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Federal Register

Monday
January 6, 1986

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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Coast Guard

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Coast Guard

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Hazardous Waste
Environmental Protection Agency

Hunting
Fish and Wildlife Service

Income Taxes
Internal Revenue Service

Motor Vehicle Safety
National Highway Traffic Safety Administration

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

How to Cite This Publication: Use the volume number and the page number. Example: 51 FR 12345.

Navigation (Water)
Coast Guard

Pesticides and Pests
Environmental Protection Agency

Wages
Personnel Management Office

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

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: January 17; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Howard Landon 202-523-5227 (Voice)
Melanie Williams 202-523-5229 (TDD)

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington and on an annual basis in Federal regional cities. Dates and locations will be announced later.

NOTE: There will be a sign language interpreter for hearing impaired persons at this briefing.

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Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 352

Reemployment Rights

AGENCY: Office of Personnel Management.

ACTION: Revocation.

SUMMARY: The Office of Personnel Management is removing from Title 5 of the Code of Federal Regulations the regulations that permitted Federal agencies to grant reemployment rights to employees who served in the Economic Stabilization Program authorized by the Economic Stabilization Act of 1970. This amendment is needed because that Act has expired, and there is no longer any legal authority for such reemployment.

EFFECTIVE DATE: January 6, 1986.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, 202–632–6817.

SUPPLEMENTARY INFORMATION: Section 212(g) of the Economic Stabilization Act of 1970 provided reemployment rights for certain employees hired under the Economic Stabilization Program. Regulations implementing this provision were set out in Subpart F of 5 CFR Part 352. The Economic Stabilization Act expired in April 1974. Although certain of its provisions were incorporated in Executive Order 11788, which transferred duties to the Council on Wage and Price Stability, and in legislation authorizing the Council and the Department of Energy, neither the Executive order nor the statutes included the reemployment provisions. Therefore the regulations in Subpart F of 5 CFR Part 352 are obsolete.

Pursuant to sections 553(b)(B) and 553(d)(3) of title 5, United States Code, I find that good cause exists to waive the general notice of proposed rulemaking and to make this amendment effective in less than 30 days. The regulation is being made effective immediately because it does not change OPM's actual authority to grant reemployment rights, but merely removes from the regulations reference to an authority that no longer exists.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

List of Subjects in 5 CFR Part 352

Administrative practice and procedure, Government employees.

U.S. Office of Personnel Management.
Constance Horner,
Director.

PART 352—REEMPLOYMENT RIGHTS

§§ 352.601—352.608 [Removed]

Accordingly, the U.S. Office of Personnel Management is amending 5 CFR Part 352 by removing and reserving Subpart F consisting of §§ 352.601 through 352.608.

[FR Doc. 86–136 Filed 1–3–86; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-CE-38-AD; Amdt. 39-5206]

Airworthiness Directives; Airborne Division, Parker Hannifin Corporation, Airborne Dry Air Pump Models 241CC-13, 242CW, 441CC, 441CC-7, 442CW, 442CW-4, 442CW-12, 4A2-1 and 4A3-1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Airborne Dry Air Pumps installed on piston engine airplanes which requires identification of the serial numbers and the removal of the affected pumps. The drive shafts of the listed pumps may not have been properly brazed during manufacture, and therefore will have a very short operational life. The removal of these pumps from service will prevent early failure of the vacuum or pressure source for critical flight instruments.

DATES: Effective January 7, 1986. Compliance: As prescribed in the body of the AD.

ADDRESSES: Airborne Service Letter No. 30 dated November 11, 1985, applicable to this AD may be obtained from Betty Annable, Parker Hannifin Corp., Airborne Division, 711 Taylor Street, Elyria, Ohio 44036; Telephone (216) 323–4676. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Smalley, Aerospace Engineer, Systems and Equipment Branch, ACE–130C, FAA Central Region, Chicago Aircraft Certification Office, 2300 East Devon Ave., Des Plaines, Illinois 60018; Telephone (312) 694–7126.

SUPPLEMENTARY INFORMATION: Airborne has reported to the FAA that during production testing, two dry air pumps failed to operate. Upon disassembly of the pumps, Airborne discovered that a brazing operation had not been completed on a drive shaft joint. The joint is designed to be a press fit which is then brazed. Because the press fit will normally operate the pump for a short period of time, the brazing error was not immediately identified by the production testing. Inspection of pumps not yet shipped and pumps returned by customers, showed pumps shipped prior to September 1, 1985, were properly brazed and only those shipped after September 1, 1985, could possibly have the problem. When the press fit slips, the drive shaft will turn in the rotor drive plate and the pump will cease to function with loss of vacuum or pressure to any instruments or systems operated by the pump.

Since the FAA has determined that the unsafe condition described herein is likely to exist in other pumps of the same type design and time of manufacture, an AD is being issued requiring the removal of these pumps from service. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public

procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Airborne Division, Parker Hannifin Corporation: Applies to the following Airborne Dry Air Pumps and Auxiliary Dry Air Pumps installed on piston engine airplanes certificated in any category:

Airborne part number	Serial numbers
Dry Air Pumps:	
241CC-13	10AA30 through 10AA36 and 10AA38.
242CW	10AA281 through 10AA293.
441CC	9AA260 through 9AA288, 9AA291, 9AA294, 9AA295.
441CC-7	9AA929 through 9AA-949, 9AA953, 9AA954, 9AA956, 9AA957, 9AA959.
442CW	9AA850 through 9AA875, 9AA880 through 9AA886, 9AA888 through 9AA903, 9AA905 through 9AA921, 9AA928, 9AA934, 9AA936, 9AA939, 9AA940, 9AA945 through 9AA952, 9AA955 through 9AA958, 9AA962 through 9AA967.
442CW-4	10AA173 through 10AA179, 10AA182 through 10AA199, 10AA201, 10AA202.
442CW-12	10AA356, 10AA357, 10AA386, 10AA389.
Auxiliary Dry Air Pumps:	
4A2-1	9AA44 though 9AA46,
4A3-1	9AA56, 9AA59 through 9AA66, 9AA73, 9AA79 through 9AA82, 10AA83 through 10AA88, 10AA90 through 10AA94, 10AA96, 10AA114, 10AA126, 10AA130, 10AA131, 10AA132, 10AA138, 10AA150, 10AA154, 10AA155, 10AA159, 10AA161.

Note.—These pumps were not available for installation before September 1, 1985. Therefore, new Airborne Dry Air Pumps or Auxiliary Dry Air Pumps installed previous to that date are exempt from this AD. Pumps that have been reworked by Airborne will have a white date code stamped on the pump housing near the discharge port. This will indicate that the pump complies with this AD.

Compliance: Required as indicated, unless previously accomplished. To prevent premature failure of the Airborne Dry Air and Auxiliary Dry Air Pumps, accomplish the following:

(a) For Dry Air Pumps P/N's 241CC-13, 242CW, 441CC, 441CC-7, 442CW, 442CW-4, and 442CW-12, prior to further flight in IFR conditions, inspect installed dry air pump(s) to determine if one of the subject pumps is installed.

(1) If one of these pumps is installed, and if the airplane is equipped for IFR flight, fabricate using minimum 0.10 inch letters, and install a placard in full view of the pilot which states; "FLIGHT IN IFR CONDITIONS PROHIBITED", and operate in accordance with this limitation.

(2) And within 15 days of the effective date of this AD, replace the subject pump and remove the placard. Return pump to Airborne as described in Airborne Service Letter No. 30, dated November 11, 1985.

(b) For Airborne Auxiliary Dry Air Pump P/N 4A2-1 or 4A3-1, prior to further flight in IFR conditions, inspect the auxiliary dry air pump if installed, to determine if one of the subject pumps is installed.

(1) If one of these pumps is installed, fabricate using a minimum of 0.10 inch letters and install a placard in full view of the pilot which states: "STANDBY VACUUM SYSTEM MAY BE INOPERATIVE DUE TO VACUUM PUMP MALFUNCTION".

(2) And within 30 days of the effective date of this AD, repalce the subject pump and remove the placard. Return pump to Airborne as described in Airborne Service Letter No. 30, dated November 11, 1985.

(c) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(d) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 232, Des Plaines, Illinois 60018, Telephone (312) 694-7357.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Betty Annable, Parker Hannifin Corp., Airborne Division , 711 Taylor Street, Elyria, Ohio 44036 or the FAA, Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on January 7, 1986.

Issued in Kansas City, Missouri, on December 23, 1985.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-114 Filed 1-3-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-153-AD; Amdt. 39-5210]

Airworthiness Directives; Lockheed-California Company Model L1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires a resistance check for dormant shorted capacitors in the oxygen initiator sequence timer switch(es) and replacement(s), as necessary, on Lockheed Model L-1011-385 series airplanes. This AD is prompted by a recent incident wherein the passenger oxygen system on an L-1011-385-3 airplane failed to activate, automatically and manually, after the loss of cabin pressure during descent. The system failure was attributed to two shorted transient suppression capacitors in the oxygen initiator sequence timer switch. Failure to activate the passenger oxygen system after loss of cabin pressure may adversely affect the safety of the passengers.

DATES: Effective January 21, 1986. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. George Y. Mabuni, Aerospace Engineer, Systems & Equipment Branch, ANM-132L, FAA, Northwest Mountain

Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548–2831.

SUPPLEMENTARY INFORMATION: On October 18, 1985, an incident occurred in which an L–1011–385–3 series airplane, while descending from 20,000 feet to 19,000 feet, experienced a loss of cabin pressure. The loss of cabin pressure did not result in an automatic activation of the passenger oxygen system, and the flight crew attempted to activate the system manually by depressing the Passenger Oxygen Manual switch. The PASS OXYGEN—NORMAL MASK and OVERRIDE MASK circuit breakers were tripped, interrupting the 28V DC power required to deploy the oxygen masks.

Subsequent investigation revealed that two transient suppression capacitors in one of the oxygen initiator sequence timer switch (sequencer) were shorted to ground, thus causing excessive current draw.

Current periodic checks to verify the integrity of the passenger oxygen system failed to detect the condition of the transient suppressor capacitors in the sequencer. Therefore, dormant shorted transient suppressor capacitors may exist undetected until the circuit breakers trip when the passenger oxygen system is initiated.

The L–1011–385–1 series airplanes have one sequencer; the L–1011–3 series airplanes have two sequencers.

Lockheed California Company issued Service Bulletin 093–35–041, dated December 18, 1985, which describes a resistance check of the sequencer(s) to detect dormant shorted transient suppressor capacitors.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires a resistance check and replacement, as necessary, of the sequencer(s), in accordance with the Lockheed service bulletin mentioned above.

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

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulation as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a); 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive § 39.13:

Lockheed-California Company: Applies to Lockheed Model L–1011–385 series airplanes, certificated in any category, equipped with Dynamic Controls Corporation oxygen initiator sequence timer switch(es), Part Numbers 11035–2/–3 Compliance is required as indicated, unless previously accomplished.

To prevent malfunction of the passenger oxygen system when activated, due to dormant shorted transient suppression capacitors in the oxygen initiator sequence timer switch(es), accomplish the following:

A. Within 30 days after the effective date of this AD, perform a resistance check of oxygen initiator sequence timer switch(es) in accordance with Lockheed Service Bulletin 093–35–041, Part I, dated December 18, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective January 21, 1986.

Issued in Seattle, Washington, on December 27, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–116 Filed 1–3–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–170–AD; Amdt. 39–5211]

Airworthiness Directive; Lockheed California Company Model L–1011 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires testing of all passenger cabin doors to determine if they will open in the emergency mode within prescribed time limits, and replacing, as necessary, components in the door opening mechanism on Lockheed Model L–1011 series airplanes. This AD is prompted by the report of a door failing to open completely after being deployed in the emergency mode following an emergency landing because of an inflight fire. This AD is necessary because the loss of the use of one or more passenger doors can jeopardize passenger/crew safety during an emergency evacuation.

DATES: Effective January 21, 1986. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Lockheed California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Franklin Tiangsing, Aerospace Engineer, Systems and Equipment Branch, ANM–131L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548–2831.

SUPPLEMENTARY INFORMATION: One incident has been reported recently

where, during an investigation of an inflight fire, it was determined that one of the passenger doors failed to open fully when deployed in the emergency mode with the slide raft girt bar detached. The door was cranked down and deployed a second time approximately one week later and again failed to open completely. The failure of the door (the L2) to open fully within the required 6.0 seconds indicates that the door emergency mode system with the girt bar attached may be unable to deploy the stored slide-raft (or slide) in an actual emergency. Such a failure would reduce the number of exists available during the evacuation.

The Lockheed California Company issued Service Bulletin 093–52–206, dated December 20, 1985, which provides operators with instructions for testing and repairing, as necessary, all the passenger doors. It should be noted that all L–1011–385–1 series airplanes are provided with four pairs of passenger doors. The large majority of these airplanes, including all currently U.S. registered airplanes, have three pairs of Type A doors and one pair of Type I doors in the aftmost position. A few L–1011–385–1 series airplanes are equipped with four pairs of Type A doors. All L–1011–385–3 series airplanes are equipped with three pairs of Type A doors.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires a test of all passenger doors in accordance with the service bulletin mentioned above.

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

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulation as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a); 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive to § 39.13:

Lockheed-California Company: Applies to Lockheed Model L–1011 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished within 90 days prior to the effective date of this AD.

To prevent loss of the availability of one or more passenger doors during an emergency evacuation due to malfunction of the door emergency mode opening system, accomplish the following:

A. Within 30 days after the effective date of this AD, test and repair prior to further flight, as necessary, all passenger doors in accordance with Lockheed Service Bulletin 093–52–206, dated December 20, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance with this AD which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base for accomplishment of the tests or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. These documents may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective January 21, 1986.

Issued in Seattle, Washington, on December 27, 1985.

Fred Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–117 Filed 1–3–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket Number 85–ACE–12]

Designation of Transition Area; West Plains, MO.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition are at West Plains, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the West Plains, Missouri, Municipal Airport, utilizing the West Plains Non-directional Radio Beacon (NDB) as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR), and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

EFFECTIVE DATE: March 13, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure is being developed for the West Plains, Missouri, Municipal Airport utilizing the West Plains NDB as a navigational aid.

The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at West Plains, Missouri, at or above 700 feet above the ground within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A, dated January 2, 1985.

Discussion of Comments

On page 42715 of the Federal Register dated October 22, 1985, the Federal

Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at West Plains, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[Amended]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 71 of the FAR (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending § 71.181 as follows:

West Plains, Missouri

That airspace extending upward from 700 feet above the surface within a 7 mile radius of the West Plains Municipal Airport (latitude 36°52'43" N., longitude 91°54'08" W.), within 3 miles each side of the West Plains NDB (UNO) (latitude 36°52'42" N., longitude 91°54'02" W.) 185° bearing extending from the 7 mile radius to 8.5 miles south of the West Plains NDB.

This amendment becomes effective at 0901 G.m.t., March 13, 1986.

Issued in Kansas City, Missouri, on December 19, 1985.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-115 Filed 1-3-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AEA-8]

Designation of Transition Area, Moneta, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Moneta, VA. A new VOR/DME Runway 23 instrument approach procedure has been developed to the Smith Mountain Lake Airport. The transition area is to provide protected airspace for aircraft departing/arriving under instrument flight rules (IFR).

EFFECTIVE DATE: 0901 G.m.t., May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Joseph Kelley, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

SUPPLEMENTARY INFORMATION:

History

On October 12, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Smith Mountain Lake Airport, VA, to provide controlled airspace from 700 feet above the surface for IFR arrival/departure aircraft at Smith Mountain Lake Airport (50 FR 46450). A new VOR/DME Runway 23 instrument approach procedure has been developed to the Smith Mountain Lake Airport. Interested parties were invited to participate in this proposed rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7460.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates a new transition area at Smith Mountain Lake Airport, VA. A new VOR/DME Runway 23 approach procedure has been developed to the Smith Mountain Lake Airport. This action provides protected airspace for aircraft arriving/departing under instrument flight rules.

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

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

PART 71—[Amended]

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

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Moneta, VA [New]

That airspace extending upward from 700 feet above the surface within a five statute mile radius of the Smith Mountain Lake Airport (lat. 37°06'28" N., long. 79°35'34" W.); and within 1.5 miles each side of the Lynchburg VORTAC 242° radial, extending from the five mile radius area to seven miles northeast of the airport.

Issued in Jamaica, New York, on December 13, 1985.

Timothy L. Hartnett,

Acting Director, Eastern Region.

[FR Doc. 86-112 Filed 1-3-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 24877; Amdt. No. 1311]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain

airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the **Federal Register** on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence, SW., Washington, DC 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examinations or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airman (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Issued in Washington, DC on December 27, 1985.

John S. Kern,

Acting Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as followed:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 CFR 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(3)).

2. By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective 13 March, 1986

Oakland, CA—Metropolitan Oakland Intl. NDB Rwy 27R, Amdt. 3
Lihue, HI—Lihue, ILS Rwy 35, Amdt. 4

. . . Effective 13 February, 1986

Selma, AL—Craig Field, VOR Rwy 32, Amdt. 3
Mountain View, AR—Harry F. Wilcox Mem Fld, NDB-A, Original
Chester, CT—Chester, RNAV Rwy 17, Orig
Metter, GA—Metter Muni, NDB Rwy 9, Orig
Hailey, ID—Friedman Memorial, NDB-A, Original, Canceled
Bangor, ME—Bangor Intl, VOR/DME Rwy 33, Amdt. 4
Sanford, ME—Sanford Muni, VOR Rwy 7, Amdt. 2
Sanford, ME—Sanford Muni, VOR Rwy 25, Amdt. 12
Frederick, MD—Frederick Muni, VOR Rwy 23, Amdt. 8

Detroit, MI—Detroit Metropolitan Wayne County, ILS Rwy 3L, Amdt. 9
Detroit, MI—Detroit Metropolitan Wayne County, ILS Rwy 3R, Amdt. 8
Detroit, MI—Detroit Metropolitan Wayne County, ILS Rwy 21L, Amdt. 4
Detroit, MI—Detroit Metropolitan Wayne County, ILS Rwy 21R, Amdt. 21
Helena, MT—Helena Regional, ILS Rwy 26, Amdt. 7
Jamestown, NY—Chautauqua County, VOR/DME Rwy 7, Amdt. 3
Malone, NY—Malone-Dufort, VOR-DME-A, Original
Saranac Lake, NY—Adirondack, NDB Rwy 23, Amdt. 4
Lima, OH—Lima Allen County, ILS Rwy 27, Orig
Wapakoneta, OH—Neil Armstrong, VOR-A, Amdt. 4
Wapakoneta, OH—Neil Armstrong, RNAV Rwy 26, Amdt. 2
Bend, OR—Bend Municipal, VOR/DME Rwy 16, Amdt. 6
Grove City, PA—Grove City, VOR-A, Amdt. 4
Pittsburgh, PA—Greater Pittsburgh Intl, RADAR-1, Amdt. 23, Canceled
Galax/Hillsville, VA—Twin County, VOR/DME Rwy 18, Amdt. 4
Martinsville, VA—Blue Ridge, SDF Rwy 30, Orig
Martinsville, VA—Blue Ridge, NDB Rwy 30, Amdt. 1
Seattle, WA—Seattle-Tacoma Intl, VOR Rwy 16L/R, Amdt. 10
Seattle, WA—Seattle-Tacoma Intl, NDB Rwy 16L/R, Amdt. 5

Effective 16 January, 1986

Pago Pago, American Samoa—Pago Pago Intl, VOR/DME or TACAN-A, Amdt. 3
Pago Pago, American Samoa—Pago Pago Intl, VOR/DME or TACAN-B, Amdt. 3
Pago Pago, American Samoa—Pago Pago Intl, VOR-D, Amdt. 5
Pago Pago, American Samoa—Pago Pago Intl, NDB-C, Amdt. 5
Peipeinimaru, N. Mariana Islands—West Tinian, NDB-A, Original

Effective 24 December, 1985

Corpus Christi, TX—Corpus Christi Intl, VOR or TACAN Rwy 17, Amdt. 24
Rockport, TX—Aransas Co, NDB 1 Rwy 14, Amdt. 5
Rockport, TX—Aransas Co, NDB 2 Rwy 14, Amdt. 1

Effective 23 December, 1985

Toledo, OH—Toledo Express, ILS Rwy 7, Amdt. 21

Effective 19 December, 1985

Flint, MI—Bishop, ILS Rwy 9, Amdt. 19
Fond du Lac, WI—Fond du Lac County, SDF Rwy 36, Amdt. 5

[FR Doc. 86-119 Filed 1-3-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM85-19-000; Order No. 442]

Generic Determination of Rate of Return on Common Equity for Public Utilities

Issued December 26, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) determines that the average cost of common equity for the jurisdictional operation of electric utilities during the year ending June 30, 1985, was 15.36 percent. The Commission also determines an average "ratemaking rate of return" of 14.37 percent for the same period. The average "ratemaking rate of return" will be the basis for the quarterly benchmark rates of return.

The Commission also amends the quarterly indexing procedure which establishes and updates the benchmark rates of return. Pursuant to this rule, new benchmarks will be established for filings made after February 1, 1986.

As indicated in § 37.8 of the Commission's regulations, these benchmark rates of return are advisory only. The benchmark rates of return established as a result of this proceeding are intended to guide companies and intervenors in individual rate cases and to serve as a reference point for the Commission in its deliberations. The Commission may take official notice of them in individual rate proceedings.

EFFECTIVE DATE: The final rule is effective February 1, 1986.

FOR FURTHER INFORMATION CONTACT:

Marvin Rosenberg, Chief, Financial Analysis Branch, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, (202) 357-8283

or

Ronald Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20236, (202) 357-8282.

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I. Introduction

In accordance with the new Part 37 of its Regulations, as amended herein, the Federal Energy Regulatory Commission (Commission) is determining in this order: (1) The average cost of common equity and (2) the average "ratemaking rate of return" [1] on common equity for the jurisdictional operations of public utilities [2] for the year ending June 30, 1985 (hereafter the "base year"), and (3) a quarterly indexing procedure to update the cost estimate and establish benchmark rates of return on common equity for use in individual rate cases. This is the second annual proceeding. The benchmark rates of return established in this proceeding are advisory only.

The Commission's intent is to produce more accurate and consistent rate of return decisions, to involve the Commission on an ongoing basis in a consideration of the financial and operating circumstances of the industry and, ultimately, to reduce the resources directed to this issue by applicants, intervenors, and the Commission.[3] We have previously discussed the statutory requirements applicable to electric rates subject to the Commission's jurisdiction and the Commission's reasons for attempting to develop a generic or benchmark approach to the measurement of the cost of common equity for individual electric utilities in rate cases.[4] The Commission's statements in Order No. 420 continue to hold true for this second year of the advisory period.

On July 19, 1985, the Commission issued a Notice of Proposed Rulemaking (NORP) in Docket No. RM85–19–000 [5] proposing to determine (1) the average cost of common equity for the jurisdictional operations of public utilities for the base year and (2) a quarterly indexing procedure to establish benchmark rates of return on common equity for use in individual rate cases. The Commission proposed:

(1) To place primary reliance on the Discounted Cash Flow (DCF) method for estimating the market required rate of return on common equity;

(2) To use an industry average flotation cost adjustment (reflecting issuance costs only) to the market required rate of return; and

(3) To use a quarterly indexing procedure based on changes in the median dividend yield for a sample of 100 electric utilities.

In the NOPR, the Commission made more detailed proposals with regard to implementing these three basic proposals.

These more detailed proposals will be discussed herein as the Commission proceeds with its discussion of the components of the determination of the average cost of common equity for the base period and of the quarterly indexing procedure.

As indicated in Section 37.8 of the Commission's regulations, these benchmark rates of return are advisory only. The benchmark rates established as a result of this proceeding are intended to guide companies and intervenors in individual rate cases and to serve as a reference point for the Commission in its deliberations. The Commission may take official notice of them in individual rate proceedings and the Commission will determine the weight to accord these benchmark rates based on the record in each case. In this regard, the Commission urges participants in rate cases to evaluate the reasonableness of the applicable benchmark in light of any special circumstances of the filing utility.[6] The Commission is using the results from the initial two year advisory period under Part 37 as a test of the likely consequences of making application of the generic rate of return a rebuttable presumption in rate cases.

In responses to the NOPR, 22 parties submitted comments: 16 individual utilities or groups of utilities, an electric utility trade association, 4 individual utility customers, groups of utility customers or representatives of utility customers, and 1 regulatory commission staff.[7] Most of the comments favored primary reliance on the DCF approach to estimate the cost of common equity and several included comprehensive studies estimating the cost during the base year. Most commenters also favored the Commission's proposal to incorporate an estimate of the industry average flotation cost in the benchmark rate of return. Finally, there was general support for the use of a dividend yield-based indexing mechanism and for the imposition of some limit on the quarterly changes in the benchmark.

In response to the comments and after consideration of the issues involved, the Commission has decided to adopt a procedure for determining and updating the benchmark rate of return that is different in three respects from the procedure used in the first annual proceeding:

(1) It uses a formulation of the DCF model that is somewhat different from the one that the Commission adopted in the last proceeding and proposed in the NOPR, to reflect more accurately the timing and growth of quarterly dividend payments and to recognize a relationship between nominal and effective required rates of return;

(2) It adjusts the average effective cost of common on equity determined by the new DCF model to reflect certain ratemaking practices of this Commission and obtain the "ratemaking rate of return" which shall be the basis for the quarterly benchmark rates of return, and

(3) It uses the most recent two quarters of data on dividend yields as

[1] This term, used for the first time in this proceeding, as discussed in section III. B., *infra*, is the rate of return on common equity that, when applied to rate base, will give investors the opportunity to obtain the effective market required rate of return on common equity and give firms the opportunity to recover flotation costs.

[2] The terms "public utilities" and "electric utilities" are used interchangeably.

[3] Generic Determination of Rate of Return on Common Equity for Public Utilities, 50 FR 21802 (May 29, 1985) (Docket No. RM84–15–000) (Final Rule) (Order No. 420) (Issued May 20, 1985) (to be codified at 18 CFR 37.9).

[4] Order No. 420, 50 FR at 21803.

[5] Generic Determination of Rate of Return on Common Equity for Public Utilities, 50 FR 30207 (July 24, 1985) (Docket No. RM83–19–000) (Notice of Proposed Rulemaking) (Issued July 19, 1985).

[6] The primary exception to the application of the benchmark rate of return to a utility during a rate case is when the utility is significantly more or less risky than the average utility

[7] These groups of utilities or customers are referred to by identifying acronyms in the text that follows. *See* Appendix D for a listing of the acronyms and the parties that they signify

the basis for updating the benchmark rate of return; in contrast, the NOPR proposed to use only the most recent quarter's dividend yields.

As detailed below, the Commission estimates that the average cost of common equity for the jurisdictional operations of electric utilities during the base year was 15.36 percent. This is based on an effective required rate of return of 15.32 percent and a flotation cost adjustment of 0.04 percent. The average "ratemaking rate of return" corresponding to this cost estimate was 14.37 percent.

Updated estimates of the average ratemaking rate of return will be used to establish the quarterly benchmark rates of return for use in individual rate cases. In mid-January of 1986, the Commission will announce the first benchmark rate of return in this proceeding, based on the dividend yields for the last two quarters of 1985, and applicable to rate filings made between February 1, and April 30, 1986.

II. Basic Conclusions

A. The Average Ratemaking Rate of Return for Jurisdictional Operations of Electric Utilities for the Year Ending June 30, 1985

In the following sections of this order, the Commission places primary reliance on the DCF approach to estimating the effective required rate of return on common equity. The Commission chooses the following DCF Model to evaluate the effective required rate of return for the base year:

$$k = \frac{D_0}{4P_0}\left[(1+k)^{.75} + (1+k)^{.5} + (1+g)(1+k)^{.25} + (1+g)\right] + g$$

were:

k = effective required rate of return on common equity

$\frac{D_0}{P_0}$ = current dividend yield (current indicated annual dividend rate divided by current market price)

g = expected dividend growth rate

The Commission then evaluates the specific components of that DCF model. In particular, the current dividend yield for the base year is estimated as 10.03 percent. The growth rate is estimated as 4.5 percent. Using these values in the above model, the Commission estimates that the effective required rate of return for the base year was 15.32 percent.

