mine Safety and Health
 SES Deputy Administrator for Metal and Nonmetal Mine Safety and Health
 SES Administrator for Coal Mine Safety and Health
 SES Deputy Administrator for Coal
 SES Director of Technical Support
 SES Director of Educational Policy and Development
 SES Chief, Standards, Regulations and Variances

Office of the Deputy Under Secretary for Employment Standards Administration (ESA)

SES Deputy Under Secretary for Employment Standards
 SES Associate Deputy Under Secretary for Employment Standards
 SES Director, Office of Federal Contract Compliance Programs (OFCCP)
 SES Deputy Director, OFCCP
 SES Deputy Administrator, Wage and Hour Division (WH)
 SES Director, Office of Workers' Compensation Programs (OWCP)
 SES Deputy Director, OWCP for Operations

Bureau of Labor Statistics (BLS)

SES Deputy Commissioner For Administration and Internal Operations

Office of the Solicitor of Labor

SES Deputy Solicitor
 SES Deputy Solicitor for Regional Operations

Office of the Assistant Secretary Employment and Training Administration (ETA)

SES Associate Assistant Secretary, ETA
 SES Administrator, Office of Strategic Planning and Policy Development (OSPPD)
 SES Deputy Administrator, Office of Strategic Planning and Policy Development (OSPPD)
 SES Director, Office of Research and Evaluation, (OSPPD)
 SES Administrator, Office of Employment Security (OES)
 SES Administrator, Office of Comprehensive Employment and Training (OCET)
 SES Deputy Administrator, Office of Comprehensive Employment and Training (OCET)
 SES Administrator, Office of Financial Control and Management Systems (OFCMS)

Office of the Deputy Under Secretary International Labor Affairs (ILAB)

SES Deputy Under Secretary for International Labor Affairs
 SES Associate Deputy Under Secretary for International Affairs

Office of the Assistant Secretary for Policy (ASP)

SES Deputy Assistant Secretary for Policy, Evaluation and Research
 SES Deputy Assistant Secretary for Economic Policy and Research

National Commission for Employment Policy (NCEP)

GS-18 Director

President's Committee on Employment of the Handicapped (PCEH)

SES Executive Director
 SES Deputy Executive Director

Office of the Assistant Secretary for Veteran's Employment

SES Deputy Assistant Secretary

AGENCY: DEPARTMENT OF STATE

Positions:

FEMC Executive Asst to Secretary, S
 FEMC* Sa to Sec & Coord Int'l Lab Aff, S
 FEMC* Sa to Sec. & Exec Sec of Dept., S/S
 FEMC* Mem. Foreign Policy Plan Council, S/P
 FEMC Exec Asst to Deputy Secretary, D
 FEMC Office Director, M/CT
 FEMC* Deputy to the Under Secretary, P
 FEMC* Deputy Coordinator, T/CIP
 FEMC* Deputy Under Secretary for Economic Affairs, E
 FEMC* Executive Assistant, M
 FEMC Dir of Management Operations, M/MO
 FEMC Dep Dir of Mgmt Operations, M/MO
 FEMC* Dep Dir of Mgmt Operations, M/MO
 FEMC Dep Dir of Mgmt Operations, M/MO
 FEMC* Program Director, M/OFM
 FEMC Deputy Inspector General, S/IG
 FEMC Deputy Inspector General, S/IG
 FEMC Director Political Military, PM/OD
 FEMC United States Representative, PM/START
 FEMC* United States Representative, PM/CDE
 FEMC* Deputy Assistant Secretary, PM/AS
 FEMC Medical Director, M/MED
 FEMC Deputy Assistant Secretary, INM
 FEMC* Deputy Assistant Secretary, RP/MGT
 FEMC Deputy Assistant Secretary, EB
 FEMC Deputy Assistant Secretary, EB/TDC
 FEMC Deputy Assistant Secretary, EB/IFD
 FEMC Deputy Assistant Secretary, EB/IEP
 FEMC Deputy Assistant Secretary, INR
 FEMC* Deputy Assistant Secretary, INR/CA
 FEMC Deputy Assistant Secretary, INR/C
 FEMC Deputy Assistant Secretary, H
 FEMC Deputy Assistant Secretary, PA
 FEMC Deputy Assistant Secretary, ARA
 FEMC Deputy Assistant Secretary, ARA
 FEMC* Deputy Assistant Secretary, ARA
 FEMC Dep US Representative, ARA/USOAS
 FEMC Deputy Assistant Secretary, EUR
 FEMC Deputy Assistant Secretary, EUR
 FEMC Deputy Assistant Secretary, EUR
 FEMC Deputy Assistant Secretary, EUR
 FEMC Deputy Assistant Secretary, EAP
 FEMC Deputy Assistant Secretary, EAP
 FEMC Deputy Assistant Secretary, EAP
 FEMC Deputy Assistant Secretary, EAP
 FEMC Deputy Assistant Secretary, NEA
 FEMC Deputy Assistant Secretary, NEA
 FEMC Deputy Assistant Secretary, NEA
 FEMC Deputy Assistant Secretary, NEA
 FEMC Deputy Assistant Secretary, AF
 FEMC Deputy Assistant Secretary, AF
 FEMC Deputy Assistant Secretary, AF
 AD00* United States Representative, USUN
 AD00* Deputy U.S. Representative, USUN
 AD00* United States Representative, USUN
 AD00* Alternate Representative of USA
 Spec Pol Aff UN, USUN
 AD00* United States Representative, USUN
 AD00* United States Representative, USUN
 AD00* United States Representative, USUN
 AD00* United States Representative, USUN
 FEMC Dep US Representative, USUN
 FEMC Deputy Assistant Secretary IO
 FEMC Deputy Assistant Secretary IO

FEMC Deputy Assistant Secretary, A/CDC
 FEMC* Deputy Assistant Secretary, A/FBO
 FEMC Director Assistant Secretary, DGP/PER
 FEMC Deputy Assistant Secretary, DGP/PER
 FEMC* Deputy Assistant Secretary, DGP/PER
 FEMC Deputy Assistant Secretary, A/OPR
 FEMC Deputy Assistant Secretary, A/SY
 FEMC Director Foreign Service Inst, M/FSI
 FEMC Deputy Assistant Secretary, A/OC
 FEMC Deputy Assistant Secretary, CA
 FEMC Deputy Assistant Secretary, CA/PPT
 FEMC* Deputy Assistant Secretary, CA/VO
 FEMC Deputy Assistant Secretary, CA/OCS
 FEMC Deputy Chief of Mission, Buenos Aires
 FEMC principal Officer, Rio De Janeiro
 FEMC Principal Officer, Sao Paulo
 FEMC Deputy Chief of Mission, Bogota
 FEMC Principal Officer, Havana
 FEMC* Charge d'Affaires, St. Georges
 FEMC* Deputy Chief of Mission, Kingston
 FEMC Deputy Chief of Mission, Mexico D.F.
 FEMC Deputy Chief of Mission, Panama
 FEMC Deputy Chief of Mission, Lima
 FEMC Deputy Chief of Mission, Caracas
 FEMC Deputy Chief of Mission, Vienna
 FEMC Dep US Representative, UNVIE
 Vienna
 FEMC United States Representative, MBFR
 Vienna
 FEMC Dep US Representative, MBFR
 Vienna
 FEMC Deputy Chief of Mission, Brussels
 FEMC Deputy Chief of Mission, Brussels-EC
 FEMC Deputy Chief of Mission, Brussels NTO
 FEMC United States Representative, Brussels NTO
 FEMC Deputy Chief of Mission, Athens
 FEMC United States Representative, Montreal
 FEMC Deputy Chief of Mission, Ottawa
 FEMC Principal Officer, Montreal
 FEMC Principal Officer, Toronto
 FEMC Deputy Chief of Mission, London
 FEMC Deputy Chief of Mission, Paris
 FEMC Deputy Chief of Mission, OECD Paris
 FEMC United States Representative, OECD Paris
 FEMC United States Representative, UNESCO PRS
 FEMC Deputy Chief of Mission, Bonn
 FEMC* Assistant Chief of Mission, Berlin
 FEMC Principal Officer, Frankfurt
 FEMC Principal Officer, Munich
 FEMC Deputy Chief of Mission, Rome
 FEMC Principal Officer, Milan
 FEMC Principal Officer, Naples
 FEMC* United States Representative, USM
 FAO Rome
 FEMC* Deputy U.S. Representative, USM
 FAO Rome
 FEMC* Charge d'Affaires, Warsaw
 FEMC Deputy Chief of Mission, Madrid
 FEMC Deputy Chief of Mission, Stockholm
 FEMC United States Representative, (TNF)
 Geneva
 FEMC Dep US Representative, US MIS GEN
 FEMC United States Representative, US MIS GEN
 FEMC Deputy Chief of Mission, Ankara

FEMC Principal Officer, Istanbul
 FEMC Deputy Chief of Mission, Moscow
 FEMC Principal Officer, Hong Kong
 FEMC Deputy Principal Officer, Hong Kong
 FEMC Deputy Chief of Mission, Beijing
 FEMC* Principal Officer, Guangzhou
 FEMC Deputy Chief of Mission, Jakarta
 FEMC Deputy Chief of Mission, Canberra
 FEMC Principal Officer, Melbourne
 FEMC Principal Officer, Sydney
 FEMC Deputy Chief of Mission, Tokyo
 FEMC Deputy Chief of Mission, Seoul
 FEMC Deputy Chief of Mission, Vientiane
 FEMC Deputy Chief of Mission, Manila
 FEMC* Director, Asian Develop Bank,

ASIAN DEV BK

FEMC Deputy Chief of Mission, Bangkok
 FEMC Deputy Chief of Mission, Cairo
 FEMC Deputy Chief of Mission, New Delhi
 FEMC Principal Officer, Bombay
 FEMC* Principal Officer, Baghdad
 FEMC Deputy Chief of Mission, Tel Aviv
 FEMC Principal Officer, Jerusalem
 FEMC Deputy Chief of Mission, Beirut
 FEMC Deputy Chief of Mission, Islamabad
 FEMC Deputy Chief of Mission, Jidda
 FEMC* Chief of Mission, Riyadh—USLO
 FEMC Deputy Chief of Mission, Kinshasa
 FEMC* Charge d'Affaires, Addis Ababa
 FEMC Deputy Chief of Mission, Nairobi
 FEMC Deputy Chief of Mission, Lagos
 ADOO Commissioner, IJC
 SROO Commissioner Intl Joint Comm, IJC

AGENCY: DEPARTMENT OF TRANSPORTATION

Positions:

OFFICE OF THE SECRETARY OF TRANSPORTATION

SES Deputy General Counsel
 SES Deputy Assistant Secretary for Planning and Policy Analysis
 SES Deputy Assistant Secretary for Policy and Program Development
 SES Deputy Assistant Secretary for Budget and Programs
 SES Deputy Assistant Secretary for Governmental Affairs
 SES Assistant Secretary for Administration
 SES Deputy Assistant Secretary for Administration
 SES Director, Office of Civil Rights

OFFICE OF THE INSPECTOR GENERAL

SES Assistant Inspector General for Auditing, Office of the Secretary
 SES* Deputy Assistant Inspector General for Auditing
 SES* Director, Office of Surface Transportation Programs, Office of the Assistant Inspector General for Auditing
 SES* Director, Office Aviation, Marine and Research Programs, Office of the Inspector General for Auditing
 SES Director, Office of DOT-Wide Programs, Office of the Secretary
 SES Assistant Inspector General for Investigations, Office of the Secretary
 SES Assistant Inspector General for Policy, Planning and Resources, Office of the Secretary

UNITED STATES COAST GUARD

0-7/0-8 Chief Counsel (Rear Admiral)

SES Deputy Chief Counsel
 0-7/0-8 Chief of Staff (Rear Admiral)
 0-7/0-8 Chief, Office of Boating, Public and Consumer Affairs (Rear Admiral)
 0-7/0-8 Comptroller (Rear Admiral)
 0-7/0-8 Chief, Office of Engineering (Rear Admiral)
 0-7/0-8 Chief, Office of Marine Environment and Systems (Rear Admiral)
 0-7/0-8 Chief, Office of Merchant Marine Safety (Rear Admiral)
 0-7/0-8 Chief, Office of Navigation (Rear Admiral)
 0-7/0-8 Chief, Office of Command, Control and Communication (Rear Admiral)
 0-7/0-8 Chief, Office of Operations (Rear Admiral)
 0-7/0-8 Chief, Office of Research and Development (Rear Admiral)
 0-7/0-8 District Commanders (Rear Admirals) (10)

FEDERAL AVIATION ADMINISTRATION

SES Associate Administrator for Administration
 SES Deputy Associate Administrator for Administration
 SES Associate Administrator for Airports Development and Logistics
 SES* Deputy Associate Administrators for Development and Logistics (2)
 SES Associate Administrator for Aviation Standards
 SES Deputy Associate Administrator for Aviation Standards
 SES Associate Administrator for Policy and International Aviation
 SES Federal Air Surgeon
 SES Deputy Federal Air Surgeon
 SES Chief Counsel
 SES Deputy Chief Counsel
 SES Director, Eastern Region (New York)
 SES Deputy Director, Eastern Region (New York)
 SES Deputy Director, New England Region (Boston)
 SES Director, New England Region (Boston)
 SES Director, Southern Region (Atlanta)
 SES Deputy Director, Southern Region (Atlanta)
 SES Director, Southwest Region (Fort Worth)
 SES Deputy Director, Southwest Region (Fort Worth)
 SES Director, Central Region (Kansas City)
 SES Deputy Director, Central Region (Kansas City)
 SES Director, Great Lakes Region (Chicago)
 SES Deputy Director, Great Lakes Region (Chicago)
 SES Director, Western-Pacific Region (Los Angeles)
 SES Deputy Director, Western-Pacific Region (Los Angeles)
 SES Director, Northwest Mountain Region (Seattle)
 SES Deputy Director, Northwest Mountain Region (Seattle)
 SES Director, Alaska Region (Anchorage)
 SES Deputy Director, Alaska Region (Anchorage)
 SES Director, Europe-Africa-Middle East Office

FEDERAL HIGHWAY ADMINISTRATION

SES Deputy Administrator

SES Associate Administrator for Planning and Policy Development
 SES Associate Administrator for Research Development and Technology
 SES Associate Administrator for Right-Of-Way and Environment
 SES Associate Administrator for Engineering and Operations
 SES Associate Administrator for Safety, Traffic Engineering and Motor Carriers
 SES Associate Administrator for Administration
 SES Chief Counsel
 SES Regional Federal Highway Administrators (9)
 SES Deputy Administrator
 SES Executive Director

FEDERAL RAILROAD ADMINISTRATION

SES Deputy Administrator
 SES Associate Administrator for Administration
 SES Chief Counsel
 SES Associate Administrator for Federal Assistance
 SES Deputy Associate Administrator for Federal Assistance
 SES Associate Administrator for Intercity Programs
 SES Deputy Associate Administrator for Intercity Programs
 SES Associate Administrator for Research and Development
 SES Associate Administrator for Policy
 SES Associate Administrator for Safety
 SES Deputy Associate Administrator for Safety
 SES General Manager, Alaska Railroad
 SES* Attorney-Advisor

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

SES Deputy Administrator
 SES Chief Counsel
 SES Associate Administrator for Rulemaking
 SES Deputy Associate Administrator for Rulemaking
 SES Associate Administrator for Plans and Programs
 SES Associate Administrator for Traffic Safety Programs
 SES* Deputy Associate Administrator for Traffic Safety Programs
 SES Associate Administrator for Research and Development
 SES Associate Administrator for Enforcement
 SES Associate Administrator for Administration

URBAN MASS TRANSPORTATION ADMINISTRATION

SES Deputy Administrator
 SES Executive Director
 SES Associate Administrator for Administration
 SES Chief Counsel
 SES Director, Office of Financial Management
 SES Associate Administrator for Technical Assistance
 SES Associate Administrator for Budget and Policy
 SES Associate Administrator for Grants Management

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SES General Counsel
 SES Associate Administrator for Resident Manager

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

SES Administrator
 SES Chief Counsel
 SES Director, Materials Transportation Bureau
 SES Director, Transportation Systems Center
 SES Deputy Director, Transportation Systems Center

MARITIME ADMINISTRATION

SES Deputy Administrator
 SES Deputy Administrator for Inland Waterways and Great Lakes
 SES Chief Counsel
 SES Deputy Chief Counsel
 SES Associate Administrator for Policy and Administration
 SES Associate Administrator for Maritime Aids
 SES Deputy Associate Administrator for Maritime Aids (Trade), Office of the Associate Administrator for Maritime Aids
 SES Deputy Associate Administrator for Maritime Aids (Finance), Office of the Associate Administrator for Maritime Aids
 SES Associate Administrator for Shipbuilding and Ship Operations
 SES Director, Office of Ship Construction, Office of the Associate Administrator for Shipbuilding and Ship Operations
 SES Director, Office of Shipbuilding Costs, Office of the Associate Administrator for Shipbuilding and Ship Operations
 SES Director, Office of Ship Operations, Office of the Associate Administrator for Shipbuilding and Ship Operations
 SES Associate Administrator for Marketing and Domestic Enterprise
 SES Associate Administrator for Research and Development
 SES Superintendent, Merchant Marine Academy

AGENCY: DEPARTMENT OF THE TREASURY

Positions:

OFFICE OF THE ASSISTANT SECRETARY FOR DOMESTIC FINANCE

SES Deputy Assistant Secretary, State and Local Finance
 SES Deputy Assistant Secretary, Federal Finance

OFFICE OF THE ASSISTANT SECRETARY FOR INTERNATIONAL MONETARY AFFAIRS

SES Deputy Assistant Secretary for International Monetary Affairs
 SES Deputy Assistant Secretary for Developing Nations Finance
 SES Deputy Assistant Secretary, Trade and Investment Policy

OFFICE OF THE ASSISTANT SECRETARY FOR TAX POLICY

SES Deputy Assistant Secretary, Tax Policy

SES Deputy Assistant Secretary, Tax Policy and Director, Office of Tax Analysis

OFFICE OF THE FISCAL ASSISTANT SECRETARY

SES Assistant Secretary

OFFICE OF THE ASSISTANT SECRETARY FOR ELECTRONIC SYSTEMS AND INFORMATION TECHNOLOGY

SES Assistant Secretary

OFFICE OF THE ASSISTANT SECRETARY FOR CONSUMER LIAISON AND BUSINESS AFFAIRS

SES Assistant Secretary

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

SES Assistant Secretary

SES* Deputy Assistant Secretary for Operations

TREASURER OF THE UNITED STATES

GS-18 Treasurer and National Savings

Bond Director, Office of the Secretary

SES Deputy Treasurer

OFFICE OF REVENUE SHARING

SES Director

COMPTROLLER OF THE CURRENCY

SES Senior Advisor to the Comptroller

SES Deputy Comptroller, Bank Organization and Structure

SES Deputy Comptroller, Industry and Public Affairs

SES Senior Deputy Comptroller for National Operations

SES Senior Deputy Comptroller for Policy and Planning

SES Senior Deputy Comptroller for Bank Supervision

CUSTOMS SERVICE

SES Commissioner

SES Deputy Commissioner

SES Deputy Commissioner, International Affairs

SES Assistant Commissioner, Enforcement

SES Deputy Assistant Commissioner, Enforcement

SES Director, Office of Investigations

SES Assistant Commissioner, Commercial Operations

SES Deputy Assistant Commissioner, Inspection and Control

SES Assistant Commissioner, Inspection and Control

SES Comptroller

SES* Assistant Commissioner, Internal Affairs

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SES Commissioner

SES Deputy Commissioner

INTERNAL REVENUE SERVICE

SES Deputy Commissioner

SES Associate Commissioner (Data Processing)

SES Associate Commissioner (Operations)

SES Associate Commissioner (Policy and Management)

SES Assistant Commissioner, (Inspection)

SES Regional Commissioner, (C)

SES Regional Commissioner, (MA)

SES Regional Commissioner, (MW)

SES Regional Commissioner, (NA)

SES Regional Commissioner, (SE)

SES Regional Commissioner, (SW)

SES Regional Commissioner, (W)

LEGAL DIVISION

SES Deputy General Counsel, Office of the General Counsel

SES Assistant General Counsel and Director, Tax Legislative Counsel, Office of the General Counsel

SES International Tax Counsel and Director, Office of International Tax Counsel, Office of the General Counsel

SES Chief Counsel, U.S. Customs Service

SES Deputy Chief Counsel, U.S. Customs Service

SES Chief Counsel, Comptroller of the Currency

SES Deputy Chief Counsel, Comptroller of the Currency

SES Chief Counsel, Bureau of Alcohol, Tobacco and Firearms

SES Deputy Chief Counsel, Bureau of Alcohol, Tobacco and Firearms

SES Deputy Chief Counsel, Internal Revenue Service

U.S. MINT

GS-18 Director

SES Deputy Director of the Mint

SES Associate Director for Policy and Management

SES Associate Director for Operations

U.S. SAVINGS BONDS DIVISION

No section 207(d)(1)(C) designations.

U.S. SECRET SERVICE

SES Director

SES Deputy Director

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SES Director

SES Deputy Director/Associate Director (Compliance Operations)

SES Deputy Director/Associate Director (Law Enforcement)

SES Assistant Director, Internal Affairs

BUREAU OF THE PUBLIC DEBT

SES Commissioner of Public Debt

OFFICE OF REVENUE SHARING

SES Director

FEDERAL LAW ENFORCEMENT TRAINING CENTER

No section 207(d)(1)(C) designations.

BUREAU OF ENGRAVING AND PRINTING

SES Director

SES Deputy Director

SES Assistant Director (Administration)

SES Assistant Director (Operations)

SES Assistant Director (Research and Engineering)

AGENCY: ACTION

Positions:

SES Executive Officer

SES Deputy Associate Director for Older Americans Volunteer Program (OAVP)

SES Assistant Director for Administration

SES Deputy Assistant Director for Administration

SES General Counsel

SES Deputy Assistant Director for Volunteer Liaison

SES Assistant Director for Financial Management

SES Deputy Associate Director for VISTA/Service Learning Programs

SES Director, Vietnam Veterans Leadership Program

SES Inspector General

SES Executive Assistant

SES* Deputy General Counsel

AGENCY: ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Positions:

SES General Counsel

SES Executive Director

SES Research Director

AGENCY: ADVISORY COUNCIL ON HISTORIC PRESERVATION

Positions:

SES Executive Director

SES General Counsel

AGENCY: AMERICAN BATTLE MONUMENTS COMMISSION

Positions:

0-8 Secretary

AGENCY: APPALACHIAN REGIONAL COMMISSION

Positions: No section 207(d)(1)(C) designations.