Next, the Commission evaluates the reasonableness of this result by reference to the corroborative evidence submitted by commenters. The Commission concludes that this estimate of the effective required rates consistent with the corroborative evidence in the record, as well as with other publicly available data.

Based on a review and analyses of the comments on flotation costs, the Commission next adjusts the effective required rate by 4 basis points to obtain the cost of common equity for the base year of 15.36 percent.

The Commission then reviews the evidence of FERC-jurisdictional risks (vis-a-vis retail risks) and concludes that the record evidence supports the conclusion that there is no appreciable risk differential in the cost of common equity for the average utility attributable to jurisdictional differences.

Finally, the average cost of common equity is adjusted downward, according to a formula, to arrive at the average ratemaking rate of return of 14.37 percent that reflects the measure the Commission uses to estimate rate base. [8]

B. Overview of the Commission's Findings and Commenters' Studies of the Cost of Common Equity

Table 1 summarizes nine commenters' studies of the cost of common equity for the base year, [9] by presenting the commenters' estimates of the components of the cost of common equity along with the models and the size of the samples used in these estimations. Table 1 also presents the Commission's findings with respect to these factors.

TABLE 1.—Estimates of the Average Cost of Common Equity to Electric Utilities for the Year Ending June 30, 1985 [1]

Commenter [2]	Sample size	Model used [3]	In percentage						
			Current dividend yield	Quarterly dividend adjustment	Adjusted dividend yield	Constant growth rate	Required rate of return	Flotation cost adjustment	Cost of common equity
SWEPCO	106	2	10.62	.48	11.10	4.56	15.66	.45	16.11
EEI	101	2	10.48	.47	10.95	4.48	15.43	.28	15.71
NEP	100	1	9.98	.26	10.24	5.24	15.48	(4)	(4)
		1	9.98	.27	10.25	5.40	15.65		
NSP	100	1	10.03	.25	10.28	5.00	15.28	.22	15.50
BEC	100	1	10.08	.25	10.33	4.88	15.21	.04	15.25
								.29	15.50
AUS	96	1	10.03	.23	10.26	4.60	14.86	.11	14.97
		[5] 1	10.03	.24	10.27	4.75/4.50	15.06	.11	15.17
FA Staff	100	1	10.00	.22	10.22	4.40	14.62	.04	14.66
Cooperatives [6]	89	1	9.94	.22	10.16	4.39	14.55	.00	14.55
Commission	100	6	10.03			4.50	(7)	.04	[7] 14.37
GSA	100	1	[8] 10.05			3.69	14.00	.00	14.00
		1	[8] 10.05			3.92	14.24	.00	14.24

[1] Some of the values listed are not reported directly by the commenter but are, instead, the result of a simple mathematical calculation using the values reported by the commenter. Workpapers explaining this calculation have been placed in the public files for this docket.

[2] See Appendix D for identification of commenters.

[3] See Appendix E or Section III. A. For a listing of the models. Models 3, 4, and 5 are proposed by commenters but have not been used in empirical studies of the base year cost of common equity.

[4] NEP states that the Commission should include a flotation cost adjustment but does not recommend a numerical value.

[5] Two-stage growth model.

[6] *See* Section III. B., *infra*, for an explanation of this concept.

[7] Southern Company also presents a study which estimates the cost of capital for the base year as 15.04 percent. Initial Comments at 11–12. However, Southern Company no longer appears to support the model used in that study. Reply Comments at 4. Both models which Southern Company presents are quarterly models not too disimilar to that adopted by the Commission in this proceeding.

[6] Industry-wide study results. Cooperatives believe tht the industry should be separated into risk classes. Studies are presented which estimate the base year cost of common equity for a "non-nuclear group" and a "nuclear group" as 13.94 percent and 15.88 percent, respectively.

[7] The Commission has found that the effective required rate of return on common equity for the base year is 15.32 percent. Adding the flotation cost adjustment of 0.04 percent yields a cost of common equity of 15.36 percent. When that rate is adjusted for the relationship between the way the rate base is calculated and the rate of return necessary to generate returns consistent with investors' expectations, the resulting "ratemaking rate" is 14.37 percent.

[8] GSA calculates the cost of capital for 24 periods of the base year. The values shown are the averages for these 24 periods.

[9] The 10.05 reported by GSA appears to be an error. The data reported by GSA yields an average of 10.12. In addition, the GSA cost of common equity results can only be duplicated using a current dividend yeild of 10.12.

1. DCF Model

Most commenters' studies used the model adopted in Order No. 420, which the Commission proposed in the NOPR to use in this proceeding. However, based on the comments in response to the NOPR,[10] and the Commission's analysis of them, this rule adopts a new DCF model.[11]

The new DCF model more accurately recognizes quarterly dividend payments and the effect of their timing because the model reflects when dividends are received and how they grow over the year. The new DCF model also distinguishes between investors' nominal and effective required rates of return. The Order No. 420 model was intended to estimate the investor's nominal quarterly required rate of return on common equity. The new model determines the investors' effective required rate of return.[12] There is a mathematical relation between these rates.[13] They represent different ways of looking at investors' return requirements. As explained below, however, neither of these rates is proposed to be used as the benchmark rate of return.[14]

This rule also concludes that, because of the interrelationship between the way rate base is computed and the rate of return necessary to generate returns consistent with the estimated investors expectations,[15] it appears the ratemaking rate of return should be different from the investors' effective (and nominal quarterly) required rates of return. Both the effective rate and the nominal quarterly rate of return on common equity required by investors when applied to the Commission's measure of rate base appear to allow the utility to earn more than enough to meet its dividend payments and achieve the growth implied by investors' return requirements. The appropriate rate depends on the basis on which the rate base is set. The appropriate rate—the ratemaking rate—depends on the number of periods used in the computation of the rate base.[16] If each succeeding rate base value includes the effects of reinvesting retained earnings, after payment of dividends, from previous periods of the test year, a rate of return lower than the effective rate is sufficient to give the utility enough dollars to satisfy investor requirements. The correct rate of return, or a close approximation of it, can be estimated from the cost of common equity by using the following general formula:[17]

$$k_r = (m)[(1+k_c)^{1/m}-1]$$

where

k_r = "ratemaking rate of return" corresponding to the cost of common equity, k_c, and

m = number of periods used in the rate base determination

The Commission's finding of the effective required rate of return for the base year using the new model is 15.32 percent. Adding a flotation cost adjustment of 0.04 percent yields a cost of common equity of 15.36 percent. Because dividends are paid quarterly, some investors may be inclined to think in terms of nominal quarterly rates. The nominal quarterly rate associated with the cost of common equity expressed as an effective rate of 15.36 is 14.55 percent.[18] [19]

Because the Commission uses a 13 month average rate base,[20] the correct ratemaking rate is approximated by specifying m=13 in the above formula, which yields an average ratemaking rate of return for the base year of 14.37 percent:

$$k_r = 13[(1.1536)^{1/13}-1] = 14.37 \text{ percent.}$$

2. Sample Size and Dividend Yield

All commenters' studies used broad-based samples of companies and, as a result, the differences among the commenters' estimates of the current dividend yields are generally small. The Commission chooses the same sample of 100 companies as in the previous proceeding. This sample is chosen by applying standards which are intended to produce a broad-based sample of predominantly electric utilities for which the necessary data is available.[21] The Commission estimated the dividend yield (10.03 percent) as the median dividend yield for the 100 firm sample based on indicated dividend rates and an average of monthly high and low market prices for each quarter.[22]

3. Constant Growth Rate

The Commission's finding for the growth rate is based upon both a fundamental analysis and a two-stage growth model. The Commission carried out these two analyses using plausible ranges of the component parameters for each analysis. The resulting Commission estimate (4.5 percent) lies in the middle of the range of the commenters' estimates of the constant growth rate.[23]

4. Required Rate of Return

The differences in the commenters' estimates of the required rate of return result largely from the model chosen and the growth rate used. The two models used in these studies, including the model adopted by the Commission in Order No. 420, do not properly account for the quarterly receipt of dividends.[24]

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[10] Other DCF models were proposed by commenters who did not present empirical studies estimating the cost of common equity for the base year.

[11] *See* Section III. A., *infra*.

[12] *See* Appendix B for a discussion of effective and nominal rates of return.

[13] Except for certain technical points, the difference between the effective rate and the nominal rate is that the effective rate accounts for both the utility's retained earnings and the reinvestment of intra-year dividends by the shareholders.

[14] *See* Section III. B., *infra*.

[15] Within the context of the DCF model, investors' expected rates of return are, in equilibrium, equal to their required rates of return.

[16] If the rate base components increase over time due to plant additions exceeding retirements and depreciation expense, a rate base determined on the basis of the beginning of year rate base estimates will, for example, be smaller than a rate base determined on the basis of 13 month average rate base estimates. To provide enough dollars to satisfy investors' return requirements, a higher ratemaking rate of return is required if the rate base is determined on a beginning of the year basis than if it is determined on a 13 month average basis.

[17] This formula is only appropriate if the number of periods used in the rate base determination is no less than the number of dividend payments made in a year.

[18] As explained in Appendix B, the formula to convert from the yearly effective rate to the nominal quarterly rate is:

$$.1455 = 4[(1.1536)^{.25}-1]$$

[19] The Commission's model uses interative techniques to find the market required rate of return. A computer program to calculate both the market required rate of return and the ratemaking rate of return has been placed in the public files. In addition, as discussed below, the "continuous compounding" model, model (5), $D_0/P_0 + g$, provides a very close approximation of the nominal quarterly rate. Using the Commission's dividend yield (D_0/P_0) of 0.1003 and growth rate, g, of 0.045 from Table 1, model (5) provides an approximation of 14.53 percent:

$$.1453 = 0.1003 + .045.$$

This approximation is within 2 basis points of the nominal quarterly rate of .1455 percent estimated by the Commission's new model.

[20] 18 CFR 35.13(h)(4) (1984).

[21] *See* Section III. C., *infra*.

[22] *See* Section III. D., *infra*.

[23] *See* Section III. E., *infra*.

The commenters generally use a dividend yield estimate close to that of the Commission. The Commission's growth rate estimate is in the middle of the range of commenters recommendations. The interaction of these factors results in the Commission's finding of the effective required rate of return on common equity of 15.32 percent falling in the upper half of the range of commenters' estimates of the required rate of return.

5. Flotation Cost Adjustments

The Commission allows for recovery of the industry average annual amount of flotation costs, based on near-term projections. The Commission's flotation cost adjustment of .04 percent allows recovery of the average issuance costs associated with new stock issues. In general, those commenters which recommended higher flotation cost adjustments use as amortization method which recovers flotation costs on all outstanding stock over the infinite life of that stock.[25]

6. Cost of Common Equity

Adding the flotation cost adjustment of 0.04 percent to the effective required rate of return of 15.32 percent yields the Commission's estimate of the cost of common equity of 15.36 percent. The Commission's ratemaking rate, which takes into account the relationship between the way the rate base is calculated and the rate of return necessary to generate returns consistent with investors' reguirements, is 14.37 percent. The commenters' estimates are not adjusted to account for this relationship.

III. Summary and Analysis of Comments on Particular Components of Generic Rate of Return Determination and Commission Conclusions as to Those Particular Components

A. Formulation of the DCF Model

In the NOPR the Commission expressed its intention to place primary reliance on the discounted cash flow (DCF) method for estimating the market-required rate of return on common equity.[26] The particular formulation of the DCF model that the Commission proposed to rely on was the one used in Order 420:

(1) $k = [D_0/P_0](1+.5g)+g$

where

k = market required rate of return [27]

D_0/P_0 = current dividend yield (current annual dividend rate divided by current market price)

g = expected annual dividend growth rate

$(1+.5g)$ = dividend adjustment factor for quarterly dividend payments

The Commission noted that in proposing this formulation of the DCF model it did not wish to foreclose consideration of improvements in existing alternatives or any new and innovative analyses as may be developed in the future. The Commission requested comments on its proposed formulation of the DCF model and asked any commenters proposing alternative models to provide comprehensive explanations of such methods and their major assumptions.

Several commenters respond by proposing models for a DCF analysis different from the model the Commission proposed to rely upon. The commenters suggest four alternative models. Several commenters propose the following model:

(2) $k = [D_0/P_0](1+g)+g$, where the symbol have the same meaning as in equation (1) above.[28]

The Southern Company proposes [29] a model of the form:

$$(3)\quad k = \frac{A_0(1+k)^{.75} + A_0(1+k)^{.50} + A_0(1+k)^{.25} + A_0}{P_0} + g$$

where

k = market required rate of return

D_0 = current annual dividend rate

$$A_0 = \frac{D_0[1+.5g]}{4}$$

g = expected dividend growth rate

P_0 = current market price

PSCol proposes [30] the same model that it did in the Docket No. RM84-15-000 proceeding. This model consists of:

$$(4)\quad P_0 = \left\{\frac{(1+k)}{(1+k)-(1+g)}\right\}\left\{\sum_{t=1}^{4}\frac{D_{u,t}}{(1+k)^{N_{u,t}}}\right\}$$

where

P_0 = current stock price

k = market required rate of return

g = expected dividend growth rate

$D_{u,r}$ = the dividend for the r^{th} quarter of the u^{th} dividend year

$N_{u,r}$ = the number of days divided by 365 (i.e., the fractional part of a year) between the present day and the date of $D_{u,r}$.

Finally, WCG recommends an alternative model: [31]

$$(5)\quad k = \frac{D_0}{P_0} + g$$

where

k = market required rate of return

$\frac{D_0}{P_0}$ = current dividend yield (current annual dividend rate divided by current market price)

g = expected dividend growth rate.

Model (2) assumes that the total dividends received during a year are received at the end of the year. AUS provides a derivation of this model from the general form DCF model.[32] The commenters supporting model (2) make several arguments. EEI argues generally that model (2) is a reasonable and widely used method for determining an annual cost of equity.[33] EEI believes its model is a reasonable approximation of the effective rate found from a quarterly

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[25] *See* Section III. G., *infra*.

[26] Order No. 420, 50 FR 30,208.

[27] Model (1) is a yearly model. In Order No. 420 the resulting k was used as an estimate of a nominal quarterly rate. *See* Appendix B for a discussion of nominal and effective rates.

[28] These commenters are EEI, the AEP companies, CP&L, WTU, and SWEPCO. Also included in this group are the commenters that endorse the position of EEI: Duke, SCEd, and WPL.

[29] Southern Company proposes a different model in its Initial Comments. Initial Comments at 11-12. However, Southern Company no longer appears to support that model as Southern Company claims in its reply comments that its proposed model (3) "accurately reflects the cost to the company of making quarterly rather than annual dividend payments." Reply Comments at 4.

[30] Initial Comments of PSCol at 3.

[31] Initial Comments of WCG at Appendix D.

[32] Initial Comments of AUS at 22.

[33] Initial Comments of EEI at 7.

model in which dividends grow each quarter at a constant rate.[34]

The Southern Company argument for model (3) is that this model reflects the fact that investors' valuations reflect quarterly dividends rather than annual dividends. Southern Company contends that this model accounts for these quarterly payments better than alternative models. Southern Company also contends that the quarterly payment of dividends means that the cost to the company is higher than it would be if utilities paid annual dividends.[35]

PSCol argues that an acceptable model must reflect when dividends are received. PSCol further contends that its proposed model (4) does this, and is the only model that provides an unbiased reflection of the process that actually occurs in securities markets.[36]

WCG, supported by the Minnesota DPS in its reply comments, argues that model (5) is the appropriate model to use. WCG argues that "inherent in the mechanics of ratemaking is the fact that whatever return on common equity is allowed by the Commission the actual effective return to the company and investors will be higher."[37] WCG goes on to argue that its model is appropriate because the amount by which the realized rate of return to equity is greater than the permitted rate of return will always be greater than or equal to the adjustment to the dividend yield (D_0/P_0) implied by discrete compounding. For this reason, according to WCG, any adjustment to (D_0/P_0) for discrete compounding produces excessive returns.[38]

The comments on the question of what formulation of the DCF model should be used have caused the Commission to reexamine its conclusions in Order Nos. 420 and 420-A as to the formulation of the model that seems most able to capture the essential attributes of dividend payment and shareholder expectations; in particular, that dividends are paid quarterly and that they are likely to increase at some point during the next year.

The Commission's analytical process in deciding to reevaluate the model formulation was to start with the general form of the DCF model and make certain assumptions. The first two are the standard assumptions that dividends grow at the same rate each year, and that the required rate of return is the same in every period. The next two assumptions reflect (1) the fact that dividends are paid quarterly, and (2) that the annual dividend increase, on average, occurs halfway through the year. The latter assumption was made in the model used in Order No. 420. The Commission there noted that "from the perspective of the average company or the average investor, the next dividend increase is a half year away."[39]

To determine which constant growth DCF model is consistent with these assumptions, the Commission incorporated these concepts into the general form DCF equation and derived the following constant growth DCF model:[40] where the symbols have the same definitions as in the equations above.[41]

$$(6)\ K=\frac{D_0}{4P_0}[(1+k)^{.75}+(1+k)^{.5}+(1+g)(1+k)^{.25}+(1+g)]+g$$

The market required rate of return on equity may be expressed in terms of either a yearly effective rate or a nominal rate, such as a nominal quarterly rate. The effective rate tells the shareholder how many dollars he will receive at the end of the year per dollar invested. The nominal rate is another way of expressing this return. Since dividends are paid quarterly, some investors may find it convenient to think of the market required rate of return in nominal quarterly terms. By dividing the nominal quarterly rate by four the shareholder knows the return he will receive each quarter. He can then compute the equivalent effective rate. For example, a nominal quarterly rate of 12 percent tells the investor that he will receive 3 percent per quarter, but over the year he will receive the effective rate of 12.55 percent. The nominal and effective rates are two ways of describing the same thing and a mathematical formula exists for converting from one to the other.[42] The Commission recognizes that since dividends are paid quarterly there are those who are more comfortable in thinking in terms of nominal quarterly rates. The yearly effective rate may be converted to this nominal rate using the following example: Nominal quarterly rate = 4[[1 + effective rate]$^{.25}$ − 1].

The Commission believes that the new model more accurately portrays the implications of the timing of the cash flows to investors than does the Order No. 420 Model, since it is derived from an explicit evaluation of quarterly rather than annual cash flows. The Order No. 420 Model evaluates the first year dividend rate for the yield component in the model as simply the sum of the projected dividends during the first year and, effectively, assumes this sum is received by investors at the end of the first year. The new model likewise estimates the projected dividends during the first year but it reflects the benefits to investors of getting the dividends in four quarterly installments rather than in a lump sum at the end of the first year. These benefits are, of course, the additional return investors may obtain by reinvesting the dividends received quarterly in the same or another comparable investment until the end of the year.

$$\text{Effective Required Rate of Return} = [1+\frac{[\text{nominal rate}]}{4}]^4-1$$

[34] *Id.*

[35] Reply Comments of Southern Company at 3-4.

[36] Reply Comments of PSCol at 5.

[37] Initial Comments of WCG at 9-10.

[38] *Id.*

[39] Order No. 420, 50 FR 21810.

[40] *See* Appendix A for derivation.

[41] The market rate of return in model (6) is found by an iterative procedure which is relatively simple to perform with a programmable calculator or a computer. However, without these tools the process can be quite cumbersome. The Commission has found that Model (5), $D_0/P_0 + g$, provides a close approximation of the nominal quarterly rate associated with the effective required rate of return of Model (6). It has been found that this approximation is within 2 basis points for a relatively extreme range of dividend yield and growth rate combinations. For a dividend yield of 15 percent and a growth rate of 6 percent, Model (5) is within 2 basis points. For a dividend yield of 7 percent and a growth rate of 3 percent, Model (5) is within 1 basis point.

The following formula converts the nominal quarterly rate to the effective required rate of return:

The Commission is not adopting Model (5), but rather using it only as an estimate of the nominal quarterly rate associated with the effective required rate of return. *See* Appendix B for a discussion of nominal and effective rates.

[42] *See* Appendix B for a discussion of nominal and effective rates.

Also, with respect to the dividends for the first year, both models can be viewed as assuming, for purposes of estimating the first year's dividends, that, "from the perspective of the average company or the average investor, the next dividend increase is a half year away."[43] The Order No. 420 Model does this by multiplying the current annual dividend rate by one and one half the growth rate. The new model reflects this assumption by evaluating the four quarterly dividend payments separately. In the new model, the first two dividend payments in the initial year are assumed to be at the current rate. The last two payments (the third and fourth quarter of the initial year) are estimated as the current rate times one plus the growth rate.[44] Thus, the sum of the dividends projected for the first year is the same in both models. Only the assumed timing of their receipt is different.

It should be noted that the new model is similar to the models proposed by PSCol and Southern Company as shown in equations (4) and (3) above.[45] The difference between the Commission's model and that of Southern Company is relatively small. Southern Company determines the total amount of dividends to be paid for the year, and then divides this total into four equal payments. The Commission's model assumes a dividend increase occurs at mid-year for the typical utility.

The PSCol model is very general and provides different solutions when different assumptions are made. When the specific assumptions made by the Commission are incorporated into the PSCol model, along with the simplification that the first dividend payment is one-quarter of a year away, then the PSCol model reduces to the Commission's model. The Commission believes that PSCol's proposed refinement of counting the days before the next expected dividend payment is unrealistic for a generic proceeding.

Concerning model (1), the Order No. 420 Model, we believe model (6) is superior to model (1) because model (6) is directly derived from the general DCF model which incorporated the assumptions discussed above, while model (1) is only an approximation of the same assumptions. Concerning both models (1) and (2), we continue to believe that it is unreasonable to use a model which assumes payment of dividends only once a year.

In contrast, with respect to model (5), we continue to believe that it is unreasonable to use a model that assumes dividends are paid and compounded continuously. WCG appears to concede that there is a problem with its model, but argues that because ratemaking practices lead to investors earning effective rates above the cost of equity, model (5) leaves shareholders with a return closer to their required rate of return than quarterly models. However, WCG makes no attempt to quantify its argument in this regard. The contention of WCG, that ratemaking must be concerned with how the rate base is determined during the test period, is addressed below.

B. The Rate of Return for Ratemaking Purposes [46]

The market rate of return found by using Model (6) is an estimate of the effective rate of return required by investors. This effective rate includes the return which investors have the opportunity to obtain by reinvesting the quarterly dividends in the same or another investment yielding the same effective rate. In contrast, the "ratemaking rate of return" is that which, when applied to the particular rate base determined by the regulator, allows the electric utility to provide the stockholders with their expected dividends and the expected growth in the market value of the utility's stock. This ratemaking rate, however, does not include the return due to dividend reinvestment. The utility is only "required" to provide the quarterly dividends which give the investor the opportunity to earn these additional earnings through reinvestment.

The relationship between the effective rate of return required by the stockholders and the ratemaking rate depend upon the method used by the regulator in determining the rate base.[47] [48] If the regulator uses a forward-looking test year, allowing the investors' effective required rate of return as the ratemaking rate of return will result in overcompensation for the investor; that is, it will permit investors to obtain a higher rate of return than they require, a rate of return in excess of this effective rate.[49]

This can be illustrated with an example. Assume a firm is expected to increase its dividends once a year at a rate of 5 percent per year. Assume that the next dividend will be paid three months from today. Assume also that the expected dividends are $0.20 in the next two quarters and $0.21 for the following two quarters (based on the 5 percent growth occurring in the third quarter). Assume next that both the common equity book value and market price of the firm are currently $8.00. For simplicity, assume the firm is 100 percent equity-financed,[50] and that rate base equals total capitalization; [51] and that all retained earnings, after payment of dividends, are reinvested in rate base.[52] Based on these expectations the

[43] Order No. 420, 50 FR 21811

[44] The new model reflects the annual growth in dividends occurring as discrete increases during the third quarter in each year of the future

[45] Reply Comments on PSCol at 3 and Reply Comments of Southern Company at 4.

[46] For clarity this discussion ignores flotation costs. As discussed above, the Commission adds the flotation cost adjustment to the effective required rate of return before calculating the ratemaking rate.

[47] *See* Charles M. Linke and J. Kenton Zumwalt, "Estimation Biases in Discounted Cash Flow Analyses of Equity Capital Cost in Rate Regulation," *Financial Management* (Autumn 1984) pp. 15–21

[48] There may also be a similar distinction between the rates that the company must pay to bond and preferred stock holders in the market and the rates that should be used for ratemaking.

[49] This is consistent with the Commission s finding in Order No. 420–A that the utility should not be allowed to earn the investors' effective required rate of return. Order No. 420–A, 50 FR 34,087

[50] This simplification is for expositional purposes. The concepts also apply to firms which are not 100 percent equity financed. In rate setting, a weighted average cost of debt, preferred stock, and common equity capital is applied to the utility's rate base. The same result would be obtained, however, if the utility's rate base was first separated into the portions attributable to each capital source, and the cost of each source was applied to its respective rate base portion. For firms that are not 100 percent financed by common equity the "rate base" discussed in the examples would be the portion of the rate base attributable to common equity.

[51] This assumption simplifies away such issues as CWIP, deferred taxes, and investment tax credits. There is no reason to believe that the essential results of the analysis would change if this assumption were relaxed. Similarly to the discussion in the previous footnote, the analysis could be geared to the equity-financed portion of CWIP under the assumption that the FERC is the predominant regulatory commission for the firm. (This latter point is intended to reflect the Commission's determination made in the regulatory accounts that the equity-financed portion of CWIP should be costed at the last allowed rate of return on common equity by the firm's predominant regulatory commission.) Order No. 561, 57 FPC 608, 618 (1977). Similarly, the Commission's ratemaking treatment of deferred taxes, as well as investment tax credits, assumes that they are used to finance rate base and are a substitute for all long term financing, debt and equity, and in the same proportions as indicated by the capital structure. Opinion No. 12, *Minnesota Power & Light Company*, 3 FERC ¶ 61,045 (1978) at 61,128. Thus, dropping the assumption of no deferred taxes would simply require consideration that a portion of rate base was financed with these tax deferrals. The conclusions from the analysis with regard to the ratemaking rate of return would not change.

investors' effective required rate of return for investments in this firm as estimated from model (6) is 15.83 percent.

Now suppose the firm is allowed this rate on a beginning of year rate base. If this rate base value is $8.00,[53] this means allowing the firm to earn revenues of $1.266 over the course of the year (.1583 times $8.00). After paying dividends of $.82, this produces retained earnings of $.446 which translates to an increase in book value (rate base)[54] and an expected market value to $8.446 at year end. This can also be viewed as a return to investors from the firm of $.82 in dividends and $.446 in capital appreciation.

The investor gets the dividends in quarterly installments and can reinvest them in the same or other securities. Assuming reinvestment at the same effective rate, the investor can earn additional investment income of $.046 during the course of the year.[55] Adding this to the dividends and capital appreciation, from above, means that the investor can earn a return of $1.312 (or 16.40%) on his initial investment of $8.00. This is $0.46 (or 62 basis points) above what he required. This result is due to a double compensation for reinvestment of dividends.

This result was obtained by applying the effective required rate to a beginning of year rate base. Since, generally speaking, rate base increases over time, the beginning of year measure of rate base is the lowest measure to use. It follows from this that any measure of rate base based on an average for the year will be higher and application of the effective rate to it will result in still greater overcompensation to investors.

If the effective rate results in overcompensation, what is the correct ratemaking rate? In the above example, for the stockholders to be able to receive the estimated effective required rate of return of 15.83%, the firm must earn $1.22. This is based on its paying a $.20 dividend for the first two quarters, $.21 for the following two quarters, and then experiencing a 5 percent growth in end of the year book value and market value of the stock through retained earnings of $.40 to $8.40. At the end of the year the shareholders would have had the opportunity to earn additional income of $.046 from reinvestment of the quarterly dividends. Total returns to shareholders would be $1.266. This would give a return of 15.83 percent ($1.266/$8.00), which is what the shareholders required when they valued the shares at $8.00 at the beginning of the year. This could be obtained by a ratemaking rate of return of 15.25 percent on the beginning of year rate base.

The important point is that the rate that should be allowed is the one that, when applied to rate base, will provide sufficient revenues to produce the investors' required growth and dividend payments. And the relationship between the rate of return required by stockholders and the ratemaking rate of return on rate base depends on how the regulator determines the rate base.

If the regulator of the utility in the above example computes rate base as the average of 12 beginning of the month values, the correct ratemaking rate would be different. Table 2 demonstrates that, in this situation, a rate-making rate of 14.79 percent will allow the firm to provide the dividends and growth in stock value necessary to produce the investor's effective required return of 15.83 percent for the year. Each month the utility earns 1.2321 percent return on rate base. Earning 1.2321 percent per month provides an effective return of 15.83 percent for the year.[56] Table 2 shows that the average rate base for the year is $8.25. When the $8.25 average rate base is multiplied by 14.79 percent, the result is the required revenues of $1.22. The 14.79 percent is simply 12 times the monthly return of 1.2321 percent. For a 12-month average rate base, the proper ratemaking rate is calculated from the following formula:

Ratemaking Rate = 12 [(1 + effective required rate) $^{1/12}$ − 1] = 12 [(1.1583) $^{1/12}$ − 1] = 14.79%.

TABLE 2.—CALCULATION OF ALLOWED RATE OF RETURN[57]

[Required rate of return is 15.83%]

[Return per month is 1.2321%]

	Beginning book value	Revenue	Dividends	Retained earnings	Ending book value
Month:					
1	$8.00	$0.099	$0.00	$0.099	$8.10
2	8.10	0.100	.00	0.100	8.20
3	8.20	0.101	.20	(.099)	8.10
4	8.10	0.100	.00	0.100	8.20
5	8.20	0.101	.00	0.101	8.30
6	8.30	0.102	.20	(0.098)	8.20
7	8.20	0.101	.00	0.101	8.30
8	8.30	0.102	.00	0.102	8.41
9	8.41	0.104	.21	(0.106)	8.30
10	8.30	0.102	.00	0.102	8.40
11	8.40	0.104	.00	0.104	8.51
12	8.51	0.105	.21	(0.105)	8.40
Total	99.00	1.22	.82	0.40	
Average	8.25				

[57] Columns do not sum to totals because of rounding.

The Commission uses an average 13 month test year rate base for ratemaking purposes. The 13 months are the rate base at the beginning of the first month and the rate base at the end of each of the year. Under this circumstance, the following formula provides an approximation of the rate of return for ratemaking purposes from the market effective required rate of return: Ratemaking Rate = 13[1 + market effective required rate) $^{1/13}$ − 1].

C. Sample of Electric Utilities To Be Used

1. Introduction

In the NOPR, the Commission proposed to use the same sample of 100 electric utilities as was used in the first annual proceeding. This sample consisted essentially of those publicly traded electric utilities or combination companies that met explicit standards; these are that the utility:

(1) Is predominantly electric,[58]

[52] This assumption assures that the assumption that rate base equals total capitalization holds throughout the period of analysis. Relaxing this assumption to consider retained earnings being used to finance other investments (e.g., CWIP) would not change the conclusions of the analysis, though it could significantly increase the complexity of the analysis.

[53] Assume the test begins today, the same day for which the required rate of return is estimated, and that rates go into effect.

[54] This analysis assumes that all retained earnings will be invested in rate base.

[55] The investment income of $0.046 is obtained by investing the first dividend of $.02 at 15.83 percent for ¾ of a year, investing the second dividend at 15.83 percent of ½ of a year, and so on.

[56] $(1.012321)^{12} = 1.1583$. *See* Appendix B for a discussion of effective and nominal interest rates and their relationship to the rate per compounding period.

[58] Operationally, the Commission has selected all companies classified in the industry groupings "Electric Service" or "Electric and Other Services Combined" by Standard and Poor's Compustat Services, Inc. These industry groupings are

Continued

(2) Has its stock traded or either the New York or American Stock Exchanges, and

(3) Is included in the Utility Compustat II data base.

The Commission makes explicit here a fourth standard that was implicit in the previous proceeding.[59]

(4) The Commission determines, on a case-by-case basis, that the exclusion of a utility from the sample is appropriate.[60]

This fourth standard gives the Commission the discretion to eliminate companies whose data may be unavailable or inappropriate.

The Commission also proposed to use the same screening criteria for each quarterly dividend yield calculation as in the first annual proceeding. Companies from the sample will not be used in the quarterly dividend yield calculation if:

(1) The company, through merger or other action, no longer has its common stock traded on the New York or American Stock Exchange;

(2) The company has decreased or omitted a dividend payment in the current or prior three quarters, or

(3) The Commission determines on a case-by-case basis that some other occurrence causes the dividend yield for that company to be substantially misleading and to bias the resulting quarterly average.

The first screen ensures data availability. The second screen eliminates companies whose data would probably be inappropriate in a DCF model using industry average growth rates. The third screen gives the Commission the discretion to further eliminate atypical companies when necessary.

2. Comment Summary and Analysis

The commenters raise several issues with respect to the sample. Both BEC and NSP suggest that companies that reduce or omit their dividend during a longer period than the proposed four quarters be excluded from the sample. BEC states that "[i]f a company has decreased its dividend level *more* than four quarters back, it is our belief that the company should also be omitted from the sample." BEC, however, does not suggest a specific alternative exclusion period. [61] NSP suggests that companies be excluded if they reduced or omitted dividends within the past five years because "[h]istorical dividends, earnings, book values, returns on common equity, retention ratios, common stock sales and market-to-book ratios are used by investors over at least that length of time to estimate expected growth in their valuation process." [62]

The Commission believes that investors do take account of the effect of previously reduced or omitted dividends when making use of historical ratios, so this should not be of concern in choosing a proper exclusion period. A judgment must be made as to the average time necessary after a reduction or omission in dividends for a firm's data to again become appropriate for use in the new DCF model. A review of yields of firms that reduced dividends showed that they generally returned to their previous level relative to the industry average within four quarters of the dividend reduction.[63] The Commission thus believes that four quarters generally is a reasonable exclusionary period. However, consistent with the fourth standard for inclusion in the sample, the Commission might find a different exclusionary period appropriate in the case of an individual utility.

FPL questions the adequacy of the standards used to eliminate firms from the sample when the parent firm's cost of equity is not a good proxy for its utility subsidiary's cost. FPL points out that these standards resulted in Black Hills Power, Montana Power, and Pacificorp being included in the sample when, in 1984, they derived 43.9%, 51.7%, and 34.7% of their respective total incomes from non-utility sources. FPL raises the concern that a diversified utility could have a substantial investment in a non-utility subsidiary which does not yet produce revenue, but this hypothetical firm would not be removed from the Commission's sample, even though the non-utility investment strongly affects the investors' required return on equity capital. Finally, "[a]s diversification continues to become a significant trend in the utility industry, FPL believes that the FERC will need to establish policies and procedures regarding the treatment of the cost of equity for the utility subsidiaries of exempt holding companies."[64]

The Commission believes its present sampling procedures regarding diversified firms are adequate. If the hypothetical situation suggested by FPL occurred, then that firm could be dropped from the sample under the fourth sample selection standard made explicit in this proceeding.[65]

FPL also objects to the requirement that to be included in the sample a company must have relevant price or dividend data. FPL suggests that, for such a company, methods other than DCF can be used to quantify the cost of capital, but it fails to specify such methods.[66] The Commission has less confidence in the results of alternative methods than it has in the DCF method and, indeed, has found that the primary value of those alternative methods "is that they can provide useful insights regarding the reasonableness of the result reached through a DCF analysis." [67] In addition, the Commission has less confidence in cost estimates for individual companies than estimates of the average cost for a group of companies. Therefore, it would be inappropriate to combine estimates of the cost of common equity for a few firms determined by an alternative method with the results of the broad-based DCF analysis.

AUS argues that the sample used for dividend yield estimation should also be used to estimate the dividend growth rate. AUS states that "[t]he Commission's use of mismatched samples in determining the two components of the DCF model would appear to be a flaw in their analysis. Surely, rational investors would make

supposed to conform as nearly as possible to the Bureau of Budget Standard Industry Classification (SIC) Codes. Electric Services (SIC Code 4911) is defined as establishments engaged in the generation, transmission and/or distribution of electric energy for sale. Electric and Other Services Combined (SIC Code 4931) is defined as establishments primarily engaged in providing electric services in combination with other services, with electric services as the major part, though less than 95% of revenues. (Standard and Poor's Compustat Services, Inc., Utility Compustat II User Manual (1985)).

[59] *See* Order No. 420, 50 FR 21813, n.71.

[60] In this proceeding, four companies which meet the first three standards were eliminated from the sample. Southwestern Public Service Company is eliminated because it uses a non-standard fiscal year. This causes its dividend yields to be out of time with the rest of the companies. CP National is deleted because, in spite of its being listed as a predominantly electric company, on 18.6 percent of its revenues in 1984 were derived from electric sales. Finally, Alamito and Unitil are eliminated because they are new utilities and insufficient data is available.

[61] Initial Comments of BEC at 1.

[62] Relpy Comments of NSP at 4.

[63] Computer printouts with the data used to analyze this issue have been placed in the Commission's public files.

[64] Initial Comments of FPL at 2.

[65] The Standard and Poor's Compustat Services, Inc. data base used by the Commission contains data showing the companies' electric utility and other net assets. This data set also shows the revenue from electric services and other utility services. The Commission assesses this data to "flag" firms whose data appears to be inconsistent with what is expected of firms that meet the Commission's sample standards. More detailed data sources are then consulted for these "flagged" firms (and for firms brought to the Commission's attention by other means) to ascertain if the firms should be included in the sample.

[66] Initial Comments of FPL at 2.

[67] Order No. 420, FR 21808.

their decisions with respect to the rate of return they require to hold securities based upon an analysis of the same set of securities."[68]

AUS appears to be arguing that, when evaluating a particular set of securities, a rational investor would consider only the growth estimates provided by security analysts for that set of securities. The Commission believes, instead, that a rational investor would also consider other potentially relevant information such as estimates of growth of the national economy, the industry, and other firms in the industry. The investor would assess this information and determine the best estimate for growth for the securities under evalution. This best estimate may or may not be the security analysts' estimate for the particular set of securities on a stand-alone basis. For the same reasons, the Commission has evaluated the available information to determine the best estimate of the average dividend yield and the best estimate of average growth for use in the generic proceeding. Thus, the Commission continues to believe that using only the growth estimates for the firms included in the dividend yield estimation would not provide the best estimate of industry average growth.[69]

FA Staff and Cooperatives, while not criticizing the sample used by the Commission, use samples based on reports from Salomon Brothers. AUS objects to FA Staff's approach because FA Staff uses data from companies that AUS states are not predominantly electric.[70] BEC objects to FA Staff's and Cooperatives' samples because those samples differ from the sample used by the Commission in Order No. 420. BEC reasons that if the sample used by the Commission changes from one proceeding to the next, one could never be sure whether the changes in the calculated cost of equity were due to changes in the actual cost or just changes in the sample.[71]

The Commission declines to use FA Staff's and Cooperatives' samples. The Commission's sample is based on a set of criteria that it considers reasonable. The criteria used by Compustat for selecting its companies and data are publicly available and are consistent with the Commission's needs for this proceeding. In contrast, the Commission cannot find that samples based on Salomon Brothers reports reflect appropriate selection standards because the standards used to select the sample are not publicly available.[72]

WCG objects to eliminating unusually risky companies evidenced by reduction or elimination of dividend payments because it would skew the results of the sample. WCG seems to misunderstand the reason why firms that have reduced or stopped paying dividends are eliminated from the sample.[73] These firms are eliminated from the sample because the DCF model assumes that all sample firms are currently paying dividends. To blindly apply the model by including firms that do not pay dividends would show a cost of capital equal to the growth rate, when in fact the omission of a dividend is a strong indication of a relatively high risk and therefore a high cost of capital. The estimated growth for such utilities would not be an accurate measure of their cost of equity. Utilities that have recently reduced dividends were eliminated for the same reason.

3. Conclusion

Upon analysis of this issue, the Commission adopts the sample used in the first proceeding. The Commission wishes to emphasize, however, that this sample was chosen because these 100 utilities meet the standards used in the first proceeding for choosing the sample. Application of these standards in future proceedings may produce a different sample. The Commission believes that the annual application of the standards will produce a sample that is more representative of the electric utility industry as a whole than would the continued use of a specified group of utilities. The Commission also adopts in this proceeding the screening criteria for each quarterly dividend yield calculation used in the first annual proceeding. The 100 company sample is listed in Appendix C together with the excluded companies in each quarter of the base year.

D. Dividend Yield To Be Used in DCF Model

1. Introduction

In the NOPR the Commission proposed to continue to use the median dividend yield for the 100 company sample. First, the Commission noted that the distribution of dividend yields for electric utilities is skewed rather than symmetrical. Under this circumstance, the dividend yields for a greater number of utilities are closer to the median than the mean. Second, the Commission explained that, in computing the dividend yield for each company, the dividend rate should be the "indicated dividend rate," or the last declared quarterly dividend rate times four. Third, the Commission proposed that the price to be used in the calculation of the individual company dividend yield would be the simple average of the monthly high and low prices for the quarter. Finally, the Commission proposed that the average of the four medians of the quarterly dividend yields for the sample utilities be used for the base year determination of the cost of equity.[74]

2. Comment Summary and Analysis

In response to the NOPR, few commenters directly address the question of whether the Commission should change the measure used of the mean dividend yield for the industry. Most commenters simply use without discussion the approach adopted by the Commission in Order No. 420 and proposed in the NOPR.

SWEPCO does take issue with the Commission's proposal in the NOPR, asserting that the Commission should

[68] Initial Comments of AUS at 28.

[69] In addition, the Commission stated in this context in Order No. 420:

[T]he Commission established a sample of 100 companies on which to base its estimate of the dividend yield component of the DCF model for the base year and for the quarterly indexing procedure. The median dividend yield for this sample is the statistical measure of industry average determined most appropriate given the purpose of the benchmark and the characteristics of the dividend yield data. This involves essentially a mechanical calculation upon which little disagreement is likely to arise.

In contrast, the growth rate determined in this proceeding is not based solely on data for a sample of companies in the industry. First, this component of the DCF model is much more speculative than the dividend yield component. Second, the Commission is unaware of any mechanical calculation procedure for computing individual company growth rates to which it is willing to ascribe at this time. Third, the Commission's review of the growth rate studies submitted in this proceeding suggests that, as long as the sets of companies used as a basis for the estimate are reasonably large and broad-based in their representation of the industry, the differences in results stem largely from factors other than the sample. Because of these considerations, the Commission sees no necessity for conforming the sample of companies used to derive the dividend yield with the sample of companies used for the growth rate. Nor does the Commission think it appropriate to conform the samples, at least at this time. The above considerations make it reasonable for the Commission not to require commenters to rely solely on data for a particular sample of companies in the development of their growth rate estimates. This is important where commenters rely on data sources or specifications that may not be available for all companies. 50 FR 21815, n.81.

[70] Reply Comments of AUS at 6.

[71] Reply Comments of BEC at 2.

[72] In any event, the results of using the samples of FA Staff and Cooperatives are close to the results achieved by using the Commission's sample, *i.e.*, Commission, 10.03%, FA Staff 10.00%, and Cooperatives, 9.94%. *See*, Table 1, following page 7.

[73] Reply Comments of WCG, Appendix A at 29–33.

[74] NOPR, 50 FR 30208.

use the arithmetic average quarterly dividend yield for the sample utilities rather than the median of the values for the utilities for a given quarter.[75] Although it does not address the question of how the average dividend yield should be calculated, FA Staff uses an average of twelve monthly median dividend yields over the entire base period rather then the method proposed in the NOPR.[76] Cooperatives advocate the use of a twelve month average of spot dividend yields, but do not discuss why their alternative approach is to be preferred to that proposed in the NOPR.[77] GSA also uses an approach different than that proposed in the NOPR, basing its dividend yield component on the average of 24 equally-spaced observations of the median dividend yield for the sample utilities that were made during the base period. GSA contends that its approach is to be preferred to that proposed in the NOPR because observations at equal intervals are less likely to reflect the influence of temporary market phenomena. GSA does not discuss why this would occur.[78]

3. Conclusion

The Commission believes that the decision to use the median dividend yield in Order No. 420 was a valid one, for the reason that the median is the better measure when the distribution is skewed.

Concerning the argument of SWEPCO, the Commission noted in Order No. 420 that its purpose in choosing the median rather than the mean was to choose a measure of the average that would not be influenced by a few companies with extreme values. It pointed out that the benchmark "is intended to apply to most companies and so should not be allowed to be affected by a few atypical companies."[79] The Commission believes that this reason for rejecting the use of the mean is valid. GSA also fails to explain why its approach is preferable to the approach used in Order No. 420 and proposed in the NOPR; absent further expanation, it is not apparent why GSA believes its approach is less likely to be influenced by termporary market phenomena. Since the other commenters present no analyses to support the conclusion that their respective approaches are preferable to the approach used in Order No. 420, the Commission stands by its analysis in that order.

[75] Initial Comments of SWEPCO at 6.
[76] Initial Comments of FA Staff at 24.
[77] Initial Comments of Cooperatives at 81.
[78] Initial Comments of GSA at 3.
[79] Order No. 420, 50 FR 21814.

E. Determination of Growth Rate To Use in DCF Model

1. Introduction

In the NOPR the Commission proposed to rely primarily on the same type of fundamental analysis that was used in the first annual proceeding.The Commission explained that it intends to examine and evaluate the two components of dividend growth: growth from retention of earnings and growth from the sales of new common stock. The Commission also announced its intention to look at other methods for estimating expected growth, including non-constant growth rates, but it noted that this would be done primarily as corroboration for its basic evaluation using fundamental analysis.[80]

2. Comment Summary

Most of the commenters address the question of how the Commission should estimate the growth rate for use in its evaluation of the market required rate of return. Most commenters place all or most weight on one type of data or analysis to support their recommendations (e.g., analyst forecast data or fundamental analysis). A number of commenters, however, rely on more than one approach. While the range of estimates for the growth rates recommended by commenters for use in a constant growth DCF model is 3.69 to 5.40 percent, most recommendations are between 4.39 and 4.88 percent.[81] See Table 1, *supra*.

While two commenters, NEP and NSP, compute fundamental analysis (br+sv) estimates using actual data for the year 1984 because the NOPR requested such computations, they recommend placing primary reliance on historical dividends per share (DPS) growth rates. One of these commenters, NSP, states that it believes that historical dividend growth rates are at least as representative of investor expectations as estimates derived from other methods. NSP notes first that in DCF theory, it is the dividend cash flows which constitute investment value. Second, the historical DPS growth rate estimates show a very stable pattern over the 10 year period, and it is reasonable that investors will expect this growth to continue.[82]

NEP estimates 5 and 10 year median DPS growth rates of 5.40 and 5.24 percent, respectively. This commenter estimates the median "fundamental" growth rate during 1984 at 5.32 percent. Based on this information, NEP recommends that the Commission use of growth rate in the range of 5.24 to 5.40 percent.[83]

NSP examines 10 years historical DPS growth rates for electric utilities and finds a mean growth rate of 5.48 percent and a median of 5.22 percent. Using 1984 data, NSP estimates mean and median "fundamental" growth rates of 4.94 and 5.35 percent, respectively. NSP recommends a growth rate of 5.00 percent.[84]

EEI, Duke, and SCEd recommend that the growth rate be estimated solely or primarily by analysts' forecasts.[85] EEI recommends a growth rate of 4.48 percent based on analysts' forecasts compiled by the Institutional Brokers Estimate System. Neither Duke nor SCEd recommends any specific number.

EEI contends that academic research in finance supports the conclusion that financial analyst forecasts are used by investors to make investment decisions, that analyst forecasts are more accurate than predictions based on extrapolations of historical trends and that stock prices reflect analyst forecasts much more than they reflect growth esitmates based on historical growth. EEI contends that the growth rate for the DCF model should be the one which comes closest to that which determines stock prices. EEI further argues that the Commission's stated reason in Order No. 420 for rejecting analysts' forecasts—that they were for only 3 to 5 years—is inconsistent with the fact that analysts' five year forecasts are not short-term compared to the three to six month time horizon of most institutional investors. EEI also contends that analysts' forecasts are unbiased because analysts serve clients with a variety of interests and whose only common interest is accurate forecasts.[86]

WCG, which submitted its reply comments from the last proceeding to support its position, argues that it is erroneous to rely on anaylsis' forecasts because the forecasts are biased upward by the knowledge of analysts

[80] NOPR, 50 Fed. Reg. at 30,209. Growth from retained earnings, or internal growth, is a function of the expected rate of return on common equity (r) and the expected retention ratio (b). Growth from common stock sales, or external growth, is a function of how much stock is expected to be sold (s) and at what price relative to book value (v). Growth from common stock sales can be negative if new stock is sold at prices less than current book value per share.

[81] The recommended growth rates outside this latter range are those of NEP (5.24–5.40) and NSP (5.00) on the high side and GSA (3.69–3.92) and WCG (less than 4.00) on the low side.

[82] Initial Comments of NSP at 14–15.
[83] Initial Comments of NEP at 4–6.
[84] Initial Comments of NSP at 13.
[85] Initial Comments of EEI at 7–1, Duke at 1–2, and SCEd at 1–4.
[86] Initial Comments of EEI at 7–14.

that forecasts are used by regulatory agencies in making rate of return determinations. WCG also argues, as in the last proceeding, that the appropriate growth rate expectation to focus on is the marginal expectation as to growth, not the consensus, as represented by security analysts.[87]

FA Staff and Cooperatives base their recommendations on fundamental analyses similar to that to which the Commission gave great weight in the last proceeding.

FA Staff treats the "sv" component as having a value of zero due to the fact that utility stocks as a whole were selling at book value during the base year. FA Staff estimates expected retention as 30 percent and the expected rate of return on common equity at 14.7 percent, with the result that FA Staff estimates growth expected by investors at 4.4 percent.[88]

Cooperatives argue first for development of separate fundamental analysis estimates of expected growth for what the Cooperatives classify as the nuclear and non-nuclear utilities. They then go on to develop an expected growth figure of 4.39 percent for the industry as a whole on the basis of an expected rate of return on common equity of 14.83 percent and expected retention of 28.5 percent plus a contribution to growth from expected issuances of stock at prices above book value of .19 percent.[89]

Concerning estimates of expected growth based upon fundamental analysis, AUS contends that the results of its empirical analysis show that internal growth rates are not consistently the best explanation of electrical utility stock prices. AUS urges the Commission to place less emphasis on this measure of growth in making rate of return determinations.[90] AUS also contends that historic data for the year ending June 30, 1985, is more pertinent to investor expectations and requirements as to return than earlier data, because it is only in the period ending June 30, 1985, that utility stocks as a whole began to sell at book value, after a long period in which they sold at prices less than book value.[91] AUS contends as well that the fundamental analysis approach to growth estimation should be based only on estimates of retention and of return on equity.[92] AUS goes on to contend that no adjustment should be made in the internal growth estimate to reflect additional sales of common stock because this "sv" component will be zero if the expected earned rate of return is equal to the utility's cost of equity.[93]

CP&L states that the fundamental analysis approach should focus only on "br," that since the intent of regulation is to allow a rate of return that will result in the shares of the utility selling at book value, the "sv" adjustment should be treated as zero.[94]

BEC and Southern Company propose that all methods be given some weight in the analysis of the appropriate growth rate. Southern Company urges use of a simple average of the results of (1) a historical 5 year compound earnings per share growth rate, (2) a sustainable retention growth rate based on the industry average retention rate times a sustainable required rate of return, and (3) analyst forecasts from large investment houses. Southern Company also recommends that in determining each of these growth rate measures, individual company values be weighted by the value of the utility's total assets. Without specifying its results from each of three methods, Southern Company recommends a figure of 4.83 percent that results from its application of this averaging procedure.[95]

BEC recommends a range between 4.75 and 5.00 percent (average 4.88 percent) based on its evaluation of historical growth, fundamental analysis, and direct analysts, forecasts. Looking at 5 and 10 year historical dividend and earnings per share growth rates, BEC finds a range of 5.3 to 5.6 percent. Using current and projected "fundamental" analysis growth rate estimates in a variable growth DCF model, BEC finds equivalent composite constant growth rates applicable to the model that the Commission adopted in the last proceeding of between 4.8 and 5.0 percent. Finally, BEC finds that direct analysts' forecasts of dividend and earnings per share growth during the base year are between 4.5 and 5.6 percent.[96]

AUS contends that if growth rate analysis is based upon fundamental growth rate forecasts, historical growth rates and analysts' forecasts, the range of possible growth rate choices for the year ending June 30, 1985, would be about 4.50 to 4.75 percent.[97] AUS presents in its comments the results of an analysis of the association between electric utility stock prices and 16 alternative measures of historical and analyst forecasted growth rates, with and without consideration of five measures of risk. AUS concludes from this analysis that the published dividend growth projections of Value Line and Merrill Lynch best explain the values of electric utility common stocks. The pertinent growth rates projected by Value Line and Merrill Lynch both round to 4.6 percent, which AUS notes represents the approximate midpoint of its 4.50 to 4.75 percent range.[98] AUS also evaluates a two-stage growth model where it recommends that the first stage (5 years) use its high growth rate of 4.75 percent and the second stage (beyond 5 years) use a 4.5 percent rate.[99]

SWEPCO urges a combination of historical growth and Value Line and Morgan Stanley forecasts and recommends a growth figure of 4.56 percent on this basis.[100]

GSA recommends the use of growth forecasts by analysts and historical growth rates. GSA contends that the use by the Commission of a constant growth DCF model makes the use of estimates of long-term growth necessary. GSA concludes that the Merrill Lynch steady-state growth forecast, with a mean of 4.0 percent and a median of 3.9 percent for the base year, is the only appropriate long-term forecast to use. GSA also reviews bi-monthly Value Line four to five year growth forecasts in book value ranging from 3.62 to 4.17 percent and with an average of 3.69 percent. GSA computes bi-monthly estimates of the market required rate using bi-monthly median dividend yields together with (1) the Merrill Lynch median 3.9 percent growth rate and, alternatively, (2) bi-monthly Value Line book value growth rate forecasts.[101]

BEC and AUS criticize GSA's reliance on estimates of long-term growth by Merrill Lynch and Value Line. AUS contends that the estimates are below the recommendations of most other commenters and that GSA offers no evidence that investors rely on such forecasts.[102] BEC contends that GSA is

[87] Reply Comments of WCG at 4–5 and Appendix A.

[88] Initial Comments of FA Staff at 24.

[89] Initial Comments of Cooperatives at 74–87.

[90] Initial Comments of AUS at 42.

[91] *Id.*

[92] Initial Comments of AUS at 44–45.

[93] *Id.*

[94] Initial Comments of CP&L at 2.

[95] Initial Comments of Southern Company at 3–7

[96] Initial Comments of BEC at 7–26.

[97] Initial Comments of AUS at 37

[98] Initial Comments of AUS at 37–41

[99] Initial Comments of AUS at 49.

[100] Initial Comments of SWEPCO at 4 and SWEPCO's Exhibit 2. It is noteworthy that Exhibit 2 is inconsistent with the text of the commenter at page 4. Exhibit 2 shows an average growth rate of 3.79 percent, not 4.56 percent.