AGENCY: BOARD FOR INTERNATIONAL BROADCASTING

Positions:

SES Executive Director

AGENCY: CENTRAL INTELLIGENCE AGENCY

Positions:

AD Executive Director

AD All Deputy Directors and Associate

Deputy Directors of Directorates

AD All Heads of Independent Offices

AGENCY: CIVIL AERONAUTICS BOARD

Positions:

SES Managing Director, Office of Managing Director

SES Director, Office of Congressional, Community & Consumer Affairs

SES Director, Bureau of Domestic Aviation

SES Deputy Director/Associate Director,

Legal, Bureau of Domestic Aviation

SES General Counsel, Office of the General Counsel

SES Deputy General Counsel, Office of the General Counsel

SES* Director, Bureau of International Aviation

SES Deputy Director, Bureau of International Aviation

AGENCY: COMMISSION ON CIVIL RIGHTS*Positions:*

SES Solicitor
 SES Assistant Staff Director for Regional Programs
 SES Assistant Staff Director for Administration
 SES Assistant Staff Director for Program Planning and Evaluation
 SES Acting Assistant Staff Director for Program and Policy Review
 SES Assistant Staff Director for Civil Rights Evaluation
 SES Assistant Staff Director for Congressional and Public Affairs
 SES Deputy Staff Director
 SES General Counsel

AGENCY: COMMISSION OF FINE ARTS

Positions: No section 207(d)(1)(C) designations.

AGENCY: COMMODITY FUTURES TRADING COMMISSION*Positions:*

SES Executive Director
 SES Deputy Executive Director (1)
 SES Director, Division of Enforcement
 SES Deputy Director, Division of Enforcement (3)
 SES Chief Economist, Division of Economic Analysis
 SES Deputy Chief Economist, Division of Economic Analysis (1)
 SES Director, Division of Trading and Markets
 SES Deputy Director, Division of Trading and Markets (1)
 SES Deputy General Counsel, Office of General Counsel (3)
 SES Associate Director for Market Analysis, Division of Economic Analysis
 SES General Counsel
 SES Associate General Counsel for Opinions and Review, Office of General Counsel
 SES* Associate Director for Surveillance, Division of Economic Analysis
 SES* Chief Counsel, Division of Trading and Markets

AGENCY: CONSUMER PRODUCT SAFETY COMMISSION*Positions:*

SES General Counsel
 SES Deputy General Counsel
 SES Executive Director
 SES Deputy Executive Director
 SES Associate Executive Director for Engineering Sciences
 SES Associate Executive Director for Compliance and Administration
 SES Associate Executive Director for Administrative Litigation
 SES Associate Executive Director for Health Sciences
 SES Associate Executive Director for Epidemiology
 SES Director, Office of Program Management
 SES Director, Office of Budget, Program Planning and Evaluation

SES Senior Staff Officer

AGENCY: COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Positions: No section 207(d)(1)(C) designations.

AGENCY: DISTRICT OF COLUMBIA GOVERNMENT*Positions:*

AD Superintendent of Schools
 AD President, University of the District of Columbia
 AD General Manager, Convention Center

AGENCY: ENVIRONMENTAL PROTECTION AGENCY*Positions:*

SES Regional Administrator, Region I
 SES Regional Administrator, Region II
 SES Regional Administrator, Region III
 SES Regional Administrator, Region IV
 SES Regional Administrator, Region V
 SES Regional Administrator, Region VI
 SES Regional Administrator, Region VII
 SES Regional Administrator, Region VIII
 SES Regional Administrator, Region IX
 SES Regional Administrator, Region X
 SES Director, Office of Radiation Programs, OAR
 SES Director, Office of Water Program Operations, OW
 SES Director, Office of Water Regulations and Standards, OW
 SES Director, Office of Solid Waste, SWER
 SES Director, Office of Drinking Water, OW
 SES Director, Office of Pesticides Programs, OPTS
 SES Director, Office of Monitoring Systems and Quality Assurance, ORD
 SES Director, Office of Environmental Processes and Effects Research, ORD
 SES Director, Office of Environmental Engineering and Technology, ORD
 SES Director, Office of Toxic Substances, OPTS
 SES Deputy General Counsel, OGC
 SES Director, Office of Federal Activities, OEA
 SES Director, Office of Mobile Sources, OAR
 SES Director, Office of Emergency and Remedial Response, SWER
 SES Deputy Inspector General, OIA
 SES Deputy Inspector General for Investigations, OIG
 SES* Deputy Assistant Administrator for Administration and Resource Management, OARM
 SES* Senior Enforcement Counsel, OECM
 SES* Deputy Assistant Administrator for Policy, Planning and Evaluation, OPPE
 SES* Director, Office of Policy Analysis, OPPE
 SES* Director, Office of Standards and Regulations, OPPE
 SES* Deputy Assistant Administrator for External Affairs, OEA
 SES* Director, Office of Congressional Liaison, OEA
 SES* Director, Office of Legislative Analysis
 SES* Assistant Inspector General for Audits, OIG

SES* Deputy Assistant Administrator for Water, OW

SES* Director, Office of Marine and Estuarine Protection, OW
 SES* Director, Office of Ground Water Protection, OW
 SES* Director, Office of Water Enforcement and Permits, OW
 SES* Deputy Assistant Administrator for Solid Waste and Emergency Response, SWER
 SES* Director, Office of Waste Programs Enforcement, SWER
 SES* Deputy Assistant Administrator for Air and Radiation, OAR
 SES* Director, Office of Air Quality Planning and Standards, OAR
 SES* Deputy Assistant Administrator for Pesticides and Toxic Substances, OPTS
 SES* Deputy Assistant Administrator for Research and Development, ORD
 SES* Deputy Regional Administrator, Region I
 SES* Director, Office of Health Research, ORD
 SES* Deputy Regional Administrator, Region II
 SES* Deputy Regional Administrator, Region III
 SES* Deputy Regional Administrator, Region IV
 SES* Deputy Regional Administrator, Region V
 SES* Deputy Regional Administrator, Region VI
 SES* Deputy Regional Administrator, Region VII
 SES* Deputy Regional Administrator, Region VIII
 SES* Deputy Regional Administrator, Region IX
 SES* Deputy Regional Administrator, Region X

AGENCY: EQUAL EMPLOYMENT OPPORTUNITY COMMISSION*Positions:*

SES Deputy General Counsel
 SES Associate General Counsel for Trial Services
 SES Legal Counsel
 SES Director, Office of Program Operations

AGENCY: EXPORT-IMPORT BANK OF THE UNITED STATES*Positions:*

GS-18 General Counsel
 GS-17 Senior Vice President, Exporter Credits, Guarantees and Insurance
 GS-17 Senior Vice President, Direct Credits and Financial Guarantees
 GS-17 Special Assistant to the President and Chairman

AGENCY: FARM CREDIT ADMINISTRATION*Positions:*

SES Senior Deputy Governor
 SES Chief of Staff to the Senior Deputy Governor
 SES General Counsel
 SES Deputy Governor, Office of Supervision

SES Associate Deputy Governor, Office of Supervision
 SES Assistant Deputy Governor, Office of Supervision
 SES Deputy Governor and Chief Examiner
 SES Associate Deputy Governor, Office of Examination
 SES Deputy Governor, Office of Administration
 SES* Associate Deputy Governor and Chief Economist, Office Administration
 SES Director, Administrative Division
 SES Director, Congressional and Public Affairs Division
 GS-18 Members of the Federal Farm Credit Board (13)

AGENCY: FEDERAL COMMUNICATIONS COMMISSION

Positions:

SES Managing Director
 SES General Counsel
 SES Chief Scientist
 SES Chief, Mass Media Bureau
 SES Chief, Common Carrier Bureau
 SES Chief, Private Radio Bureau
 SES Chief, Field Operations Bureau
 SES Chief, Office of Plans and Policy
 SES Deputy Managing Director
 SES Deputy General Counsel
 SES Deputy Chief, Scientist (Policy)
 SES Deputy Chief, Scientist (Operations)
 SES Deputy Chief, Mass Media Bureau (Operations)
 SES Deputy Chief, Mass Media Bureau (Policy)
 SES Deputy Chief, Common Carrier Bureau (Policy)
 SES Deputy Chief, Common Carrier Bureau (Operations)
 SES Deputy Chief, Private Radio Bureau
 SES Deputy Chief, Field Operations Bureau
 SES* Deputy Chief, Office of Plans and Policy

AGENCY: FEDERAL DEPOSIT INSURANCE CORPORATION

Positions:

AD-18 Deputy to the Chairman
 AD-18 Deputy to the Director
 AD-18 General Counsel
 AD-18 Director, Division of Bank Supervision
 AD-18 Director, Division of Liquidation
 AD-18 Director, Division of Research and Strategic Planning
 AD-18 Director, Division of Accounting and Corporate Services
 AD-17 Associate Director, Division of Bank Supervision, Administration and Corporate Applications
 AD-17 Deputy General Counsel, Open Bank Regulation and Supervision, Legal Division
 AD-17 Deputy General Counsel, Closed Bank Litigation and Liquidation, Legal Division
 AD-17 Associate Director, Division of Bank Supervision, Enforcement and Surveillance
 AD-17 Associate Director, Division of Bank Supervision, Planning and Program Development
 AD-17 Deputy Director, Regional Offices Coordination, Division of Bank Supervision
 AD-17 Regional Director, Atlanta Region, Division of Bank Supervision

AD-17 Regional Director, Boston Region, Division of Bank Supervision
 AD-17 Regional Director, Chicago Region, Division of Bank Supervision
 AD-17 Regional Director, Columbus Region, Division of Bank Supervision
 AD-17 Regional Director, Dallas Region, Division of Bank Supervision
 AD-17 Regional Director, Kansas City Region, Division of Bank Supervision
 AD-16-(17) Regional Director, Madison Region, Division of Bank Supervision
 AD-17 Regional Director, Memphis Region, Division of Bank Supervision
 AD-17 Regional Director, Minneapolis Region, Division of Bank Supervision
 AD-17 Regional Director, New York Region, Division of Bank Supervision
 AD-17 Regional Director, Omaha Region, Division of Bank Supervision
 AD-17 Regional Director, Philadelphia Region, Division of Bank Supervision
 AD-17 Regional Director, San Francisco Region, Division of Bank Supervision
 AD-17 Associate Director, Division of Accounting and Corporate Services, Financial Services
 AD-17 Associate Director, Division of Accounting and Corporate Services, Management Information Services
 AD-17 Associate Director, Division of Liquidation (Operations)
 AD-17 Associate Director, Division of Liquidation (Credit)
 AD-16-17 Associate Director, Division of Liquidation (Administration)
 AD-17 Assistant Director, Division of Accounting and Corporate Services
 AD-16-(17) Director (Liquidation), Southeast Area, Liquidation Office, Division of Liquidation
 AD-16-17 Director (Liquidation), Southwest Area Liquidation Office, Division of Liquidation
 AD-16-17 Director (Liquidation), Northeast Area Liquidation Office, Division of Liquidation
 AD-15-17 Director (Liquidation), Western Area Liquidation Office, Division of Liquidation
 AD-17 Director (Liquidation), Midwest Area Liquidation Office, Division of Liquidation
 AD-17* Associate Director, Division of Research and Strategic Planning

AGENCY: FEDERAL ELECTION COMMISSION

Positions:

GS-17 Deputy General Counsel

AGENCY: FEDERAL EMERGENCY MANAGEMENT AGENCY

Positions:

SES* Regional Director, FEMA, Region I, Boston, Massachusetts
 SES* Regional Director, FEMA, Region II, New York, New York
 SES* Regional Director, FEMA, Region III, Philadelphia, Pennsylvania
 SES* Regional Director, FEMA, Region IV, Atlanta, Georgia
 SES* Regional Director, FEMA, Region V, Chicago, Illinois

SES* Regional Director, FEMA, Region VI, Denton, Texas
 SES* Regional Director, FEMA, Region VII, Kansas City, Missouri
 SES* Regional Director, FEMA, Region VIII, Denver, Colorado
 SES* Regional Director, FEMA, Region IX, San Francisco, California
 SES* Regional Director, FEMA, Region X, Bothell, Washington
 SES* Assistant for Special Plans
 SES* Deputy Executive Secretary (EMPB)

Office of Executive Administration

SES Director, Public Affairs
 SES Executive Deputy Director
 SES General Counsel
 SES Inspector General
 SES Director of Personnel

Federal Insurance Administration

SES* Deputy Administrator

Resource Management and Administration Directorate

SES* Deputy Associate Director
 SES Comptroller
 SES Director of Personnel

Training And Education

SES Superintendent of National Fire Academy
 SES Superintendent, Emergency Management Institute

National Preparedness Programs Directorate

SES Deputy Associate Director
 SES Assistant Associate for Resources Preparedness
 SES Assistant Associate for Government Preparedness
 SES Assistant Associate for Mobilization Preparedness

State and Local Programs and Support Directorate

SES Deputy Associate Director

State and Local Programs and Support Directorate

SES Assistant Associate Director, Natural & Technological Hazards
 SES Assistant Associate Director, Emergency Management Programs
 SES Assistant Associate Director, Disaster Assistance Programs
 SES Assistant Associate Director, Emergency Operations and Coordination

AGENCY: FEDERAL ENERGY REGULATORY COMMISSION

Positions:

SES Executive Director, Office of the Executive Director
 SES Deputy Executive Director, Office of the Executive Director
 SES Director, Office of Electric Power Regulation
 SES Deputy Director, Office of Electric Power Regulation
 SES Director, Office of Pipeline and Producer Regulation
 SES Deputy Director, Office of Pipeline and Producer Regulation

SES General Counsel, Office of General Counsel
 SES Deputy General Counsel, Office of General Counsel
 SES Director, Office of Regulatory Analysis
 SES Deputy Director, Office of Regulatory Analysis
 SES Chief Accountant, Office of Chief Accountant
 SES Deputy Chief Accountant, Office of Chief Accountant
 SES Director, Office of Opinions and Review
 SES Deputy Director, Office of Opinions and Review

AGENCY: FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Positions:

GS-18 Executive Secretary

AGENCY: FEDERAL HOME LOAN BANK BOARD

Positions:

SES General Counsel
 SES Director, Office of District Banks
 SES Director, Office of Policy and Economic Research
 SES Director, Federal Savings and Loan Insurance Corporation
 SES Executive Staff Director
 SES Director, Office of Examinations and Supervision
 SES Director, Internal Evaluation and Compliance Office
 SES* Chief Accountant

AGENCY: FEDERAL HOME LOAN MORTGAGE CORPORATION

Positions:

AD President—Chief Executive Officer
 AD Executive Vice President—Chief Financial Officer
 AD Executive Vice President—Marketing and Mortgage Operations
 AD Senior Vice President—Corporate Information Resources
 AD Senior Vice President—Public Affairs
 AD Senior Vice President—Regional Operations
 AD Vice President and General Counsel
 AD Vice President—Controller
 AD Treasurer

AGENCY: FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Positions:

SES Deputy Federal Inspector (Washington)
 SES Deputy Federal Inspector (Alaska)
 SES General Counsel
 SES Director, Environment
 SES Director, Engineering
 SES Director of Administration
 SES Director, Construction
 SES* Director of Regulatory Affairs

AGENCY: FEDERAL LABOR RELATIONS AUTHORITY

Positions:

GS-18 Chairman, Federal Service Impasses Panel

GS-18 Members of the Federal Service Impasses Panel (6)
 GS-18 Member, Foreign Service Labor Relations Board
 GS-17 Chief Administrative Law Judge
 SES Executive Director/Administrator
 SES Solicitor
 SES Director, Case Management
 SES Chief Counsel
 SES Assistant Chief Counsel, Negotiability
 SES Assistant Chief Counsel, Representation and Unfair Labor Practices
 SES Assistant Chief Counsel, Operations and Arbitration
 SES Associate General Counsel
 SES Assistant General Counsel for Field Management
 SES Assistant General Counsel for Field Management/Legal Policy
 SES Assistant General Counsel, Appeals
 SES Regional Director, Boston
 SES Regional Director, New York
 SES Regional Director, Washington
 SES Regional Director, Atlanta
 SES Regional Director, Chicago
 SES Regional Director, Dallas
 SES Regional Director, Denver
 SES Regional Director, Los Angeles
 SES Regional Director, San Francisco
 SES Executive Director, Federal Service Impasses Panel

AGENCY: FEDERAL MARITIME COMMISSION

Positions:

SES General Counsel
 SES Managing Director
 SES Director, Bureau of Tariffs
 SES Director, Bureau of Agreements and Trade Monitoring
 SES Deputy General Counsel
 SES Director, Bureau of Hearing Counsel
 SES Secretary
 SES Director of Programs
 SES Director, Office of Policy Planning and International Affairs
 SES Director, Bureau of Investigations
 SES* Counsel to the Chairman

AGENCY: FEDERAL MEDIATION AND CONCILIATION SERVICE

Positions:

SES Deputy Director
 SES Executive Director
 SES Regional Directors(4)

AGENCY: FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Positions:

SES Executive Director
 SES General Counsel

AGENCY: FEDERAL RESERVE SYSTEM

Positions:

FRO-I Staff Director for Monetary and Financial Policy
 FRO-I Staff Director for Federal Reserve Bank Activities
 FRO-I Staff Director for Management
 FRO-I General Counsel
 FRO-I Director, Division of Research and Statistics

FRO-I Director, Division of International Finance
 FRO-I Director, Division of Supervision and Regulation
 FRO-II Special Assistant to the Chairman
 FRO-II Secretary of the Board
 FRO-II Director, Division of Federal Reserve Bank Operations
 FRO-II Director, Division of Consumer and Community Affairs
 FRO-II Director, Division of Personnel
 FRO-II Director, Division of Data Processing
 FRO-II Assistant to the Board (for Public Affairs)
 FRO-II Assistant to the Board (for Congressional Liaison)
 FRO-II Deputy Staff Director (for Monetary and Financial Policy)
 FRO-II Deputy Director, Division of Research and Statistics
 FRO-II Deputy Director, Division of Data Processing
 FRO-II Deputy Director, Division of Banking Supervision and Regulation
 FRO-III Senior Associate Director, Division of International Finance
 FRO-III* Staff Advisor, Division of International Finance
 FRO-III* Associate General Counsel (2)
 FRO-III* Assistant to the Board (for Monetary and Financial Policy)
 FRO-III Associate Director Division of Research and Statistics
 FRO-II* Deputy Associate Director, Division of Research and Statistics
 FRO-III* Associate Director, Division of International Finance
 FRO-III* Associate Director, Division of International Finance
 FRO-III* Associate General Counsel
 FRO-III* Associate General Counsel
 FRO-III* Assistant to the Board (for Monetary and Financial Policy)

AGENCY: FEDERAL TRADE COMMISSION

Positions:

SES General Counsel
 SES Deputy General Counsel
 SES Director, Bureau of Competition
 SES Deputy Directors, Bureau of Competition
 SES Director, Bureau of Consumer Protection
 SES Deputy Directors, Bureau of Consumer Protection
 SES Director, Bureau of Economics
 SES Deputy Directors, Bureau of Economics
 SES Executive Director
 SES Executive Assistant to the Chairman
 SES Director, Office of Congressional Relations

AGENCY: GENERAL ACCOUNTING OFFICE

Positions:

SES Deputy Director for Planning and Reporting (RCED)
 SES Director, Resources, Community and Economic Development Division (RCED)
 SES Deputy Director for Operations (RCED)
 SES Director, Accounting and Financial Management Division (AFMD)

SES Deputy Director, (AFMD)
 SES Director, General Government Division (GGD)
 SES* Deputy Director for Planning and Reporting (GGD)
 SES* Deputy Director for Operations (GGD)
 SES Director, Human Resources Division
 SES Deputy General Counsel
 SES Director, Office of Internal Evaluation
 SES* Director, European Branch
 SES* Director, Far East Branch
 SES Director, Office of Policy
 SES Director of Personnel
 SES Director, General Services and Controller
 SES Deputy Director of Personnel
 SES Deputy Director, General Services and Controller
 SES Director, Office of Organization and Human Development
 SES* Director, Program Evaluation and Methodology Division
 SES* Deputy Director, Program Evaluation and Methodology Division
 SES Director, Civil Rights Office
 SES General Counsel
 SES Assistant Comptroller General for Program Evaluation
 SES* Assistant Comptroller General
 SES Assistant Comptroller General for Planning and Reporting
 SES Assistant Comptroller General For Operations
 SES Assistant Comptroller General for Human Resources
 SES Director, Office of Quality Assurance
 SES* Special Assistant to the Assistant Comptroller General for Operations (2)
 SES* Assistant to the Comptroller General for Retirement Matters
 SES* Director, Personnel Systems Development Project
 SES* Chief Economist
 SES* Deputy Director (OCE)
 SES* Director, National Security and International Affairs (NSIAD)
 SES* Deputy Director for Planning and Reporting (NSIAD)
 SES* Deputy Director for Operations (NSIAD)
 SES* Director for Planning (NSIAD)
 SES* Director, Information Management and Technology Division (IMTEC)
 SES* Deputy Director for Operations (IMTEC)
 SES Regional Manager, Los Angeles
 SES Regional Manager, Dallas
 SES Regional Manager, Philadelphia
 SES Regional Manager, Atlanta
 SES Regional Manager, Boston
 SES Regional Manager, San Francisco
 SES Regional Manager, Washington
 SES Regional Manager, Denver
 SES Regional Manager, New York
 SES Regional Manager, Detroit
 SES Regional Manager, Cincinnati
 SES Regional Manager, Kansas City
 SES Regional Manager, Seattle
 SES Regional Manager, Chicago
 SES Regional Manager, Norfolk

AGENCY: GENERAL SERVICES ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR

SES Deputy Administrator

SES Association Administrator for Administration
 SES* Deputy Associate Administrator for Administration
 SES Associate Administrator for Operations
 SES Deputy Associate Administrator for Operations
 SES Associate Administrator for Policy and Management
 SES Deputy Associate Administrator for Policy and Management
 SES Director, Office of Small and Disadvantaged Business Utilization
 SES* Executive Assistant to the Administrator

OFFICE OF INFORMATION SECURITY OVERSIGHT

SES Director of Information Oversight

OFFICE OF ACQUISITION POLICY

SES Assistant Administrator for Acquisition Policy
 SES Deputy Assistant Administrator for Acquisition Policy
 SES Director of Acquisition Management and Contract Clearance
 SES* Policy Advisor to the Assistant Administrator

OFFICE OF THE COMPTROLLER

SES Comptroller
 SES Director of Finance
 SES Director of Budget
 SES Director of Transportation Audits

OFFICE OF INFORMATION RESOURCES MANAGEMENT (OIRM)

SES Assistant Administrator for Information Resources Management
 SES Deputy Assistant Administrator for Information Resources Management
 SES Deputy Assistant Administrator for Central Information Services
 SES Director of Information Resources Management Policy
 SES Director of Information Resources Procurement
 SES Director of Network Services
 SES Executive Director
 SES Director of Regional Information Services
 SES Director of Advance Planning
 SES Director of GSA Information Systems
 SES Director of Office of Information Systems
 SES Director of Systems and Technology Assessment
 SES* Program Manager, Washington Interagency Telecommunications System

FEDERAL PROPERTY RESOURCES SERVICE (FPRS)

SES Commissioner, Federal Property Resources Service
 SES Assistant Commissioner for Real Property
 SES Assistant Commissioner for Stockpile Management
 SES Assistant Commissioner for Stockpile Transactions