[101] Initial Comments of GSA at 4–8 and Exhibit IV

[102] Reply Comments of AUS at 21–22.

in error in the way that it uses the long-term growth estimates because the estimates are of expectations for growth in the distant future.[103]

WCG argues that the growth component in the DCF analysis should be no higher than the 4.0 percent that WCG describes as the FA Staff estimate for growth in the prior generic rate of return proceeding in Docket No. RM84-15-000. WCG supports this contention with general arguments that equity costs have declined and that returns on equity expected by investors have declined since the base period covered by the last proceeding. WCG also argues that any "sv" adjustment in a fundamental growth analysis by the Commission should be negative because the utilities that expect to issue common stock are the utilities that are generally selling below book value.[104]

BEC argues in response to WCG's latter comment that the use of data only for utilities that are selling at less than book value gives an inaccurate picture of the industry as a whole.[105]

3. Analysis and Findings

On review of the comments on growth rate, the Commission finds no particular one that it is willing to adopt completely as its own. Instead, the commission reviews and evaluates for its analysis the underlying factual data presented by the commenters for reasonableness and for consistency with other information. Generally, the Commission finds this underlying factual data complementary rather than contradictory. Thus, the Commission essentially relies on all of the data supp ied by commenters in its evaluation of the growth rate to use in its DCF analysis.

As indicated above, the majority of commenters' recommendations for the growth rate fall between 4.39 and 4.88 percent. *See* Table 1, *supra*. The Commission finds a 4.5 percent growth rate for the base year based on a range of 4.3 percent determined by a two-stage growth analysis and 4.7 percent determined by a fundamental analysis. Thus, the Commission believes its analysis is generally consistent with and supported by the recommendations of the commenters.

Only two commenters, NEP and NSP, recommend growth rates higher than 4.88 percent. These recommendations are based primarily on extrapolations of past growth rates in dividends per share and supported by calculations of actual fundamental growth rates during the base year period. The Commission finds these recommendations too high. First, absent other data to the contrary, past trends in dividends provide useful starting points for a growth rate analysis. However, other record data is suggestive that this past will not be repeated over the long term future, the relevant period for a DCF analysis. In particular, direct analyst forecasts of dividend growth which are only for the near-term (3 to 5 year) future are generally in the 4.5 to 4.9 percent range and no one predicts higher growth rates beyond that time period. The Commission indicates below that it places substantial weight on analyst forecasts as measures of the near-term growth expectations of investors. Further, the Commission's analysis of the fundamental components of this growth, below, suggests that its continuation at past levels is unlikely. With regard to their fundamental analyses, while it may be true that investors give more weight to current actual growth rate information than to either past or forecast data, it is unlikely that investors would believe that current experience provides a good estimate of the long term future.

At the lower end of the range of recommendations are those of WCG and GSA. Neither WCG nor GSA recommends a specific growth rate. However, WCG argues that the growth rate cannot exceed 4.0 percent. The Commission is not persuaded by WCG's general arguments of interest rate declines as a basis for substantial declines in expected growth rates, since the Commission believes that they are reflected more in declines in dividend yields.[106] Any decline in the average expected long-term rate of return attributable to recent reductions in the cost of common equity is probably minimal due to the uncertainty of future interest rates. Further, the effect of any such reductions on the expected growth rate is muted further by its working only on retained earnings growth in a fundamental analysis.[107]

GSA's recommendations, which are based primarily on Merrill Lynch steady-state growth rates and Value Line forecasted growth rates in book value, are also biased downward. The Commission generally concurs with the criticisms by AUS and BEC, cited above, with regard to GSA's growth rates being significantly out of line with the recommendations of the other commenters and their relevance more as estimates of growth beyond the near-term future.

In determining the growth rate, the Commission departs somewhat from the last proceeding and chooses to place primary reliance on a two-stage growth analysis as well as a fundamental (br + sv) analysis. The fundamental analysis allows the Commission to evaluate the reasonableness of the factors underlying and creating the expected dividend growth. Estimates of investor growth expectations should not be based on unrealistic forecasts of utility returns, retention rates, and the like. Further, since most available forecasts are essentially short-term, their reasonableness as long-term rates should be considered. This can be done by evaluating their implications in the context of a two-stage growth model.

The Commission also believes that both historical and forecast data should be used to evaluate the parameters for the approaches used. However, where historical data is used, there must be good reason to believe that the past can be used to measure expectations of the future.

Also, in this regard, it should be noted that the Commission here focuses mostly on the primary factual data underlying commenters' recommendations rather than on the recommendations themselves. The Commission evaluates that data for use as the parameters in the two adopted approaches.

Finally, the Commission believes that all relevant data should be used and any apparent inconsistencies explained to the extent possible. In this regard, the growth rate determined in this proceeding should be reconcilable with the growth rate determined in the last proceeding.

The determination of the growth rate involves substantial judgment on the Commission's part. While the Commission's perspective is different from that of a security analyst or a prospective stock buyer, it has the same data available to it. It must infer from that data the expectations of investors on the future prospects of companies implied by current market prices. Thus, the Commission's analysis is no more precise than any other judgmental exercise. The Commission's analysis therefore determines a range for the growth rate based on the best available data and within the context of each analytical approach used. The Commission must then decide on a specific rate within that range.

With these considerations in mind, the Commission estimates that the investors' industry average expected

[103] Reply Comments of BEC at 19-23

[104] Initial Comments on WCG at 1 5

[105] Reply Comments of BEC at 23-24

[106] *See* Section III. I., *infra*.

[107] The Commission also agrees with BEC's rebuttal to WCG s suggestion that the "sv" term in the fundamental analysis be negative

growth rate during the base year was 4.5 percent. This is based on a "best" fundamental analysis determination of 4.7 percent and a "best" two-stage model determination of 4.3 percent.

a. *Fundamental Analysis.* The use of the fundamental analysis leads to a range of plausible values for the average long-term growth rate between 4.0 and 5.2 percent. This is based on the following ranges for its components:

$bxr + sxv = g$
$(.28)x(14.4) + (1.5)x(.00) = 4.0$
$(.32)x(15.4) + (1.6)x(.15) = 5.2$

where

b = average expected long-term retention ratio,
r = average expected long-term rate of return on common equity,
s = average expected long-term rate of new common stock sales, and
v = average expected long-term common equity accretion rate, from selling stock at prices other than book value.

i. *The Retention Ratio ("b").* The range for the expected average long-term retention ratio is based on an evaluation of the following primary data submitted in the record, or otherwise available to the Commission from publicly available sources:

1. For a sample of 93 companies, FA Staff indicates that Value Line projects mean and median dividend payout ratios of 71.9 and 71.1 percent, respectively, for 1988. This implies retention ratios of 28.1 and 28.9 percent since the retention ratio equals one minus the payout ratio.[108] (Note that these ratios are presented in percentage terms in the text of this order.)

2. Based on composite data, FA Staff estimates that, on June 7, 1985, Value Line projected an industry average dividend payout ratio of 82.8 percent for the period 1987–89 and that, on June 28, 1985, it projected a 69.6 percent average payout ratio for the period 1988–90. This implies retention ratios of 17.2 and 30.4 percent, respectively.[109]

3. AUS, on the basis of the June 28, 1985 report cited by FA Staff, estimates that Value Line projects a retention ratio of 33.6 percent for the 1988–90 period.[110] (The comparable projected retention ratio for the 1987–89 period is 31.0 percent.)[111]

4. Duff and Phelps projects a near term future retention ratio of 30 percent for the industry.[112]

5. The mean, median, and composite retention ratio for the industry since 1975 have been as follows:[113]

Year	Mean (percent)	Median (percent)	Composite (percent)
1975	32.2	31.3	32.5
1976	33.0	32.7	33.6
1977	28.1	30.0	33.0
1978	28.1	30.9	29.5
1979	23.4	27.4	24.5
1980	21.2	24.0	23.8
1981	27.7	30.2	26.2
1982	25.7	27.3	27.4
1983	32.6	33.1	31.3
1984	31.2	33.2	35.2

In evaluating this data, the Commission first notes the range of projected retention ratios based on Value Line data is large, 17.2 to 33.6 percent. Eliminating the aberrant 17.2 percent value, this range becomes 28.1 to 33.6 percent. The Commission also notes that all of the Value Line forecasts were for the latter half of the base year and, thus, may not be representative of average near-term future expectations during the whole of the base year. In particular, the forecasts from the June 28, 1985 report are referred to as Value Line's first estimates for 1986.[114] Given the changes from the report of a few weeks earlier, these estimates probably represent a departure from the projections it reported during the year up until then. As a result, the Commission is inclined to give less weight to these updates. The resulting range of Value Line projected retention ratios is 28.1 to 31.0 percent.

Actual retention ratios for the recent past, especially median and composite rates, suggest retention ratios in the range of 31 to 33 percent for the near-term future absent any significant changes in cash flow needs or sources. However, the forecasts by analysts of 31 percent or less for the near-term together with the fact that retention ratios over the last 10 years have generally been less than 30 percent casts doubt on the validity of recent past values for the long-term future. Based on the average historical experience and the near-term future projections, the Commission believes the range of plausible average expected retention ratios is 28 to 32 percent. The use of a 30 percent retention ratio as the Commission's best long-term estimate is consistent with the retention ratio remaining above 30 percent for the next few years, and moving to a rate slightly below 30 percent as the long-term sustainable rate.

ii. *Expected Rate of Return on Common Equity ("r").* The range for the average long-term expected rate of return on common equity ("r") is derived from the following data from the record or otherwise available to the Commission from public sources:

1. Value Line projects average rates of return on common equity for electric utilities between 14.5 and 14.9 percent in 1987–1990.[115]

2. Duff and Phelps estimates that the industry average rate of return on common equity will be higher than 14.0 percent during the next several years.[116]

3. FA Staff's attrition analysis shows the following comparison between allowed and earned rates of return:[117]

Year	Allowed (percent)	Earned (percent)	Attrition (percent)
1979	13.5		
1980	14.3	11.7	1.8
1981	15.3	12.9	1.4
1982	15.8	13.6	1.7
1983	15.3	14.9	0.9
1984	15.3	14.6	0.7

FA Staff defines attrition as the difference between the earned rate of return in one year and the allowed rate of return for the prior year.[118]

4. The mean, median, and composite earned rates of return for the industry since 1975 have been as follows:[119]

Year	Mean (percent)	Median (percent)	Composite (percent)
1975	11.6	11.9	11.3
1976	11.8	11.6	11.7
1977	11.6	11.6	11.7
1978	11.8	11.8	11.2
1979	11.5	11.6	11.2
1980	11.5	11.5	11.5
1981	12.9	13.2	12.5
1982	13.4	13.6	13.4
1983	14.9	15.0	14.6
1984	14.6	15.2	14.6

[108] Initial Comments of FA Staff at 18 and Attachment B.

[109] *Id.* at 18 and Attachments D and E.

[110] Reply Comments of AUS at 8. FA Staff bases its estimate on the Value Line projections of price-earnings ratios and dividend yields. Multiplying the price-earnings ratio times the dividend yield produces an estimate of the dividend payout ratio and one minus this ratio equals the retention ratio. AUS bases its estimate on the Value Line projections of return on common equity and retention growth rate. Dividing the retention growth rate by the rate of return on common equity also produces an estimate of the retention ratio. Since the values for the retention ratios determined by the two methods are different and since definitionally they should approximate one another, there is an apparent inconsistency in the projections made by Value Line.

[111] This ratio is determined in the same manner as AUS used with data from the later Value Line report. *See* previous footnote and Initial Comments of FA Staff at Attachment D.

[112] Initial Comments of FA Staff at 18.

[113] Initial Comments of BEC at Appendix 6 and computer printouts on 100 company sample using Compustat data developed by Commission Staff. This latter information has been placed in the public files.

[114] Initial Comments of FA Staff at Attachment E.

[115] Initial Comments of FA Staff at 19 and Attachments B, D, and E.

[116] Initial Comments of FA Staff at 19.

[117] Initial Comments of FA Staff at 20.

[118] Initial Comments of FA Staff at 20.

[119] Initial Comments of BEC at Appendix 6 and computer printouts on 100 company sample using Compustat data developed by Commission Staff. This latter information has been placed in the public files.

The Commission believes that rates of return, earned and allowed, are unlikely to remain at the level of the last few years for too far into the future. Interest rates and, by implication, common equity costs, have generally been declining since the peaks reached in the early 1980's. Average allowed rates of return have not declined in the same manner yet, probably due to a lag between the two series, but they should follow since allowed rates are generally based on the costs of common equity. Likewise, the Commission expects earned rates of return to follow allowed rates. Thus, the Commission believes it is likely that investors do not expect average rates of return on common equity at the levels of the recent past in the long-term.

On the other hand, the Commission notes that, with market-to-book ratios in the range of unity and earned rates of return on common equity in the 14.5 to 15.3 percent range during 1984, there may be good reason to believe that investors expect rates of return above 14.5 percent at least for the near-term future. This is consistent with the near-term forecasts by Value Line of rates of return in the 14.5 to 14.9 percent range noted above.

The rate of return value needed for the retention growth calculation is a composite average of the rates expected over future years. In terms of expectations that must reflect, in part, the recent high allowed and earned rates of return in the range of 15 percent and above and, in part, average historical rates of return generally less than 14 percent, the Commission finds the range of plausible average expected rates of return on common equity to be 14.0 to 15.0 percent. In the Commission's judgment, weighing the near-term expected rates with lower long-term rates, and considering the fact that in the determination of an average long-term composite the near-term expectations receive greater weight than the longer-term expectations, the best estimate for an average expected rate is 14.6 percent.

This discussion and analysis of the expected rate of return value has been presented in terms of rates of return on average common equity, since that is generally how commenters presented their data. However, the rates of return on beginning of year common equity are more consistent with the evaluation of effective required rates of return found in the new DCF model in this proceeding. This is because effective rates are essentially computed by dividing return values by beginning of year investment values. There is a mathematical relationship between the rates of return on average and beginning of year common equity investment values using the growth rate in common equity.[120] Rather than converting all of the above rates to rates of return on beginning of year common equity, the Commission has chosen to simply convert the above-determined range and best estimate. Thus, in terms of rates of return on beginning of year common equity, the Commission finds the range of plausible values to be 14.4 to 15.4 percent and its best estimate, for purposes of estimating the retention growth portion of the DCF growth rate is 15.0 percent.

The 30 percent retention rate together with the 15.0 percent rate of return suggests an average expected long-term internal growth rate (br) of about 4.5 percent. This finding is consistent with the other related information presented by commenters in this proceeding. It is consistent with the mean and median near-term retention growth projections of Value Line in the order of 4.5 and 4.6 percent,[121] assuming some expectation of lower values beyond that time following from the discussion above.

BEC estimates average retention growth during the 1984 to 1985 period to be in the range of 5.1 to 5.2 percent.[122] AUS estimates the average base year retention growth as 4.79 percent.[123] NSP finds the mean and median retention growth during 1984 to be 4.94 and 5.35 percent, respectively.[124] Finally, NEP finds the median retention growth during 1984 to be 5.32 percent.[125] The recent high retention growth rates found by these commenters are not inconsistent with the lower projected rates. In whole or in large part, they can be accounted for by reference to recent record high allowed and earned rates of return which, as discussed above, the Commission does not think reasonable to project into the future.

iii. *Growth in Common Equity ("s").* Three commenters present estimates of the average expected long-term rate of new common stock sales, "s". FA Staff recommends a value of 1.6 percent.[126] BEC proposes the use of a 1.5 percent rate.[127] Cooperatives estimate a 1.5 percent value for use in its industry-wide growth rate estimate.[128]

Since: (1) All of the recommendations are in the 1.5 to 1.6 percent range, (2) the Commission belives that estimates in this range are equally reasonable, (3) the Commission has no policy basis for using either the high or low end of the range, and (4) the effect of this range of the overall growth rate is only a few basis points, the Commission believes it is reasonable to use the mid-point of this range, 1.55 percent.

iv. *Accretion Rate ("v").* The range for the accretion raté ("v") depends on projected market-to-book ratios. Most commenters base their projected ratio on the current ratio, which has been about unity. With a market-to-book ratio of one, the accretion rate is zero. BEC evaluates the market-to-book ratio implied by Value Line projections of rates of return on common equity and price earnings ratios and finds a mean market-to-book ratio of 1.13 and a median of 1.17.[129] Since the conceptually correct value implied by the fundamental analysis is the investors' projected market-to-book value, the Commission thinks it reasonable to temper the current market-to-book ratio data with the forecasts by Value Line which suggest an increasing ratio over the near term. This may be attributable to the lag between allowed rates of return and common equity costs. In order to reflect some increase in market-to-book ratios, the Commission adopts BEC's proposed rate of 1.13 which yields an equity accretion factor of 0.1 percent (rounded).

Using its judgment as to the values investors are using (implicitly or explicitly) in their investment analyses, the Commission estimates a growth rate of 4.7 percent on the basis of a fundamental analysis using the following parameters:

$b \times r + s \times v = g$
$(.30)(15.0) + (1.55)(0.1) = 4.7$

b. *Two-Stage Growth Model.* Similarly, based on the data in the record, the use of a two-stage growth model produces a range of plausible growth rates of 3.9 to 4.7 percent. This is

[120] It can be shown that the relationship between the rate of return on average common equity (RACE) and the rate of return on beginning of year common equity (RBCE) is as follows:

$RBCE = [(2+G)/2] * RACE$

where G = growth rate in common equity from beginning of year to end of year.

The growth rate used in these conversions is 5.9 percent, the simple average of the range of 5.4 to 6.4 percent given by commenters. However, the results are reasonably invariant using the whole range. For the basis for the range, *see* Initial Comments of FA Staff at 23–24 and Cooperatives at 86.

[121] Initial Comments of BEC at 15–16 and Appendix 11.

[122] Initial Comments of BEC at 13 and Appendix 9.

[123] Initial Comments of AUS at 37 and Schedule 5.

[124] Initial Comments of NSP at 13 and Appendix 3.

[125] Initial Comments of NEP at 5 and Schedule 7.

[126] Initial Comments of FA Staff at 23–24.

[127] Initial Comments of BEC at 18.

[128] Initial Comments of Cooperatives at 87.

[129] Initial Comments of BEC at 19.

based on ranges for the first and second stage growth rates of the following:[130]

Next 5 years (percent)	Beyond (percent)	Composite (percent)
4.5	3.5	3.9
5.6	4.3	4.8

i. *Growth During the Next Five Years.* The range for the short-term growth rate is based on the following basic information:

1. During the base year, Merrill Lynch projected earnings per share (EPS) growth rates of 4.6 pecent (mean) and 4.8 percent (median).[131]

2. During the base year, Value Line projected EPS growth rates of 4.6 percent (mean) and 4.8 percent (median).[132]

3. During the base year, the mean and median Institutional Brokers Estimate System (I/B/E/S) five year projected EPS consensus growth rates were 4.5 percent and 4.2 to 4.5 percent, respectively.[133]

4. During the base year, Merrill Lynch projected DPS growth rates of 4.9 percent (mean) and 4.7 percent (median).[134]

5. During the base year, Value Line projected dividend per share (DPS) growth at rates of 4.8 percent (mean) and 4.5 to 4.6 percent (medians).[135]

6. During the base year, Salomon Brothers' five year projected normalized growth rates were 5.6 percent (mean) and 5.6 percent (median).[136]

7. Five and ten year historical DPS growth rates range from 4.5 percent (10 yr, AUS) to 5.6 percent (5 yr, BEC), but mostly in the range of 5.2 to 5.6 percent.[137]

8. Five and ten year historical EPS growth rates ranging from 5.3 percent (10 yr, BEC) to 8.9 percent (5 yr, BEC).[138]

9. The Commission's fundamental analysis is based primarily on data that could legitimately be considered more indicative of the near-term future than of the long-term. Thus, this rate could be used as another estimate of the short-term growth rate. This rate is 4.7 percent.

The majority of the direct analyst forecasts of dividend and earnings per share growth are in the 4.5 to 4.9 percent range. Since the Commission is persuaded by the arguments raised in the comments supporting the validity of analyst forecasts being reflective of investor's expectations, at least in the short-term, the Commission is inclined to place greater weight on these statistics than on the historical growth rates.[139] However, the recent historical growth in dividends suggests that investors may believe a range of plausible near-term future growth rates in dividends of 5.2 to 5.6 percent. Considering both sets of data, the Commission estimates an expected average growth rate over the next five years of 4.8 percent. The Commission notes that this rate is consistent with a downward trend in growth rates from the current level of between 5.2 and 5.6 percent to a rate of between 4.0 and 4.5 percent over the first five years.

ii. *Growth Beyond Five Years.* The evaluation of the expected growth rate beyond five years is more difficult, but the Commission can look to some estimates that have been used by others. The only published rate described as a long-term growth rate that could be used in the second stage of a DCF analysis is that of Merrill Lynch.[140] It publishes a rate referred to by the GSA as an average long-term growth forecast. For the base year, this rate is estimated to be 4.0 percent (mean) or 3.9 percent (median). GSA also refers to dividend and price growth histories for extended holding periods to obtain the bottom end of its range of second stage growth rates, 3 to 4 percent.[141]

Other data in the record relevant to the determination of the long-term expected growth rate are:

1. AUS uses as a second growth rate the lower end of its range of plausible growth rates, 4.5 percent.[142]

2. Cooperatives, in Reply Coments, use a 4.0 percent rate for their second stage based on analysts' forecasts of sustainable growth.[143]

3. In both of the two-stage growth studies referred to in Order No. 420 (by Detroit Edison and Cooperatives), the second stage growth rate was 4.0 percent.[144]

The Commission also bases its estimate of a long-term rate applicable to the period beyond five years on its own fundamental analysis of retention growth, which some refer to as a sustainable growth rate method. Sustainable growth analyses are essentially fundamental growth analyses where it is assumed that firms are expected to earn, or average, their cost of capital. From its analysis of the above, the Commission believes a second stage expected growth rate above 4.3 percent is unlikely. With a retention ratio of between 28 and 30 percent, which is the Commission's best estimate of the long-term ratio, a 4.3 percent retention growth rate implies average long-term rates of return on common equity in the range of 14.3 to 15.4 percent.[145] The Commission cannot see any basis for believing that investors expect such historically high rates of return into the distant future. On the other hand, a 4.0 percent retention growth rate, together with the above projected retention ratios, implies expected rates of return on common equity of between 13.3 and 14.3 percent, which seem more reasonable for long-term expectations.[146] While there is some possibility of retention growth rates somewhat below 4.0 percent, the Commission finds such rates unlikely. On review of this data, especially in light of the sustainable growth analysis, the Commission estimates the expected second stage long-term growth rate to be 4.0 percent.

[130] These composite average growth rates are determined by finding the internal rate of return in an expanded form of the DCF model adopted as the primary model for use in this proceeding and incorporating a different growth rate during the first five than years in the remaining years.

[131] Initial Comments of BEC at 25 and Appendix 16.

[132] Initial Comments of BEC at 25 and Appendix 15.

[133] *See* Initial Comments of BEC at 25 and Appendix 17. Also, AUS determined a median growth rate of 4.48 percent from I/B/E/S five year projected earnings per share data during the base year. Initial Comments of AUS at 37 and Schedule 3. *See* also Initial Comments of EEI at Table 1.

[134] *See* Initial Comments of BEC at 25 and Appendix 16. Also, AUS determined a median growth rate of 4.64 percent from Merrill Lynch projections on dividends per share growth during the base year. Initial Comments of AUS at 37 and Schedule 3.

[135] *See* Initial Comments of BEC at 25 and Appendix 15. Also, AUS determined a median growth rate of 4.63 percent from Value Line projections on dividends per share growth during the base year. Initial Comments of AUS at 37 and Schedule 3.

[136] *See* Initial Comments of BEC at 25 and Appendix 18.

[137] Initial Comments of AUS at 37, BEC at 9, NEP at 4, NSP at 13, and SWEPCO at Exhibit 2.

[138] Initial Comments of BEC at 9 and SWEPCO at Exhibit 2.

[139] With regard to the use of analyst forecast data, the Commission stands by its discussion in Order No. 420, 50 FR 21819. Further, the Commission generally concurs with the contentions made by EEI and AUS to the effect that stock market prices reflect these forecasts. However, the Commission does not agree that this implies that these rates are the appropriate rates to use in a DCF analysis where the model calls for the investors' average long-term growth rate.

[140] *See* Reply Comments of BEC at 22.

[141] Initial Comments of GSA at 7–8.

[142] Initial Comments of AUS at 49.

[143] Reply Comments of Cooperatives at 41.

[144] Order No. 420, 50 FR 21818.

[145] Pursuant to the Commission's earlier discussion of rates of return on average versus beginning of year common equity, these rates should be viewed as the latter for purposes of evaluating the proper growth rate for the model adopted in this proceeding. In terms of rates of return on average common equity values, this range is 13.9 to 15.0 percent.

[146] In terms of rates of return on average common equity, this range is 12.9 to 13.9 percent.

Using a two-stage model with a 4.8 percent growth rate for the next five years and a 4.0 percent rate beyond, the average expected long-term growth rate is 4.3 percent.

c. *Conclusion.* Taking the fundamental analysis result of 4.7 percent together with the two-stage model result of 4.3 percent, the Commission determines that the average expected growth rate is 4.5 precent.

F. Corroborative Evidence

1. Introduction

In the NOPR, the Commission requested that commenters support their estimates of the market required rate of return with corroborative evidence. The Commission did not specify any particular types of corroborative evidence for commenters to focus on.

Few commenters provided analysis of corroborative evidence in support of their recommendations. The types of evidence submitted by commenters for corroboration included some risk premium analyses, earnings valuation analyses (earnings-price and market-to-book ratios), and a two-stage DCF model. The Commission reviews this evidence and other publicly available data below.

2. Risk Premium Analyses

There are two general approaches to estimating the market required rate of return on common equity. It can be estimated directly by estimating its component parts, the factors for which investors ask compensation. Those factors are the real time value of money, a premium for expected inflation, and a premium for risk. Alternatively, it can be estimated indirectly on the basis of the return expectations embodied in the prices investors are willing to pay for stocks. The latter approach is essentially the discounted cash flow method in all of its variations, including the evaluation of earnings-price and market-to-book ratios which are addressed below. The direct approach is usually referred to as the risk premium approach and also has many variations. These variations can generally be categorized on the basis of the base rate [147] with which the estimated risk premium is supposed to be added, or otherwise combined.

Two commenters offered, as primary or corroborative evidence, estimates of market required rates of return on common equity for electric utilities based on risk premium analyses. AUS based its estimate on the risk premium of common stocks over public utility bonds. NSP looked at risk premiums of public utility common stocks over Treasury bonds and over public utility bonds based on the Commission's findings in Order No. 420.

AUS estimated a base year average market required rate of return of 16.30 percent, based on the addition of a 3.96 percent risk premium to the base year average yield on newly issued A-rated public utility bonds of 12.34 percent. The risk premium is based on the long-term average realized risk premium of common stock over high grade corporate bonds (for the period 1926 to 1984), adjusted for estimated differences in risk between A-rated public utility bonds and AAA-rated corporate bonds.[148]

NSP contends in its comments that a 15.25 to 16.00 percent market required rate of return is suggested by risk premiums of 3.5 percent over government bond yields and 2.0 percent over public utility bond yields, where these premiums are based on the Commission's findings in Order No. 420. Average yields on 10 and 20 year constant maturity Treasury bonds were 11.75 and 11.89 percent, respectively for the base year in the current proceeding. NSP simply added these yields together with the 3.5 percent premium and produced required common equity return estimates of 15.25 to 15.39 percent.[149] Similarly, NSP added the 2.0 percent premium to base year averages of public utility bond yield composites (by rating class), which ranged from 13.10 to 13.96 percent, to produce a range of required common equity returns of 15.10 to 15.96 percent.

Before addressing the specifics of these comments, the Commission notes some concerns with the reliability of risk premium estimates of market required rates of return. As the Commission stated in Order No. 420, it is difficult to estimate what risk premiums actually are, because they are not directly observable and because they are likely to vary over time.[150]

First, there are good reasons to question the stability of risk premiums of utility common stock returns over bond yields or other common stock returns, especially for recent years. Electric utilities, along with the energy sector of the economy as a whole, have experienced tremendous changes in the recent past—OPEC, Three Mile Island, etc. These changes have surely had an impact on the relative risk of electric utility investments (both stocks and bonds) to investments in other segments of the economy. Because of this, the relationship between the risk of, and market required rates of return on, utility common stocks and all industry common stocks has probably changed. The relationship between the risk of utility and all industry bonds has probably also changed.