OFFICE OF FEDERAL SUPPLY AND SERVICES (FSS)

SES Assistant Administrator for Federal Supply and Services

SES Deputy Assistant Administrator for Federal Supply and Services
 SES Director of Management
 SES Director of Policy and Agency Assistance
 SES Director of Procurement
 SES Director of Contract Management
 SES Director of Property Management
 SES Director of Transportation

NATIONAL ARCHIVES AND RECORDS SERVICE (NARS)

SES Archivist of the United States
 SES Deputy Archivists of the United States
 SES Associate Archivist for Management

PUBLIC BUILDINGS SERVICE (PBS)

SES Commissioner, Public Buildings Service
 SES* Assistant Commissioner for Space Management
 SES Assistant Commissioner for Buildings Management
 SES Assistant Commissioner for Federal Protective Service
 SES Assistant Commissioner for Policy and Program Support
 SES Assistant Commissioner for Public Utilities
 SES* Assistant Commissioner for Design and Construction

OFFICE OF GENERAL COUNSEL (OGC)

SES General Counsel
 SES Deputy General Counsel

GSA BOARD OF CONTRACT APPEALS

GSA-18 Chairman of Chief Administrative Judge of Board of Contract Appeals
 GS-17 Vice Chairman, Board of Contract Appeals

OFFICE OF THE INSPECTOR GENERAL

SES Deputy Inspector General
 SES Assistant Inspector General for Policy, Plans and Management Systems
 SES Assistant Inspector General for Auditing
 SES Deputy Assistant Inspector General for Auditing
 SES Assistant Inspector General for Investigations

OFFICE OF THE ASSOCIATE ADMINISTRATOR FOR POLICY AND MANAGEMENT SYSTEMS

SES Director of Oversight
 SES Director, Office of Administration Services

REGIONAL OFFICES

SES Regional Administrator, Region 1 (Boston)
 SES Deputy Regional Administrator, Region 1 (Boston)
 SES* Assistant Regional Administrator for Public Buildings and Real Property, Region 1 (Boston)
 SES Regional Administrator, Region 2 (New York)
 SES Deputy Regional Administrator, Region 2 (New York)
 SES Regional Controller, Region 2 (New York)
 SES Assistant Regional Administrator for Public Buildings and Real Property, Region 2 (New York)

SES Assistant Regional Administrator for Federal Supply and Services, Region 2 (New York)

SES Regional Administrator, Region 3 (Philadelphia)

SES Deputy Regional Administrator, Region 3 (Philadelphia)

SES Assistant Regional Administrator for Public Buildings and Real Property, Region 3 (Philadelphia)

SES Regional Administrator, Region 4 (Atlanta)

SES Deputy Regional Administrator, Region 4 (Atlanta)

SES Assistant Regional Administrator for Public Buildings and Real Property, Region 4 (Atlanta)

SES Assistant Regional Administrator for Federal Supply and Services, Region 4 (Atlanta)

SES Regional Administrator, Region 5 (Chicago)

SES Deputy Regional Administrator, Region 5 (Chicago)

SES Regional Controller, Region 5 (Chicago)

SES Assistant Regional Administrator for Federal Supply and Services, Region 5 (Chicago)

SES Regional Administrator, Region 6 (Kansas City)

SES Deputy Regional Administrator, Region 6 (Kansas City)

SES Regional Controller, Region 6 (Kansas City)

SES Assistant Regional Administrator for Public Buildings and Real Property, Region 6 (Kansas City)

SES Assistant Regional Administrator for Information Resources Management, Region 6 (Kansas City)

SES Regional Administrator, Region 7 (Fort Worth)

SES Deputy Regional Administrator, Region 7 (Fort Worth)

SES Assistant Regional Administrator for Public Buildings and Real Property, Region 7 (Fort Worth)

SES Assistant Regional Administrator for Federal Supply and Services, Region 7 (Fort Worth)

SES Assistant Regional Administrator for Information Resources Management, Region 7 (Fort Worth)

SES Regional Administrator, Region 8 (Denver)

SES Deputy Regional Administrator, Region 8 (Denver)

SES Assistant Regional Administrator for Public Buildings and Real Property, Region 8 (Denver)

SES Regional Administrator, Region 9 (San Francisco)

SES Deputy Administrator, Region 9 (San Francisco)

SES Assistant Regional Administrator for Public Buildings and Real Property, Region 9 (San Francisco)

SES Assistant Regional Administrator for Federal Supply and Services, Region 9 (San Francisco)

SES Assistant Regional Administrator for Information Resources Management, Region 9 (San Francisco)

SES Regional Administrator, Region 10 (Auburn)

SES Deputy Regional Administrator, Region 10 (Auburn)

SES Assistant Regional Administrator for Public Buildings and Real Property, Region 10 (Auburn)

SES Regional Administrator, National Capital Region (Washington, D.C.)

SES Deputy Regional Administrator, National Capital Region (Washington, D.C.)

SES Regional Controller (National Capital Region)

SES Assistant Regional Administrator for Public Buildings and Real Property (National Capital Region)

SES Assistant Regional Administrator for Federal Supply and Services (National Capital Region)

SES Assistant Regional Administrator for Information Resources Management (National Capital Region)

AGENCY: INTER-AMERICAN FOUNDATION

Positions: No section 207(d)(1)(C) designations.

AGENCY: INTERNATIONAL TRADE COMMISSION

Positions:

SES Director, Office of Operations

SES General Counsel

SES Director, Office of Industries

SES Director, Office of Investigations

SES Director, Office of Economics

SES Director, Office of Administration

SES Director, Office of Tariff Affairs and Trade Agreements

AGENCY: INTERSTATE COMMERCE COMMISSION

Positions:

SES Managing Director

SES General Counsel

SES Director, Bureau of Traffic

SES Director, Bureau of Accounts

SES Director, Office of Proceedings

SES Director, Office of Transportation Analysis (OTA)

SES Assistant Managing Director

SES Deputy General Counsel

SES Associate Director, Office of Proceedings

SES Associate Director, Office of Transportation Analysis (OTA)

SES Director, Office Compliance and Consumer Assistance—OCCA

SES Associate Director, Office of Compliance and Consumer Assistance—OCCA

SES Chief of Staff

SES Legislative Counsel

SES Deputy Director, Bureau of Accounts

SES Assistant Director, Bureau of Traffic

AGENCY: JAPAN-UNITED STATES FRIENDSHIP COMMISSION

Positions:

SES Executive Director

AGENCY: MERIT SYSTEMS PROTECTION BOARD

Positions:

SES Executive Assistant to the Chairman

SES Managing Director

SES Assistant Managing Director for Management

SES Associate Assistant Managing Director for Management

SES Assistant Managing Director for Regional Operations

SES General Counsel

SES Deputy General Counsel

SES Associate General Counsel for Litigation

SES Legislative Counsel

SES Director, Office of Appeals Counsel

SES Associate Director, Office of Appeals Counsel

SES Director, Office of Merit Systems Review and Studies

SES Regional Director, Atlanta

SES Regional Director, Chicago

SES Regional Director, Dallas

SES Regional Director, New York

SES Regional Director, Philadelphia

SES Regional Director, San Francisco

SES Regional Director, Washington, D.C.

AGENCY: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR

SES Associate Deputy Administrator

OFFICE OF THE COMPTROLLER

SES Deputy Comptroller, NASA

SES Comptroller, NASA

OFFICE OF LEGISLATIVE AFFAIRS

SES Assistant Administrator for Legislative Affairs

SES Deputy Assistant Administrator for Legislative Affairs

OFFICE OF THE CHIEF ENGINEER

SES Chief Engineer, NASA

SES Deputy Chief Engineer, NASA

OFFICE OF SPACE SCIENCE AND APPLICATIONS

SES Associate Administrator for Space Science and Applications

SES Deputy Associate Administrator for Space Science and Applications

OFFICE OF GENERAL COUNSEL

SES General Counsel

SES Deputy General Counsel, NASA

OFFICE OF PROCUREMENT

SES Assistant Administrator for Procurement

SES Deputy Assistant Administrator for Procurement

OFFICE OF EXTERNAL RELATIONS

SES Associate Administrator for External Relations

SES Deputy Associate Administrator for External Relations

OFFICE OF SPACE FLIGHT

SES Associate Administrator for Space Flight

SES Deputy Associate Administrator for Space Flight

OFFICE OF MANAGEMENT

SES Associate Administrator for Management

SES Deputy Associate Administrator for Management

OFFICE OF AERONAUTICS AND SPACE TECHNOLOGY

SES Associate Administrator for Aeronautics and Space Technology

SES Deputy Associate Administrator for Aeronautics and Space Technology

OFFICE OF POLICY

SES Associate Administrator for Policy

OFFICE OF CHIEF SCIENTIST

SES Chief Scientist

OFFICE OF SPACE TRACKING AND DATA SYSTEMS

SES Associate Administrator for Space Tracking and Data Systems

SES Deputy Associate Administrator for Space Tracking and Data Systems

OFFICE OF EQUAL OPPORTUNITY PROGRAMS

SES Assistant Administrator for Equal Opportunity Programs

SES Deputy Assistant Administrator for Equal Opportunity Programs

INSPECTOR GENERAL

SES Deputy Inspector General

AMES RESEARCH CENTER

SES Director, NASA Ames Research Center

SES Deputy Director, NASA Ames Research Center

GODDARD SPACE FLIGHT CENTER

SES Director, NASA Goddard Space Flight Center

SES Deputy Director, NASA Goddard Space Flight Center

JOHNSON SPACE CENTER

SES Director, NASA Johnson Space Center

SES Deputy Director, NASA Johnson Space Center

KENNEDY SPACE CENTER

SES Director, NASA Kennedy Space Center

SES Deputy Director, NASA Kennedy Space Center

LANGLEY RESEARCH CENTER

SES Director, NASA Langley Research Center

SES Deputy Director, NASA Langley Research Center

LEWIS RESEARCH CENTER

SES Director, NASA Lewis Research Center

SES Deputy Director, NASA Lewis Research Center

MARSHALL SPACE FLIGHT CENTER

SES Director, NASA Marshall Space Flight Center

SES Deputy Director, NASA Marshall Space Flight Center

NATIONAL SPACE TECHNOLOGY LABORATORIES

SES Manager, National Space Technology Laboratories

SES Deputy Manager, National Space Technology Laboratories

AGENCY: NATIONAL CAPITAL PLANNING COMMISSION

Positions:

SES Executive Director

SES Associate Executive Director for Regional Affairs

SES Associate Executive Director for District of Columbia Affairs

SES General Counsel

SES Assistant Executive Director for Operations

AGENCY: NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Positions:

SES 0-4 Executive Director

AGENCY: NATIONAL CREDIT UNION ADMINISTRATION

Positions:

SES General Counsel

SES Internal Auditor (Director, Internal Audit and Investigation)

SES Regional Directors(6)

SES Deputy General Counsel

SES Director, Division of Information Systems

SES Director, Office of Programs

SES Director, Office of Services

AGENCY: NATIONAL ENDOWMENT FOR THE ARTS

Positions:

SES* Executive Director for Partnership

SES* Deputy Chairman for the Federal Council on the Arts and Humanities

SES* Deputy Chairman for Policy and Planning

SES* Director of Program Coordination

SES* Director of Public Affairs

AGENCY: NATIONAL ENDOWMENT FOR THE HUMANITIES

Positions:

SES Deputy Chairman

SES Assistant Chairman for Institutional Relations

SES Director, Office of Planning and Policy Studies

SES Director, Division of Education Programs

SES* Director of Administration

AGENCY: NATIONAL LABOR RELATIONS BOARD

Positions:

SES Solicitor

SES Executive Secretary

SES Deputy General Counsel

SES Associate General Counsel, Division of Enforcement Litigation

AGENCY: NATIONAL MEDIATION BOARD

Positions:

SES* Executive Secretary

AGENCY: NATIONAL SCIENCE FOUNDATION

Positions:

SES Staff Director, National Science Foundation

SES* Executive Officer, National Science Board

SES Director, Office of Audit and Oversight

SES* Director, Office of Legislative and Public Affairs

SES* Controller, National Science Foundation

SES General Counsel

SES Director, Office of Small Business Research and Development

SES Director, Office of Advanced Scientific Computing

SES Assistant Director for Engineering

SES Assistant Director for Science and Engineering Education

SES Assistant Director for Scientific, Technological and International Affairs

SES Assistant Director for Administration

SES Deputy Assistant Director for Astronomical, Atmospheric, Earth and Ocean Sciences

SES Deputy Assistant Director for Biological, Behavioral and Social Sciences

SES Deputy Assistant Director for Engineering

SES Deputy Assistant Director for Mathematical and Physical Sciences

SES Deputy Assistant Director for Science and Engineering Education

SES Deputy Assistant Director for Scientific, Technological and International Affairs

SES Deputy Assistant Director for Administration

AGENCY: NATIONAL TRANSPORTATION SAFETY BOARD

Positions:

SES Managing Director

SES Deputy Managing Director

SES General Counsel

SES Director, Bureau of Accident Investigation

SES Director, Bureau of Technology

SES Director, Bureau of Administration

SES Director, Bureau of Safety Programs

SES* Director, Bureau of Field Operations

AGENCY: NUCLEAR REGULATORY COMMISSION

Positions:

Office of the Commission

GG-18 Executive Assistant to the Chairman

Advisory Committee on Reactor Safeguards

SES Executive Director, ACRS

SES Deputy Executive Director, ACRS

SES Assistant Executive Director for Project Review, ACRS

Office of Administration

SES Director, Office of Administration

SES Deputy Director, Office of Administration
 SES Director, Division of Organization & Personnel
 SES Director, Division of Contracts
 SES Director, Division of Tech Information & Document Control

Office of Resource Management

SES Controller and Director
 SES Deputy Controller and Deputy Director

Office of the Secretary

SES Secretary of the Commission
 SES Assistant Secretary of the Commission

Office of Inspector and Auditor

SES Director, OIA
 SES Deputy Director and Assistant for Audits

Office of State Programs

SES Director, State Programs

Office of Investigations

SES Director, Office of Investigations
 SES Deputy Director of Investigations

Atomic Safety and Licensing Board Panel

SES Chief Administrative Judge
 SES Deputy Chief Administrative Judge (Executive)
 GG-17 Deputy Chief Administrative Judge (Technical)

Atomic Safety and Licensing Appeal Panel

SES Chairman, ASLAP
 SES Vice Chairman, ASLAP
 GG-17 Administrative Judge (Legal) ASLAP (3)
 GG-17 Administrative Judge (Technical) (2)

Office of the General Counsel

SES General Counsel
 SES Solicitor, OGC
 SES Deputy General Counsel for Dom Lic & Reg
 SES Assistant General Counsel for International and Legislative Affairs
 SES Assistant General Counsel for Administration and Adjudication

Office of Public Affairs

SES Director, Office of Public Affairs
 SES Deputy Director, Office of Public Affairs

Office of Congressional Affairs

SES Director, Office of Congressional Affairs

Office of Policy Evaluation

SES Director, Office of Policy Evaluation
 SES A/D for Technical Review, OPE
 SES Deputy Director for Special Projects, OPE

Executive Director for Operations

SES Executive Director for Operations
 SES Deputy Executive Director for Operations
 SES Assistant for Operations
 SES Deputy Executive Director for Regional Operations and Generic Requirements
 SES Director, Regional Operations and Generic Requirements Staff

Office of the Executive Legal Director

SES Executive Legal Director
 SES Deputy Executive Legal Director
 SES Director & Chief Counsel Regulations Division

GG-17 Special Assistant to the Executive Legal Director

GG-17* Special Assistant for International Affairs

SES Director/Chief Counsel, Operations and Administration Division

SES Director & Chief Counsel, Hearing Division

SES Assistant Chiefs, Hearing Counsel (4)
 SES Deputy Chief, Hearing Counsel, Deputy Director, Hearing Division

SES Director & Chief Counsel, Regional Operations and Enforcement Division

Office of International Programs

SES Director, Office of International Programs
 SES A/D for International Cooperation
 SES A/D for Export/Import & International Safeguards

Office of Nuclear Reactor Regulation

SES Director, NRR
 SES Deputy Director, Office of Nuclear Reactor Regulation
 SES Program Director, TMI Program Office
 SES Deputy Program Director, TMI Program Office
 SES Director, Planning & Program Analysis Staff
 SES Director, Division of Licensing
 SES Deputy Director, Division of Licensing
 SES Assistant Director for Operating Reactors

SES Chief, Operating Reactors Branch 1

SES Chief, Operating Reactors Branch 2

SES Chief, Operating Reactors Branch 3

SES Chief, Operating Reactors Branch 4

SES Assistant Director for Licensing

SES Chief, Licensing Branch 1

SES Chief, Licensing Branch 2

SES Chief, Licensing Branch 3

SES Chief, Licensing Branch 4

SES Chief, Standardization and Special Projects Branch

SES Assistant Director for Safety Assessment

SES Chief, Operating Reactors Branch 5

SES Chief, Systematic Evaluation Program Branch

SES Chief, Operating Reactors Assessment Branch

SES Director, Division of Engineering

SES Assistant Director for Components & Structures Engineering

SES Chief, Mechanical Engineering Branch

SES Chief, Geosciences Branch

SES Chief, Structural and Geotechnical Engineering Branch

SES Assistant Director for Materials, Chemical & Environmental Technology

SES Technical Advisor

SES Chief, Materials Engineering Branch

SES Chief, Chemical Engineering Branch

SES Chief, Equipment Qualification Branch

SES Chief, Environmental and Hydrologic Engineering Branch

SES Chief, Site Analysis Branch

SES Director, Division of Systems Integration

SES Special Assistant for Policy Development

SES Assistant Director for Core and Plant Systems

SES Chief, Instrumentation & Control Systems Branch

SES Chief, Power Systems Branch

SES Chief, Containment Systems Branch

SES Chief, Auxiliary Systems Branch

SES Assistant Director for Radiation Protection

SES Chief, Accident Evaluation Branch

SES Chief, Radiological Assessment Branch

SES Chief, Meteorology and Effluent Branch

SES Assistant Director for Reactor Safety

SES Chief, Reactor Systems Branch

SES Chief, Core Performance Branch

SES Director, Division of Human Factors Safety

SES Deputy Director, Division of Human Factors Safety

STS* Technical Advisor to the Director

SES Chief, Human Factors Engineering Branch

SES Chief, Operator Licensing Branch

SES Chief, Licensee Qualifications Branch

SES Chief, Procedures & Test Review Branch

SES Director, Division of Safety Technology

SES Assistant Director for Generic Projects

SES Chief, Generic Issues Branch

SES Chief, Research & Standards Coordination Branch

SES Assistant to the Director for Technology

SES Chief, Safety Program Evaluation Branch

SES Chief, Reliability and Risk Assessment Branch

Office of Nuclear Regulatory Research

SES Director, Nuclear Regulatory Research

SES Deputy Director, Nuclear Regulatory Research

Office of Nuclear Material Safety and Safeguards

SES Director, NMSS

SES Deputy Director, NMSS

SES Director, Division of Safeguards

SES Deputy Director, Division of Safeguards

SES Chief, Licensing Policy and Program Branch

SES Chief, Power Reactor Safeguards Licensing Branch

SES Chief, Fuel Facilities Safeguards Licensing Branch

SES Chief, Material Transfer Safeguards Licensing Branch

SES Deputy Director, Division of Fuel Cycle & Material Safety

SES Director, Division of Fuel Cycle & Material Safety

SES Chief, Adv & Spent Fuel Licensing Branch

SES Chief, Uranium Fuel Licensing Branch

SES Chief, Transportation and Certification Branch

SES Chief, Materials Certification and Procedures Branch

SES Chief, Licensing Proc and Integration Branch

SES Chief, Hi-Level Waste and Technical Development Branch

SES Deputy Director, Division Waste Management

SES Director, Division of Waste Management

SES* Chief, Engineering Branch
 SES* Chief, Geotechnical Branch
 SES* Chief, Low-Level and Uranium Recovery Projects Branch

Office of Inspection and Enforcement

SES Director, Inspection and Enforcement
 SES Deputy Director, Office Inspection and Enforcement
 SES* Director, Program Support and Analysis Staff
 SES Director, Enforcement Staff
 SES Director, Division of Emergency Preparedness
 SES Deputy Director, Division of Emergency Preparedness
 SES Chief, Emergency Preparedness Licensing Branch
 SES Chief, Operating Reactors Programs Branch
 SES Chief, Reactor Construction Programs Branch
 SES* Director, Division of Quality Assurance, Safeguards and Inspection Programs
 SES* Deputy Director, Division of Quality Assurance, Safeguards and Inspection Programs
 SES Chief, Engineering and Technical Support Branch
 SES Chief, Quality Assurance Branch
 SES Deputy Branch Chief, Quality Assurance Branch
 SES Chief, Events Analysis Branch
 SES Chief, Incident Response and Development Branch
 SES* Chief, Safeguards and Materials Programs Branch

Regional Offices

SES Regional Administrator, Region I
 SES Deputy Regional Administrator, Region I
 SES Director, Division of Project and Resident Programs, Region I
 SES Director, Division of Engineering and Technical Programs, Region I
 SES Regional Administrator, Region II
 SES Deputy Regional Administrator, Region II
 SES Director, Division of Engineering and Technical Programs, Region II
 SES Director, Division of Project and Resident Programs, Region II
 SES Regional Administrator, Region III
 SES Deputy Regional Administrator, Region III
 SES Director, Division of Project and Resident Programs, Region III
 SES Director, Division of Engineering and Technical Programs, Region III
 SES Regional Administrator, Region IV
 SES Director, Uranium Recovery Field Office, Region IV
 SES Deputy Regional Administrator, Region IV
 SES* Director, Division of Resident, Reactor Project and Engineering Programs, Region IV
 SES Director, Division of Vendor and Technical Programs, Region IV
 SES Regional Administrator, Region V
 SES Deputy Regional Administrator, Region V
 SES Director, Division of Resident, Reactor Project and Engineering Programs Region V

SES Director, Division of Radiological and Safeguards Programs, Safety Region V

Office for Analysis and Evaluation of Operational Data

SES Director, Office for Analysis and Evaluation of Operational Data
 SES Deputy Director, Office for Analysis and Evaluation of Operational Data
 SES Chief, Reactor Operations Branch
 SES* Chief, Program Technology Branch

Office of Small and Disadvantaged Business Utilization and Civil Rights

SES Director, Office of Small and Disadvantaged Business Utilization and Civil Rights

AGENCY: OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Positions:

SES Executive Director
 SES General Counsel

AGENCY: OFFICE OF PERSONNEL MANAGEMENT

Positions:

SES General Counsel, Office of the General Counsel
 SES Associate Director, Administration Group
 SES Associate Director, Compensation Group
 SES Associate Director, Compliance and Investigations Group
 SES Associate Director, Staffing Group
 SES Associate Director, Work Force Effectiveness and Development Group
 SES Executive Assistant Director, Office of Policy and Communications
 SES* Assistant Director, Office of Congressional Relations
 SES Assistant Director, Office of Executive Administration
 SES* Assistant Director, Office of Public Affairs
 SES* Inspector General, Office of the Inspector General
 SES Chairman, Federal Prevailing Rate Advisory Committee
 SES Deputy Director and Chief Counsel, Office of Government Ethics
 SES Deputy General Counsel, Office of the General Counsel
 SES Deputy Associate Director, Administration Group
 SES Deputy Associate Director, Compensation Group
 SES* Deputy Associate Director, Compliance and Investigations Group
 SES Deputy Associate Director, Staffing Group
 SES Deputy Associate Director, Workforce Effectiveness and Development Group
 SES Associate General Counsel, Office of the General Counsel
 SES* Assistant Director for Finance and Administrative Services, Administration Group
 SES Assistant Director for Information Management, Administration Group
 SES Assistant Director for Management, Administration Group
 SES* Assistant Director for Personnel and EEO, Administration Group

SES* Assistant Director for Compensation Programs Development, Compensation Group
 SES* Assistant Director for Financial Control and Management, Compensation Group
 SES Assistant Director for Insurance Programs, Compensation Group
 SES* Assistant Director for Pay and Benefits Policy, Compensation Group
 SES* Assistant Director of Pay Programs, Compensation Group
 SES Assistant Director for Retirement Programs, Compensation Group
 SES Assistant Director for Agency Compliance and Evaluation, Compliance and Investigations Group
 SES Assistant Director for Personnel Investigations, Compliance and Investigations Group
 SES* Assistant Director for Work Force Information, Compliance and Investigations Group
 SES Assistant Director for Administrative Law Judges, Staffing Group
 SES Assistant Director for Staffing Operations, Staffing Group
 SES Assistant Director for Staffing Policy, Staffing Group
 SES Assistant Director for Standards Development, Staffing Group
 SES* Assistant Director for Affirmative Employment Programs, Workforce Effectiveness and Development Group
 SES* Assistant Director for Performance, Workforce Effectiveness and Development Group
 SES* Assistant Director for Training and Development, Workforce Effectiveness and Development Group
 SES Assistant Director for Employee, Labor, and Agency Relations, Office of Policy and Communications
 SES Assistant Director for Regional Operations, Office of the Director
 SES Regional Director, Atlanta Region
 SES Regional Director, Boston Region
 SES Regional Director, Chicago Region
 SES Regional Director, Dallas Region
 SES Regional Director, Denver Region
 SES Regional Director, New York Region
 SES Regional Director, Philadelphia Region
 SES Regional Director, St. Louis Region
 SES Regional Director, San Francisco Region
 SES Regional Director, Seattle Region
 SES* Chief Actuary, Compensation Group
 SES Chief, Medical Policy and Programs Division, Staffing Group
 SES Dean, Federal Executive Institute, Workforce Effectiveness and Development Group
 SES Deputy Regional Director, Atlanta Region
 SES Deputy Regional Director, Chicago Region
 SES Deputy Regional Director, Dallas Region
 SES Deputy Regional Director, Philadelphia Region
 SES Deputy Regional Director, San Francisco Region

AGENCY: OFFICE OF SPECIAL COUNSEL (MSPB)*Positions:*

SES Deputy Special Counsel
 SES Associate Special Counsel for Investigation
 SES Associate Special Counsel for Prosecution
 SES Deputy Associate Special Counsel for Investigation
 SES Deputy Associate Special Counsel for Prosecution

AGENCY: OVERSEAS PRIVATE INVESTMENT CORPORATION

Positions: No section 207(d)(1)(C) designations.

AGENCY: PANAMA CANAL COMMISSION*Positions:*

AD Administrator (18 U.S.C. 207(d)(1)(A) comparable)
 CX Deputy Administrator

AGENCY: PEACE CORPS*Positions:*

FE-2 General Counsel, Peace Corps
 FE-2 Associate Director, International Operations, Peace Corps
 FE-2* Executive Assistant to the Director, Peace Corps
 FE-2* Associate Director, Marketing, Recruitment, Placement and Staging, Peace Corps
 FE-2* Associate Director, Management, Peace Corps

AGENCY: PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION*Positions:*

AD Executive Director of the Corporation
 AD Assistant Director—Legal
 AD Assistant Director—Development
 AD All members of the Board of Directors (23)

AGENCY: PENSION BENEFIT GUARANTY CORPORATION*Positions:*

GS-17 Deputy Executive Director for Insurance Programs
 GS-17 General Counsel
 GS-17* Director, Insurance Operations Department
 GS-17* Director, Financial Operations Department

AGENCY: POSTAL RATE COMMISSION*Positions:*

AD-18 General Counsel of the Commission
 AD-18 Director of the Office of Technical Analysis and Planning
 AD-18 Director of Office of Consumer Advocate

AGENCY: RAILROAD RETIREMENT BOARD*Positions:*

SES Executive Director

SES Associate Executive Director for Legal and Administrative Services/General Counsel

SES Associate Executive Director for Financial, Data and Planning Operations
 SES Associate Executive Director for Field Service
 SES Associate Executive Director for Retirement Claims
 SES Associate Executive Director for Unemployment and Sickness Insurance
 SES Chief Actuary and Director of Research
 SES Director of Data Processing
 SES Director of Fiscal and Planning Operations

AGENCY: SECURITIES AND EXCHANGE COMMISSION*Positions:*

SES General Counsel
 SES Director, Division of Corporation Finance
 SES Director, Division of Corporate Regulation
 SES Director, Division of Enforcement
 SES Director, Division of Investment Management
 SES Director, Division of Market Regulation
 SES Chief Accountant of the Commission
 SES Deputy Chief Accountant
 SES Executive Director
 SES Regional Administrator, New York
 SES Regional Administrator, Chicago
 SES Regional Administrator, Los Angeles
 SES Deputy Regional Administrator, New York

AGENCY: SELECTIVE SERVICE SYSTEM*Positions:*

SES Deputy Director of the Agency
 SES Associate Director, Administration
 SES Associate Director, Planning and Operations
 SES Associate Director, Management Information Systems
 SES Associate Director, Policy Development and Administrative Legal Systems

AGENCY: SMALL BUSINESS ADMINISTRATION*Positions:*

SES Deputy Administrator
 SES Regional Administrator, Region I
 SES Regional Administrator, Region II
 SES Regional Administrator, Region III
 SES Regional Administrator, Region IV
 SES Regional Administrator, Region V
 SES Regional Administrator, Region VI
 SES Regional Administrator, Region VII
 SES Regional Administrator, Region VIII
 SES Regional Administrator, Region IX
 SES Regional Administrator, Region X
 SES Director, Equal Employment Opportunity and Compliance
 SES General Counsel
 SES Deputy General Counsel
 SES Associate Administrator for Procurement and Technology Assistance
 SES Associate Administrator for Management Assistance
 SES Associate Administrator for Minority Small Business & Capital Ownership Development

SES Associate Administrator of Finance and Investment

SES Assistant Administrator for Administration
 SES Director of Personnel
 SES Associate Deputy Administrator for Management and Administration
 SES Associate Deputy Administrator for Special Programs
 SES Assistant Administrator for Hearings and Appeals
 SES Comptroller
 SES Director of Program Analysis and Review

AGENCY: TENNESSEE VALLEY AUTHORITY

Positions: No section 207(d)(1)(C) designations.

AGENCY: UNITED STATES ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Positions: No section 207(d)(1)(C) designations.

AGENCY: UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY*Positions:*

SES Counselor
 0-7/0-8 Senior Military Adviser, D
 SES Special Representative for INF
 SFS U.S. Representative to CD
 SES Administrative Director
 SES General Counsel
 SES Director, Office of Public Affairs
 SES Deputy Assistant Director, SP
 SFS Deputy Assistant Director, NWC
 IPA Deputy Assistant Director, VI
 SES Deputy Assistant Director, MA

AGENCY: UNITED STATES INFORMATION AGENCY*Positions:*

SES Director, Office of Public Liaison
 SES General Counsel
 SES Deputy General Counsel

Office of Inspector General

SES Inspector General

Office of Inspections

SFS Chief of Inspections

The Bureau of Educational and Cultural Affairs

SFS Director of Cultural Centers and Resources
 SES Director, Office of Academic Programs
 SES Director, Office of International Visitors
 SES Director, Office of Private Sector Programs

The Voice of America

SFS Deputy Director (Modernization)
 SES Deputy Director (Programs)
 SES Director, Office of Administration
 SES Director for News and English Broadcasts

SFS Director for Regional Language Broadcasts
 SES Director of Engineering and Technical Operations
 SES Director, Office of Personnel
 SES Director, Radio Marti
 SES Director of Broadcast Operations

The Bureau of Management

SFS Deputy Associate Director
 SES Director, Office of Administration and Technology
 SES Director, Office of Comptroller
 SES Director, Office of Personnel
 SFS Director, Office of Equal Employment Opportunity and Civil Rights
 SES Director, Office of Contracts
 SES Director, Office of Security

The Bureau of Programs

SES Director of Exhibits Service
 SFS Director of Press and Publication Services
 SES Deputy Associate Director
 SES Executive Officer
 SES Director, Office of Program Coordination and Development
 SFS Director, Foreign Press Centers
 SES Director, Office of Research

Television and Film Service

SES Director of Television and Film Service
 SES Deputy Director
 SES International Marketing Manager
 SES Facilities Manager
 SES News and Current Events Manager

Area Offices

SFS Director of African Affairs
 SFS Deputy Director, African Affairs
 SFS Director of European Affairs
 SFS Deputy Directors of European Affairs (2)
 SFS Director of East Asian and Pacific Affairs
 SFS Deputy Director of East Asian and Pacific Affairs
 SFS Director of American Republics Affairs
 SFS Deputy Director of American Republics Affairs
 SFS Director of North African, Near Eastern and South Asian Affairs
 SFS Deputy Director of North African and Near Eastern and South Asian Affairs
 SFS Public Affairs Officers of Class 1 Posts (22)

AGENCY: U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Positions:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Office of the Administrator

SFS-M Counselor to the Agency

Office of the General Counsel

SES General Counsel
 SES Senior Deputy General Counsel

Office of the Inspector General

SES Inspector General
 SES Assistant Inspector General for Investigations and Inspection

SES Assistant Inspector General for Security
 SES* Assistant Inspector General for Audit
Office of the Legislative Affairs (LEG)
 SES Director

Bureau for External Affairs (XA)

SES Assistant to the Administrator for External Affairs

Board for International Food and Agricultural Development Support Staff (BIFAD/S)

Office of the Executive Director

SES Executive Director
 SFS-MD Deputy Director

Office of the U.S. Foreign Disaster Assistance (OFDA)

SES Coordinator, Foreign Disaster Relief

Bureau for Management

Office of the Assistant to the Administration for Management (AA/M)

SES Assistant to the Administrator for Management
 SES Deputy Assistant to the Administrator for Management

Office of Financial Management (M/FM)

SES Controller
 SES Deputy Controller

Office of Personnel Management (M/PM)

SFS-MC Director
 SES Deputy Director

Directorate for Program and Management Services (M/SER)

Office of the Associate Assistant to the Administrator

SES Associate Assistant to the Administrator for Management (M/AAA/SER)

Office of Information Resources Management (M/SER/IRM)

SES Director
 SES Deputy Director

Office of Management Operations (M/SER/MO)

SES Director
 SES Deputy Director

Office of Contract Management (M/SER/CM)

SES Director
 SES Deputy Director

Office of Commodity Management (M/SER/COM)

SES Director
 SFS-C Deputy Director

Executive and Overseas Management Service

Office of the Director

SFS-C Director

Office of Equal Opportunity Programs (EOP)

SES Director

Bureau of Food for Peace and Voluntary Assistance (FVA)

Office of the Assistant Administrator (AA/FVA)

SFS-MC Deputy Assistant Administrator

Office of Program, Policy and Evaluation (PPE)

SFS-C Director, Program Policy and Evaluation

Office of Private and Voluntary Cooperation (PVC)

SES Director, Private and Voluntary Cooperation

Office of Food for Peace (FFP)

SES Coordinator, Food for Peace

Bureau for Private Enterprise (PRE)

Office of the Assistant Administrator (AA/PRE)

SFS-MC Deputy Assistant Administrator for Policy and Investment
 SES Deputy Assistant Administrator for Housing & Urban Programs

Office of Policy and Program Review (PPR)

SES Director

Office of Housing & Urban Programs (H)

SES Director
 SFS-MC Deputy Director
 SFS-C Assistant Director for Urban Programs

President's Task Force for International Private Enterprise (TF/PRE)

SFS-C Executive Director
 SFS-C Deputy Executive Director

Bureau for Program and Policy Coordination

Office of the Assistant Administrator (AA/PPC)

SFS-CM Deputy Assistant Administrator

Office of Policy Development and Program Review (PPC/PDPR)

SES Associate Assistant Administrator

Office of Planning and Budgeting (PPC/PB)

SFS-MC Associate Assistant Administrator

Office of Economic Affairs

SES Associate Assistant Administrator

Office of Evaluation

SFS-C Associate Assistant Administrator

Bureau for Science and Technology (S & T)

Office of the Senior Assistant Administrator

SFS-MC Deputy Assistant Administrator for Research
 SFS-MC Deputy Assistant Administrator for Technical Cooperation

Office of Technical Review and Information

AD-18 Director

University Relations and Research Coordination

AD-18 Coordinator for University Relations and Research Support

Office of Program

SFS-MC Director

Agency Directorate for Food and Agriculture

SES Agency Director for Food and Agriculture

Office of Agriculture

SES Director

Office of Nutrition

SES Director

Agency Directorate for Energy and Natural Resources

SES Agency Director for Energy and Natural Resources

Office of Forestry, Environment and Natural Resources

SES Director

Office of Energy

SES Director

Agency Directorate for Human Resources

SES Agency Director for Human Resources

Office of Multisectoral Development

SFS-C Director

Office of Education

SFS-C Director

Office of International Training

SES Director

SFS-C Deputy Director

Agency Directorate for Health and Population

SES Agency Director for Health and Population

SFS-C Deputy Agency Director for Health and Population

Office of Health

SES Director

Office of Population

SES Director

SES Deputy Director

Bureau of Africa (AFR)

SFS-CM Deputy Assistant Administrator

SFS-CM Deputy Assistant Administrator

SFS-CM Deputy Assistant Administrator for East and Southern Africa

SFS-CM Deputy Assistant Administrator for West and Central Africa

Office of Development Planning (AFR/DP)

SFS-MC Director

Office of Program Management Resources (AFR/PMR)

SFS-MC Director

Office of Technical Resources (AFR/TR)

SFS-MC Director

Office of Project Development (AFR/PD)

SFS-C Director

Bureau of Asia (AA/ASIA)**Office of the Assistant Administrator (AA/ASIA)**

SFS-MC Deputy Assistant Administrator

Office of Development Planning (ASIA/DP)

SFS-MC Director

Office of Technical Resources (ASIA/TR)

SFS-MC Director

Bureau for Latin American and Caribbean (LAC)**Office of the Assistant Administrator (AA/LAC)**SES Deputy Assistant Administrator
AD-18 Special Assistant**Office of Development Programs (LAC/DR)**

SFS-MC Director

Office of Development Resources (LAC/DR)

SFS-MC Director

Bureau for Near East (NE)**Office of the Assistant Administrator (AA/NE)**

SES Deputy Assistant Administrator

Office of Development Planning (NE/DP)

SFS-MC Director

Office of Project Development (NE/DP)

SFS-MC Director

Office of Technical Support (NE/TECH)

SFS-MC Director

MISSIONS**Africa**

SFS-MC Director, Botswana

SFS-C* AID Representative, Burundi

SFS-MC Director, Cameroon

SFS-C AID Representative, Chad

SFS-C* AID Representative, Djibouti

SFS-MC AID Representative, Gambia

SFS-MC Director, Ghana

SFS-MC Director, Kenya

SFS-MC Director, Lesotho

SFS-MC AID Representative, Malawi

SFS-MC Director, Mali

SFS-MC Director, Mauritania

SFS-MC Director, Niger

SFS-C AID Representative, Rwanda

SFS-MC Director, Senegal

SFS-MC Director, Somalia

SFS-MC Director, Sudan

SFS-MC Director, Swaziland

SFS-MC Director, Tanzania

SFS-C AID Representative, Togo

SFS-MC Director, Uganda

SFS-MC Director, Upper Volta

SFS-MC AID Representative, Zambia

SFS-MC Director, Zimbabwe

SFS-C Controller, Regional Financial

Management Center (Kenya)

SFS-MC Director, Regional Economic

Development Services Office, West Africa

SFS-MC Director, Regional Economic

Development Services Office, East Africa

SFS-C Regional Development Officer,

Guinea-Bissau/Cape Verde

SFS-C Regional Housing Officer, West

Africa

SFS-C Regional Housing Officer, East

Africa

Asia

SFS-C AID Representative, Burma

SCS-C Regional Development Officer, Fiji

SFS-MC Director, Nepal

SFS-MC Director, Sri-Lanka

SFS-MC Director, Thailand

Europe

SFS-C AID Coordinator, Geneva

SFS-C Regional Food for Peace Officer,
FAO Affairs, Rome**Latin America and the Caribbean**

SFS-C AID Representative, Belize

SFS-MC Director, Bolivia

SFS-MC Director, Regional Development
Office, Caribbean

SFS-MC Director, Costa Rica

SFS-MC Director, Ecuador

SFS-MC Director, El Salvador

SFS-MC Director, Guatemala

SFS-MC Director, Guyana

SFS-MC Director, Regional Office for

Central American Programs, (ROCAP)

SFS-MC Director, Haiti

SFS-MC Director, Honduras

SFS-MC Director, Jamaica

SFS-MC Director, Nicaragua

SFS-MC Director, Panama

SFS-MC Director, Paraguay

SFS-C Regional Housing Officer, Latin

America

SFS-C* AID Representative, Mexico

Near East

SFS-MC Director, Lebanon

SFS-MC Director, Morocco

SFS-C AID Representative, Oman

SFS-MC AID Representative, Portugal

SFS-MC Director, Tunisia

SFS-MC Director, Yemen

SFS-C Regional Housing Officer, Tunisia

TRADE AND DEVELOPMENT PROGRAM

SES Director

AGENCY: U.S. POSTAL SERVICE**Positions:**

AD-17 Associate Judicial Officer

AGENCY: UNITED STATES RAILWAY ASSOCIATION**Positions:**

AD President

AD Executive Vice President

AD Vice President—(1)

AGENCY: UNITED STATES SOLDIERS' & AIRMEN'S HOME*Positions:* No section 207(d)(1)(C) designations.**AGENCY: VETERANS ADMINISTRATION****Positions:****Office of the Administrator**SES* Associate Deputy Administrator for
Congressional and Intergovernmental
AffairsSES Associate Deputy Administrator for
LogisticsSES Associate Deputy Administrator for
Information Resources ManagementSES* Associate Deputy Administrator for
Public and Consumer Affairs**Office of Inspector General**

SES Deputy Inspector General

Office of the General Counsel

SES General Counsel

SES Deputy General Counsel

Office of Program Planning and Evaluation

SES Director

Office of Budget & Finance

SES Director

Office of Construction

SES Director

SES Deputy Director

Department of Memorial Affairs

SES Chief Memorial Affairs Director

SES Deputy Chief Memorial Affairs Director

Department of Veterans' Benefits

SES Chief Benefits Director

SES Deputy Chief Benefits Director

Department of Medicine and SurgeryAD Deputy Associate Deputy Chief Medical
Director**Office of Personnel & Labor Relations**

SES Director

SES Deputy Director

**Office of Data Management and
Telecommunications**

SES Director

Office of Procurement & Supply

SES Director

SES Deputy Director

**Office of Information Management &
Statistics**

SES Director

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**Wednesday
July 31, 1985**

Part III

Department of Transportation

Office of the Secretary

14 CFR Part 251 et al.

**Implementation of the Civil Aeronautics
Board Sunset Act of 1984; Transfer of
Antitrust Authority; Final Rule**

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 251, 261, 287, 291, 296, 298, 299, 303 and 380

[Dockets No. 42825 and 42802; Amdt. Nos. 303-1, 251-2, 261-2, 287-15, 291-18, 296-3, 298-31, 299-7, 380-19]

Implementation of the Civil Aeronautics Board Sunset Act of 1984: Transfer of Antitrust Authority Under Sections 408, 409, 412 and 414 of the Federal Aviation Act of 1958 From the Civil Aeronautics Board to the Department of Transportation

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: On January 1, 1985, the Civil Aeronautics Board's (CAB) authority to approve and grant antitrust immunity to certain aviation-related agreements, mergers, consolidations, acquisitions of control and interlocking relationships transferred to the Department of Transportation (DOT or Department). On February 6, 1985, DOT issued a Notice of Proposed Rulemaking (NPRM) (50 FR 5214) that sought to consolidate and restructure into Part 303 of the Department's Aviation Proceedings Regulations, 14 CFR Part 303, former CAB regulations governing applications submitted under sections 408, 409, 412, and 414, and exemptions under section 416 from those sections, of the Federal Aviation Act of 1958. This action makes those proposed rules final, with a number of changes made in response to comments and upon further consideration by the Department. In general, the regulations (1) specify the information that must be submitted when Department approval is sought; (2) set out the procedures to be followed when an application for approval has been filed; and (3) exempt certain transactions and relationships from the requirement to obtain Department approval. The final regulation is, in most respects, very similar to former CAB regulations on the same subject matter. The NPRM was drafted in cooperation with the Antitrust Division, Department of Justice.

EFFECTIVE DATE: August 30, 1985.

FOR FURTHER INFORMATION CONTACT:

George S. Baranko, Office of the Assistant General Counsel for International Law at (202) 426-2972, or Samuel E. Whitehorn, Office of the Assistant General Counsel for Regulations and Enforcement at (202) 472-5577, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act of 1980

This action has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of \$100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographic regions. Furthermore, this rule will not adversely affect competition, employment, investment, productivity innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. These regulations primarily adopt former CAB regulations, in accordance with the authority to enforce certain laws that was transferred from the CAB to the Department of Transportation. In many instances, regulatory procedures will be more efficient and the extent of regulation will be reduced by these rules. Accordingly, a regulatory impact analysis is not required.

This regulation is significant under the Department's Regulatory Policies and Procedures, dated February 26, 1979, because it involves important Departmental policies. Its economic impact should be minimal and a full regulatory evaluation is not required.

This action will not have an adverse economic impact on small entities. I certify that this rule will not have a significant economic impact on a substantial number of small entities. It will continue a former CAB exemption for the most common form of small entity in the airline industry—air taxi operators.

This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969. The relevant collection of information requirements in this final rule have been submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980. (Approval numbers 2105-0003, 2138-0009, and 2106-0006.)

Background

On February 6, 1985, DOT issued an NPRM that proposed to restructure former CAB regulations regarding mergers, agreements, interlocking relationships, and antitrust immunity. In general, the proposed new regulation

did not change the former CAB regulations. Comments were initially due on March 8, 1985. However, in response to a request from the Air Transport Association (ATA), the comment period was extended until March 18. (50 FR 8341, March 1, 1985). In addition, a petition for rulemaking filed by the Electronic Shippers on January 25 (Docket 42802), is being consolidated in this rulemaking proceeding.