Second, as the Commission stated in Order No. 420,[151] the historical relationship between debt and equity securities changed in 1979 when the Federal Reserve Board changed its policies. Prior to 1979, its objective was to stabilize interest rates. In 1979, however, it began to focus on maintaining a stable monetary aggregate. Since then, interest rates have been more volatile. This has affected the risks associated with long term bonds more than it has common stock.[152]

These changes in relative risk between utilities and other industries and between debt and equity securities arising from these events have probably not produced stable risk premiums. At

[147] Examples of what is meant by the term "base rate" here include the yields on Treasury bills and on A-rated public utility bonds. Each of these yield series already takes account of different types and amounts of risk. Thus, when common stock required rates of return are compared to them, different premiums are expected. The expected premiums will vary with the amount and types of risks already embodied in the base rate.

[148] The average realized rate of return on common stock over the period was 9.5 percent versus an average return of 4.4 percent on high grade corporate bonds. The yield spread between A-rated public utility bonds and AAA-rated corporate bonds for the base year was 1.14 percent. Adding this to the average return on high grade corporate bonds of 4.4 percent produces an estimate of the average return on public utility bonds of 5.54 percent. When this rate is subtracted from the 9.5 percent average historical common stock return, a risk premium of 3.96 percent is produced. *See* Initial Comments of AUS at 51.

[149] Initial Comments on NSP at 23.

[150] 50 FR 21821.

[151] *Id.*

[152] *See* Reply Comments of WCG at 12. As evidence of this change, one study referred to by WCG estimates that the standard deviation in the rates of return on bonds in duration from 1 to 8 years had a range of 2.26 to 5.43 during the period January 1977 to September 1979, just prior to the Federal Reserve policy change in October 1979. However, that range of standard deviations for these different duration bonds was 5.15 to 20.4 during the two year beginning January 1980. In contrast, the standard deviation of rates of return on common stocks hardly changed at all between these two periods. It was 17.46 during the first period and 17.55 during the later period. (Zvi Bodie, Alex Kane, and Robert McDonald, "Why Haven't Nominal Rates Declined?" *Financial Analysts Journal*, March–April 1984, p. 16.) Other evidence is found in the changed relationship between bond and common stock yields. Whereas prior to 1979 AAA-rated utility bonds and utility dividend yields tracked one another closely, since that year the bond yields have been significantly higher. (*See*, for example, Dennis B. Fitzpatrick, "Does the Negative Risk Premium Really Exist?" *Public Utilities Fortnightly*, July 8, 1982, p. 27.)

the least, the Commission believes that the measurement of the current premiums is made more difficult by these factors.

For these reasons, the Commission is reluctant to place any great weight on risk premium analyses in general other than those based on a simple ranking of securities. In other words, the Commission accepts the notion that, for instance, an A-rated public utility bond remains more risky than a Treasury bond. However, the Commission believes it would be difficult to estimate current risk premiums. Further, given the Commission's understanding of the effects of these recent events, the Commission will not be easily convinced of claims that the risk premium between two securities is relatively constant.

Turning now to the specifics of the AUS analysis, the Commission finds it is flawed in its conceptual framework. By adjusting the base rate from "high grade corporate bonds" to "A-rated public utility bonds," the AUS analysis simply changes the base upon which common stock returns are compared. These common stock returns, however, are for all common stocks, not just electric utility stocks. What is needed is an adjustment to the risk premium (over high grade corporate or public utility bonds) for the difference in risk between utility common stocks and all common stocks. Even if one assumes that the other parts of its analysis are correct, AUS has produced an estimate of the average long-term risk premium of all common stocks over public utility bonds. This is useful for the current proceeding only if one assumes that utility common stocks are equal in risk to all common stocks. There is no record evidence to support such an assumption.

In Order No. 420, the Commission adjusted a 5.9 percent historical realized risk premium of common stock returns over Treasury bonds for the lower risk of utility common stocks by using a "beta" measure of relative risk.[153] The average electric utility beta of between .65 and .70 multiplied times the 5.9 percent corporate common stock risk premium yields a utility common stock risk premium (over Treasury bonds) of between 3.8 and 4.1 percent. Using a base year (ending June 30, 1984) average Treasury bond yield of 12.25 percent, the Commission derived a 16.1 to 16.4 percent required return estimate. The comparable average Treasury bond yield for the current base year (ending June 30, 1985) of 11.89 percent, together with this risk premium range, produces required return estimates of 15.7 to 16.0 percent.[154] But, as the Commission stated in Order No. 420 and discusses above, even these adjusted historical risk premium estimates probably overstate actual premiums since the 1979 Federal Reserve policy changes.

Further, given the Commission's new awareness of differences between nominal and effective rates of return, it seems that further adjustments are required in this type of risk premium analysis. The above-referenced historical risk premium is based on differences between annual effective rates of return, not on nominal rates. For proper comparison, the Treasury bond yield should probably be converted to an effective rate before adding the above risk premium and the final value should be compared to the Commission's estimate of the effective required rate of return based on its DCF analysis of 15.32 percent. The effective Treasury bond yield equivalent to the semi-annual nominal rate of 11.89 percent is 12.2 percent (rounded). Adding the above-referenced range of risk premiums of 3.8 to 4.1 percent to this rate produces estimates of the effective market required rate of return between 16.0 and 16.3 percent.[155] While the difference between this rate and the Commission's DCF estimate of 15.32 percent appears large, this evidence is not sufficient to warrant rejection of the DCF estimate. This is especially true given that, as discussed above, the Commission has reason to believe the risk premiums have fallen in recent years.

With regard to the NSP comments, the Commission observes that NSP presents no new information on risk premiums. As such, there is little to comment on except to note that NSP overstates somewhat the actual risk premiums found in the last proceeding. The actual risk premiums implied by the Commission's determination in the last proceeding were (1) 3.00 and 3.14 percent over 20 year and 10 year constant maturity Treasury bonds, respectively, and (2) 1.73 percent over the composite of newly issued public utility bonds. Because of this, NSP's analysis produces required rate of return estimates above those of the Commission. The Commission shows below that the risk premiums implied by its findings in the last proceeding are comparable to those found in this one.

Finally, consistent with the analysis supporting the new DCF model adopted in this proceeding (Section III.A., *supra*) the Commission is sensitive to the difference between nominal and effective yields or rates of return. In comparing interest rates of different securities, and in evaluating risk premiums, it is important that the rates be expressed in comparable terms or that the analyst be able to evaluate the effects of any differences. All rates could be converted to comparable units through the mathematical relationships that exist between them.[156] However, this means changing the rates from their published values. The Commission does not wish to proceed down that path at this time. Instead, the Commission thinks it reasonable to simply observe the direction of the changes that would take place if one did the conversions.

Bond yields are most commonly presented as nominal rates with semi-annual compounding, since interest payments are made twice a year. This rate primarily reflects the interest payments received by the lender during the course of each year and ignores any additional return that he may obtain by reinvesting this interest income in the same or other investments. The model

[153] "Beta" is a measure of risk derived from a theoretical model of capital markets, known as the Capital Asset Pricing Model (or CAPM). According to the hypothesis underlying this model, a security's risk may be divided into two parts: a "systematic" or market-related risk component which cannot be eliminated by diversification and an "unsystematic," residual risk component which can be eliminated through diversification in efficient portfolios. Systematic risk (measured by "beta") refers to the tendency of all securities to move "with the market," although the magnitude of the movement obviously varies among securities. As general supply and demand pressures act in capital and related money markets to push equilibrium required rates of return up and down over time, some securities experience greater than normal swings while others experience less. Those securities that move in perfect "lock-step" with the market will have beta values of one. Those that move less (more) than proportionately with the market will have beta values less (greater) than one. Although the existence of systematic risk arises from general market factors, its relative importance to the risk in individual securities depends on factors unique to the securities, e.g., the capital structure of the firm. On the other hand, unsystematic risk relates solely to factors peculiar to the individual securities, e.g., labor difficulties or regulatory climate. Investors, by efficiently diversifying their portfolios, can eliminate this source of risk. And, as many investors act likewise, the market prices of the stocks can be expected to reflect only systematic risk.

[154] *See* Order No. 420, 50 FR 21821. In Reply Comments, WCG does a similar analysis using the historical risk premium between common stocks and short term Treasury bills to produce an estimate of the base year required rate of return of 10.9 percent. However, the Commission finds this estimate inadequate on its face, because it barely reflects average utility yields for the base year.

[155] The comparable rates for the last proceeding were 16.4 to 16.7 percent, based on the conversion of the semiannual nominal Treasury yield of 12.25 (from Table 3) to its equivalent effective rate of 12.6 (rounded).

[156] The relationship between nominal and effective rates, repeated here for the reader's convenience, is as follows:

$$\text{effective rate} = \left[1 + \frac{(\text{nominal rate})}{m}\right]^{m} - 1$$

used in this proceeding produces estimates of the investors' effective required rates of return on common equity. These rates include the effects of reinvesting earnings. Thus, these rates are not comparable to the published bond yield figures.

To make these rates comparable, the bond yields could be converted to effective rates or the effective common equity rates could be converted to nominal rates. Since common stock dividends are paid out quarterly, when investors think of nominal market required rates of return on common equity, they may think in terms of nominal quarterly rates, i.e., nominal rates with quarterly compounding. While nominal quarterly rates are not strictly comparable to nominal semi-annual rates, the difference is generally less than the difference between them and the effective rate.

In this proceeding, the average nominal quarterly required rate of return on common equity equivalent to the 15.32 percent effective required rate is 14.51 percent. If one were to convert this to a semi-annual nominal figure, the rate would increase to 14.77 percent.[157] The import of this is that when one compares the nominal quarterly rate with a rate for a lower risk security that is expressed as a nominal semi-annual figure, the risk premium between the two is understated.

Table 3 presents selected interest rates for the base year for this proceeding (ending June 30, 1985) and, for comparative purposes, the base year for the last proceeding (ending June 30, 1984). *A priori*, the least that can be said about the estimated average market required rate of return on common equity for electric utilities is that it should generally be above the base year interest rates presented in Table 3. The estimate of 15.32 percent found reasonable in this proceeding (section III. E.3., *supra*) meets that standard. Further, applying this year's DCF model to the data for the base year ending June 30, 1984, produces an estimate of the market required rate for that year also consistent with the interest rates during that year.[158]

[157] Specially, the nominal semi-annual rate equivalent to the nominal quarterly rate of 14.51 percent is 14.77 percent. These rates are determined from the equation of the previous footnote, based on an effective rate of 15.32 percent and m values of 2 (for nominal semi-annual) and 4 (for nominal quarterly).

[158] The effective required rates presented in Table 3 are derived using the new model and data for the year ending June 30, 1984—average dividend yield of 10.74 percent and a growth rate of 4.30 percent. The nominal equivalent rates are derived from the mathematical relationship between the rates explained above.

TABLE 3.—SELECTED INTEREST RATES [159]

	Year ending	
	6/30/84 (percent)	6/30/85 (percent)
Treasury bills (new 3 month)	9.24	8.76
Commercial paper (new 3 month)	9.65	9.17
Treasury bond yields:		
10 year constant maturity	12.11	11.75
20 year constant maturity	12.25	11.89
Moody's public utility A-rated preferred stock	12.82	12.45
Moody's public utility bond yields:		
Aaa	12.84	12.47
Aa	13.44	13.10
A	13.80	13.53
Baa	14.41	13.96
Composite average	13.79	13.27
Yields on recently issued bonds:		
Moody's new A-rated	12.98	12.37
Composite average	13.52	13.11
DCF estimates of the average market required rate of return on common equity for electric utilities using new model:		
Nominal quarterly rate	15.03	14.51
Nominal semi-annual rate	15.31	14.77
Effective rate	15.90	15.32

[159] Average of monthly rates for specified periods. Sources: Federal Reserve Statistical Release G.13 (various dates) and Moody's 1985 Public Utility Manual.

Generally, as one moves down the list of securities in Table 3, the greater the associated risks and the higher the lenders' or investors' required rate of return. While there may be circumstances where the relative position of one or more of these securities may change for short periods of time, these circumstances are not the norm. The relative positions depicted in Table 3 are consistent with the Commission's understanding of the relative risks of the referenced securities. Federal government securities are of lower risk than commercial or industrial securities. Short-term securities are less risky than long-term securities. Lower bond ratings imply higher risks and higher required rates of return.

With reference to Table 3, two additional points are worth noting. First, in all cases, the reduction in the rates from the year ending June 30, 1984, to the year ending June 30, 1985, is roughly between 30 and 60 basis points. Thus, there is a general consistency in the various rates, including the estimated market required rate on common equity, from one year to the next. Second, as noted above, if the Commission were to express the rates in this table on comparable bases—quarterly nominal or semi-annual nominal or effective, the risk premiums between the debt and preferred securities and the common stock would appear greater than those depicted.

In conclusion, the Commission finds no inconsistency between its finding of an effective required rate of return for the base year of 15.32 percent and interest rates, in general, for the same time period. The implied risk premiums, while smaller than long-term historical data would suggest, appear very plausible, especially in light of the changed relationship between debt and common stock since 1979.

3. Market-to-Book and Earnings-Price Ratio Evidence

Two commenters present, as corroborative evidence, analyses based on earnings-price (E/P) and market-to-book (or price-book, P/B) ratios.

FA Staff states that the market cost of common equity should be bracketed by the E/P ratio and the expected rate of return on common equity. FA Staff first looked at the relationship between the market cost of common equity and E/P ratios. FA Staff states that when the P/B ratio is one, the E/P ratio correctly estimates the market cost of common equity. When the P/B ratio is above one, the E/P ratio is said to understate the market cost. When the P/B ratio is below one, the E/P ratio overstates the market cost. Employing its base year estimated dividend yield of 10.22 percent with its projected payout ratio of 70 percent, FA Staff estimates an E/P ratio of 14.60 percent,[160] which it claims is consistent with the above reasoning, with a P/B ratio slightly in excess of one, and its estimated cost of common equity of 14.62 percent.[161]

$$\text{Earning-Price Ratio} = \frac{\text{Divided Yield}}{\text{Dividend Payout Ratio}} = \frac{.1022}{.70} = .1460.$$

FA Staff also evaluates the expected rate of return on common equity (or expected rate of return on book) with reference to the P/B ratio. Reasoning similar to that in the preceding paragraph is applied to the relationship between these two values. When the P/B ratio is above one, FA Staff states that the expected rate of return on book value overstates the cost of common equity. When the P/B ratio is below one, the expected rate of return understates the cost of common equity. When the P/B ratio equals one, the expected rate of return on book value equals the cost of common equity. Using this reasoning, FA Staff argues that its estimate of the expected rate of return on book value of 14.7 percent, together with a current P/B ratio slightly above one, is consistent

[160] This is estimated as follows by FA Staff:

[161] Initial Comments of FA Staff at 25–26 and Attachment F.

with its cost of common equity finding of 14.62 percent.[162]

Cooperatives present an E/P ratio analysis similar to that of FA Staff.[163] Cooperatives do this analysis for their nuclear and non-nuclear samples of companies, as well as for the combined industry average. For the industry as a whole, Cooperatives use their base year median dividend yield of 9.94 percent and a projected payout ratio of 71.5 percent to derive an E/P ratio of 13.90 percent.[164] Since Cooperatives estimate the industry's average P/B ratio to be 1.14 percent, an upward adjustment of .69 percent is made to the E/P ratio to obtain an adjusted ratio of 14.59 percent.[165] Cooperatives claim that this is consistent with their 14.55 percent estimate of the cost of common equity.[166]

In Reply Comments, both FA Staff's and the Cooperatives' analyses are criticized on a number of grounds. Since the E/P analyses of both are essentially equivalent in method, criticisms of one are applicable to the other. AUS criticizes the E/P analyses in three ways. First, it states that the analyses did not use actual E/P ratios. Second, the analyses mismatch estimated (forecasts of) dividend payout ratios with historical average dividend yields. Finally, AUS argues, apparently as an alternative to the above arguments, that actual E/P ratios provide misleading corroborative evidence since such E/P ratios essentially disregard price being a function of expectations.

According to AUS, E/P ratios are historical rates and the only way these can provide a reasonable estimate of the market required rate on common equity is if investors expect both the current earnings rate and the current payout ratio to remain constant into the future. AUS points out that FA Staff provides proof of neither. As a more proper method, AUS takes its base year median E/P ratio of 14.654 percent and adjusts it by its estimate of the growth rate (4.6 percent) to obtain a "properly matched" E/P ratio of 15.34 percent (14.654 x 1.046=15.34). AUS also takes its own "adjusted" dividend yield of 10.26 percent (in lieu of FA Staff's 10.22) together with its estimate of Value Line's implicit forecast of the dividend payout ratio of .664 and, using FA Staff's formula, derives an estimated E/P ratio of 15.45 percent.[167]

BEC argues that when the P/B ratio is equal to one, FA Staff's two tests are one.[168] Both BEC and NSP make the point that the tests are not independent checks on the DCF-derived results, since they are essentially based on the same estimates of certain parameters, especially the expected rate of return on common equity.[169]

As stated above, these approaches can be considered variations of discounted cash flow analyses since they rely on the theory that stock market prices are based on the discounted cash flows to investors. Specifically, the E/P ratio is a particular form of DCF model, being derived from the general form with certain simplifying assumptions made about the cash flow stream expected by investors. The P/B ratio analysis is based on a comparative analysis of the investors' expected cash flows relative to the market value of their investment and the expected cash flows relative to the book value of their investment. Like the typical DCF models used to estimate required rates of return, these approaches attempt to infer investors' required rates of return by reference to some valuation of the investors' expectations embodied in stock market prices.

The Commission would, in general, agree with the criticism of BEC and NSP that the tests are not independent checks on the DCF-derived results, but only to the extent that these analyses relied on the same empirical data. While it is true that both market prices (P) and book values (B) are embodied

[162] Initial Comments of FA Staff at 26.

[163] Initial Comments of Cooperatives at 89–91.

[164] Using the formula given in reference to FA Staff's analysis above, the E/P ratio is estimated as the ratio of the dividend yield to the dividend payout ratio, or .0994 divided by .715 equals .1390.

[165] The adjustment used by Cooperatives is as follows:

$$\text{Underestimation} = \left[\begin{array}{c}\text{Growth in Total}\\ \text{Common Equity}\end{array}\right] \cdot \frac{[1-\text{Market-to-Book Ratio}]}{[\text{Market-to-Book Ratio}]} = [5.62] \cdot \frac{[1-1.14]}{[1.14]} = .69$$

[166] Initial Comments of Cooperatives at 89.

[167] Reply Comments of AUS at 11.

[168] Reply Comments of BEC at 25.

[169] Reply Comments of BEC at 25, NSP at 12.

somewhere in the DCF model used by the Commission (market price is the denominator of the dividend yield and book value is the denominator of the return on common equity), the Commission believes there is value in looking at P/B ratios also. The evaluations of P/B ratios does provide some corroboration of the model results, even if that is simply a check on the internal consistency of the assumptions made about the parameters in estimating the required rate of return. Secondly, the book value used in the P/B ratio is unlikely to be the same as that embodied in the average expected long-run rate of return on common equity component of the growth rate. Therefore, the Commission believes that the evaluation of the P/B ratio does add additional information to the analysis. Likewise, the Commission believes that the E/P ratio provides insights as to the internal consistency of the model's empirical results even though both the numerator and the denominator of the ratio may be employed elsewhere in the model.

Along similar lines, the Commission does not agree with the criticism by BEC that FA Staff's two tests are redundant when the P/B ratio is one. Since the tests look at different empirical data, or at least look at the same data from a different perspective, the Commission believes that there is value in the analysis.

The Commission shares the concerns of AUS with regard to the E/P analyses of FA Staff and Cooperatives. Without any apparent explanation, these analyses estimate an E/P ratio on the basis of an actual base year average dividend yield and some expected long-run average payout ratio. The resulting value is not an actual E/P ratio applicable to the base year. The ratio also appears to mismatch past and forecast data. Because of this, the resulting E/P ratios obtained by both FA Staff and Cooperatives are difficult to evaluate. The method of using a forecasted dividend payout ratio does not seem to counter the third concern of AUS, shared by the Commission, that the straight-forward use of an E/P ratio is misleading since it is not based on the long-run expectations that the theory says are the basis for market prices.

The specific E/P model derived by FA Staff appears to call for using an earnings rate for the forthcoming year.[170] [171] The method of FA Staff and Cooperatives does not appear to produce that result. AUS proposes that the expected growth rate be used to adjust the average actual E/P ratio for the base year. The Commission agrees that this would produce a result consistent with the theory underlying FA Staff's model. Using AUS's estimate of the average E/P ratio for the base year of 14.65 percent with the Commission's estimate of expected growth, 4.5 percent, yields a value of 15.31 percent. The Commission believes this value is roughly corroborative of the Commission's estimate of the effective market required rate of return, taking into account the differences in the assumptions underlying the two models.

With regard to FA Staff's evaluation of the expected rate of return on common equity vis-a-vis the P/B ratio, the Commission finds corroboration from the average P/B ratio of one during the base year [172] and its determination of the average expected long-term rate of return on common equity. As explained in the Commission's discussion of the growth rate, the expected rate of return on common equity most closely comparable to the effective required rate of return on common equity and the appropriate one to use for the determination of the growth rate in the model the Commission adopts in this proceeding is 15.0 percent.[173] This rate is based on expectations of returns divided by beginning of year common equity investment, in contrast to the more typical presentation of common equity rates of return based on average investment over the year. Thus, given a P/B ratio of one, and the resultant *a priori* expectation that the expected return on market price should approximate the expected return on book value, the Commission finds this data also consistent with its determination in this proceeding.

4. GSA's Two-Stage DCF Model

GSA uses a two-stage DCF model to check the results it obtained from its constant growth model. Its two-stage model is based on annual dividend payments, a four year period for the first stage of growth, and a 20 year period for the second stage. As with GSA's primary constant growth model, it estimates the market required rate of return on a bi-monthly basis and averages these values over the base year. GSA employs bi-monthly estimates of the short-term growth rate ranging from 4.5 to 4.9 percent (rounded) over the course of the year. For each bi-monthly determination, GSA employs a range of long-term growth rates from 3.0 to 4.0 percent. From this analysis, GSA determines an average required rate of 13.86 percent for the year using a 3.0 percent growth in the second stage and an average required rate of 14.60 percent using the higher 4.0 percent second stage growth.[174]

The Commission notes that the range of short-term growth rates used by GSA is consistent with its own findings.[175] With regard to long-term growth rates, the Commission finds the 3 percent rate too low. While GSA did not specify the exact model it used to derive its results, the Commission believes it can be surmised that it understates the effective required rate of return and produces a rate closer to the nominal quarterly equivalent rate, which the Commission finds to be 14.51 percent. Since this rate is roughly comparable to the average rate found by GSA using a 4 percent second stage growth rate, which the Commission finds reasonable, the Commission believes that the GSA study yields results consistent with its own.

G. Flotation Costs

1. Introduction

In Order No. 420, the Commission found that recovery of issuance costs only, such as underwriters' compensation and legal and printing fees, should be allowed. No recovery was allowed for "market pressure" or "market break" costs.[176] The Commission continues this policy.

2. Types of Costs to be Recovered

In the NOPR, the Commission proposed that utilities should be compensated only for issuance expenses—that is, the out-of-pocket expenses for underwriting, legal work, and publishing. The Commission noted that this would represent a continuation of the Commission's existing policy.[177] The Commission further proposed that any adjustment to the market required rate of return should reflect recovery of only average annual costs associated with new stock issues. The Commission noted its belief that an industry average adjustement to the market required rate of return is the best way of dealing with these costs since they have a relatively small quantitative impact, since the adjustment is subject to forecast errors,

[170] [171] *See* Initial Comments of FA Staff at Attachment F.

[172] Cooperatives estimate of the industry-wide P/B ratio of 1.14 times is based on data for the last month of the base year. It is therefore not reflective of average conditions during the base year.

[173] *See* Section III.E. *supra*.

[174] Initial Comments of GSA at 6-7 and Exhibit V.

[175] See Section III.E., *supra*.

[176] Order No. 420, 50 FR 21824-25.

[177] NOPR, 50 FR 30209.

and since underrecovery of such costs by individual utilities is offset over time.[178]

3. Comment Summary

The comments address three primary issues. The first is whether the Commission should make any allowance for costs due to market pressure or market break.[179] The second issue is whether flotation costs should be recovered through a form of perpetual amortization or a form of current cost recovery. The third issue is whether the recovery of flotation costs should be reflected in the allowed return on common equity.

Concerning a market pressure adjustment, a number of commenters argue that market pressure occurs and that public utilities should be compensated for the costs arising from market pressure and market break.[180] NSP and SWEPCO present empirical studies of their own that they believe demonstrate the existence of market pressure.[181] NSP also raises the question of whether the Commission's prior finding that the need for a market pressure allowance had not been demonstrated [182] means that the Commission would as a matter of policy refuse to recognize the existence of market pressure even if studies are repeatedly submitted that demonstrate market pressure.[183] In their comments, Cooperatives, FA Staff, and WCG all oppose any allowance for market pressure.[184]

Most commenters who argued for the perpetual amortization method also argued that the resulting flotation cost adjustment be applied to all equity.[185] Their primary argument is dealt with a in detail below. AUS argues that a flotation cost adjustment based only on an average will not compensate those public utilities that actually issue stock.[186]

GSA and Cooperatives oppose any flotation cost ajdustment to the average cost of equity.[187] They contend that flotation costs do not have an effect on the cost of equity, so that no adjustment should be made to the cost of equity because of them. Cooperatives suggest recovery of actual flotation costs through the cost of service.[188] In response, AUS and BEC contend that if flotation costs are not recovered, it will raise the cost of capital.[189] FA Staff opposes application of the flotation cost adjustment to all stock rather than new equity only.[190]

Also, while some commenters suggest consideration of market break in the flotation cost adjustment,[191] no quantitative studies have been presented to support an adjustment.

4. Discussion

a. *Market Pressure and Market Break.* The Commission finds that no studies have been presented which support the existence of market break. Thus, no adjustment for market break will be reflected in the flotation cost adjustment. This is consistent with the Commission's finding in the previous proceeding.[192]

As noted, several commenters recommend an adjustment for market pressure. However, only two commenters present studies to support their recommendations. Southern Company refers to two articles which, it claims, support an allowance of one percent of gross proceeds. One article referred to by Southern Company, the study by Bowyer and Yawitz,[193] found a positive market pressure cost of .76 percent for the years 1973 to 1976. The second article, the study by Logue and Jarrow [194] found market pressure cost of less than 1.5 percent for 1963 to 1974. However, the articles do not provide sufficient data to permit the Commission to evaluate the conclusions.

SWEPCO's study examines the price performance of new common stock issues of 13 utilities for the base year. The study finds that the price of eight of the issues, adjusted for changes in the Dow Jones utility average, declined upon issuance, and that the price of five of the issues *increased.* As the Commission stated in Order No. 420, "if market pressure costs do exist, one would not expect to see any price increases, except as statistical noise." [195] The SWEPCO study shows too many price increases to be considered statistical noise. The Commission believes that the results of the SWEPCO study, in conjunction with the evidence offered in the previous proceeding, do not provide a basis for concluding that the existence of market pressure has been shown.

One commenter, NSP, raises the question of whether the Commission did not recognize market pressure costs in Order No. 420 because the Commission felt that insufficient evidence was provided or because the Commission "has difficulty with the concept." [196] The Commission has an open mind on the subject of market pressure; however, the Commission will allow recovery only if convincing empirical evidence of its existence is presented.

b. *Method of Recovery.* In Order No. 420 the Commission adopted a formula for the recovery of issuance costs.[197] That formula also will be used in this proceeding.