The Airline Deregulation Act (Pub. L. No. 95-504, October 24, 1978) ("ADA") as amended by the Civil Aeronautics Board Sunset Act of 1984 (Pub. L. No. 98-443, October 4, 1984 ("Sunset Act")), provides *inter alia*, that the authority of the CAB under sections 408, 409, 412 and 414 transfer to the Department on January 1, 1985. Section 408 prohibits airline consolidations, mergers, and acquisitions of control absent prior approval of the transactions by the Department. (Hereinafter, the term "mergers" includes all transactions covered by section 408.) Similarly, Section 409 prohibits certain interlocking relationships without prior Department approval. Section 412 sets out standards for approval of inter-carrier agreements. Under Section 414, the Department may grant antitrust immunity to an approved section 408, 409 or 412 transaction. Under the provisions of the Sunset Act, this authority will lapse on January 1, 1989, with the exception of the authority under sections 412 and 414 as they apply to foreign air transportation.

The Secretary has delegated by regulation (49 CFR Part 1, 49 FR 50994, December 31, 1984) the responsibility for most of the transferring CAB functions, including the antitrust authority implemented by this final rule, to the Assistant Secretary for Policy and International Affairs. Consistent with well-established management principles of the Department and the specific terms of that delegation, the Secretary may exercise this authority in lieu of the Assistant Secretary. Accordingly, the Secretary may take any action which the Assistant Secretary is authorized to take under the provisions of Part 303, whenever the Secretary deems it appropriate.

Amendment to DOT Order 5610.1C

Existing DOT orders will be amended to continue CAB practice by establishing that action on an application under section 408, 409, 412 or 414 is normally an action that does not require any environmental review.

Discussion of Changes to Former CAB Regulations

In order to implement the Department's responsibilities under these statutory provisions, Part 303, of Title 14 of the Code of Federal Regulations, 14 CFR Part 303, and Parts 291, 196, 298 and 380, 14 CFR Parts 291, 296, 298 and 380, will be revised. Parts 251 and 287 (Interlocking Relationships), 261 (Agreements), and 299 (Aircraft of Title 14 will be deleted. Former CAB regulations Parts 302, Subparts L and P (agreements), and 315 (mergers) were temporarily recodified in Part 303 (50 FR 2374, January 16, 1985), pending finalization of this rulemaking. Individual provisions of other parts are also affected. The specific provisions of Part 303 are explained in detail below. The changes replace, in its entirety, the Part 303 issued at 50 FR 2374, January 16, 1985.

Comments on 14 CFR Part 303 (New)

Eight comments were received in response to the NPRM. The issues raised in each are addressed below following a general discussion of each subpart.

Subpart A

This subpart sets forth general provisions, such as the purpose of the regulation and definitions. It also sets forth the basic requirement that an application must be filed, and specifies general requirements governing all types of applications. It defines hearing to include either a show cause proceeding or a full evidentiary hearing, whichever the Assistant Secretary for Policy and International Affairs (Assistant Secretary) determines to be appropriate in a particular case.

One commenter, the International Air Transport Association (IATA), asserts that the application of part 303 to its Traffic Conference agreements would be unnecessary and burdensome. It states that its current practice of transmitting Traffic Conference agreements by letter complies with the spirit, if not the letter of § 303.04(c), which specifies documentation formalities.

In fact, IATA's current practices are, for the most part, consistent with the provisions of proposed § 303.04(c). The required information is being supplied to the Department, albeit in a different form. The Department, therefore, sees no hardship in requiring that the information be submitted as a part of an application. Consequently, insofar as IATA is requesting a modification of proposed § 303.04(c) for its Traffic Conference agreements, that request is denied.

Proposed § 303.04(i) provided that all applications must be served on the

Department of Justice. That section is modified in this rule, as American Airlines suggests, to make it clear that this obligation rests with the person submitting the application to the Department. DOT is not, however, excluding IATA Traffic Conference agreements from this requirement as requested. Given the nature of IATA's activities, the Department of Justice should have a complete record of the group's activities.

DOT also is making an editorial change to proposed § 303.04(j). The first sentence of the section requires that an application be served on intervening parties. The second requires that an application be served on any interested person that requests it. American suggests that the first sentence is superfluous. The Department agrees and the first sentence, is deleted.

American also requests that proposed § 303.04(j) be revised to require that a notice of all applications under this Part be served on all certificated carriers. American contends that competitors are seriously affected by such transactions and must receive actual notice of their existence. The Department has altered the notice provision, as discussed below, to provide American with some of the information it desires. However, all interested persons must monitor filings with the Department on their own to learn of items of interest. Automatic service or notice to all certificated carriers simply is not necessary and would be overly burdensome. Carriers, therefore, will be responsible for protecting their interests, just as other persons must.

Section 303.04(k) also requires that, unless otherwise provided, all applications must conform to the requirements of 14 CFR Part 302, Subpart A (50 FR 2374, January 16, 1985). IATA again argues that this section imposes needless technical requirements for its filing. However, IATA again has failed to demonstrate how imposition of procedural requirements imposed upon other parties, creates special problems for it or its members. Those sections merely specify how documents should be prepared, explain filing requirements, and establish procedures. IATA's real objective appears to be a return to the days when it did not file Traffic Conference agreements directly in public dockets, but with the Chief, International Fares and Rates Division, at the Board. But this procedure, while convenient for IATA, resulted in poor public notice of filings and generally impaired interested persons' ability to comment. Docketing assures a more complete record and better public

notice. The Department desires to improve this situation significantly by regularizing the procedures to which Traffic Conference agreements are subject, as discussed below.

We note, however, that some confusion has arisen over the fees to be assessed IATA for its numerous filings. In the future, amendments to its Provisions for Operation of the Traffic Conference and to its Articles of Association shall be assessed fees applicable to docketed agreements. Consistent with CAB practice, the fee charged for agreements reached at the Traffic Conferences, including the Air Traffic Conference, will be those generally assessed comparable agreements at the CAB.

As in the case of all final orders issued by the Secretary (and formerly by the CAB), under the provisions of the Federal Aviation Act, orders issued pursuant to this Part are subject to judicial review in the manner provided in section 1006 of the Act (49 USC 1486).

Section 303.05(a) requires applicants who seek antitrust immunity to include in their applications a statement of justification for granting such immunity. It further specifies that applications for antitrust immunity must indicate whether the applications seek full immunity or only immunity from private treble damage actions, and, in most cases, specify the duration of the requested immunity. In commenting on the proposed section, IATA maintains that it is unfair to require it to repeat that it requests immunity and the justification hundreds of times. It indicates that the basis for the conferral of immunity is in CAB orders and that it should not be obligated to summarize these justifications in its applications for approval.

DOT will not create an exception from § 303.05 for IATA. Section 303.05(a) merely sets forth the statutory standard for the grant of antitrust immunity and it is incumbent upon the applicant to demonstrate compliance in each case. While all Traffic Conference agreements must be filed for approval, the request for antitrust immunity in each case is optional. The justification will not be identical for all IATA agreements, or even for all fare and rate agreements. The possibility of some duplication does not outweigh the need for an explanation of IATA's reasons for seeking immunity in each case.

In its comments, the Air Transport Association (ATA) states that the basis for granting only partial immunity was not sufficiently developed in the proposal. It suggests that this matter needs clearer explanation and an

additional opportunity for public comment.

The rule is intended to afford maximum flexibility in dealing with requests for immunity. There can be little doubt that DOT has the power to limit immunity in this way. First, it is well-established that the conferral of the discretion to exercise a greater power—i.e., the conferral of complete immunity from the operation of the antitrust laws—includes the power to exercise a lesser power. *Frontier Airlines v. CAB*, 621 F.2d 369, 372 (10th Cir. 1980).

Second, section 414 itself provides that immunity is only to be conferred "to the extent necessary for the transaction to go forward." This language provides for an analysis of the extent to which immunity is necessary. Granting partial immunity based on the Department's assessment of the parties' needs is simply one type of limitation on the grant of immunity. It is analogous to the CAB's practice of limiting the duration of immunity in accordance with the parties' needs. This practice was recently sustained in *Republic Airlines, Inc. v. CAB*, Nos. 83-1656 et al. (8th Cir. March 12, 1985). We need not determine here the circumstances in which limited immunity will be granted.

DOT's own review of proposed § 303.05 has isolated a problem not raised in the comments. Specifically, the proposed section should have indicated that a subsequent request for renewal of any immunity granted does not extend, under the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.), the period of immunity conferred until the renewal application is addressed.

Under section 558(c) the filing of an application to renew a license operates to extend the license until final disposition of the renewal application. In some cases, the CAB applied this provision to requests under section 414, as well as section 412. See e.g. CAB Order 81-10-152. In the future, section 412 agreements that are immunized will have a specific termination date. Requests to extend that immunity will be treated as a new request, and will not extend immunity previously granted.

As noted in the NPRM and below, the Department intends to review outstanding conferrals of immunity on domestic agreements in order to provide an orderly transition toward the expiration of its immunity authority. Allowing the automatic extension provisions of section 558 of the APA to operate in immunity renewal proceedings may impede the orderly transition contemplated. For example, a party could undermine a decision to remove immunity as of a specific date (after the Department had determined

that an existing conferral of immunity was unnecessary or unjustified) by filing an application for continued immunity and relying on the provisions of section 558. In addition, allowing the provisions of section 558 to operate in immunity cases is contrary to the strong national policy favoring competition. Whenever possible, we should construe the operation of laws against persons seeking the benefits of exemptions from the antitrust laws. Therefore, requests to extend antitrust immunity will not continue the grant automatically until the issues raised in the request are addressed.

Proposed § 303.05(c) of the regulation reserved the right of the Assistant Secretary to revoke any antitrust immunity that was procured through a material misrepresentation of fact. ATA requests that immunity withdrawn as a result of alleged material misrepresentations of fact, under § 303.05(c), be subject to notice and an opportunity for a hearing before immunity is withdrawn. The Department does not agree. Persons requesting approval and antitrust immunity have the burden of submitting sufficient material to the Department for it to decide whether immunity is justified. If the facts submitted are false, or the applicant misrepresents material facts, that party has little to complain of should the immunity be withdrawn since it was obtained under false pretenses. Obviously, certain questions may arise regarding alleged misrepresentation of material facts that may require additional procedures. Those situations will be dealt with on a case-by-case basis.

The regulation also authorizes the Assistant Secretary after notice and hearing to withdraw prospectively any immunity that is no longer justified under the provisions of section 414. (ATA is correct in its understanding that the Department will only withdraw immunity for future, not from past, conduct.) It is anticipated that the Department will review outstanding CAB orders granting antitrust immunity to determine whether to withdraw such antitrust immunity entirely or confer immunity from private treble damage actions only. This will provide an orderly transition towards the expiration of the Department's section 414 authority for domestic air transportation. The Department may proceed to review a previously conferred immunity either by show cause proceedings, under § 303.44 or hearing proceedings, under § 303.45, but ordinarily will initiate these proceedings by an order to show cause. In any such proceeding, the proponents of such

immunity shall bear the burden of justifying continued immunity under the standards of section 414 of the Act, as in the case of a new application.

Finally, Subpart A sets forth a transition rule whereby an application pending at the time that interim Part 303 was revised will be considered by the Department under the revised Part 303.

Subpart B

This subpart specifies the information that must be filed when a party seeks approval of a merger or similar transaction under section 408. Currently, 14 CFR Part 303 sets forth the information that the Department requires with section 408 applications. As noted, the current Part 303 recodified the CAB's regulations contained in Part 315. The NPRM initially proposed to adopt the former CAB regulation with three modifications. Each will be adopted. The modifications require, first, that a current airline schedule and a current tariff or price list be submitted. Both are needed to analyze competition, particularly at airport "hubs", and the production of this information will not burden applicants. See §§ 303.13 (e) and (f). No comments were filed opposing submissions of this material, although ATA noted that the pertinence of the material will vary for each transaction. Second, the requirement to produce documents relating to any potential adverse impact of the merger caused by an increase in operating costs or a decrease in the quantity or quality of air service has been deleted because it is not needed in most merger proceedings. We will not second guess carrier management decisions regarding the down-side risk of a transaction and thus the information will not be requested as part of the initial application. However, if such information becomes relevant to the approval of a proposed merger, it could be obtained through other means when necessary. See § 303.16. Third, the Department will not adopt current 14 CFR 303.33(e) (50 FR 2374, January 16, 1985) because it is largely duplicative of other information required to be produced.

A number of commenters suggest changes to this subpart. ATA, USAir, and Southwest Airlines assert that material submitted under §§ 303.11 and 303.13 should only be required for a one year period, rather than the proposed two and three year time frames. ATA and Southwest also made a similar request for § 303.10. Each claims that the proposed material requests are burdensome. The Department disagrees. While the sections do require a substantial amount of material, the

information can expedite the review process, provide a historical perspective of the companies' activities, and demonstrate whether competitive harm could result from a proposed transaction. This information also was extremely useful in these cases at the CAB. Furthermore, the statutory time period for processing section 408 applications can be met only if this information is before the agency. In addition, the requirement ensures that we base our decision on a full and adequate record. In any event, applicants are always free to request an exemption from the requirements. Therefore, we will adopt the two and three year provisions originally proposed.

USAir also asks that § 303.13(b) be limited to include only information regarding overlapping markets of the merger partners. The provision attempts to obtain a limited number of documents that indicate the competitive plans of the merger partners. These documents often reveal the markets that carriers might enter, or why a market cannot be entered. This information can be extremely useful in assessing the competitive ramifications of a proposed transaction. Therefore, the provision is adopted as proposed.

Finally, insofar as ATA suggests that it be made clear that these rules do not alter the attorney-client privileges, or the attorney-work product rules, we do so. Of course, the validity of the assertion of privilege depends upon the facts of each case. Generally, these privileges may be asserted with respect to documents drafted in preparation for litigation with the Department. It is not available, though, as a general shield against Department requests for documents.

Subpart C

This subpart sets forth the information that must be submitted when a party requests approval for an interlocking relationship under section 409. The regulations on section 409 applications previously were set forth at 14 CFR Part 251. The Department is adopting those regulations with the modifications proposed in the NPRM.

First, a portion of the regulations concerning reports filed under section 407 of the Act, 49 U.S.C. 1377, are being deleted, since certain provisions concerning domestic aviation were repealed on January 1, 1983, and those applicable to foreign aviation were repealed on January 1, 1985. Second, those portions of the regulations concerning the format of section 409 applications and the general conditions applicable are being deleted, since these

matters are covered elsewhere in the Department's regulations. Finally, a provision of the regulations relating to applications filed prior to March 10, 1942, is being deleted as being no longer current.

The only comments concerning this subpart addressed notice of the transactions. The issue is discussed in conjunction with Subpart E.

Subpart D

This subpart describes the type of information that must be included in an application for approval of an inter-carrier agreement under section 412. The regulations on section 412 applications previously were set out in 14 CFR Part 261 (concerning agreements already in effect) and 14 CFR Part 303 Subparts A and B (concerning agreements submitted for approval prior to implementation). The Department's new regulations on section 412 applications are similar to those adopted by the CAB, but differ in some respects. First, Part 261 and Subpart A and B of Part 303 are combined in a single subpart. Second, the provisions of the former CAB regulations concerning the authentication of contracts and agreements are reworded and condensed. Third, language has been added to include requests for authority to discuss possible cooperative working arrangements within the scope of the regulations. Fourth, the requirements for serving copies of section 412 applications are changed to reflect the sunset of the CAB and the new responsibilities of the Department of Transportation. Finally, certain procedural provisions are deleted because they are covered in 14 CFR Part 302.

IATA requests that the proposed provisions governing the form and content of section 412 applications be changed to reflect traditional procedures with respect to Traffic Conference agreements. (The term "Traffic Conference Agreements" refers to the products of the passenger agency and services conferences, the cargo agency and service conferences, and the several fare and rate conferences.) In addition, it would exclude IATA Traffic Conference agreements from the proposed requirements, in § 303.31, that agreement applications explain the nature and purpose of the agreement, explain any changes it makes, and set forth all necessary factual matter, documentation, and argument in support of the application. IATA contends that Traffic Conference agreements are already subject to specific justification requirements set forth in various CAB orders and rules, such as those

applicable to cargo tariff agreements, and that, therefore, the imposition of general requirements can only lead to confusion.

The Electronic Shippers group argues that existing requirements for the explanation and justification of IATA fare and rate agreements are inadequate to ensure that DOT and interested consumer parties can evaluate their economic merits. In particular, it contends that carrier economic justifications frequently ignore CAB requirements for the provision of full explanatory details, including data sources and allocation methods. It suggests that the new rules make clear that pricing agreements will not be approved without such information. In addition, it suggests that the new procedures require disclosure of all potentially conflicting economic forecasts (e.g. stockholder reports) prepared by each carrier within the preceding year. It also requests that DOT require regular reports from IATA carriers on the financial results of their systems' all-cargo operations, similar to the CAB's Form 242 reports which were recently terminated. And finally, it requests that DOT make it a regular practice to check carrier forecasts against actual results to test the reliability of such projections.

The Department rejects both the revisions to this subpart proposed by IATA and the additional requirements requested by the Electronic Shippers. With respect to IATA's requests, permitting it and other air carrier associations to file agreements in "alternative formats," meeting the intent of each paragraph would make compliance with the documentation requirements largely a matter of subjective judgment. Moreover, IATA has not really explained how the proposed requirements would interfere with technical association matters.

Similarly, proposed § 303.31 merely sets forth a general requirement that each application contain all necessary explanatory material and economic justification under the substantive standards of the Act. What is necessary is indeed specified in various CAB and DOT orders. However, there is no inherent inconsistency between the general requirements in proposed § 303.31 and the various substantive standards which normally must be addressed on a case-by-case basis. The Shippers have raised criticisms of IATA fare and rate submissions, which generally are difficult to translate into specific procedural rules. However, DOT adopts their suggestion that economic justifications must include full

explanatory details, including data sources and allocation methods, and is adding an appropriate provision to proposed § 303.31. This requirement should make public comments more responsive. The Shippers' suggestion that economic justifications also disclose all potentially conflicting economic forecasts made within the previous year is intriguing, but forecasts are rarely, if ever, identical. Requiring extensive information in all cases would appear to be of little analytical value. The Department has considerable background information on each air carrier, and if questions of inconsistency do arise, an explanation can easily be requested. Similarly, the DOT staff does check carrier forecasts against actual results, as well as against pleadings in other dockets. Finally, the request that DOT require all cargo financial and operating data on a regular basis, such as the recently terminated Form 242 reports, is factually unsupported. Numerous CAB reporting requirements were abolished because the burden of collection and review did not justify the limited use of the data, and the Department will not reconsider those determinations without a persuasive showing of changed circumstances.

The Electronic Shippers also request that proposed § 303.32 be revised to require that IATA serve copies of agreements increasing cargo rates on all persons who have demonstrated a *bona fide* interest in the matters covered by the agreements and who have requested service on them. It suggests this could be accomplished by deleting the proposed exclusion of "IATA rate conference" agreements from the service requirement imposed on other air carrier association agreements in that section. It argues that the CAB's reliance on weekly summaries of filed agreements, mailed to all persons requesting them, was misplaced, because processing and mailing delays averaging four to five weeks often rendered effective participation in the Board's decisional process impossible.

IATA, however, takes the position that all of its Traffic Conference agreements should be excluded from the service obligation in proposed § 303.32, not just rate agreements. It notes correctly, that all IATA Traffic Conference agreements (*i.e.* fare and rate coordination, passenger agency and service matters and cargo agency and service matters) were exempt from a service requirement under CAB procedures. It emphasizes that Traffic Conference agreements constituted some 95 percent of all agreement filings with the CAB; that many contained

extensive supporting documentation; that the CAB's procedures have recognized the special nature of these filings by establishing separate, less burdensome, filing and processing requirements; and that neither the CAB's rules in 14 CFR Part 302, Subparts L and P, nor the rules adopted on an interim basis by the Department in 14 CFR Part 303, imposed a service requirement on Traffic Conference agreements. It specifically opposes any rule change that would require service of cargo rate agreements on shippers. It cites, in support of its position, the Board's rejection of such a request in Order 83-10-32 on the grounds that the Board's weekly list of filings, coupled with the ability of shippers to subscribe directly to IATA publications, strikes an acceptable balance between consumer and carrier interests.

The Department is persuaded that some sort of prior service requirement is necessary for Traffic Conference agreements. Ninety percent of IATA filings have a direct impact on what airline consumers, both passengers and shippers, pay. It is particularly important that a means be provided to afford interested consumers a timely opportunity to review and to respond to such agreements. Yet, it is apparent that the notice relied upon by the CAB in recent years has often not met this fundamental test. The Shippers have made a persuasive case that, despite, the efforts of the CAB to expedite the processing and mailing of its weekly list of agreements, receipt in their case was delayed an average of 28 days. In some cases, the CAB had taken action on an agreement before notice of it was received. Delays even approaching this magnitude are not acceptable, particularly given the trend toward a significantly greater volume of Traffic Conference filings and the efforts of both the Board and the Department to expedite the processing of pricing agreements as much as possible. While the Department will strive to provide public notice of accepted filings with considerably less delay than that experienced by the shippers, we cannot at this point rely solely on subsequent notice.

However, requiring IATA to serve its applications on persons who have expressed a prior interest could be unduly burdensome on IATA, for the reasons it suggests. Many Traffic Conference agreement filings are indeed voluminous, and complete service might be unnecessary in many cases. A better balancing of carrier and consumer interests and responsibilities can be achieved, we believe, by requiring IATA

to serve a brief summary of the scope and nature of each agreement on persons who have expressed a prior interest. Only upon further request would IATA be required to provide a complete copy of the agreement and any subsequent pleadings. While the initial burden will fall on IATA to prepare and distribute these summary notices, persons affected by the agreements will need to monitor them and take responsibility for pursuing subsequent procedural steps in cases affecting their particular interests. In addition, the Department is adopting this procedure for all IATA Traffic Conference agreements rather than attempt to differentiate among the various subcategories in terms of consumer and/or carrier importance. The minimum information required in each summary notice is specified in the new § 303.32(b).

Subpart E

This subpart sets forth the procedures that must be followed after an application has been filed under section 408, 409 or 412.

Within ten days after an application is filed, the Assistant Secretary will determine whether the application is in substantial compliance with the requirements of § 303.05. If the application is sufficient, the Department will give the public notice that an application has been filed and afford interested persons the opportunity to comment on the application. Under the proposed rules, if the application concerns a section 408 transaction, the notice will be published in the *Federal Register*. Notice of applications under section 409 and 412 would ordinarily be posted in the Department's Documentary Services Division, and, in important cases, will also be published in the *Federal Register*.

Two commenters request that proposed § 303.41 be amended to provide that all section 409 and 412 applications, like section 408 applications, be published in the *Federal Register*. They contend that the proposed posting of such applications, with optional *Federal Register* publication in cases of broad public significance, is inadequate to assure all interested persons an opportunity to respond. One commenter also suggests that the section provide for a minimum fifteen day comment period following publication.

The Department has reviewed the proposed § 303.41 notice procedures and has decided to make certain modifications. The agency has concluded that providing notice of

accepted applications and further procedural dates on an individual basis will be an unduly cumbersome process. Rather, we will compile a list of all 408, 409, and 412 applications on a weekly basis which will be posted in the Documentary Services Division, and submitted for publication in the **Federal Register**. The efficiency of the list format for the average agreement will result in considerable savings in staff time, mailing cost and publication expense, while at the same time provide three alternative means of public notice for all docketed section 408, 409 and 412, applications. Specifically, notice will be provided by (1) service on persons who have expressed an interest in an application or petition; (2) posting of individual applications and a weekly list of filings in the Documentary Services Division; and (3) publishing the weekly list in the **Federal Register**.

A standard 21-day comment period, which runs from the date of filing, will provide an adequate response time for most agreements notwithstanding some additional processing delay for agreements filed early in the week. For the applications not subject to prior service, the effective comment period may be less than 21 days in some cases, but nonetheless should provide more than ample time for persons to comment. The comment period for significant applications, which may be published separately in the **Federal Register**, may be different.

Following the receipt of comments, the regulations provide a variety of options to the Assistant Secretary. In the case of applications filed under sections 409 and 412, there is no statutory requirement for a hearing. Accordingly, after expiration of the comment period on such applications, the regulations authorize the Assistant Secretary either to approve or disapprove an application without further inquiry. The regulations, however, also give the Assistant Secretary the option of either ordering that an evidentiary hearing be held or issuing an order to show cause why an application should not be summarily approved or disapproved.

Section 408 directs that a hearing be held before deciding whether to approve or disapprove most section 408 applications. Section 408, however, does not specify the particular type of hearing (formal or informal) that is required. Therefore, under the rules, hearings may be conducted by a variety of procedures, ranging from a formal full evidentiary hearing to a less formal show cause procedure. For example, when a section 408 application does not appear to raise factual issues that need to be resolved

in a full evidentiary hearing, the Assistant Secretary may satisfy the hearing requirement by issuing an order to show cause. The order will give both opponents and proponents of the application an opportunity to file written comments on the tentative decision. Show cause orders will be issued after receipt of initial comments on an application. The proposed option of issuing show cause orders at the time of the initial publication of notice of the application has been deleted since it is impractical and unnecessary. The NPRM proposal also provided that, in appropriate cases, the Assistant Secretary could exercise his or her authority under section 408(b)(2) either to approve or disapprove, without a hearing, section 408 applications that do not affect the control of air carriers directly involved in the operation of aircraft. These matters, however, will now be exempt under the exemption provisions of this rule. See § 303.50 *et seq.* Therefore, we are deleting that provision as superfluous.

This subpart also sets out the procedures to be followed when the Assistant Secretary determines that a full evidentiary hearing is necessary. By order, which sets out the issues to be considered and the time frame for a decision, the Chief Administrative Law Judge will be notified that a case has been instituted. He or she will then promptly assign an administrative law judge (ALJ) to the particular case. The Department originally allowed the Chief ALJ 10 days to assign a case to an ALJ, but in light of the strict time limitations usually involved in these cases, and the fact that such assignments are normally made within one or two days, this appeared to be an inordinate period for this task.

ATA asks that the Department adopt the same review procedures used for international route cases, which provide for a senior career official to review ALJ decisions. 14 CFR 302.22a. The Assistant Secretary then can review the decision of the Senior Career Official. After review, the Assistant Secretary is limited to approving the decision or remanding it for further consideration. There are advantages to such a system where there are multiple applications for limited licenses, and where the determination of national transportation policy may or may not result in the selection of a particular applicant. However, merger applications do not present these circumstances. In addition, merger applications are subject to a six month statutory deadline for Department action. 49 U.S.C. 1490. Providing an additional

layer of review, as requested by ATA, would make it difficult, if not impossible, for the Department to meet those deadlines.

With respect to the timetable for completion of hearing cases, § 303.45(d) indicates that the timetable for ALJ decisions will be established in an instituting order. Particularly in merger cases, where there is a very short time period for a final agency decision, this period will necessarily be brief. In the usual merger case, probably no more than 120 days will be available for the hearing and the issuance of the ALJ's recommendations. The instituting order also may outline hybrid procedures, such as the assignment to an ALJ for formulation of the decisional record and a certification of that record to the Assistant Secretary or other persons for a tentative or final decision.

ATA also asks that the Department indicate whether it intends to adhere to CAB precedent when it renders decisions in antitrust-related proceedings. The Department, in fact, intends to do so. Where DOT concludes that a change to existing policy is necessary, ATA requests that that change only be made through means that permit all interested persons, not just parties to proceedings, to comment publicly. It asks that proposed § 303.46 be revised accordingly. In this area, the Department will follow CAB practices. Important policy decisions are often made in individual cases. DOT will rely principally, as the CAB did, on the parties to proceedings to raise arguments with respect to policy alternatives. This will not preclude any interested person from commenting because of the procedural rules provide a wide basis for intervention. See §§ 302.14 and 302.15.

Finally, in their rulemaking petition, the Electronic Shippers ask that procedures be reformed, particularly in IATA rate cases. They suggest that oral argument or hearings be held in major rate cases. The Department believes the changes made in the procedures applicable to IATA resolve the Electronic Shippers' legitimate concerns. Section 303.42 now provides the Shippers and other interested persons the opportunity to comment on the substance of agreement filings and allows them to argue for a hearing. Where a matter of substantial interest arises, it will be incumbent upon the Shippers to suggest the procedures that they believe will be necessary to reach a reasoned decision.

Subpart F

Generally, this part sets out exemptions from the prior approval requirements of sections 408 and 409. The Department's intent was merely to continue existing exemptions for air taxi operators, domestic cargo air carriers, charter operators and acquisitions of aircraft and to make relatively minor changes in four respects. These changes are adopted. However, the comments have convinced the Department to revise the proposed subpart substantially. Before discussing the change to the proposal, the changes from CAB practice are summarized below.

First, the CAB rules exempting air taxi operators and charter operators from section 408 (14 CFR Parts 298 and 380) tied the exemptions to the requirements of the underlying rules, which included many restrictions that are unrelated to antitrust considerations. The Department concludes that the merger exemptions for air taxi operators and charter operators need not be contingent on these factors. Therefore, the Department exempts from section 408 any charter operator, and any air taxi operator that does not operate large aircraft as defined in Part 298.

Second, the CAB rule exempting all-cargo carriers from section 408 (14 CFR Part 291) did not exempt acquisitions involving foreign air carriers. This distinction is not necessary. There is no justification for treating acquisitions involving foreign firms differently from acquisitions involving domestic firms, other than concerns pertaining to air carrier compliance with the citizenship requirements of the Act. Therefore, the Department expands the carrier exemption to encompass such transactions as well. Air carriers are cautioned, however, that a transaction to which section 408 applies may affect their U.S. citizenship under the Act (and hence their certificate to engage in air transportation) and/or continuing fitness requirements and may require a filing under 14 CFR 204.4.

Third, the exemption for interlocking relationships has been broadened. Section 303.53 creates an exemption from section 409 for all persons. Most interlocking relationships within the scope of section 409 raise no competitive concerns and do not warrant close government supervision. If a particular interlocking relationship exempted under this regulation does present a competitive problem, it would be subject to the antitrust laws. In such a case, however, the parties to the transaction still have the option of filing their section 409 agreement with the

Department under proposed Subpart C of these regulations for the purpose of obtaining antitrust immunity.

Finally, a rule has been added that permits any person to apply for an exemption from any of the requirements relating to section 408. Under that rule, the Assistant Secretary may grant an exemption, if he or she determines that an exemption is consistent with the public interest. He or she may attach conditions to an exemption. The Department contemplates that petitions for exemptions will be filed when there is plainly no anticompetitive effect from the proposed transaction or when there are other circumstances that would warrant an exemption. Antitrust immunity will not be granted with an exemption under the rule.

Flying Tiger Line claims that the proposed exemptions narrow those formerly provided by the CAB under 14 CFR 291.31. Under its interpretation, the only transactions not exempt under that rule were those involving two or more air carriers holding authority to operate passenger service. It argues that DOT's conclusion, that the rules merely continue existing CAB exemptions, was incorrect.

While it is not clear that the CAB actually applied the Part 291 exemption as broadly as Flying Tiger suggests, the proposed § 303.51 does appear to be more restrictive than the previous exemption. By its terms the former CAB rule exempted, for example, a transaction between two carriers holding only cargo authority or between a passenger carrier and one holding only cargo authority. See 14 CFR 291.31. Such transactions were, however, subject to a notification requirement. See 14 CFR 291.33. In addition, under 14 CFR 291.32 transactions between persons substantially engaged in the business of aeronautics and any carrier appear to have been exempt from the prior approval requirements of the Act.

These exemptions reflect a broad policy to allow mergers and acquisitions in the airline industry to occur in the same manner as they do in unregulated industries except in those few circumstances where there is a high probability of a significant competitive impact. The Department believes this is a wise policy and will adopt it. In fact, because the Civil Aeronautics Board Sunset Act provides for the termination of the Department's section 408 authority of January 1, 1989, it is all the more appropriate. By limiting the transactions subject to prior approval, DOT will facilitate the transition to the environment where merger oversight is

the province of the Department of Justice and private parties.

Consequently, proposed Subpart F is being revised to include the exemptions currently provided in 14 CFR 291.31(b) and 291.32(a). These two provisions are now consolidated in a General Exemption section under § 303.50. That section provides, in essence, that all transactions, except those involving two or more air carriers each providing passenger air service, are exempt from the prior approval requirements of section 408, provided that notice is sent to the Department's Assistant General Counsel for Litigation and to the Director, Office of Economics. The notice requirement is maintained for transactions that fall within the exemption so that the Department may be alerted to transactions which may raise competitive or public interest concerns. The notice requirement will not be a burden on the parties but will allow the Department, in appropriate cases, to begin proceedings when necessary.

Two changes are being made to the Board's rules that should be noted. First, the direct carrier exemption no longer focuses on whether the carriers hold authority to provide passenger service. Rather, both carriers must be providing passenger service in order for the exemption not to apply. This change is being made because many carriers are holding certificate authority, but do not operate passenger service. These are generally carriers whose merger or consolidation is unlikely to raise competitive concerns. In addition, a "transaction", such as the creation of a subsidiary by a parent company that operates or controls a company that operates passenger service, also will be exempt. These transactions do not affect competition adversely. DOT also has authority to review these transactions when necessary. Second, the Department is expanding the notice requirement, set out in proposed § 303.57, to include transactions involving certificated carriers and persons substantially engaged in the business of aeronautics. This change is being made because some transactions of this kind, such as the purchase of a major parts or aircraft manufacturer by an air carrier, might raise antitrust concerns.

The rules also exempt two types of transactions between carriers providing passenger service. The long-standing exemption for air taxis is renumbered as § 303.51 and titled air taxis to more appropriately state its effects—Exemption for air taxis/small aircraft operations. In addition, the exemption

from section 408(a)(2) and (a)(3) for transactions between carriers operating passenger service is continued so long as they involve only the purchase, lease, or lease with purchase option of aircraft.

Reformulating the exemptions in the manner discussed above also resolves many of the comments we received. The changes reinstate the broader rules, as Flying Tiger suggests, and eliminate the ambiguity in the definition of cargo air transportation with which it was also concerned. In addition, the information moots the request of ATA and USAir that the air taxi exemption be expanded to include air taxi operators or other activities falling within the rubric of being "substantially engaged in the business of aeronautics."

Finally, § 303.55 specifies that an exemption does not confer any immunity under the antitrust laws. We have also revised the proposed section to make it clear that an exemption does not relieve any person of Hart-Scott-Rodino Act preacquisition notification requirements.

The Air Line Pilots Association (ALPA) asks that persons who would otherwise have an automatic exemption from section 408 under Subpart F or under the former CAB rules nevertheless be required to provide notice and information concerning the status of labor protective provisions (LPP's). It suggests that DOT impose an information requirement on such persons similar to that set out in § 303.17.

The Department sees little reason to impose this type of burden on persons otherwise exempt from prior approval requirements. The Department also recognizes that in reviewing individual exemption requests, it must consider the effects of the transaction on the public interest. ALPA notes that the "public interest" standard also includes matters affecting employees. However, section 408 exemptions normally are used only for transactions that do not legitimately involve LP matters, just as the CAB employed these exemptions before passage of the deregulation act and prior to its demise. Therefore, there is no reason to burden the parties with such a requirement. Of course, in particular cases where a legitimate LPP issue arises, ALPA or any other interested party is free to raise the issue with the Department.

ALPA claims that the generic exemptions as proposed expand the former CAB exemptions. These changes, it argues, could leave airline employees unprotected for these transactions. It is largely incorrect since only the foreign all-cargo carrier exemption is new. The others only continue those employed by

the CAB. The Department's rationale for expanding the exemption to foreign all-cargo carriers is explained above.

Of course, the decision to reinstate the general exemption for transactions other than those involving two carriers providing passenger service does operate to exempt more transactions than we originally proposed. The major change of the exemption, however, is to eliminate the obligation to obtain prior approval of a transaction where only one party is an air carrier. Such transactions do not raise the kind of issues LPP's address, particularly the intergration of work forces. See 77 CAB 295 (1978).

Under § 303.54 persons involved in non-exempt transactions may request an exemption for their particular merger. ATA and Southwest request that the Department establish a procedural schedule for such exemption petitions to ensure that such matters are expedited. The Department does not agree. The purpose of this section is to facilitate transactions that should be free of controversy. It is not a device to shorten the statutory time in complex cases. DOT, however, will endeavor to handle them as expeditiously as possible.

American asks that proposed § 305.54(c) be expanded to require service of notice of an exemption application. For the reasons set forth above, in the general discussion of service of applications, American's request is denied. It also requests that persons filing exemption applications be required to make copies available to requesting parties. DOT believes such a requirement would facilitate public comment on exemption applications. Consequently, language has been added to the proposed section to ensure that an interested person can obtain the materials filed under subpart F.

American further suggests that the proposed § 303.58, "Termination of exemption" provision, be revised to make it clear that the provision was designed to deal with blanket exemptions and not individual exemptions granted pursuant to § 303.54. It reasons that, if the section is applied to individual exemptions, the Department would be foregoing its discretion to terminate an individual exemption without a comment. The intent of the provision is that both individually granted and general exemptions be terminable under this section. The Civil Aeronautics Board's policy was that individual exemptions, generally, could be terminated without notice and hearing. However, it normally indicated in orders granting exemptions that it reserved that right. The Department believes this was a

sound practice. Where DOT wishes to reserve the right to revoke an individual exemption without notice and hearing, it will do so in the order granting the exemption. In other cases, notice and hearing are appropriate. Therefore, the proposed provision remains unchanged.

Miscellaneous Issues

In their comments on recommended DOT procedures, the Electronic Shippers request (1) that notice of Special Tariff Permission (STP) applications be given to interested parties, and (2) that the rules governing *ex parte* communications be clarified with regard to the processing of agreement applications.

With respect to notice of STP applications, the Civil Aeronautics Board specifically addressed this issue in 1983, after receiving similar comments from the Electronic Shippers in connection with the establishment of the Standard Foreign Rate Level (SFRL) and the CAB's International Cargo Rate Flexibility Policy (PS-109, Docket 37444, effective February 27, 1983). After reviewing the public notice provisions for STP applications governing international cargo rates, the Board concluded in PS-109 that requiring notice of all STP applications for all interested parties would impose an unwarranted burden on the carriers. "It would be more efficient," the Board found, "to maintain a public file of STP applications in our offices, which interested parties can monitor. This will not create an undue burden on those parties, since professional tariff-watchers already make a business of monitoring newly filed tariff applications daily, and can easily monitor STP applications, if there is a demand for that service." (PS-109, at 20.) We concur with the Board's resolution of this issue, particularly in light of the volume of STP applications received and the very large number of shippers who may be considered "interested parties" for any given cargo rate STP application. The DOT Tariffs Division has maintained the public file on STP applications since CAB Sunset, and will continue to do so.

In PS-109, the CAB also noted that current regulations already provide for notification of "readily identifiable representatives of affected shippers" when STP approval is sought for "obviously controversial filings," under 14 CFR 221.191 (e) and (f). (See ER-1322, effective February 27, 1983.) The vast majority of STP applications are not controversial and thus do not trigger this notification mechanism. In particular, with respect to international cargo rates,

we find that the following categories of STP applications are *prima facie*, non-controversial: (1) STP applications filed to implement previously approved IATA rate agreements; (2) STP applications filed to implement cargo rates within the zones of flexibility established by PS-109, or otherwise exempt from economic justification requirements pursuant to 14 CFR 221.165(d); and (3) STP applications filed to implement cargo rates in markets governed by bilateral aviation treaties that include liberal pricing and entry provisions.

In setting forth these general categories, we are following the established practice of the Board; we see no basis for imposing a sweeping notification requirement for non-controversial STP applications. The procedures we have established provide for direct service of summaries of proposed IATA agreements, public posting weekly of a list of agreements received, a 21-day review and comment period, maintenance of a readily accessible public file of STP applications received, and special notification provisions for controversial STP applications. We believe that these procedures are fully adequate to meet the needs of the Electronic Shippers and other interested parties, and the Shippers have made no persuasive showing to the contrary. Under these circumstances, we see no reason to institute an additional regulation that imposes a blanket requirement for notification of every STP application filed, and we will therefore deny the Shippers' request.

With respect to the *ex parte* issue, major deficiencies in the documentation or economic justification submitted in connection with agreements have been dealt with in the past by issuance, under delegated authority, of an order formally requesting the requisite information. In some cases, this problem results in delay in processing the entire agreement, while, in other cases, action is deferred on that portion of the agreement requiring supplementation. However, for the Department to discharge its agreement responsibilities in a timely manner, it is also necessary, from time to time, for the staff to make oral requests for clarification of agreements and/or their supporting material. Procedurally, therefore, certain section 412 applications are closely analogous to tariff filings. In such cases, substantive communications between the Department and any interested party are not prohibited, unless and until the Department orders an investigation or a complaint is filed or docketed. But all such communications must be

memorialized for the record and filed in the dockets under § 300.3(a)(3). The Department will continue to follow these procedures in processing requests for approval of agreements. They permit the compilation of an adequate record in all cases in the most efficient manner possible, while also insuring that all interested parties have full access to that record. Whenever feasible, responses to Department requests for additional information will be expected to be provided in written form, with copies mailed to any parties who have filed a formal response to the application. In all cases, the questions and responses will be summarized immediately by the Tariffs Section for inspection in the public docket.

List of Subjects

14 CFR Parts 291 and 303

Air carriers, Antitrust, Administrative practices and procedures, Reporting and recordkeeping requirements

14 CFR Part 296

Air carriers, Freight forwarder

14 CFR Part 298

Air taxis, Insurance, Reporting, and recordkeeping requirements

14 CFR Part 380

Charter flights, Reporting and recordkeeping requirements, Surety bonds

PARTS 251, 261, 287, AND 299—[REMOVED]

1. Parts 251, 261, 287, and 299 are removed.

PART 291—[AMENDED]

2. The authority citation for Part 291 continues to read as follows:

Authority: Secs. 101, 102, 204, 401, 407, 408, 416, 418, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 766, 767; 49 U.S.C. 1301, 1302, 1324, 1371, 1377, 1378, 1380, 1388, unless otherwise noted.

§ 291.31 [Amended]

3. Section 291.31 is amended by removing and reserving paragraphs (a)(5) and (b).

§ 291.32 [Amended]

4. Section 291.32 is amended by removing and reserving paragraphs (a) and (b).

§§ 291.33 and 291.35 [Removed and Reserved]

5. Sections 291.33 and 291.35 are removed and reserved.

PART 296—[AMENDED]

6. The authority citation for Part 296 continues to read as follows:

Authority: Secs. 101, 102, 204, 408, 409, and 416, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 767, 768, 771, 49 U.S.C. 1301, 1302, 1324, 1378, 1379, 1386.

§ 296.10 [Amended]

7. Section 296.10 is amended by removing and reserving paragraphs (b) and (c).

§ 296.11 [Removed and Reserved]

8. Section 296.11 is removed and reserved.

PART 298—[AMENDED]

9. The authority citation for Part 298 continues to read as follows:

Authority: Secs. 101(3), 204, 401, 404, 407, 416, 418, 419, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 760, 766, 771, 91 Stat. 1284, 92 Stat. 1732; 49 U.S.C. 1301, 1324, 1371, 1374, 1377, 1386, 1388, 1389.

§ 298.11 [Amended]

10. Section 298.11 is amended by removing and reserving paragraph (g).

§§ 298.12, 298.14 and 298.92 [Removed and Reserved]

11. Sections 298.12, 298.14 and 298.92 are removed and reserved.

PART 380—[AMENDED]

2. The authority citation for Part 380 continues to read as follows:

Authority: Secs. 101(3), 204, 401, 402, 407, 416, and 1102, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 757, 766, 771, 797 (49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, 1502), unless otherwise noted.

§ 380.20 [Amended]

13. Section 380.20 is amended by removing and reserving paragraph (b).

§§ 380.21, 380.22 and 380.44 [Removed and Reserved]

14. Sections 380.21, 380.22 and 380.44 are removed and reserved.

15. Part 303 is revised to read as follows:

PART 303—REVIEW OF AIR CARRIER AGREEMENTS, MERGERS, ACQUISITIONS OF CONTROL, CONSOLIDATIONS AND INTERLOCKING RELATIONSHIPS

Subpart A—General Provisions

- Sec.
303.01 Purpose.
303.02 Definitions.
303.03 Requirement to file application.
303.04 General rules governing application content, procedure, and conditions of approval.

Sec.

- 303.05 Applications requesting antitrust immunity.
- 303.06 Review of antitrust immunity.
- 303.07 Transitional rule.

Subpart B—Section 408 Applications

- 303.10 General provisions concerning contents of applications.
- 303.11 Financial information.
- 303.12 Equipment and facilities information.
- 303.13 Competitive information.
- 303.14 Availability of resources.
- 303.15 Potential public benefits of the proposed transaction.
- 303.16 Potential impact of the proposed transaction.
- 303.17 Labor relations.
- 303.18 Fuel consumption.
- 303.19 Notification under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Subpart C—Section 409 Applications

- 303.20 General provisions concerning contents of applications.
- 303.21 Approval of systems of affiliated and subsidiary companies.
- 303.22 Uninterrupted tenure; no new applications required.
- 303.23 Notice of changes in positions.
- 303.24 Extent of authorization to hold position.

Subpart D—Section 412 Applications

- 303.30 General provisions concerning contents of applications.
- 303.31 Justification for the application.
- 303.32 Service of the application.
- 303.33 Modifications and cancellations.

Subpart E—Procedures Upon Application or Review

- 303.40 Determination of compliance.
- 303.41 Notice.
- 303.42 Comments on application.
- 303.43 Action following the comment period.
- 303.44 Show cause proceedings.
- 303.45 Evidentiary hearings.
- 303.46 Decision by the Assistant Secretary.