PSCol divides flotation cost recovery methods into two categories—recovery of the costs on a current basis, and amortization of costs.[198]

The formula adopted by the Commission allows recovery each year of the total expected industry flotation cost. It is a form of current cost recovery. In this proceeding, as in the previous one, the utility companies generally argue for the amortization method. Several commenters cite a recent study by Brigham, Aberwald, and Gapenski [199] to justify their position.[200] The Brigham study suggests that flotation costs be recovered by amortizing them over an infinite period to correspond to the infinite life of common stock.[201] This type of amortization is not the type used in depreciation calculations, such as dividing the flotation cost into twenty equal payments. Rather, it is a stream of

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[178] *Id.*

[179] EEI defines market break as short-term fluctuations in the stock price at the time of issuance. Market pressure, in turn, is an alleged decline in the price of a stock at the time of news of a new issue of that stock.

[180] Initial Comments of AUS at 45, EEI at 14, NEP at 16, NSP at 15, IIGE at 2, Southern Company at 7, SWEPCO at 5, and WTU at 2.

[181] Initial Comments at SWEPCO at 5, NSP at 15.

[182] Order No. 420, 50 FR 21824.

[183] Initial Comments NSP at 15.

[184] Reply Comments of Cooperatives at 44, Initial Comments of FA Staff at 12, and WCG Reply Comments at A–36.

[185] Initial Comments of AUS at 45, BEC at 29, EEI at 14, IIGE at 2, and Southern Company at 7.

[186] Initial Comments of AUS at 14.

[187] Initial Comments of Cooperatives at 34 and GSA at 8.

[188] Reply Comments of Cooperatives at 44.

[189] Reply Comments of AUS at 10 and BEC at 30.

[190] Initial Comments of FA Staff at 3.

[191] Initial Comments of WTU at 2, NEP at 6, EEI at 14.

[192] Order No. 420, 50 FR 21824.

[193] Bowyer and Yawitz, "The Effect of New Equity Issues on Utility Stock Prices," *Public Utilities Fortnightly*, May 23, 1980.

[194] Logue and Jarrow, "Negotiations vs. Competitive Bidding in the Sale of Securities by Public Utilities," *Financial Management*, Fall 1978.

[195] Order No. 420, 50 FR 21824.

[196] Initial Comments of NSP at 20.

[197] Order No. 420, 50 FR 21825.

[198] Reply Comments of PSCol at 5.

[199] Eugene F. Brigham, Dana Aberwald, and Louis C. Gapenski, "Common Equity Flotation Costs and Rate Making," *Public Utitilites Fortnightly*, May 2, 1985, pages 28–36 (Brigham Study).

[200] Initial Comments of IIGE at 2, Southern Company at 9, and SWEPCO at 5.

[201] Brigham, *et al.*, proposed the perpetual amortization method, but recognized the validity of alternative methods of flotation cost recovery.

payments, which when discounted at the shareholders required return, has a "present value" equal to the flotation cost. The perpetual nature of this amortization means that once this form of amortization is used to recover the flotation costs of a stock issue it must continue, or there will be underrecovery of flotation costs.

A number of companies argue that flotation cost recovery should be permitted on all outstanding stock every year, whether or not the utility has isued any new stock during the year.[202] This argument implies the perpetual method of amortization described by the Brigham study. Thus, the argument would have merit only if the Commision were to adopt this amortization method of flotation recovery, instead of a current recovery method.

For a new company, either current cost recovery or amortization would provide the correct amount of recovery as long as the method selected is followed consistently. A problem arises, however, when a company has been in existence for some time. Both ratepayers and shareholders are affected by the choice of method of recovery. If current cost recovery has been allowed, switching to amortization permits recovery of costs that have already been fully recovered. Conversely, when an amortization policy was followed in the past, switching to current cost recovery cuts off the recovery on past issues and leads to underrecovery.

The methods have very different effects on rates. If the amortization method were adopted by the Commission using information found in this proceeding, the flotation cost adjustment would be approximately 28 basis points.[203] This adjustment is large because it is recovering a portion of the flotation cost of past issues as well as that of the new issue. Under the current cost recovery method, using information found in this proceeding, the flotation cost adjustment would be 4 basis points.[204] The industry, on average, is currently projected to issue less than two percent new stock each year.[205] In this case, the current cost method provides for a relatively small flotation cost adjustment because the cost of issuing the small proportion of stock is spread over the entire rate base.

When justified, the Commission has allowed recovery of flotation costs in the past. However, it is not clear whether past recovery has been the amount that would be permitted by either the current recovery method or the amortization method. With the generic proceedings, the Commission wishes to start with a clean slate. Thus, the Commission adopted a policy of current cost recovery in Order No. 420 and will continue this policy in the current proceeding.

c. *Issuance Cost Adjustment.* The formula adopted in Order No. 420 was:[206]

$$k^* = \frac{fs}{(1+s)}$$

Where:

k^* = flotation cost adjustment to required rate of return
f = industry average flotation costs as a percent of offering price
s = proportion of new equity expected to be issued annually to total common equity

As stated in Order No. 420, this formula determines an increment to the cost of common equity which reflects, on average, the annualized amount of flotation cost incurred by utilities.[207]

Commenters' estimates of issuance costs as a percent of gross sales price, f, were in a narrow range, from 2.4 percent [208] to 2.8 percent.[209] The differences were due, for the most part, to the inclusion or exclusion of certain utilities in the commenter's analysis. The Commission finds the analysis of AUS, which included 25 new issues, to be the most complete and adopts its corrected estimate of 2.4 percent.

The expected rate of new common stock issued annually, "s," was found in the growth rate section (III. E.) to be 1.55 percent. Applying the 2.4 percent estimate of issuance costs, f, and the 1.55 percent estimate of new equity financing, s, to the above formula, the Commission finds a flotation cost adjustment of 4 basis points.[210]

$$.0004 = \frac{0.024(0.0155)}{1.0155}$$

d. *Arguments against a Flotation Cost Adjustment.* GSA opposes any flotation cost adjustment on a generic basis, noting low percentages of companies in the sample that actually issued new shares during twelve month periods ending in June 1984 and 1985.[211] This argument is unpersuasive because there have been new issues and their costs must be accounted for.

Cooperatives also oppose a flotation cost adjustment, claiming that it does not enter into an investor's consideration of risk. The Cooperatives' argument is that when flotation cost recovery is not allowed, there is a decline in the expected growth rate but no change in risk, so that the cost of capital remains unchanged. They argue that this will come about because prices will decline to raise the yield enough to offset the expected growth decline.[212] However, without a flotation cost adjustment, holders of stock at the time of the issuance would experience an unanticipated loss equal to the issuance cost and therefore would not receive their required return.

H. *Jurisdictional Risk* [213]

1. Introduction

In the NOPR, the Commission noted that it found the record in the first annual proceeding inconclusive on the question of relative risk between jurisdictional and nonjurisdictional electric operations.[214] The Commission therefore requested commenters to:

> provide evidence on the issue of whether there is a difference in risk, an estimate of the difference in the cost of common equity due to such difference, if any, between jurisdictional and retail electric operations and an explanation of how that estimate was derived.[215]

2. Comment Summary

WCG argues that the Commission should recognize in this proceeding risk reductions due specifically to the Commission's CWIP rule.[216] Nine

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[202] *See*, for example, Initial Comments of AUS at 45, BEC at 31, EEI at 15, and NEP at 6.

[203] Based on the Commission's model for determining the market required rate of return and the perpetual amortization method proposed by the Brigham study, and by several companies. This formula adjusts the price by multiplying it by one minus the flotation cost rate. A flotation cost estimate of 2.4 percent was used.

[204] *See* Section III. G. 4. c., *infra.*

[205] *See* Section III. E. 3. a. iii., *supra.*

[206] Order No. 420, 50 FR 21825.

[207] *Id.* at 21826.

[208] The actual low estimate was 2.2 percent by AUS. However, this low estimate appears to be due to an error in the entry for underwriters' commission for Gulf States Utilities on Schedule 6 of its initial comments. When this error is corrected, its estimate would be closer to 2.4 percent.

[209] Initial Comments of AUS, BEC, EEI, SWEPCO, FA Staff, and GSA and Reply Comments of NSP.

[210]

[211] Initial Comments of GSA at 8.

[212] Initial Comments of Cooperatives at 33.

[213] As used here, jurisdictional risk is a simplified expression for the distinction in risk between wholesale and retail operations or between the rate schedule under consideration and the rest of a company's operations.

[214] NOPR, 50 FR 30209.

[215] *Id.*

[216] Initial Comments of WCG at 10. *See* Construction Work in Progress for Public Utilities; 48 Fed. Reg. 24,323 (June 1, 1983) (Docket No. RM81-38-000) (Final Rule) (Order No. 298) (issued May 16,

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commenters object to any adjustment to account for jurisdictional risk. Most argue that it is just too difficult to quantify any difference in cost of equity due to differences in regulatory jurisdiction.[217] BEC is the only commenter that presents any statistical analysis on the question of relative risk.

BEC evaluates the difference in standard errors of operating income, a measure of overall operating risks, for two samples of companies. One sample consists of those companies whose sales were at least 99 percent jurisdictional to the Commission. The second sample consists of those companies whose sales were no more than 1 percent jurisdictional. BEC evaluates whether the means and medians of the standard errors were significantly different from one another. BEC concludes that there is no significant difference between the two samples.[218]

3. Analysis and Conclusions

In general, utility costs must be allocated between jurisdictional and nonjurisdictional operations in establishing just and reasonable utility rates. Capital costs, including the cost of common equity, are no different than other costs in this respect. The allocation of common equity costs is, in part, made in an implicit manner through the determination of rate base and capital structure. The percent common equity in the capital structure multiplied by the rate base value effectively allocates a utility's common equity investment between jurisdictional and nonjurisdictional operations. To be complete, however, a determination of the appropriate rate of return to allow on this "jurisdictional" common equity investment is necessary.

The standard for the allowed rate of return on common equity is that it should be commensurate with the risk of the investment. Since, theoretically, a company is a composite of assets each with different risk characteristics, the question arises as to whether the risks associated with the jurisdictional investment are the same as or different from the overall risks of the company's other investments. If the risks are the same, the company-wide cost may be used as an estimate of the jurisdictional cost. Similarly, in the context of this generic proceeding, if the assets of the industry are allocated between jurisdictional and nonjurisdictional assets, a determination must be made whether the risk associated with the composite of all jurisdictional assets is generally equivalent to the risk associated with the composite of all nonjurisdictional assets. If it is, then the industry average cost of common equity is a reasonable proxy for the average cost of common equity to the jurisdictional operations of electric utilities.

Are the jurisdictional and nonjurisdictional operations of electric utilities equivalent in risk? The Commission finds no reasonable basis to conclude that the average risks of these different operations are distinguishable. No party, despite the invitation to do so, has made a convincing case that one segment has greater risks than the other. The Commission therefore concludes that a reasonable aproximation of the cost of common equity to jurisdictional operations may be made on the basis of the average cost to the industry as a whole.

Some commenters contend that the relative ranking of the Commission as a regulatory agency by various investment advisory services is suggestive of lower risk to jurisdictional operations. However, these rankings are as much a function of the relative levels of returns as they are of risk, since investors are presumably interested in both and the assesments are intended to be a guide to investors. The regulatory risks to utilities in two jurisdictions may be identical but the regulatory rankings different because one commission allows higher rates of return to be realized. Thus, the rankings may not solely reflect differences in risk. These rankings are also subjective measures of differences in regulatory policies. As such, these rankings are open to significant measurement errors.

Further, even if these investment advisory service rankings truly reflected overall differences in regulatory risks between wholesale and retail operations, they are not measures of the overall risks of wholesale and retail operations. Regulatory risk represents only one facet of risk for a company's common equity and this facet may not necessarily be translated into measurable differences in the cost of capital since investors may be able to diversify away this type of firm-specific risk.

Concerning WCG's argument that the Commission should recognize risk reductions due specifically to the Commission's rule regarding CWIP, the Commission specifically noted in Order No. 298 the difficulty in determining the effect of CWIP on the cost of capital.[219] Furthermore, the rule was recently vacated and remanded to the Commission by the Court of Appeals.[220] Also, WCG has presented no empirical support for its contention that a jurisdictional risk differential should be recognized in this proceeding. Finally, the "evidence" that has been supplied relating to policy differences between the Commission and the average State regulatory commission, *e.g.*, CWIP policy, is largely anecdotal. The Commission does not believe that such non-quantitative assertions are sufficient to support a finding that the overall risks, and cost of capital, of jurisdictional operations are different for nonjurisdictional operations.

Concerning the empirical study presented by BEC, since there does not appear to be any bias in the study and the study does look at a measure of overall risk rather than any particular aspect or type of risk (such as regulatory risk), this study is persuasive on the relative risk issue. Absent any evidence to the contrary, the BEC study stands as the best evidence on this issue. Based on this evidence and our discussion above, it appears reasonable to find that the risks associated with the composite of wholesale operations are equivalent to the risks of retail operations, so that the average cost to jurisdictional operations can be estimated by estimating the industry average cost of equity which reflects industry average risks.

I. Quarterly Indexing Procedure

1. Introduction

In the NOPR, the Commission proposed to adopt, for the current proceeding, the quarterly indexing procedure established in Order No. 420. In that procedure, the average cost of common equity is indexed to the median yield for the 100 company sample for the most recent calendar quarter prior to the period to which the benchmark is intended to apply. The quarter-to-quarter changes in the benchmark rates are capped at 50 basis points. The initial benchmark rate established in each annual proceeding, however, will not be subject to the 50 basis point cap.

2. Comment Summary and Analysis

While some commenters supported the proposed procedure,[221] other

1983), *vacated, Mid-Tex Electric Cooperative, et al.* v. *FERC*, —— F.2d —— (D.C. Cir. Nos. 82-2058, *et al.* (September 24, 1985).

[217] These commenters are AUS, BEC, CP&L, Duke, EEI, and NEP.

[218] Initial Comments of BEC at 35.

[219] 48 FR 24340-41.

[220] *See*, note 216, *supra*.

[221] Initial Comments of NEP at 7, SWEPCO at 6, and WTU at 2. EEI acknowledged the support for the Commission's proposed procedure expressed in the previous proceeding, while also stating that

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commenters suggested three types of changes: (1) The use of a period longer than one quarter to calculate the dividend yield applied in the indexing; (2) an adjustment for changes in growth expectations in addition to adjusting for changes in the dividend yield; and (3) the use of the cap as a "trigger" mechanism which, when exceeded, would cause the indexing procedure to be suspended.

a. *Extending the Period for Indexing.* Some commenters state that a period longer than one quarter should be used to calculate the dividend yield employed in the indexing procedure.[222] These commenters state that the use of a longer period would: (1) Reduce the effects of short-run volatility in yields, which may be inconsistent with the use of a constant growth DCF model; (2) diminish the potential for an abrupt change in the benchmark rate when the succession of three benchmark rates with quarter-to-quarter changes capped at 50 basis points are superseded by the rate established in the next annual proceeding, which is not subject to the cap; and (3) provide a more stable benchmark and minimize the application of the cap.

Certainly, the more quarters used in the dividend yield calculation, the greater the tendency toward the stated effects. The Commission believes that the mitigation of both the effect of volatile yields and the possibility of abrupt changes in the benchmark to be desirable, consistent with the previously stated goals of "determining and allowing rates of return that approximate actual cost rates and maintaining stability and predictability in the allowed rates".[223] These goals can, of course, conflict. The longer the period goes back, the less likely it will be that an abrupt change will occur or that short-run volatility will greatly affect the outcome. At the same time, however, the longer the period goes back, the less likely it is that the outcome will reflect the current dividend yield.

A judgment must be made as to which period gives the best balance between the potentially conflicting goals. The Commission believes the use of a 12-month moving average as suggested by some commenters would not provide a sufficiently current estimate of the dividend yield. In addition, the Commission believes that the use of the last preceding quarter, as orginally proposed, creates too great a risk that an abrupt change will occur or that short-run volatility will greatly affect the outcome. On reconsideration, the Commission finds that use of a median dividend yield for the two preceding quarters provides a better balance between accuracy and stability than use of a median dividend yield for the last preceding quarter, as originally proposed.

b. *Changes in Growth Expectations.* Some commenters expressed the view that the quarterly adjustment procedure should reflect changes in the investors' growth rate expectations.[224] These commenters point out that under the proposed procedure the growth rate estimate for the base year is used to calculate the cost of common equity for periods up to one and a half years after the base period ends. They believe that changes over time in the expected growth rate are so significant that the use of the base year's estimated growth rate, together with a more current dividend yield, results in a "mismatch" that could lead to substantial errors in the estimated cost of common equity.[225]

The Commission's quarterly indexing procedure allows for changes in dividend yield but assumes a constant growth rate. The Commission believes that the average industry dividend yield can change rapidly. Changes in the risk free rate of return (the pure time value of money plus a premium for inflation) and investors' risk perceptions are primarily reflected in changes occurring in the dividend yield. These factors, which are related to macroeconomic conditions, are more likely to change dramatically over short periods of time. The quarterly indexing procedure adopted by the Commission, which adjusts for changes in dividend yields, will pick up these changes.

In contrast, the Commission believes that growth rate changes for the industry occur more slowly. The Commission recognizes that the investors' growth expectations cannot be estimated with a high degree of accuracy.[226] Given the inaccuracy of these estimates, identifying changes in the expected growth rate cannot be accomplished with any confidence unless the changes are significant. It appears that significant changes in the long-run expected growth rate for the industry occur too infrequently and too slowly to justify attempts to provide the quarterly indexing procedure with growth rate adjustments.

A change in the expected growth rate occurs because of a change, for better or worse, in the industry's long-run expected profitability. Regulation tends to maintain profit stability by allowing higher rates to be charged when demand falls or costs rise and reducing allowed rates when demand increases or costs fall. Moreover, demand conditions and operating characteristics differ across utilities due to differences in regional economies, characteristics of the customer load, and State regulatory practices. For a rapid and significant change in the industry's expected profitability to occur, one or more of these factors would have to change for a large segment of the industry at the same time and in the same direction. A major economic shock such as the oil embargo can, of course, cause rapid changes in profit expectations, but such occurrences are infrequent. The nature and diversity of factors affecting the long-run profitability of the industry as a whole support the notion that the expected growth rate for the industry is relatively stable.

In addition, the Commission believes that changes in investors' perceptions of the average expected industry growth rate are more likely to affect near-term than long-term expectations. Thus, these relatively stable long-term dividend growth expectations will cause any changes occurring in the growth expectations for near-term dividends to have only a muted effect on the growth term of a constant-growth DCF model.[227]

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support existed from member companies for other indexing methodologies. Initial Comments at 16. In addition, Southern Company describes a preferred indexing method that appears to be the same as the proposed procedure. Initial Comments at 13.

[222] Initial Comments of AUS at 15, NSP at 27–28, and Cooperatives at 81; *see also*, Reply Comments of AUS at 19 and NSP at 13–14, which advocate the use of a 12-month moving average. The Initial Comments of BEC advocate the use of a 6-month average. Initial Comments at 43.

[223] Order No. 420, 50 FR 21802. The dividend yield used in the previous proceedings' quarterly indexing procedure was the median yield for the preceding quarter. The median yields applied during the first three quarters of 1985 were .0988, .0911 and .0914, respectively. Had this proceeding's standard—the dividend yield for the two preceding quarters—been used in those quarterly indexing procedures, the applicable dividend yields would have been .0999, .0949, and .0912, respectively.

[224] Initial Comments of AUS at 15 and NSP at 24–25; Reply Comments of FA Staff at 3. EEI states that there is support from member companies for a quarterly recalculation of the benchmark and reiterates EEI's support expressed for the Commission's proposed procedure in the previous proceeding. Initial Comments at 16.

[225] AUS presents a procedure which purports to make quarterly adjustments for changes in the investors' growth rate expectations. AUS then compares the results of its own and the Commission's procedures and claims that the difference is evidence that a "mismatch" occurs with the Commission's procedure. Initial Comments at 17 and Schedule 1. However, AUS presents no evidence to support the contention that these estimates are more accurate than those of the Commission. The defects in the AUS procedure are discussed below.

[226] *See* Order No. 420, 50 FR 21828.

[227] The Commission has considered the use of a two-stage growth DCF model. The Commission

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Finally, it should be noted that the Commission found in Order No. 420 that the long-run constant growth rate for the base year was 4.30 percent,[228] while the growth rate for this proceeding's base year was found above to be 4.50 percent.[229] This small difference between the two base years' growth rates is consistent with the view that the industry's expected growth rate changes slowly.

EEI notes that while it supported the proposed methodology in its comments in the previous proceeding, there is also support from its member companies for "recalculation of the benchmark K on a quarterly basis."[230] As discussed in the preceding paragraph, the Commission believes that the application of the proposed quarterly indexing procedure between the annual proceedings provides an accurate estimate of the cost of equity capital; therefore, the cost to both the Commission and the parties of holding a complete generic proceeding each quarter could not be justified. Moreover, if the time for the commenters to gather and present the appropriate information and for the Commission to access this information were compressed into three months, the quality of the analysis would be certain to fall. It is likely that quarterly proceedings could be completed only through the application of a repetitive mechanical process with little analysis. Neither the commenters nor the Commission would have sufficient time to adequately assess any substantially changed industry circumstances or the innovative application of existing or new theoretical tools.

Two commenters propose specific quarterly indexing procedures which purport to adjust for changes in investors' growth rate expectations. AUS's proposed procedure applies weights to measures of "historical growth," "analysts' forecasted growth," and the "fundamental growth rate" of dividends.[231] AUS claims that these weights may be inferred from the Commission's analysis in Order No. 420 because the application of these weights to data considered by the Commission yields 4.30 percent—the Commission's finding of expected dividend growth.[232] However, the Commission did not apply these weights in Order No. 420 and, indeed, there are many combinations of weights which will yield the result of 4.30 percent.[233] When applied to quarterly data for indexing purposes, each of these combinations of weights would provide a different estimate of industry growth. In sum, AUS's methodology does not provide an indexing procedure with quarterly growth adjustments that is consistent with the Commission's findings.

FA Staff states that:

> [a]doption by the Commission of the growth model used by the Financial Analyses Branch would facilitate the adjustment of the growth rate quarterly to recognize the effect on growth of significant changes in stock prices. Three components of the growth rate; the expected earned return (r), the expected retention ratio (b), and the increase in total equity from new stock sales (s), are rather stable and should not change significantly during the year. The fourth component, the accretion factor (v), can change very quickly. Since the accretion factor (v) is a function of the price/book ratio, it would be a simple matter to revise it quarterly while using a constant "r", "b" and "s" established in the annual rulemaking procedure.[234]

FA Staff does not, however, present evidence to support the contention that "v" varies over time more than the other components. If its contention is incorrect, then FA Staff's proposed method of indexing with a quarterly "v" could overstate the quarterly changes in the growth rate because the potentially counteracting changes in the components other than "v" are not accounted for. In fact, it is possible that an observed change in the market/book ratio was caused by a change in expected "b", "r" or "s."

In addition, FA Staff's proposed methodology would be easy to carry out only if the current price/book ratio is used, but the use of this current ratio assumes that the current ratio is a good estimate of the future ratio. However, FA Staff's own analysis suggests that this "fundamental analysis" approach to growth rate expectation estimation requires the use of "the average price/book ratio 'Po/Bo' at which new common stock sales are expected to be made."[235]

In sum, the Commission continues to believe that investors' growth rate expectations are relatively stable over the length of time at issue. In addition, the specific proposals of commenters to incorporate changes in growth rate expectations into an indexing procedure are inadequate. Thus, the Commission finds it appropriate to adopt the proposed quarterly indexing procedure, adjusted as stated above, which uses the estimate of the base year's growth rate when calculating the quarterly benchmark.

c. *Use of the Cap as a Trigger Mechanism.* All commenters who specifically discuss the Commission's proposed use of a cap on the quarter-to-quarter changes in the benchmark rate of return agree that this use of the cap is beneficial. Cooperatives, however, would prefer that the cap be used as a "trigger" mechanism which, when exceeded, would cause the indexing procedure to be suspended and a new benchmark rate of return to be established. This commenter believes that "[w]hen large movements in stock prices and dividend yield occur, there is good reason to suspect that the values of the parameters of [sic] DCF model have significantly changed."[236]

The Commission agrees that it is possible for extreme changes to occur in the market which could cause the adopted quarterly indexing procedure to produce a benchmark rate of return which is significantly different from the market cost of common equity. Cooperatives, however, do not present any evidence that changes in the dividend yield of the magnitude equal to their "trigger" values are likely to indicate that changes have also occurred in the investors' expectations of the average industry growth rate. The benchmarks set in this proceeding are advisory only. This provides more flexibility in determining if the benchmarks are inappropriate than is provided by Cooperatives' suggestion or any other mechanical rule. For these

concludes that, given the lack of precision in the growth rate estimation process, the available estimates of near-term and long-term growth would not provide a more reliable estimate of the cost of common equity in a quarterly indexing procedure than would a constant growth DCF model. In addition, a two-stage growth DCF model involves a considerably more complex model to calculate the required return on common equity. On this basis, the Commission determines that the use of a two-stage growth DCF model in not appropriate in this proceeding.

[228] Order No. 420, 50 FR 21820.

[229] Section III. E., *supra*.

[230] Initial Comments of EEI at 16.

[231] Initial Comments of AUS at 16.

[232] Initial Comments at AUS at 16 and 27.

[233] A 70% weighting of the "fundamental growth rate" and a 30% weighting for "analysts' forecasts" also yields a result of 4.30% as would a 70% weighting of the "fundamental growth rate" and a 30% weighting of "historical growth." In fact, any combinations of weights for which the "analysts' forecasts" and "historical growth's" weights sum to 30% will yield a result of 4.30%. In addition, if the AUS methodology was to be applied to a proceeding where two of the three growth rates were not identical, then the weights of all three growth rates could be varied and still produce a result equal to the proceeding's chosen growth rate.

[234] Reply Comments of FA Staff at 3.

[235] Initial Comments of FA Staff at 9.

[236] Initial Comments of Cooperatives at 104. The Cooperatives suggested "trigger" values of 50 basis points on the dividend yield of the "non-nuclear" group *and* 100 basis points on the dividend yield of the "nuclear group." Initial Comments at 103.

reasons, Cooperatives' suggestion will not be adopted.

d. *Conclusion.* Upon analysis of the comments, the Commission finds it appropriate to modify the proposed procedure to use the median yield for the two most recent quarters. In addition, the Commission acknowledges that extreme changes in the market could occur which would make the quarterly indexing procedure inappropriate and cause the Commission to temporarily modify its application of generic rates of return.

J. Other Issues

1. Market Segmentation

Cooperatives recommend that the Commission establish different benchmark rates of return for those utilities with and without significant nuclear construction exposure.[237] The Commission finds that this proposal is not appropriate in this proceeding.

Cooperatives state that since the latter part of 1983, investors' attitudes toward common stocks of electric utilities with and without nuclear facilities under construction have become so divergent that a single benchmark rate would overestimate the cost of common equity to utilities without significant nuclear construction and underestimates the cost to utilities with significant nuclear construction. In support of their argument, they evaluate data from a sample of 100 electric utilities that Salomon Brothers, an investment advisory service, has segmented into companies with and without significant nuclear construction.