Subpart F—Exemptions

- 303.50 General exemptions.
- 303.51 Exemption for airtaxis/small aircraft operators.
- 303.52 Exemption for aircraft acquisitions.
- 303.53 Exemption for interlocking relationships.
- 303.54 Application for exemption for section 408 transactions.
- 303.55 Effects of exemption on antitrust laws.
- 303.56 Termination of exemption.
- 303.57 Notification requirement for certain transactions.

Authority: 49 U.S.C. Subtitle I, sections 1301, 1302, 1303, 1324, 1371, 1377, 1378, 1379, 1382, 1383, 1384, 1386, 1388 and 1551.

Subpart A—General Provision**§ 303.01 Purpose.**

These regulations set forth the procedures by which applications may be made to the Department of Transportation under sections 408, 409,

412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1378, 1379, 1382 and 1384) and procedures governing proceedings to enforce these provisions. These regulations also grant exemptions from sections 408 and 409 for certain types of transactions.

§ 303.02 Definitions.

(a) The term "Act" refers to the Federal Aviation Act of 1958, as amended. (49 U.S.C. 1301 *et seq.*)

(b) The term "Assistant Secretary" means the Assistant Secretary for Policy and International Affairs, or as delegated. As provided in 49 CFR 1.43, the Secretary or Deputy Secretary may exercise any authority in lieu of the Assistant Secretary under the provisions of this Part.

(c) The term "documents" means (1) all written, recorded, transcribed or graphic matter including letters, telegrams, memoranda, reports, studies, forecasts, lists, directives, tabulations, logs, or minutes and records of meetings, conferences, telephone or other conversations or communications; and (2) all information contained in data processing equipment or materials. The term does not include daily or weekly statistical reports in whose place an annual or monthly summary is submitted.

(d) The term "Documentary Services Division" means the Documentary Services Division of the Office of the Assistant General Counsel for Regulation and Enforcement.

(e) The term "hearing" means either a show cause proceeding as provided in § 303.44 of this part or a full evidentiary hearing as provided in § 303.45 of this part, whichever is determined by the Assistant Secretary to be appropriate.

(f) The term "section 408 transaction" means any transaction or relationship made unlawful by section 408(a) of the Act if not approved under section 408(b) of the Act. (49 U.S.C. § 1378 (a) and (b)).

(g) The term "section 409 transaction" means any transaction or relationship made unlawful by section 409 of the Act if not approved under that section. (49 U.S.C. 1379).

(h) The term "section 412 transaction" means any contract, agreement or discussion of a cooperative working arrangement within the scope of section 412 of the Act. (49 U.S.C. 1382).

(i) The term "standard labor protection provisions" means the labor protection provisions imposed by the Civil Aeronautics Board in the *Pan-American—Acquisition of Control of and Merger with National Case*, CAB Order 79-12-163/164/165 (October 24, 1979).

§ 303.03 Requirement to file application.

A person who seeks approval of a section 408, 409 or 412 transaction must file with the Documentary Services Division and application that conforms to the requirements set forth in § 303.04 and § 303.05 of this part.

§ 303.04 General rules governing application content, procedure and conditions of approval.

(a) Unless specifically exempted by these regulations or by an order of the Assistant Secretary, a person filing an application pursuant to § 303.03 of this part shall prepare and file the application in the manner specified in this section. The application shall also contain the information required by the subpart of this part applicable to the type of transaction for which approval is requested. The subparts applicable to each type of transaction are as follows:

- (1) Section 408 transactions: Subpart B;
- (2) Section 409 transactions: Subpart C; and
- (3) Section 412 transactions: Subpart D.

An application may be deemed incomplete if it is not in substantial compliance with these requirements.

(b) The parties to the transaction may file either separate applications or one joint application so long as all the information required herein is submitted for each party to the transaction; except, in the case of non-consensual section 408 transactions, the applicant shall be required to provide the information required herein for its target company only to the extent that such information is available to it. The Assistant Secretary or Administrative Law Judge, if the matter has been assigned to a Judge, upon his or her initiative or upon application, may order the target company or other persons to submit some or all of the information required by this subpart, or other information under 14 CFR 302.19.

(c) The application shall be indexed to correspond to the individual subsections of the applicable subpart. Each page of the application and each document submitted with the application shall be marked with the name, initials, or some other identifying symbol of the applicant. The application shall also indicate the date of preparation and the name and corporate position of the preparer. In addition, for section 408 applications, the intended recipient of each document submitted must be identified.

(d) Where the required information is in data processing equipment, on microfilm, or is otherwise not eye-

readable, the applicant shall provide such information in eye-readable form.

(e) The information provided by the applicant shall be updated in a timely fashion throughout the period of consideration of the application.

(f) If any information or documents required by the applicable subpart are not available, the applicants shall file an affidavit executed by the individual responsible for the search explaining why they cannot be produced.

(g) The Assistant Secretary or the Administrative Law Judge may order any applicant to submit information in addition to that required by the applicable subpart.

(h) An applicant may withhold a document required by this part on the grounds that it is privileged, but each document so withheld shall be identified and the applicant shall supply a brief description of the nature of the document, a written statement indicating the basis of the privilege claimed, and the names of the preparers and recipients of the document. If any interested party contests the assertion of privilege, the document shall be promptly submitted to the Assistant Secretary, or the Administrative Law Judge, if the matter has been assigned to a Judge. Where appropriate, an in camera inspection may be ordered.

(i) The person submitting the application to the Department shall send a complete copy of the application to the Chief, Transportation Section, Antitrust Division of the Department of Justice, at the same time as it is filed with the Documentary Services Division.

(j) The applicant shall, if requested, be responsible for expeditiously providing the application to any interested person, whether or not a party.

(k) Unless otherwise specified in this subpart, all applications shall conform generally to the requirements set forth in 14 CFR Part 302, Subpart A.

(l) In exceptional circumstances, the Assistant Secretary may waive or alter the procedural requirements of this part to permit a transaction to proceed on an expedited basis.

§ 303.05 Applications requesting antitrust immunity.

(a) Each application must state explicitly whether or not the applicant seeks antitrust immunity under the provisions of section 414 of the Act. If antitrust immunity is requested, the application should specify whether the applicant seeks full immunity or immunity only from the provisions of sections 4, 4a and 4c of the Clayton Act, 15 U.S.C. 15, 15a, 15c. Each application seeking antitrust immunity shall contain a statement explaining why the

applicant believes immunity is in the public interest and necessary in order for the transaction to proceed.

(b) Any application for antitrust immunity filed in connection with an application under section 412 (relating to interstate and overseas air transportation) shall specify the duration of such requested immunity, but in no event shall it extend beyond January 1, 1989.

(c) Any material misrepresentation of fact in such an application shall be grounds for rescission *nunc pro tunc* of any antitrust immunity granted as a result of the misrepresentation.

(d) A request for renewal of any immunity granted does not operate under section 558 of Administrative Procedure Act, 5 U.S.C. 558(c), to extend the period of immunity conferred.

§ 303.06 Review of antitrust immunity.

The Assistant Secretary may initiate a proceeding to review any antitrust immunity previously conferred by the CAB or the Department in any section 408, 409 or 412 transaction. The Assistant Secretary may terminate or modify such immunity if the Assistant Secretary finds after notice and hearing that the previously conferred immunity is not consistent with the provisions of section 414. In any proceeding to review such immunity the proponents of the immunity will have the burden of justifying the continuation of previously conferred immunity under the provisions of section 414.

§ 303.07 Transitional rule.

If a section 408, 409, or 412 application or a request for antitrust immunity under section 414 is pending on the date this part is amended, such application or request shall be deemed made pursuant to the provisions of this part, as amended.

Subpart B—Section 408 Applications

§ 303.10 General provisions concerning contents of applications.

A Section 408 Application shall contain the following general information:

(a) The names and mailing addresses of the parties to the transaction and the names, titles, and duties of the officers and directors of each corporation.

(b) A description of the transaction, including the exchange ratio, the terms of any tender offer, and the form of financing.

(c) A copy of the final or most recent draft agreement between the parties relating to the transaction.

(d) The percentage of the outstanding voting securities of either corporation that is owned or controlled by the other

corporation or by the other corporation's officers or directors. The application shall also set forth the consideration paid for these securities, the date and method of their purchase, and the form of payment.

(e) A list of all officers and directorships held in any other corporation which is a common carrier or is substantially engaged in the business of aeronautics by officers or directors of any party to the transaction.

(f) A list of all other financial relationships between the parties to the transaction, or between their officers, directors or major shareholders.

(g) All studies, reports and analyses regarding the proposed transaction or the other party to the transaction made by or for an applicant within three years preceding the application. These materials shall include, but not be limited to, any discussion of the proposed transaction or other party to the proposed transaction with respect to—

(1) Competition, markets, market shares, actual competitors or potential entrants;

(2) Potential for sales growth or expansion into new markets;

(3) Efficiencies or costs of the proposed transaction; or

(4) The financial condition or operating strengths or weaknesses of the proposed partner or target company.

(h) If the applicant is relying for approval of the proposed transaction on a claim that that transaction would meet significant transportation needs of the public and that these needs may not be satisfied by a reasonably available alternative having materially less anticompetitive effects, all studies, reports and analyses made within two years preceding the filing of the application regarding other possible mergers, consolidations, or acquisitions that it had considered.

(i) Any other evidence that applicants wish the Department to consider in addition to that required by this subpart shall also be filed with the application. This evidence shall include all exhibits, data, and testimony on which the applicant intends to base its direct case and the names and addresses of all witnesses whom it will seek to call in the event that an oral evidentiary hearing is held. An applicant is not precluded from later filing answers, replies, or rebuttal exhibits or testimony.

§ 303.11 Financial information.

A section 408 application shall contain the following financial information:

(a) The following reports filed with the United States Securities and Exchange Commission within three years prior to the date of the application:

- (1) All reports filed on Form 10K;
- (2) All registration statements and all reports filed on Forms 10Q and 8K;
- (3) All proxy statements; and
- (4) All Schedules 14 D-1 with all amendments.

(b) Annual reports to shareholders for the three years preceding the application.

§ 303.12 Equipment and facilities information.

A section 408 application shall include the following equipment information:

(a) A list of aircraft owned or leased by the applicant by aircraft type and age.

(b) If the aircraft is leased from others, the owner of the aircraft and the terms of the lease; if the applicant leases aircraft to others, the lessee and the terms of the lease.

(c) A detailed description of all plans and orders for the acquisition, lease or major modifications of flight equipment, including the price and projected delivery date of any aircraft.

(d) A detailed description of all plans and agreements for the sale or lease of aircraft.

(e) A list and description of airport terminal and landing facilities, including terms of tenure.

§ 303.13 Competitive information.

A section 408 application shall contain the following competitive information:

(a) Separate lists of all non-stop city-pairs (1) that are served by the applicant, (2) that are served by the other party to the proposed transaction, and (3) into which the applicant or the other party to the proposed transaction is considering entry, at the time of the application.

(b) All studies, reports, and analyses that were submitted to the applicant's chief executive, financial, marketing, or operating officers, its Board of Directors, its executive committee, or any financial institution, within two years prior to the filing of the application, that discuss route development, internal expansion, service expansion or the marketing plans or strategies of the applicant.

(c) All documents prepared by or for the company within two years prior to the filing of the application that discuss any of the following subjects in relation to any area served by both parties (whether the area discussed in the document is one or more cities, airports, city-pairs, routes, hubs, regions, states,

tiers, service to foreign points or any other geographical area):

- (1) Competition;
- (2) The possibility of new entry;
- (3) Profitability or yield;
- (4) Fare levels or availability of discount fares;
- (5) Capacity or scheduling;
- (6) Load factors or break-even levels;
- (7) Identity of potential entrants; or
- (8) Possible responses to new entry or to changes in a competitor's fares, scheduling, capacity or number of discount seats offered.

(d) All documents prepared by or for the company within two years prior to the filing of the application that discuss any of the topics listed in § 303.13(c) in relation to any area served by the other party to the proposed transaction (whether the area discussed in the document is one or more cities, airports, city-pairs, routes, hubs, regions, states, tiers, service to foreign points or any other geographical area).

(e) A copy of the company's flight schedule effective at the time of the application.

(f) A copy of the company's tariffs or list of applicable fares as of the time of the application.

§ 303.14 Availability of resources.

A section 408 application shall contain a detailed description of the following for each airport served by both parties to the proposed transaction:

(a) The availability of fuel and the policy of fuel suppliers as to the supply and price of fuel to new entrants.

(b) The availability of landing slots at any of the airports that have access allocated by the FAA or are otherwise restricted.

(c) The environmental constraints on each airport that limit or regulate additional service, whether of new entrants to the airport or of expanded service by incumbents. The report on environmental constraints shall include a description of any regulation that affects airport use, including but not limited to noise, air, and surface pollution.

(d) Airport constraints as to the size or type of aircraft that can be operated at the airport, including, but not limited to, such considerations as runway length, availability of ramp space, and safety considerations.

(e) Any constraints with respect to terminal facilities, including but not limited to counter or ticketing space, gate space, baggage or cargo consolidation space, and ramp space.

§ 303.15 Potential public benefits of the proposed transaction.

(a) If a section 408 applicant intends to rely on public benefits to justify approval of its proposed transaction, the applicant shall describe those benefits in detail and include all documents submitted to its chief executive, financial, marketing, or operating officer, its Board of Directors, its executive committee, or any financial institution, that discuss these benefits or the following subjects:

(1) Any decrease in operating costs or increase in operating efficiencies. This should include an estimate of when the savings will be realized;

(2) Service benefits and proposed changes in price/quality options;

(3) Any enhancement of competition and the regions where that enhancement will occur; or

(4) Any changes in employment opportunities.

(b) The applicant shall provide all data, and set forth the method of calculation, upon which its claims of benefits rely.

(c) In describing the public benefits, the applicant shall distinguish between a one-time cost saving or benefit resulting from the transaction and continuing operational efficiencies or benefits.

§ 303.16 Potential impact of the proposed transaction.

A section 408 application shall include all documents that were submitted to the applicant's chief executive, financial, marketing, or operating officer, its Board of Directors, its executive committee, or any financial institution, that discuss the following in relation to the proposed transaction:

(a) Any lessening of competition as a result of the proposed merger.

(b) Any costs that would result from labor protective provisions that are necessary to complete the transaction.

§ 303.17 Labor relations.

A section 408 application shall provide the following labor relations information:

(a) Whether the surviving carrier will accept standard labor protective provisions as a condition of approval of the transaction, and the estimated costs of those provisions.

(b) The number of employees, by each class or craft, employed by each party to the transaction, and the number of employees by class or craft in their employ but on furlough. With respect to those employees on furlough, applicants shall indicate the reasons for such

furlough and the order of recall (and the basis thereof) of these employees.

(c) Whether any plans exist for the dismissal, displacement, transfer, reduction of flying time or furlough of any employees in any class or craft as a result of operating changes which would flow from the proposed transaction. If so, applicants shall list for each such class or craft the number of employees affected, the type of action (*e.g.*, dismissal, transfer, furlough, etc.) anticipated, and the manner in which the plans would be implemented.

(d) Applicants' position with respect to the survivability of existing collective bargaining agreements when the merger becomes effective.

(e) Copies of the collective bargaining agreements applicants have with the different classes of employees.

§ 303.18 Fuel consumption.

(a) A section 408 application shall estimate the amount of fuel that would be consumed by—

(1) The consolidated or commonly controlled entities during the next calendar year following approval; and

(2) Each carrier individually during the next calendar year following disapproval.

(b) With both estimates in paragraph (a), the applicant shall include a statement as to the availability of the required fuel.

§ 303.19 Notification under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Whenever a proposed section 408 transaction is subject to the premerger notification requirements of Title II of the Hart-Scott-Rodino Antitrust Improvement Act of 1976, 15 U.S.C. 18a, a complete copy of such application shall also be filed with the Attorney General and the Federal Trade Commission pursuant to the requirements of 15 U.S.C. 18a(c)(6) and the regulations promulgated thereunder.

Subpart C—Section 409 Applications

§ 303.20 General provisions concerning contents of applications.

(a) All transactions within the scope of section 409 of the Act are exempted from the requirements of that provision by § 303.53, but are not granted antitrust immunity. Persons seeking approval of a transaction under section 409 for purposes of obtaining antitrust immunity under section 414 of the Act must file an application containing the following information:

(1) The full name, place of residence, and citizenship of the individual applicant;

(2) The name and address of the major business or professional activity of the individual applicant;

(3) A complete description of the interlocking relationship for which approval is sought, as well as a description of any other interlocking relationship involving the individual applicant which has been approved or exempted by the Civil Aeronautics Board or the Department of Transportation. This description shall include the date and manner of the individual applicant's election or appointment to the position or positions which he or she occupies or seeks to occupy, and shall state the name or names of the persons primarily responsible, directly or indirectly, for his or her election or appointment. It shall also include a statement of his or her present or contemplated duties in connection with the interlocking relationship for which approval is sought and the approximate amount of time devoted or expected to be devoted thereto;

(4) The name of the person or persons, if any, whom the individual applicant represents or will represent on the board of directors of each air carrier applicant, together with a statement as to any financial interest held by such person or persons in any air carrier, foreign air carrier, common carrier, person substantially engaged in the business of aeronautics other than as an air carrier, or person whose principal business, in purpose or in fact, is the holding of stock in, or control of any other person substantially engaged in the business of aeronautics;

(5) The name and address of each business (including but not limited to corporations, partnerships, trusts, etc.) of which the individual applicant is an officer, director, partner, trustee, receiver, manager, attorney, agent, or controlling stockholder or employee, the general character of each such business and a description of the individual applicant's financial interest therein.

(6) A complete description of any benefit and of the amount of, and basis for, any money or thing of value (i) received by the individual applicant during the last year from each air carrier applicant and from any person with whom the individual applicant has or seeks to have an interlocking relationship, whether for service, reimbursement of expenses or otherwise, and (ii) which the applicant contemplates receiving from any such person during the continuance of the interlocking relationship;

(7) The names and titles of all officers and directors of each air carrier applicant, and of each person with

whom the individual applicant has or seeks to have an interlocking relationship;

(8) The names (i) of the largest stockholders, not exceeding 20, who hold one percent or more of the voting capital stock of any air carrier applicant and (ii) of the largest stockholders, not exceeding 20, who hold one percent or more of the voting capital stock of any person with whom an interlocking relationship is sought by such application to be approved, together with the number of shares of each class of stock held by each of such stockholders and the percentage which such shares bear to the total number of shares of the same class authorized and outstanding. (If all or any part of such shares are held for the account of any person other than the holder, the names of such persons shall be disclosed. If the applicant, after making all reasonable efforts, is unable to obtain disclosure of such information with respect to any of the persons classified under paragraph (a)(8)(ii) of this section, the application shall state specifically the efforts made to obtain such information and the reasons why such efforts were unsuccessful);

(9) A description of the shares of stock or other interests held by each air carrier applicant or for its account in persons other than itself; and

(10) Except in the case of interlocking relationships described in § 303.21, a full description of any professional, financial or other business transactions or arrangements which have been entered into within one year prior to the date of the filing of the application by each air carrier applicant with the individual applicant and by each air carrier applicant or individual applicant with any person with whom the individual applicant has or seeks to have an interlocking relationship, together with a full statement as to any such transactions or arrangements which it is contemplated may be entered into while such interlocking relationship continues.

(b) Each application shall state fully such further facts as the applicants respectively deem desirable in order to show that the public interest will not be adversely affected by the approval of the interlocking relationship.

§ 303.21 Approval of systems of affiliated and subsidiary companies.

(a) In the event that an individual occupies or seeks to occupy an interlocking relationship falling within the purview of section 409(a) of the Act which involves only the holding by him or her of the position of officer or

director in two or more companies within the same system of affiliated and subsidiary companies (as defined in paragraph (b) of this section), an application for approval of such relationships need not comply with the requirements of § 303.20(a)(10) but shall comply with all other requirements of that section. Such application shall also include—

(1) Such information as is necessary to disclose the fact that the companies in which the individual applicant occupies or seeks to occupy the interlocking relationships are members of the system of affiliated and subsidiary companies as defined in this section; and

(2) A statement that the individual applicant does not occupy or seek to occupy any interlocking relationship falling within the purview of section 409(a) of the Act other than those within the same system of affiliated and subsidiary companies.

(b) The individual applicant may include in any application made by him or her pursuant to this part a request for an order authorizing him or her to hold generally, in addition to the positions so specifically requested, directorships of offices within the same system of affiliated and subsidiary companies, and it shall not be necessary to file a separate application with respect to each such relationship. Any applicant assuming a directorship or office pursuant to such authorization shall, not later than 15 days after assuming such directorship or office, make or cause to be made a full and complete report thereof to the Assistant Secretary. As used in this part, the term "system of affiliated and subsidiary companies" shall include only a specified company and those companies of which it, directly or indirectly through one or more intermediate companies, owns 50 percent or more of the voting capital stock issued by such companies.

§ 303.22 Uninterrupted tenure; no new applications required.

After the individual applicant has been authorized by the Assistant Secretary to hold a particular position, further application in connection with each successive term will not be required so long as the individual continues in uninterrupted tenure of such position, unless otherwise ordered by the Assistant Secretary.

§ 303.23 Notice of changes in positions.

In the event of the individual applicant's resignation, withdrawal, or failure of reelection or reappointment with respect to any of the positions for which approval has been granted, or in

the event of any other material or substantial change therein, the individual and each air carrier applicant shall promptly and not more than 30 days after any such change occurs give notice thereof to the Assistant Secretary, setting forth fully the details of any such change.

§ 303.24 Extent of authorization to hold position.

An order by the Assistant Secretary authorizing an individual applicant to hold the position of director of a company will be construed as sufficient to authorize the individual applicant to serve also as chairman of the board of directors or as a member of chairman of any committee or committees of such board.

Subpart D—Section 412 Applications

§ 303.30 General provisions concerning contents of applications.

A section 412 application shall contain the following general information:

(a) The name, mailing address and primary line of business of each party to the contract, agreement or request for authority to discuss a possible cooperative working arrangement.

(b) If the contract or agreement for which approval is sought is not evidenced by a resolution of an air carrier association, the application shall contain a copy of the contract or agreement that is certified to be true and complete by each party to the contract of agreement. If the contract or agreement is set forth in an exchange of correspondence, copies of all such correspondence must be submitted and must be certified as true and complete by all parties to the contract or agreement. If the contract or agreement is oral, a memorandum fully describing the agreement must be submitted and must be certified as true and complete by all parties to the contract or agreement. If approval is sought for a request for authority to discuss a possible cooperative working arrangement, the application shall contain a complete description of the possible cooperative working arrangement and all matters to be discussed. The description shall be certified to be true and complete by each party to the proposed discussion.

(c) If the contract, agreement or request for authority to discuss a cooperative working arrangement is evidenced by a resolution or other action of an air carrier association, the application shall contain the resolution or other action and a certification by an authorized employee of the association

that the resolution or other action was duly adopted on a certain date. The authorized employee shall also specify in such certification the name of each air carrier that concurred in such resolution or other action and the name of each air carrier member that did not concur. Contracts, agreements and requests for authority to discuss cooperative working arrangements may be filed in this manner only if the Association has complied with 14 CFR Part 263.