Statistical analysis is presented that shows the mean dividend yield of utilities designated to have significant nuclear construction is significantly higher than the mean dividend yield of the other utilities in the sample. This difference is sufficiently large that, when the dividend yield averages are combined with estimates of dividend growth, the resulting estimates of the cost of equity capital for utilities with and without significant nuclear construction differ to the extent that Cooperatives believe the single generic benchmark to be a poor approximation of either group's cost of equity capital.[238]

Even if this segmentation of the market were appropriate, it is not clear how the segmentation could be properly carried out. Cooperatives state that "[v]irtually all of the investment services analyzing the electric utilities report the fact of an industry segmentation based on construction of nuclear projects or operating problems (*e.g.*, Three Mile Island)."[239] This recognition, however, provides little guidance as to how the industry should be bifurcated because the investment services' opinions vary so greatly. The Salomon Brothers list, which Cooperatives used as a basis for segregating the industry, designates 60 utilities as "companies without significant nuclear construction" and 40 utilities "with significant nuclear construction."[240] In contrast, Goldman Sachs separates the market into three groups: (1) "Fossil-fueled without any large construction project," (2) "nuclear plants on-line," and (3) "nuclear projects under construction."[241] On the other hand, First Boston Research separates out only six "companies with troubled nuclear programs" from its 75 firm "universe."[242]

Cooperatives also argue that the utilities should be segmented "by their degree of nuclear construction exposure,"[243] but it is not obvious how this could properly be accomplished. For example, it is not clear why it is proper to consider New York State Electric and Gas Company, with a ratio of nuclear construction investment to date to stockholders' equity of 40.2 percent, as not facing significant exposure while Houston Industries, with a ratio of 42.2 percent, is considered to have significant nuclear construction.[244] BEC suggests that while Cooperatives selected but one factor by which the electric utility industry could be split into groups, one could hypothesize a number of different divisions of the industry, such as, companies with any base load generating plant construction or by equity ratio.[245]

Finally, it is not clear how Cooperatives believe the industry should be bifurcated. For statistical analysis purposes, Cooperatives apply the Salomon Brothers' list, which considered a utility to be exposed to nuclear risk only if it is engaged in active nuclear construction[246] yet Cooperatives state that the financial uncertainty extends beyond the actual construction period of a nuclear plant.[247] Thus, the Cooperatives appear to be suggesting that the Commission develop a benchmark rate of return for companies that are exposed to significant risk due to current or past nuclear construction, but little guidance has been provided as to how the Commission should accomplish the difficult task of determining which companies face significant risk exposure due to nuclear construction.

The Cooperatives' demonstration that the firms designated as having "significant nuclear construction" have a higher average estimated cost of common equity than other utilities is not a surprising result. Salomon Brothers selected those firms which they believed to face significant risk from their nuclear construction programs, so it is to be expected that the average cost of equity of these firms would be higher than the average cost of the other electric utilities. The Commission recognized that the cost of common equity differed among firms when the generic approach was adopted.[248] Thus, Cooperatives' demonstration that "it is difficult to imagine in the context of the constant growth model that the nuclears and non-nuclears have the same cost of equity capital" is not siginficant. What is potentially important is the Cooperatives' contention that the *magnitude* of the difference is so great that the single benchmark rate is not representative of either group's cost of equity.[249]

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[237] Initial Comments of Cooperatives at 72. Reply Comments of Cooperatives at 19.

[238] Initial Comments of Cooperatives at 59–72. Reply Comments at 10–19.

[239] Initial Comments of Cooperatives at 60.

[240] Reply Comments of Cooperatives, Schedule No. 2.

[241] Goldman Sachs Investment Research, "Public Utility Survey: Electric Utilities and Telephone RHC's," July 17, 1985, at 44.

[242] *See*, for example, First Boston Research, "First Boston Electric Utility Index," August 16, 1985, or September 20, 1985.

[243] Reply Comments of Cooperatives at 12.

[244] The categorization of companies is given in Cooperatives' Reply Comments, Schedule No. 2, p. 2. The ratios are drawn from Salomon Brothers, "Nuclear Power Plants Under Construction—Quantifying the Risks," December 7, 1983, which is noted as the primary basis of the categorization.

[245] Reply comments of BEC at 5–6.

[246] All firms designated as having significant nuclear construction were listed as having plants under active construction in Salomon Brothers, "Nuclear Power Plants Under Construction—Quantifying the Risk," December 7, 1983.

[247] Cooperatives Initial Comments at 71–72.

[248] In the original generic rate of return order the Commission stated:

> Differences in required rates of return between one company and another stem from differences in risk, and under the final rule, the risk issue is left to case-by-case adjudication, where warranted. The industry average used in the generic determination therefore is not intended to be an estimate of the cost of common equity for any particular electric utility. Rather, it is intended to apply to companies whose risks are not significantly different from the industry average risk. Generic Determination of Rates of Return on Common Equity for Public Utilities, 49 FR 29946 (July 25, 1984) (Final Rule) (Order No. 389) (Issued July 18, 1984).

[249] In the same manner, Cooperatives' demonstration that the difference between the dividend yields of the two groups is statistically significant (Initial Comments at 63–67) is not important but, instead, it is the *increase* in the difference in dividend yields occurring in late 1983 that may be important (Initial Comments at 69). The difference in dividend yields was "smaller but still

Continued

The Cooperatives do not, however, produce convincing support for their contention. First, the estimate of the extent of the potential problem seems to be quite sensitive to the data used in the growth rate estimate. Cooperatives analyze the effect of applying the Salomon Brothers' segmentation to the data supplied in the AUS, BEC, and NEP comments and estimate the cost of common equity between the two groups of utilities.[250] These estimates, plus Cooperatives' own estimate of the difference in the cost of common equity, range from 0.99 percent to 1.94 percent.[251] This wide of a range in the estimates of the difference in the cost of equity of the two utility groups makes it difficult to determine if market segmentation is important. Certainly, the lower estimates are not particularly supportive of Cooperatives' claim that two benchmarks are necessary. Second, as discussed above, the "correct" bifurcation of the industry is not known, which, in turn, means that it cannot be known if the difference in the cost of equity is sufficient to raise concern about significant market segmentation. Further, even if the difference in the cost of equity of properly defined segments was known, Cooperatives do not provide guidance as to the size of the difference which would allow the use of a single benchmark rate as opposed to two benchmark rates of return.

Finally, there exists evidence that the market segmentation alleged to exist by Cooperatives may be a short-term phenomenon. Cooperatives present calculations which show that the difference in the "one-month spot indicated dividend yields" between the utilities with and without "significant nuclear construction" has fallen during the base year from 3.94 percent to 2.12 percent, a decrease of over 46 percent.[252] If the difference in the growth rates has not changed, this decrease in the difference in yields will have reduced the difference in the cost of common equity between the groups, thereby reducing the possibility of market segmentation. In addition, if the decrease in the difference in dividend yields continues with the same rapidity, any significant segmentation of the cost of equity that previously existed will soon disappear.

On review of the record, the Commission finds that the establishment of two benchmark rates of return as recommended by Cooperatives is neither necessary nor feasible at this time. The Commission believes that the proposed single benchmark rate of return procedure is the most appropriate for dealing with differences in the cost of common equity. Under the generic proceeding, companies that can be shown to be significantly more or less risky than average may be allowed rates of return different than the benchmark. At the same time, the use of the median for calculating dividend yields results in the significantly more or less risky firms having little effect on the benchmark rate of return.

2. Issues With Regard to Treatment of Rate Filings

The Commission recognizes that implementation of the generic return rule as a rebuttable presumption would involve issues not present when the rule is used on an advisory basis. In particular, how the benchmark rate should be applied in the case of a rate filing that is found to be deficient, and how the benchmark rate should be applied in the case of a rate filing that is found to be an initial rate. Concerning the first question, the Commission is inclined to treat as applicable the benchmark rate in effect when the rate filing is first made. This policy is consistent with the Commission's policy of not requiring, except in extreme cases, the test period date for a rate filing to be updated when the rate filing is initially found to be deficient.

Concerning the question of how the banchmark rate should be applied to initial rates, the Commission has not reached a decision at this point as to what course to take. The generic rate rule may establish a rebuttable presumption that the appropriate rate of return on equity to be used in a rate application is the benchmark rate of return on common equity. If so, the Commission recognizes that the issue will arise of how the Commission should treat an initial rate application that uses some other rate of return on equity than the benchmark rate and that does not contain any showing of grounds for an exception to the benchmark rate provided in the regulations. As noted above, the Commission has not determined what policy to apply in this situation. The Commission recognizes, however, that a similar issue exists with regard to rate filings that are changes in rate and is concerned that its policy in the two situations be as consistent as reasonably possible.[253]

3. Significant Risk Difference Sample

BEC provides a comment applicable when the benchmark return on equity has the status of a "rebuttable presumption." BEC expresses the concern that a bias would be created if one sample was used to calculate the cost of equity capital while a different sample was used to carry out the significant risk analysis.[254]

As previously stated in the discussion of the sample, Section III. C. above, the Commission did determine that the best estimate of the average yield is provided by eliminating firms whose dividend yield data would not be appropriate in a constant growth DCF model. However, no effort was made to eliminate data on any company from the growth rate analysis. It is thus incorrect to consider the firms which were not included in the dividend yield calculation to have been excluded from the calculation of the average cost of common equity. BEC's concern about the use of different samples is therefore not warranted.[255]

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act [256] requires the Commission to describe the impact that a proposed rule would have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. In the NOPR, the Commission found that the proposed rule would not impose any regulatory or administrative burdens on a significant number of small entities and that it would not require an expenditure of resources by such entities. No comments were received on this finding and the modifications adopted in the final rule do not materially affect the earlier conclusions.

Accordingly, the Commission certifies that the rule does not have a significant economic impact on a substantial number of small entities.

V. Timing of Annual Proceeding and Quarterly Updates, Effective Date of Rule, and Industry Profile Report

The Commission establishes a procedure which will be used to set the initial benchmark and to establish quarterly updates. The benchmark rates of return will be published on or before

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statistically significant" prior to the time that Cooperatives believe the cost of equity of the two groups became divergent. (Initial Comments at 67). Presumably, the difference in growth rates had compensated for the smaller difference in yields so that market segmentation of the cost of equity capital did not exist before the latter part of 1983.

[250] Reply Comments of Cooperatives at 13–18.

[251] Reply Comments of Cooperatives at 18, Table 5.

[252] Initial Comments of Cooperatives at 64, Table 4.

[253] 18 CFR 37.6.

[254] Initial Comments of BEC at 2–3.

[255] Unlike the Commission, BEC uses the same sample for growth rate estimation as it uses for dividend yield estimation. BEC Initial Comments at 7–23.

[256] 5 U.S.C. 601–612 (1982).

the fifteenth of the month following the close of a calendar quarter. It will be made effective for three months beginning with the first day of the following month. For example, the Commission will publish on or before January 15 the benchmark rate of return applicable to the three month period, February 1 to April 30. The fifteen day period between issuance and effective date will allow the public an opportunity to bring to the Commission's attention any errors in the computation of the quarterly update.

The Commission believes that it may make the quarterly benchmark effective without providing an opportunity for notice and comment and publishing it thirty days before it become effective. The determinination of the benchmark will be based on a formula that is established in this rule for which notice and comment were provided and that was made effective thirty days after publication. Additionally, the Commission believes that, in order for the updating procedure to be timely and to track as closely as possible changes in the capital markets, it is necessary that this quarterly update be made effective without allowing notice and comments and the full thirty days required by the APA. 5 U.S.C. 553(d)(3) (1982).

The first quarter following the close of an annual proceeding will run from February 1 to April 30. The second quarter will run from May 1 to August 31, etc.

List of Subjects contained in 18 CFR Part 37

Electric Power Rates, Electric Utilities, Rate of Return.

In consideration of the foregoing, the Commission amends Chapter I, Title 18 of the Code of Federal Regulations, as set forth below, effective February 1, 1986.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 37—[AMENDED]

1. The authority citation for Part 37 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982).

2. Section 37.3 is revised to read as follows:

§ 37.3 Definitions.

For purposes of this part:

(a) "Benchmark rate of return" means the rate of return on common equity that is determined each quarter based on the findings made in the annual proceeding regarding the quarterly indexing procedure and the average cost of common equity and the average ratemaking rate of return on common equity for the jurisdictional operations of public utilities.

(b) "Ratemaking rate of return" means the rate of return on common equity that, when applied to rate base in determining revenue requirements for ratemaking purposes, will give investors the opportunity to obtain the effective market required rate of return on common equity and give firms the opportunity to recover flotation costs.

(c) "Cost of common equity" means the effective market required rate of return plus an allowance for flotation costs.

(d) "Effective market required rate of return" means the minimum rate of return that investors require to buy common stock, under the assumption that intrayear earnings are reinvested at the same rate.

3. Section 37.4 is revised to read as follows:

§ 37.4 Annual proceedings.

An estimate of the average cost of common equity and the average ratemaking rate of return for the jurisdictional operations of public utilities and a quarterly indexing procedure to establish the initial benchmark rate of return and update it quarterly will be determined annually through informal rulemaking proceedings under 5 U.S.C. 553.

4. Section 37.5 is revised to read as follows:

§ 37.5 Quarterly determination of benchmark rate of return.

Following the close of each calendar quarter, the Commission will determine and publish a benchmark rate of return in accordance with the quarterly indexing procedure of § 37.9.

5. Section 37.9 is revised to read as follows:

§ 37.9 Quarterly indexing procedure

(a) *Procedure for Determining Quarterly Benchmark Rates of Return.* In accordance with § 37.4 of this Part, the Commission will use the following indexing procedure to update quarterly the benchmark rate of return on common equity.

(1) For purposes of establishing the benchmark rate of return on common equity for period t, the average effective required rate of return on common equity for the jurisdictional operations of public utilities shall be calculated as follows:

$$k_t = \frac{(y_t)}{4}\left[(1+k_t)^{.75}+(1+k_t)^{.5}+(1+g)(1+k_t)^{.25}+(1+g)\right]+g$$

where

k_t = average effective required rate of return on common equity for the jurisdictional operations of public utilities for period t;

y_t = average dividend yield applicable to period t as determined in paragraph (b) of this section;

g = expected dividend growth rate (as determined in annual proceeding); and

t = successive three month time periods: February 1 through April 30, May 1 through July 31, August 1 through October 31, and November 1 through January 31.

(2) For purposes of establishing the benchmark rate of return on common equity for period t, the average cost of common equity for the jurisdictional operations of public utilities will be calculated as follows:

$$c_t = k_t + f$$

where

c_t = average cost of common equity for the jurisdictional operations of public utilities for period t;

k_t = as in paragraph (a)(1) of this section;

f = flotation cost allowance (as determined in annual proceeding); and

t = as in paragraph (a)(1) of this section.

(3) For purposes of establishing the benchmark rate of return on common equity for period t, the average ratemaking rate of return on common equity for the jurisdictional operations of public utilities will be calculated as follows:

$$r_t = 13[(1+c_t)^{1/13}-1]$$

where

r_t = average ratemeking rate of return on common equity for the jurisdictional operations for period t;

c_t = as in paragraph (a)(2) of this section; and

t = as in paragraph (a)(1) of this section.

(4) The benchmark rate of return on common equity for the first quarter to which an annual proceeding is applicable will be set equal to the average ratemaking rate of return on common equity for the jurisdictional operations of public utilities as determined by the formula of paragraph (a)(3) of this section.

(5) The benchmark rate of return on common equity for subsequent quarters

prior to the conclusion of the next annual proceeding will be set equal to the average ratemaking rate of return on common equity for the jurisdictional operations of public utilities as determined by the formula of paragraph (a)(3) of this section, except where an increase or decrease of more than 50 basis points from the previous quarter's benchmark would occur.

(6) Where an increase or decrease of more than 50 basis points from the previous quarter's benchmark would occur, the change in the benchmark will be limited to 50 basis points.

(b) *Dividend Yield for Quarterly Benchmark Determination.* (1) For use in the quarterly benchmark calculations, the average dividend yield applicable to period t (y_t) will be determined as the simple average of the median dividend yields for the two most recent calendar quarters, where the median dividend yield (d_t) for each calendar quarter is defined per paragraph (b)(2) of this section.

$$Y_t = \frac{d_t + d_{t-1}}{2}$$

where

y_t = as in paragraph (a)(1) of this section;

d_t = median dividend yield (defined in paragraph (b)(2) of this section) for the most recent calendar quarter prior to period t; and

d_{t-1} = median dividend yield (defined in paragraph (b)(2) of this section) for the calendar quarter prior to the most recent calendar quarter.

(2) The median dividend yield for a calendar quarter will be determined as the median of the current dividend yields of the sample of companies defined in paragraph (c) of this section, where the current dividend yield for company i for period t is defined as follows:

$$d_{ti} = \frac{D_{ti}}{P_{ti}}$$

where

D_{ti} = annual common dividend rate for company i based on the latest common dividend payment by ex-date as of the end of the most recent calendar quarter prior to period t; and

P_{ti} = average of the monthly high and low common stock prices for company i for the most recent calendar quarter prior to period t.

(c) *Sample of Companies Used to Calculate Quarterly Dividend Yields.* (1) Except as provided in paragraph (c)(2) of this section, the sample of companies used to calculate the average current dividend yield for the purpose of this section will be specified in the final order of each annual proceeding.

(2) Companies will be excluded from the sample used in the calculation of the dividend yield for any quarter if the following conditions occur:

(i) The company's common stock, through merger or other action, no longer is publicly traded, or

(ii) The company has decreased or omitted a common dividend payment in the current or prior three quarters, or

(iii) The Commission determines on a case-by-case basis that some other occurrence causes the dividend yield for that company to be substantially misleading and bias the resulting quarterly average.

(d) *Table of Quarterly Benchmark Rates of Return.*[1] The following table presents the quarterly benchmark rates of return on common equity:

Benchmark applicability period (t)	Expected dividend growth (g)	Flotation cost adjustment (f)	Current dividend yield (y_t)	Average rate-making rate of return (r_t)	Benchmark rate of return
2/1/86-4/30/86	.0450	.0004			
5/1/86-7/31/86	.0450	.0004			
8/1/86-10/31/86	.0450	.0004			
11/1/86-1/31/87	.0450	.0004			

Appendix A

In its general form, the DCF equation allows dividends to follow any payment pattern, such as a different dividend in each period, the same dividend in each period, or even dividends growing at a constant rate. Dividends can also be paid at any frequency, such as monthly, quarterly or yearly. In this general form, the equation is:

$$P_0 = \frac{D_1}{(1+k)} + \frac{D_2}{(1+k)^2} + \frac{D_3}{(1+k)^3} + \frac{D_\infty}{(1+k)^\infty} \quad \text{(A-1)}$$

where

k = market required rate of return.[1]

D_i = dividend payment in time period i.

P_0 = current market price.

Incorporating constant growth, quarterly dividends and compounding, and dividends growing in the third quarter of each year, the equation becomes:

$$P_0 = \frac{D_0'}{(1+k)^{.25}} + \frac{D_0'}{(1+K)^{.5}} + \frac{D_0'(1+g)}{(1+K)^{.25}} + \frac{D_0'(1+g)}{(1+k)} + \frac{D_0'(1+g)}{(1+k)^{1.25}} \ldots + \ldots \frac{D_0'(1+g)^N}{(1+k)^N} \quad \text{(A-2)}$$

where

k = effective annual market required rate of return.

D_0' = current quarterly dividend rate.

P_0 = current market price.

g = annual dividend growth rate.[2]

The Commission model, model (6), is derived as follows:

multiply both sides of the equation by the ratio of $\frac{(1+k)}{(1+g)}$

$$\frac{(1+k)}{(1+g)} P_0 = \frac{D_0'(1+k)^{.75}}{(1+g)} + \frac{D_0'(1+k)^{.5}}{(1+g)} + D_0'(1+k)^{.25} + D_0' + \frac{D_0'}{(1+k)^{.25}} \ldots + \ldots \frac{D_0'(1+g)^{N-1}}{(1+k)^{N-1}} \quad \text{(A-3}$$

subtract equation (A-2) from equation (A-3)

$$\left[\frac{(1+k)}{(1+g)} - 1\right] P_0 = D_0' \left[\frac{(1+k)^{.75}}{(1+g)} + \frac{(1+k)^{.5}}{(1+g)} + (1+k)^{.25} + 1 - \frac{(1+g)^N}{(1+k)^N}\right] \quad \text{(A-4)}$$

Assume that the required rate of return, k, is greater than the rate of growth of dividends, g. Then as $N \rightarrow$ the term $(1+g)^N/(1+k)^N \rightarrow 0$ and equation (A4) becomes

$$\left[\frac{(1+k)}{(1+g)} - 1\right] P_0 = D_0' \left[\frac{(1+k)^{.75}}{(1+g)} + \frac{(1+k)^{.5}}{(1+g)} + (1+k)^{.25} + 1\right] \quad \text{(A-5)}$$

Expanding the terms on the left side of the equation and multiplying both sides by (1+g) and dividing by k-g

$$P_0 = \frac{D_0'}{(k-g)} [(1+k)^{.75} + (1+k)^{.5} + (1+g)(1+k)^{.25} + (1+g)] \quad \text{(A-6)}$$

Rearranging terms

$$k = \frac{D_0}{4P} [(1+k)^{.75} + (1+k)^{.5} + (1+g)(1+k)^{.25} + (1+g)] + g \qquad \text{Model (6)}$$

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* Note.—Because of the time lag between the issuance of the quarterly updates to the benchmark rate of return and the publication of the Code of Federal Regulations, the currently effective benchmark rate of return can be found in the **Federal Register**.

[1] In the general form of the DCF equation, the market required rate of return may change from period to period. If it is assumed that the required return changes each period, a single "average" market required return may still be used. In this instance, the single return is defined as the return which when substituted for each individual required return results in the same present value of the stream of dividends.

[2] In this model, dividends grow only once a year. Therefore, the nominal and the effective growth rates are the same.

where D_0=four times current quarterly dividend rate $D_0=4D_0'$.

Expanding terms on the left side of the equation and multiplying both sides by (1+g) and dividing by k–q

$$P_0=\frac{D_0'}{(k-g)}\qquad[(1+k)^{.75}+(1+k)^{.5}+(1+g)(1+k)^{.25}+(1+g)]\qquad\text{(A-6)}$$

Rearranging terms

$$K=\frac{D_0}{(4P)}\qquad[(1+k)^{.75}+(1+k)^{.5}+(1+g)(1+k)^{.25}+(1+g)+g\qquad\text{Model (6)}$$

where D_0=four times current quarterly dividend rate $D_0=4D_0'$,

Appendix B—*Effective and Nominal Rates of Return*

The DCF model adopted in this proceeding determines the effective required rate of return on common equity. The model is expressed in effective terms because it is the form most people are familiar with. This Appendix discusses the difference between nominal and effective rates and their relationship to the rate per compounding period.

Interest rates can be expressed in either nominal or effective terms. There is a mathematical relationship between the two, and once an investor knows one, the other can be determined. The concept of nominal and effective interest rates is most easily illustrated by the example of a bank savings account. An investor has a choice between two bank accounts. Both accounts state that they pay "12 percent interest", but one account pays and compounds interest annually while the other account pays and compounds quarterly. By investing $100 in the annual compounding account, the investor will have $112 at the end of the year and will have earned 12 percent (112/100–1). The annual compounding account has both and effective an nominal rate of 12 percent.[1]

The quarterly compounding account has a higher effective rate. By investing $100 in the quarterly account, the investor will receive interest at the end of each quarter. The interest received each quarter is the nominal rate of 12 percent divided by 4 (interest is compounded quarterly), or 3 percent. At the end of the first quarter, the bank pays interest of $3 ($100×3%). If no funds are withdrawn from the account, at the end of the second quarter, the investor will receive interest on $103.[1a] Thus, at the end of the second quarter, the investor will have a total of $106.09. ($103.00+103.00×3%). This compounding continues each quarter so that at the end of the year, the investor will have $112.55. The nominal quarterly rate for the quarterly account is 12 percent, while the effective rate is 12.55% (112.55/100–1).The effective rate tells the investor how many dollars he will have at the end of a year per dollar invested, and makes it easy to compare alternative investments. Nominal rates do not permit direct comparsion, unless compounding is always at the same frequency; that is, a nominal quarterly rate may be directly compared to other nominal quarterly rates just as a nominal semi-annual rate may be directly compared to other nominal semi-annual rates.

There is a simple formula to convert a nominal rate to an effective rate:

$$\text{Effective rate}=\left[1+\frac{\text{Nominal rate}}{m}\right]^{m}-1$$

where

m=number of compounding periods per year

The effective rate corresponding to the 12 percent, compounded quarterly, nominal rate in the above example is 12.55 percent:

$$\text{Effective rate}=\left[1+\frac{.12}{4}\right]^{4}-1=12.55\text{ percent}$$

To convert from an effective rate to a nominal rate:

$$\text{Nominal rate}=m\,[(1+\text{Effective rate})^{1/m}-1]$$

where

m=number of compounding periods per year.

The quarterly compounded nominal rate corresponding to the 12.55 percent effective rate is 12 percent:

$$\text{Nominal rate}=4\,[1.1255^{1/4}-1]=12\text{ percent}$$

By definition the rate that must be earned in each compounding period is the same for both the nominal and corresponding effective rate:

$$\text{Rate per compounding period}=\frac{\text{Nominal rate}}{m}$$

$$=[1+\text{Effective rate}]^{1/m}-1$$

The rate that must be earned each quarter for a nominal rate of 12 percent compounded quarterly is 3 percent:

$$\text{Rate per compounding period}=\frac{.12}{4}=3\text{ percent}$$

The rate that must be earned each quarter to achieve an effective rate of 12.55 percent is 3 percent per compounding period:

$$\text{Rate per compounding period}=(1.1255)^{1/4}\times 1=3\text{ percent.}$$

1. Allegheny Power System
2. American Electric Power
3. Atlantic City Electric.
4. AZP Group Inc.[1]
5. Baltimore Gas & Electric
6. Black Hills Power & Light Co.
7. Boston Edison Co.
8. Carolina Power & Light
9. Central & South West Crop.
10. Central Hudson Gas & Elec.
11. Central IL Public Service
12. Central Louisiana Electric
13. Central Maine Power Co.
14. Central Vermont Pub. Serv.
15. Cilcorp Inc.[2]
16. Cincinnati Gas & Electric
17. Cleveland Electric Illum.
18. Commonwealth Edison
19. Commonwealth Energy System
20. Consolidated Edison of NY
21. Consumers Power Co.
22. Dayton Power & Light
23. Delmarva Power & Light
24. Detroit Edison Co.
25. Dominion Resources Inc.—VA
26. Duke Power Co.
27. Duquesne Light Co.
28. Eastern Utilities Assoc.
29. Empire District Electric Co.
30. Fitchburg Gas & Elec. Light
31. Florida Progress Group
32. FPL Group Inc.
33. General Public Utilities
34. Green Mountain Power Corp.
35. Gulf States Utilities Co.
36. Hawaiian Electric Inds.
37. Houston Industries Inc.
38. Idaho Power Co.
39. Illinois Power Co.
40. Interstate Power Co.
41. Iowa Electric Light & Pwr.
42. Iowa Resources Inc.
43. Iowa-Illinois Gas & Elec.
44. Ipalco Enterprises Inc.
45. Kansas City Power & Light
46. Kansas Gas & Electric
47. Kansas Power & Light

[1] The effective and nominal rates are equal because there is no interest paid during the year that could be reinvested and raise the effective rate above the nominal rate.

[1a] Alternatively, the investor can withdraw the interest payments. As long as he reinvests them at the same rate, he will have $112.55 at the end of the year.

[1] Formerly Arizona Public Service Co.