§ 303.31 Justification for the application.

A section 412 application shall explain the nature and purpose of the contract, agreement or request to discuss a cooperative working arrangement and describe how it changes any price, rule or practice existing under a previously-approved application. The application also, consistent with Department of Tishall contain factual material, documentation and argument in support of the application. Economic analyses, when required, shall include full explanatory details, including data sources and allocation methods. If the applicants intend to rely on public benefits to justify approval they shall describe these benefits, including foreign policy and comity considerations.

§ 303.32 Service of the application.

(a) Except as provided in paragraph (b), below, a section 412 application described in § 303.30(c) of this subpart and any related pleadings shall be served on any person or organization that has previously advised the air carrier association of its desire for service of such agreements. Each application shall contain the names and addresses of all persons served and a notice that any party in interest may within 21 days of the date of the application file comments with the Assistant Secretary in support or opposition to the application.

(b) Service of IATA Traffic Conference agreements and amendments thereto upon any person or organization that previously has advised IATA of its desire for service of agreements may be accomplished by sending a summary notice specifying the filing date; the IATA memorandum number; the particular Conferences involved; the subject matter (e.g. cargo/passenger, tariffs/agency matters/procedures); the proposed effective date(s); the markets or Conference areas affected; the names of the carriers participating in the agreement; the names of all persons served; and a

notice that any party in interest may within 21 days of the date of filing of the application file comments with the Assistant Secretary in support of or opposition to the application. A request for a complete copy of the application can be made under the provisions of § 303.04(j).

§ 303.33 Modifications and cancellations.

This subpart also applies to all modifications or cancellations of contracts or agreements or requests for authority to discuss a possible cooperative working arrangement.

Subpart E—Procedures upon Application of Review

§ 303.40 Determination of compliance.

(a) Within 10 days after an application is filed pursuant to § 303.03, the Assistant Secretary will determine whether the application complies with the requirements of §§ 303.04 and 303.05.

(b) If the Assistant Secretary determines that the application is incomplete, he or she may issue a notice dismissing the application without prejudice. If the application is dismissed, and statutory time period for completion of proceedings will not begin to run until a completed application is filed.

§ 303.41 Notice.

(a) The Documentary Service Division shall compile a weekly list of all applications filed under §§ 303.04 and 303.05. The list shall include a description of the application, the docket number, date of filing, state that it may be reviewed in the Documentary Services Division, and indicate that interested parties may comment on the application or request a hearing within 21 days of the date of filing or other period as specified. The weekly list will normally be prepared on the following Monday, or as soon as possible, and will be posted on a public bulletin board in the Documentary Services Division. The list also shall be submitted for publication in the Federal Register.

(b) In appropriate case, particularly when an application concerns a matter of broad public significance, the Assistant Secretary may cause a notice of an application and request for public comment to be published separately in the Federal Register.

§ 303.42 Comments on application.

(a) Unless a different comment period is specified in the weekly list, or in a notice of filing published in the Federal Register, any person may file comments, responses to the application, and/or a request for a hearing within 21 days of the filing of an application.

(b) Comments supporting or opposing an application or proposing conditions and responses thereto shall state with particularity the factual basis on which the person commenting relies, and provide affidavits or other material in support of the factual basis, if appropriate.

(c) Requests for a formal oral evidentiary hearing must set out with specificity the material issues of fact in dispute that cannot be resolved without such a hearing. Vague, unsupported allegations will not suffice.

§ 303.43 Action following the comment period.

(a) *Section 408 applications.* After the period for which comments or requests for a hearing are due, the Assistant Secretary may issue an order to show cause, or an order requesting further information or justification, or an order instituting a full evidentiary hearing, or other further procedural orders.

(b) *Section 409 and 412 applications.* After the period for which comments, requests for a hearing or responses to an order to show cause are due concerning a section 409 or 412 application, the Assistant Secretary may proceed by order requesting further information or justification or by order of approval or disapproval or, in appropriate causes, may proceed by order to show cause or by order instituting a full evidentiary hearing.

(c) Notice to the public of any full evidentiary hearing or order to show cause concerning an application shall be made by publication in the Federal Register.

§ 303.44 Show cause proceedings.

If the Assistant Secretary determines that an application, or review of a previously granted application, will be considered in a show cause proceeding, a tentative decision shall be issued inviting interested persons to show cause why the tentative decision should not be made final. Interested persons may respond to the order within the time specified in the order. Replies to such responses shall be permitted within the time specified in the order. Persons wishing to introduce additional facts into the record should incorporate such information in their responses or replies by affidavit. In the case of applications, show cause orders may be issued after the receipt of initial comments on the application.

§ 303.45 Evidentiary hearings.

(a) If the Assistant Secretary determines that an application, or review of a previous granted application, should be the subject of a

full evidentiary hearing, he or she shall issue an order so stating. The term "full evidentiary hearing" includes any hybrid format set out in the instituting order. This order shall set forth the issues that are to be considered in such hearing.

(b) After the issuance of an order for a full evidentiary hearing, the Chief Administrative Law Judge shall promptly appoint an Administrative Law Judge to conduct such hearing in accordance with section 7 of the Administrative Procedure Act, 5 U.S.C. 556, and the Rules of Practice in Part 302 of this chapter.

(c) The applicants and the Assistant General Counsel for Aviation Enforcement and Proceedings shall be parties in any full evidentiary hearing held under these regulations. The Assistant Attorney General, Antitrust, shall be a party upon notice filed with the Administrative Law Judge. Other persons may intervene as parties as provided by § 302.15 of this chapter.

(d) Within the time specified in the order instituting the full evidentiary hearing, the Administrative Law Judge shall recommend to the Assistant Secretary that the application be approved or denied or that the previously granted exemption approval or immunity should be terminated or continued in accordance with the standards of the Act. The recommendation shall be in writing, shall be based solely on the hearing record, and shall include a statement of the Administrative Law Judge's findings and conclusions, and the reasons or basis therefore, or all material issues of fact, law or discretion presented on the record. Copies of the recommendation shall be served on each party.

(e) Within 10 days after the date the Administrative Law Judge serves his or her recommendation, any party may file written exceptions to the recommendation for consideration by the Assistant Secretary. Within 21 days after the service date of the judge's recommendation, any party may file a brief in support of or in opposition to any exceptions. This period may be altered by order of the Assistant Secretary, who may also authorize the filing of reply briefs.

§ 303.46 Decision by the Assistant Secretary.

The Assistant Secretary shall decide, on the basis of the record and in accordance with the procedures prescribed in Part 302 of this chapter, whether to grant or deny, in whole or in part, the application. A copy of the

Assistant Secretary's final decision shall be served on all parties.

Subpart F—Exemptions

§ 303.50 Exemptions.

(a) Each direct air carrier providing air transportation of passengers or property is exempted from section 408(a) of the Act, except that the exemption in this paragraph:

(1) Does not apply to transactions that involve two or more direct air carriers each providing passenger air service, and

(2) Is subject to the notification requirement of § 303.57

(b) Indirect air carriers, common carriers that are not air carriers, and persons substantially engaged in the business of aeronautics other than as air carriers, are exempted from section 408(a) of the Act for all transactions that do not involve two or more direct air carriers each providing passenger air service.

(c) This exemption does not affect the requirements of 14 CFR Part 204 for transactions involving foreign air carriers or other foreign citizens or affect continuing fitness requirements under that section.

§ 303.51 Exemption for air taxis/small aircraft operators.

(a) *Definition.* "Air taxi operator" means an air carrier that directly engages in the air transportation of persons but that does not operate any aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.

(b) *Exemption.* Parties to a transaction to which section 408 applies only by reason of the involvement of one or more air taxi operators are exempted from the operation of section 408.

§ 303.52 Exemption for aircraft acquisitions.

(a) *Definitions.* For the purposes of this section "Aircraft" means any aircraft, as defined in the Act, together with spare parts and accessories maintained for installation or use on it.

(b) *Exemption.* All persons are hereby exempted from section 408 (a)(2) and (a)(3) of the Act for any transaction that involves only the purchase, lease, or lease with purchase option of aircraft.

§ 303.53 Exemption for interlocking relationships.

Air carriers, other common carriers, persons substantially engaged in the business of aeronautics, and their respective officers, members, stockholders and directors are exempt from the operation of section 409 of the Act.

§ 303.54 Application for exemption for section 408 transactions.

(a) Any person may file with the Department of Transportation an application for an exemption from the operation of section 408 of the Act.

(b) An application for exemption shall contain the following:

(1) A brief, clear description of the transaction or relationship for which an exemption is sought, including, if relevant, a copy of any agreement memorializing such transaction or relationship;

(2) An identification of the parties involved in the transaction or relationship; and

(3) An explanation of why an exemption is in the public interest, including (i) why it is needed, (ii) why it is appropriate, and (iii) a description of any effects on competition from the transaction or relationship (In providing this description, parties should consider the information required in a section 408 application, as set forth in §§ 303.10 through 303.19 of this part, and determine whether any portion of that information should be supplied).

(c) A notice of any application for exemption shall be published in the *Federal Register*, together with notice of any hearing which the Assistant Secretary determines to be appropriate.

(d) Upon request, the complete application shall immediately be made available by the applicant to any interested person. Any person may comment on any application for exemption within fifteen days from the date of filing or such other time as is specified in the *Federal Register* notice.

(e) The Assistant Secretary shall issue a decision on an exemption petition after any comments have been received, granting the exemption if found to be in the public interest, with conditions if he or she finds certain conditions appropriate, or denying the petition.

(f) If a petition for exemption is denied, approval for the transaction or

relationship may be requested as provided in these regulations.

(g) A grant of exemption under this section does not confer any immunity from the antitrust laws, nor does it reflect the enforcement intentions of the Department of Justice under the antitrust laws with respect to the transaction.

§ 303.55 Effects of exemption on antitrust laws.

The exemptions granted under §§ 303.50 through 303.54 only operate to exempt persons from sections 408 and 409 of the Federal Aviation Act. Such exemptions do not constitute orders, within the meaning of section 414 of the Act, and confer no immunity or relief from the "antitrust" laws or any other statute. These exemptions do not relieve any person from the preacquisition notification requirements of the Clayton Act, 15 U.S.C. 18a, which apply to certain transactions involving firms with annual sales or assets of \$10 million or more.

§ 303.56 Termination of exemption.

The Assistant Secretary may terminate any exemptions provided under this subpart with respect to any transaction the Assistant Secretary determines, after notice and comment, to be inconsistent with the provisions of the Act or the public interest.

§ 303.57 Notification requirement for certain transactions.

(a) The exemption in § 303.50(a) is subject to the following condition:

(1) Notice of any acquisition or other control transaction between (i) a section 401 certificated carrier and a carrier certificated under either section 401 or 418 of the Act, or (ii) a person substantially engaged in the business of aeronautics and a carrier certificated under either section 401 or 418 of the Act, shall be filed with the Department's Assistant General Counsel for Litigation not later than 45 days before the effective date of the transaction. The Department may invoke any of the powers and procedures described in section 408(b)(3) of the Act within 45 days after notice is filed.

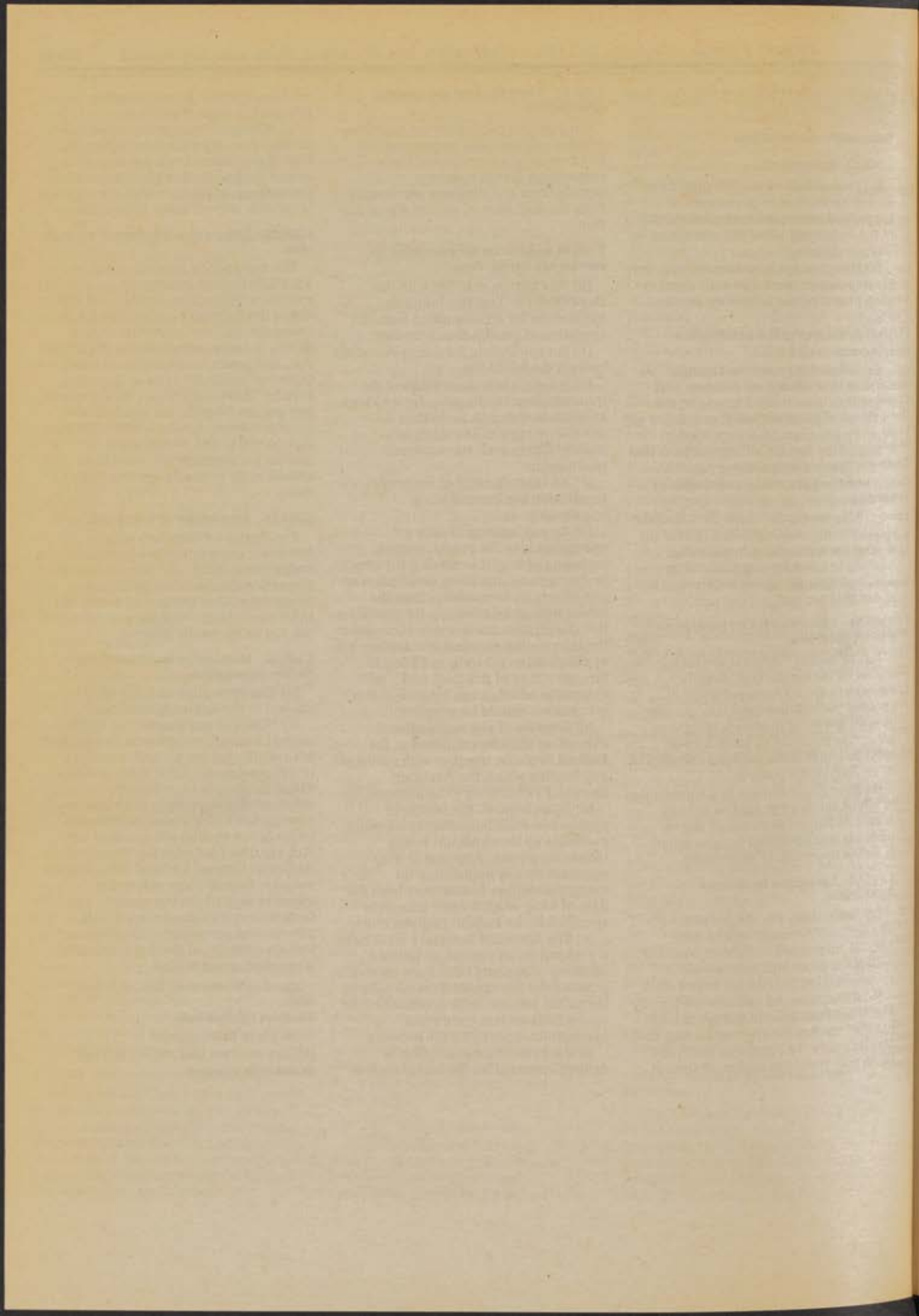
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Elizabeth Hanford Dole,

Secretary of Transportation.

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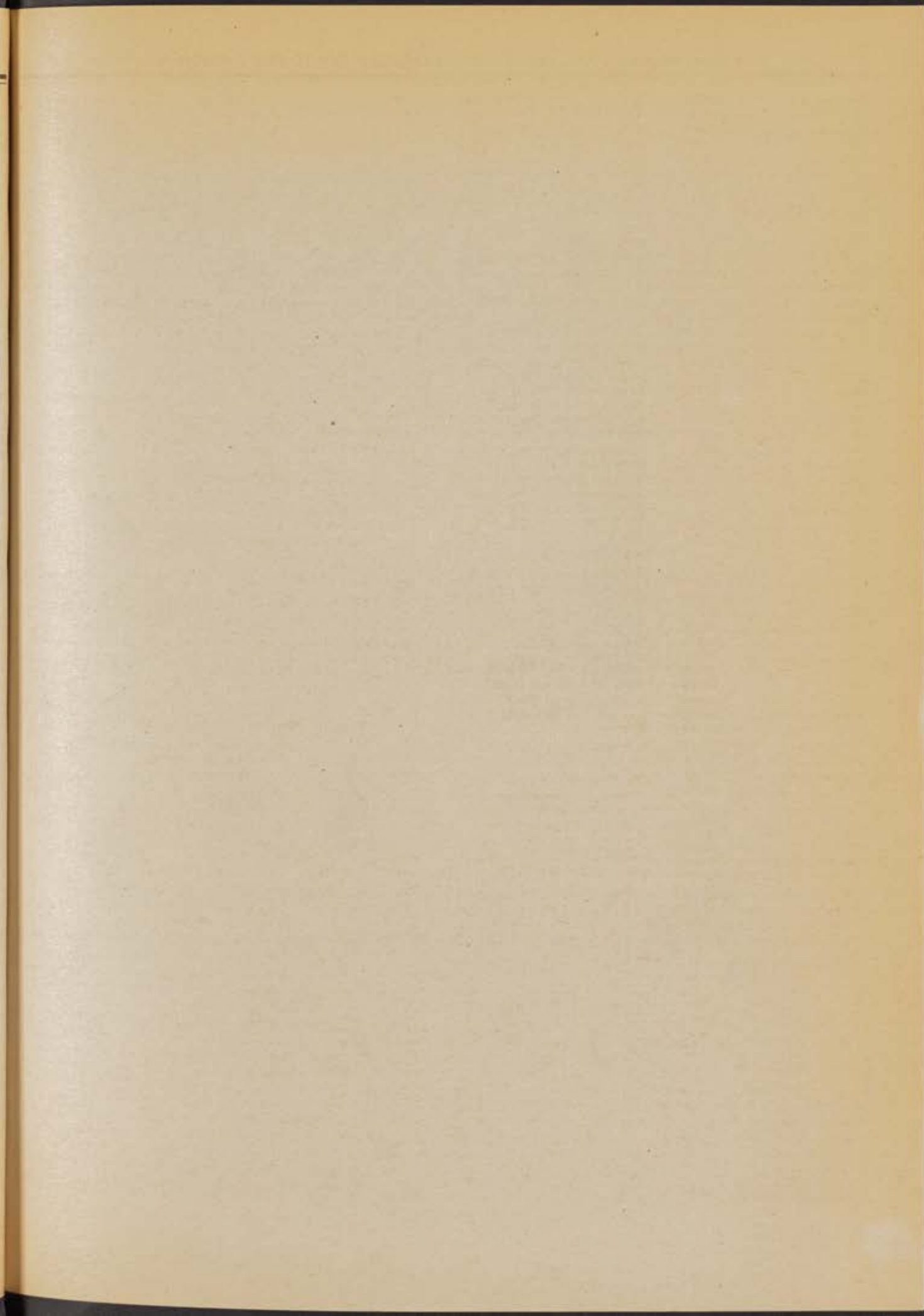
National Bureau of Standards Authorization Act for Fiscal Year 1986. (July 29, 1985; 99 Stat. 171) Price: \$1.00

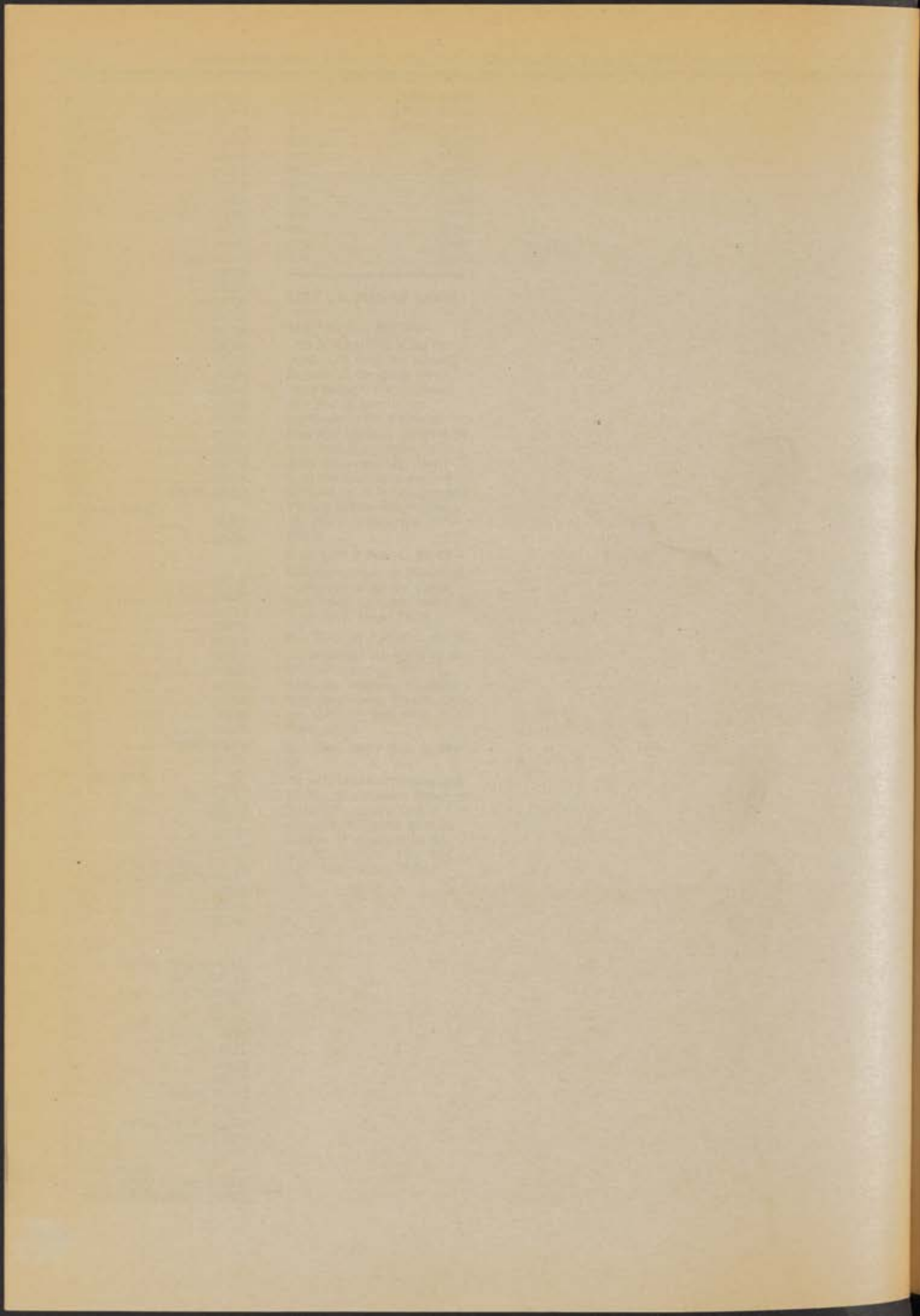
S.J. Res. 86 / Pub. L. 99-74

To designate the week of July 25, 1985, through July 31, 1985, as "National Disability in Entertainment Week". (July 29, 1985; 99 Stat. 175) Price: \$1.00

S.J. Res. 144 / Pub. L. 99-75

To authorize the printing and binding of a revised edition of Senate Procedure and providing the same shall be subject to copyright by the author. (July 29, 1985; 99 Stat. 176) Price: \$1.00





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