[2] Formerly Central Illinois Light

48. Kentucky Utilities Co.
49. Long Island Lighting
50. Louisville Gas & Electric
51. Maine Public Service
52. Middle South Utilities
53. Midwest Energy Co.
54. Minnesota Power & Light
55. Montana Power Co.
56. Nevada Power Co.
57. New England Electric System
58. New York State Elec. & Gas
59. Newport Electric Crop.
60. Niagara Mohawk Power
61. Northeast Utilities
62. Northern Indiana Public Serv.
63. Northern States Power-MN
64. Ohio Edison Co.
65. Oklahoma Gas & Electric
66. Orange & Rockland Utilities
67. Pacific Gas & Electric
68. PACIFICORP
69. Pennsylvania Power & Light
70. Philadelphia Electric Co.
71. Portland General Electric Co.
72. Potomac Electric Power
73. Public Service Co. of Colo.
74. Public Service Co. of Ind.
75. Public Service Co. of NH.
76. Public Service Co. of N. Mex.
77. Public Service Elec. & Gas
78. Puget Sound Power & Light
79. Rochester Gas & Elec.
80. San Diego Gas & Electric
81. Savannah Elec. & Power
82. Scana Corp.
83. Sierra Pacific Resources
84. Southern Calif. Edison Co.
85. Southern Co.
86. Southern Indiana Gas & Elec.
87. St. Joseph Light & Power
88. Teco Energy Inc.
89. Texas Utilities Co.
90. TNP Enterprises Inc.
91. Toledo Edison Co.
92. Tucson Electric Power Co.
93. Union Electric Co.
94. United Illuminating Co.
95. Utah Power & Light
96. Utilicorp United Inc.[3]
97. Washington Water Power
98. Wisconsin Electric Power
99. Wisconsin Power & Light
100. Wisconsin Public Service

Utilities Excluded From the Sample for the Indicated Quarter Due to Either Zero Dividends or a Cut in Dividends for This Quarter or the Prior Three Quarters

Year=84, Quarter=3

Utility and Reason for Exclusion

Consumers Power Co—Dividend rate reduced in the quarter ending 09/30/84

General Public Utilities—Dividend rate was zero for the quarter ending 09/30/84

Long Island Lighting—Dividend rate was zero for the quarter ending 09/30/84

Public Service Co of Ind—Dividend rate reduced in the quarter ending 03/31/84

Public Service Co of NH—Dividend rate was zero for the quarter ending 09/30/84

United Illuminating Co—Dividend rate reduced in the quarter ending 06/30/84

Year=84, Quarter=4

Utility and Reason for Exclusion

Consumers Power Co—Dividend rate was zero for the quarter ending 12/31/84

Central Maine Power Co—Dividend rate reduced in the quarter ending 12/31/84

Fitchburg Gas & Elec Light—Dividend rate reduced in the quarter ending 12/31/84

General Public Utilities—Dividend rate was zero for the quarter ending 12/31/84

Long Island Lighting—Dividend rate was zero for the quarter ending 12/31/84

Maine Public Service—Dividend rate reduced in the quarter ending 12/31/84

Public Service Co of Ind—Dividend rate reduced in the quarter ending 03/31/84

Public Service Co of NH—Dividend rate was zero for the quarter ending 12/31/84

United Illuminating Co—Dividend rate reduced in the quarter ending 06/30/84

Year=85, Quarter=1

Utility and Reason for Exclusion

Consumers Power Co—Dividend rate was zero for the quarter ending 03/31/85

Central Maine Power Co—Dividend rate reduced in the quarter ending 03/31/84

Fitchburg Gas & Elec Light—Dividend rate was zero for the quarter ending 03/31/85

General Public Utilities—Dividend rate was zero for the quarter ending 03/31/85

Long Island Lighting—Dividend rate was zero for the quarter ending 03/31/85

Maine Public Service—Dividend rate was zero for the quarter ending 03/31/85

Montana Power Co—Dividend rate reduced in the quarter ending 03/31/85

Public Service Co of NH—Dividend rate was zero for the quarter ending 03/31/85

United Illuminating Co—Dividend rate reduced in the quarter ending 06/30/84

Year=85, Quarter=2

Utility and Reason for Exclusion

Consumers Power Co—Dividend rate was zero for the quarter ending 06/30/85

Central Maine Power Co—Dividend rate reduced in the quarter ending 12/31/84

Fitchburg Gas & Elec Light—Dividend rate was zero for the quarter ending 06/30/85

General Public Utilities—Dividend rate was zero for the quarter ending 06/30/85

Long Island Lighting—Dividend rate was zero for the quarter ending 06/30/85

Maine Public Service—Dividend rate was zero for the quarter ending 06/30/85

Montana Power Co—Dividend rate reduced in the quarter ending 03/31/85

Public Service Co of NH—Dividend rate was zero for the quarter ending 06/30/85

Appendix D—List of Commenters and Acronyms

Docket No. RM85-19-000, Generic Rate of Return

Commenter and Acronyms

1. Alabama Electric Cooperative *et al.*—Cooperatives
2. American Electric Power Company—AEP
3. Associated Utility Services, Inc.[1]—AUS
4. Boston Edison Company *et al.*—BEC
5. Carolina Power & Light Company—CP&L
6. Duke Power Company—Duke
7. Edison Electric Institute—EEI
8. Financial Analyses Branch of Office of Electric Power Regulation Federal Energy Regulatory Commission—FA Staff
9. Florida Power & Light Company—FPL
10. General Services Administration—GSA
11. Iowa-Illinois Gas & Electric Co.—IIGE
12. Minnesota Department of Public Service—MDPS
13. New England Power Company—NEP
14. Northern States Power Company—NSP
15. Pacific Power & Light Company—PPL
16. Public Service Company of Colorado—PSCol

[3] Formerly Missouri Public Service Co.

[1] The electric utilities on whose behalf the AUS comments were filed are: American Electric Power Company, Atlantic City Electric Company, Delmarva Power & Light Company, Duquesne Light Company, Pennsylvania Power & Light Company, Pennsylvania Power Company and Philadelphia Electric Company.

17. Southern California Edison Company—SCEd
18. Southern Company—Southern Company
19. Southwestern Electric Power Company—SWEPCO
20. West Texas Utilities Company—WTU
21. Wholesale Customer Group—WCG
22. Wisconsin Power and Light Company—WPL

Appendix E—Proposed Constant Growth DCF models

$$(1)\quad k = \frac{D_0}{P_0}(1 + .5g) + g$$

$$(2)\quad k = \frac{D_0}{P_0}(1 + g) + g$$

$$(3)\quad k = \frac{A_0(1+k)^{.75} + A_0(1+k)^{.50} + A_0(1+k)^{.25} + A_0}{P_0} + g$$

$$(4)\quad P_0 = \left\{\frac{(1 + k)}{(1 + k) - (1 + g)}\right\}\left\{\sum_{r=1}^{4} \frac{D_{u,r}}{((1 + k)^{N_{u,r}})}\right\}$$

$$(5)\quad k = \frac{D_0}{P_0} + g$$

$$(6)\quad k = \frac{D_0}{4P_0}[(1+k)^{.75} + (1+k)^{.5} + (1+g)(1+k)^{.25} + (1+g)] + g$$

where:

k = market required rate of return (annual rate)
D_0 = current (indicated) annual dividend rate
P_0 = current market price
g = dividend growth rate (annual rate)

$$A_0 = \frac{D_0(1 + .5g)}{4}$$

$D_{u,r}$ = the dividend for the r^{th} quarter of the u^{th} dividend year

$N_{u,r}$ = the number of days divided by 365 (i.e., the fractional part of a year) between the present day and the date of $D_{u,r}$.

[FR Doc. 86-5 Filed 1-3-86; 8:45 am]
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket Nos. 84N-0319 and 76N-0366]

FD&C Yellow No. 5 and its Lakes; Postponement of Closing Date, Provisional Listing, and Continued Stay of Effectiveness

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of FD&C Yellow No. 5 for use in coloring cosmetics generally and externally applied drugs and of its lakes for use in coloring food and ingested drugs. FDA is establishing a new closing date for FD&C Yellow No. 5 to give the agency time to complete its evaluation of the objections that it received in response to the final rule on the use of FD&C Yellow No. 5 that FDA published in the Federal Register of September 4, 1985 (50 FR 35774). The regulations that permanently list FD&C Yellow No. 5 and that remove it from the provisional list are stayed until March 7, 1986.

DATES: Effective January 6, 1986, the new closing date for FD&C Yellow No. 5 will be March 7, 1986. The effective date of the final rule published September 4, 1985, is stayed pending final FDA action on the objections that it received.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF-334) Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of January 6, 1986, for the provisional listing of FD&C Yellow No. 5 in a regulation published in the Federal Register of November 5, 1985 (50 FR 45909). The agency established the January 6, 1986, closing date for FD&C Yellow No. 5 to provide time for its evaluation of three objections to the final rule on the use of this color additive that FDA published on September 4, 1985.

Previously, after review and evaluation of the data relevant to the petition to list FD&C Yellow No. 5 for use in externally applied drugs and in cosmetics generally, the agency had concluded that FD&C Yellow No. 5 was safe for these uses. Therefore, FDA issued a final rule in the Federal Register of September 4, 1985 (50 FR 35774), that would permanently list FD&C Yellow No. 5 for those uses and would remove the stay on the use of FD&C Yellow No. 5 in external cosmetics. FDA stated that the final rule would become effective on October 7, 1985, unless stayed by the filing of proper objections.

FDA received three letters stating objections to this final rule. Because of the objections, under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(2)), the effect of this final rule is stayed until the agency can rule upon the objections. FDA expects that it will need only a small amount of additional time to complete its evaluation of the objections. Therefore, FDA concludes that only a brief postponement is necessary at this time. The regulation set forth below will postpone the January 6, 1986, closing date for the provisional listing of FD&C Yellow No. 5 until March 7, 1986.

Because the current closing date expires on January 6, 1986, FDA has concluded that the use of notice and public procedure on this regulation is impracticable. Thus, good cause exists for issuing the postponement as a final rule. Moreover, this action is consistent with the protection of the public health because the agency has previously concluded that FD&C Yellow No. 5 is safe for its intended use under the Color Additive Amendments of 1960. This regulation will permit the uninterrupted

use of the color additive until March 7, 1986. To prevent any interruption in the provisional listing of FD&C Yellow No. 5 and in accordance with 5 U.S.C. 553(d)(1) and (3), this regulation is being made effective on January 6, 1986. Any person who wishes to comment on the regulation may do so in accordance with 21 CFR 10.40(e)(1).

List of Subjects

21 CFR Part 74

Color additive, Cosmetics, Drugs, Medical devices.

21 CFR Part 81

Color additives, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

2. The modifications of § 74.1705 *FD&C Yellow No. 5* included in the September 4, 1985, final rule continue to be stayed.

3. Section 74.2705 *FD&C Yellow No. 5* continues to be stayed.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

4. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

5. Section 81.1 *Provisional list of color additives is* amended in paragraph (b) by revising the closing date for "FD&C Yellow No. 5" to read "March 7, 1986."

§ 81.27 [Amended]

6. Section 81.27 *Conditions of provisional listing* is amended in paragraph (d) by revising the closing date for "FD&C Yellow No. 5" to read "March 7, 1986."

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

7. The authority citation for 21 CFR Part 82 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

8. Section 82.705 *FD&C Yellow No. 5* continues to be stayed.

Dated: December 18, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-30395 Filed 12-31-85 10:26 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8067]

Income Tax; Accounting for Long-Term Contracts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to accounting for long-term contracts. The regulations affect taxpayers who have long-term contracts whether or not they use a long-term contract method of accounting for such contracts. Modifications to the regulations were required to be made by the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248).

DATES: In general, the regulations relating to the allocation of indirect costs to extended period long-term contracts and the rules relating to the use of inventory methods with a long-term contract method are effective for taxable years beginning after December 31, 1982. The regulations relating to the time at which a contract is to be considered completed and to aggregating and severing agreements are effective for taxable years ending after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Paulette Chernyshev of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Attention: CC:LR:T (202-566-3288, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On March 14, 1983, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 446, 451 and 471 of the Internal Revenue Code were published in the **Federal Register** (48 FR 10702). The amendments were proposed to conform the regulations to the requirements of section 229 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248; 96 Stat. 324, 494) as amended by section 712(m) of the Tax Reform Act of 1984.

Many written comments were received. A public hearing was held on June 29, 1983. After consideration of all comments and testimony received on the proposed amendments, the amendments, with revisions, are adopted by this Treasury decision. The revisions and public comments are discussed below.

Discussion

Clear Reflection of Income

Comments received expresed the concern that the introductory language of § 1.451-3(a) changed the standard for the application of the clear reflection of income concept. No change in the standard was contemplated. The Treasury decision retains the reference to clear reflection of income consistent with the provisions of § 1.446-1 (a)(2) and (c), which permit various methods of accounting, subject to the requirement that any method, including the long-term contract method, must clearly reflect income in its application.

Classification of Contracts

Contracts that the taxpayer estimates will be completed within 2 years of the contract commencement date (3 years in the case of a construction contract) are not subject to the extended period costing rules. The proposed regulations provided that contracts that are not completed within that time period will not be reclassified if the taxpayer could reasonably have expected the contract to be completed within the time period. The proposed regulations further provided that the taxpayer's estimated time of completion for classifying and accounting for a long-term contract will not be considered unreasonable if the contract is not completed within the expected time solely because of unforseeable factors not within the control of the taxpayer. Comments considered this exception too limited, as the exception is only available if the delay in completion was due solely to unforseeable factors. Therefore, the Treasury decision modifies the

exception to apply to delays occurring primarily because of unforseeable factors.

Shipbuilding Contracts

Comments submitted by members of the shipbuilding industry expressed concern as to the definition of "construction contracts" in paragraph (b)(3)(ii) of § 1.451–3. Such definition was intended only for purposes of that paragraph (i.e., for determining the applicability of the 3-year exception to the extended period costing rules). Shipbuilding contracts are not "construction contracts" for this purpose, because ships do not constitute real property. Any implication that shipbuilding does not constitute construction for purposes of the general definition of a long-term contract (contained in paragraph (b)(1) of § 1.451–3) has been removed; that issue is beyond the scope of these regulations.

$25 Million Gross Receipts Test

In determining a taxpayer's gross receipts for purposes of the $25 million test, the proposed regulations required, for persons not under common control with the taxpayer, attribution of gross receipts to the contractor from persons owning an interest in the contractor, and from persons in which the contractor owns an interest, in proportion to the amount owned. If the amount of ownership varies during the year, the proposed regulations required attribution in proportion to the largest amount of this interest owned during such year. Additionally, the proposed regulations required proportionate attribution of gross receipts realized from the conduct of any trade or business. In response to comments, the attribution rules of paragraph (b)(3)(iii)(C) of § 1.451–3 (attribution from persons not under common control with the taxpayer) have been revised in two respects. Interests owned in or by a contractor that vary during the year are to be measured using a weighted average, based on the number of days each interest is owned during such calendar year. In addition, gross receipts attributed to a contractor under this rule are to be limited to gross receipts from the trade or business of construction.

Research and Experimental Expenses

Several comments objected to the inclusion of research and experimental expenses in the list of indirect costs required to be allocated to non-extended period long-term contracts in the proposed regulations. The comments interpret legislative history to preclude changes in period costs under existing regulations with respect to non-extended period contracts. In response to these comments, research and experimental expenses have been deleted from the list of indirect costs required to be allocated to non-extended period long-term contracts.

Bidding Expenses

The proposed regulations required a "defer-and-deduct" treatment for bidding expenses for unawarded contracts. Comments favored a "deduct-and-recapture" approach. That approach would treat bidding expenses relating to contracts not awarded as of the end of a taxable year as period costs. Bidding expenses for contracts ultimately awarded to the taxpayer would be recaptured in the year in which the contract is awarded. After consideration, this alternative was rejected as inconsistent with the purpose of the new extended period costing rules. The defer-and-deduct rule is retained in the Treasury decision, with additional guidance as to how bidding expenses for unawarded contracts are to be accounted for by the taxpayer.

Inventory Methods

The proposed regulations provided that the taxpayer may not use LIFO or the lower of cost or market method to determine costs attributable to long-term contracts. The primary motivation in taking this position was to prohibit the accounting practice of delaying the determination of the cost of raw materials and components incorporated into the subject matter of the contract until the year of completion, and then using LIFO to determine such costs. It is the firmly-held view of the Internal Revenue Service that costs attributable to a long-term contract should be determined in the year incurred. The recovery of such already-determined costs is deferred until the year of completion of the contract. To the extent that the holding of *Peninsula Steel Products Co.* v. *Commissioner*, 78 T.C. 1029 (1982), is inconsistent with this principle, the Service will not follow that case.

Many commentators state that the position of the proposed regulations regarding LIFO is overbroad in precluding the use of LIFO in making the required determination of the costs of materials and components at the time of dedication. Because using LIFO to determine costs at dedication is not inconsistent with the primary position that costing must occur in the year of dedication, the Treasury decision provides that the costs of raw materials or components allocable to a long-term contract shall be determined, in the year of dedication, using the taxpayer's method of accounting for each material (*e.g.*,—specific identification, FIFO, LIFO). Guidance is provided as to when raw materials and components are dedicated to a particular long-term contract.

Service Costs

The proposed regulations provide an insignificant deviation rule for methods used by taxpayers in allocating service costs. Comments suggested that the intent of the rule would be better served if applied to the taxpayer's contracts on an overall basis, rather than contract-by-contract. The Treasury decision reflects this suggestion in providing that the taxpayer's method of allocation will be tested on the basis of the taxpayer's extended period long-term contracts taken as a whole.

Many commentators considered it unreasonable to require a taxpayer to attach a statement to its tax return describing the allocation of service costs and general administrative costs. As a result, paragraph (d)(9)(v) of § 1.451–3 has been revised to require only that such records describing the taxpayer's cost allocations be maintained and made available for examination and verification by the district director.

Among the illustrations of allocation methods, the proposed regulations provided rules for allocating the cost of a department providing engineering and design services "unless the engineering and design services provided to a long-term contract are properly accounted for as a separate contract". Many of the commentators requested clarification concerning the circumstances under which it is appropriate to account for such services as a separate contract. The only purpose of paragraph (d)(9)(x) of § 1.451–3 is to describe how engineering and design department costs not properly accounted for separately may be allocated.

Severing and Aggregating

The proposed regulations provided that, in addition to the instances provided in paragraph (e)(1) of this section, there may be other instances in which it may be necessary for the Commissioner to sever or aggregate agreements in order to clearly reflect income. Several commentators objected to this provision on the grounds that it creates uncertainty as to the application of the severing and aggregating rules. This additional reference has been omitted from the Treasury decision.

The Treasury decision provides clarification that, in general, only the

Commissioner (and not the taxpayer) may sever or aggregate agreements.

For purposes of severing and aggregating (as well as for all other purposes), fact situations to which this Treasury decision does not apply because of the effective date of this Treasury decision will be tested under Treas. Reg. § 1.451-3 as it existed before the promulgation of this Treasury decision. Pursuant to section 229 of TEFRA, this Treasury decision constitutes a clarification of the prior regulations. No inference should be drawn that a fact situation clearly subject to severing or aggregating under this Treasury decision is not subject to severing or aggregating under the prior regulations.

Cost Allocation Rules for Taxpayers Using Inventory Methods

The proposed regulations required an inventory method taxpayer to apply the new cost allocation rules to its extended period long-term contracts. In the preamble, the Commissioner specifically invited comments on whether this requirement should be modified in the case of taxpayers using an inventory method of accounting for extended period long-term contracts under which some threshold amount of the income from such contracts is recognized in taxable years before the taxable year such contracts would be considered completed under the completed contract method. This was in response to footnote 1 in S. Rep. No. 97-494, 97th Cong., 2d Sess. 201 (1982), which provided that "in order to prevent avoidance of the new cost allocation rules, it is anticipated that Treasury may be required to amend both the regulations relating to the completed contract method and the regulations relating to the full absorption inventory costing method." A number of comments were received in this regard. In response to these comments, yet in order to prevent avoidance of the new cost allocation rules, the Treasury decision requires taxpayers who use a method of accounting that uses inventories (other than a long-term contract method) to apply the new cost allocation rules in accounting for all extended period long-term contracts except those as to which the taxpayer reasonably expects to recognize a threshold percentage of gross income in each of the three years following the year in which the contract is entered into.

Consolidated Groups

Amendments to this Treasury decision are proposed to be made in §§ 1.451-3(b)(3)(v) and 1.451-3(d)(6)(iv), relating to rules for taxpayers who file as members of consolidated groups. The new rules are proposed elsewhere in this issue of the **Federal Register.**

Regulatory Flexibility Act and Executive Order 12291

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

Paperwork Reduction Act of 1980

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

Drafting Information

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

List of Subjects in 26 CFR 1.441-1-1.483-2

Income taxes, accounting, Deferred compensation plans.

Amendments to the Regulations

The following amendments to 26 CFR Part 1 are adopted:

PART 1—[AMENDED]

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

Authority: 26 U.S.C. 7805 * * * Section 471 also issued under 26 U.S.C. 471. Sections 1.451-3 and 1.451-5 amended under the authority in 96 Stat. 324, 493.

Par. 2. Section 1.446-1(c)(1)(ii) is amended by revising the last sentence and by adding a new sentence at the end to read as follows:

§ 1.446-1 General rule for methods of accounting.

* * * * *

(c) *Permissible method*—(1) *In general.* * * *

(ii) *Accrual method.* * * * For example, under an accrual method, a taxpayer engaged in manufacturing may account for the sale of an item when the item is shipped, when the item is delivered, when the item is accepted, or when title to the item passes to the purchaser, whether or not billed, depending upon the method regularly employed in keeping the taxpayer's books; however, see § 1.451-5 relating to advance payments. The determination of when an item is shipped, delivered or accepted, or when title passes, does not depend upon when any other item in the contract is shipped, delivered or accepted, or when title passes.

* * * * *

Par. 3. Section 1.451-3 is amended as follows:

1. Paragraph (a) is revised;
2. Paragraph (b) is revised;
3. Paragraph (d) is amended by revising paragraphs (d) (1) and (5), redesignating paragraph (d)(5)(iv) as paragraph (d)(7), revising and redesignating paragraph (d)(6) as paragraph (d)(8), and by adding new paragraphs (d) (6) and (9);
4. Paragraph (e) is amended by revising paragraph (e)(1), revising examples (1) and (2) of paragraph (e)(2), revising and redesignating example (3) of paragraph (e)(2) as example (4), adding new examples (3), (5), (6) and (7) of paragraph (e)(2), and adding new paragraph (e)(3); and
5. A new paragraph (g) is added.

The revised and added provisions read as follows:

§ 1.451-3 Long-term contracts.

(a) *Introduction and Effective date*—(1) *In general.* Income from a long-term contract (as defined in paragraph (b)(1) of this section) may be included in gross income in accordance with one of the two long-term contract methods, namely, the percentage of completion method (as described in paragraph (c) of this section) or the completed contract method (as described in paragraph (d) of this section), or any other method. Whichever method is chosen must, in the opinion of the Commissioner, clearly reflect income. See § 1.446-1(a)(2) and (c). In addition, it must be applied consistently to all long-term contracts within the same trade or business except that a taxpayer who has long-term contracts of substantial duration and long-term contracts of less than substantial duration in the same trade or

business may report the income from all the contracts of substantial duration on the same long-term contract method and report the income from the contracts of less than substantial duration pursuant to another proper method of accounting. For example, if a manufacturer of heavy machinery has special-order contracts of a type that generally take 15 months to complete and also has contracts of a type that generally take 3 months to complete, the manufacturer may use a long-term contract method for the 15-month contracts and a proper inventory method pursuant to section 471 and the regulations thereunder for the 3-month contracts. Similarly, if a construction contractor has construction contracts of a type that generally take 15 calendar months to complete and other construction contracts that take only 5 months to complete but that are long-term contracts because they are not completed in the taxable years in which they are entered into (pursuant to paragraph (b)(1)(i) of this section), such contractor may either use a long-term contract method for all the contracts of both types or use a long-term contract method for the 15-month contracts and another proper method of accounting for the 5-month contracts. If a taxpayer distinguishes between contracts of substantial duration and other long-term contracts of less than substantial duration, he must adhere to a consistently applied standard for determining substantial duration.

(2) *Reporting requirement.* When a taxpayer reports income under the percentage of completion method or the completed contract method, a statement to that effect shall be attached to his income tax return.

(3) *Allocation among activities required.* The percentage of completion method and the completed contract method apply only to the accounting for income and expenses attributable to long-term contracts. The term "expenses attributable to long term contracts" means all direct labor costs and direct material costs (within the meaning of paragraph (d)(5)(i) or (6)(i) of this section), and all indirect costs except those described in paragraph (d)(5)(iii) or, in the case of extended period long-term contracts, paragraph (d)(6)(iii). Other income and expense items, such as investment income, expenses not attributable to such contracts, and costs incurred with respect to any guarantee, warranty, maintenance, or other service agreement relating to the subject matter of such contracts, shall be acounted for under a proper method of accounting. See section 446(c) and § 1.446–1(c).

(4) *Severing and aggregating contracts.* In the case of income attributable to a long-term contract, whether or not a long-term contract method is used, for the purpose of clearly reflecting income it may be necessary in some instances for the Commissioner either to treat one agreement as several contracts or to treat several agreements as one contract. The rules of paragraph (e)(1) of this section shall apply to determine whether an agreement should be so severed or several agreements so aggregated.

(5) *Certain taxpayers not using a long-term contract method.* In the case of a taxpayer using a method of accounting that uses inventories (other than a long-term contract method) for any extended period long-term contract entered into after December 31, 1982, see paragraphs (d)(6)(v) and (g) of this section.

(6) *Use of inventory methods in connection with the long-term contract method.* Effective for taxable years beginning after December 31, 1982, the taxpayer may use an inventory method to determine the costs attributable to a long-term contract accounted for under a long-term contract method only in accordance with paragraph (d)(8) of this section.

(7) *Effective date.* Except as otherwise provided, this section is effective for taxable years ending after December 31, 1982. For taxable years ending before January 1, 1983, see CFR § 1.451–3, revised as of 4/1/85.

(b) *Definitions, and special rules relating to certain contracts*—(1) *Long-term contract*—(i) *In general.* Except as provided in paragraph (b)(1)(ii) of this section, the term "long-term contract" means a building, installation, construction or manufacturing contract which is not completed within the taxable year in which it is entered into.

(ii) *Manufacturing contracts.* Notwithstanding paragraph (b)(1)(i) of this section, a manufacturing contract is a "long-term contract" only if such contract involves the manufacture of (A) unique items of a type which is not normally carried in the finished goods inventory of the taxpayer, or (B) items which normally require more than 12 calendar months to complete (regardless of the duration of the actual contract). Thus, for example, a contract to manufacture a unit of industrial machinery specifically designed for the needs of a customer and not normally carried in the taxpayer's inventory or a contract to manufacture machinery which will require more than 12 calendar months to complete are long term contracts[.] However, a contract to manufacture 15,000 folding chairs which take 3 days each to manufacture is not a long-term contract even though it takes more than 12 calendar months to manufacture all 15,000 chairs and the contract is not completed within the taxable year it is entered into.

(2) *Completion*—(i) *Final completion and acceptance*—(A) *General rule.* Except as otherwise provided in this paragraph (b)(2), and in paragraph (d)(2), (3), and (4) of this section (relating to disputes), a long-term contract shall not be considered "completed" until final completion and acceptance have occurred. Nevertheless, a taxpayer may not delay the completion of a contract for the principal purpose of deferring Federal income tax.

(B) *Completion determined on basis of all facts and circumstances.* Final completion and acceptance of a contract for Federal income tax purposes is determined from an analysis of all the relevant facts and circumstances, including the manner in which the parties to the contract deal with each other and with the subject matter of the contract, the physical condition and state of readiness of the subject matter of the contract, and the nature of any work or costs remaining to be performed or incurred on the contract. In considering the manner in which the parties deal with the subject matter of the contract, any use of the primary subject matter of the contract by the purchaser (except for testing purposes that produce no gross revenue, cost savings, or other substantial benefits for the purchaser) will be considered.

(C) *Examples.* The principles of paragraph (b)(2)(i) of this section are illustrated by the followed examples:

Example (1). In 1982, A, a calendar year contractor, contracts with B to construct a building. The initial completion date specified in the contract is October 1984. In November 1984, the building is completed in every respect necessary for the use for which the building is intended. Later in November 1984, B occupies the building and notifies A that certain minor deficiencies should be corrected. A agrees to correct the deficiencies. Under these circumstances, the contract is considered completed for Federal income tax purposes in A's taxable year ending December 31, 1984, without regard to when A corrects the deficiencies. The contract is considered completed because the parties have dealt with each other and with the subject matter of the contract in a manner that indicates that final completion and acceptance have occurred.

Example (2). Assume the same facts as in example 1, except that there are no deficiencies in the building that require correction or repair. In addition, assume that the contract between A and B provides that none of the retainage under the contract may

be released to A until A obtains an architect's certificate that the building has been completed according to the specifications of the contract. A obtains this certificate in February, 1985. Under these circumstances, the contract is considered completed for Federal income tax purposes in A's taxable year ending December 31, 1984, without regard to when A obtains the required architect's certificate, and without regard to when the retainage is released to A, because the parties have dealt with each other and with the subject matter of the contract in a manner that indicates that final completion and acceptance have occurred.

Example (3). In 1982, X, a calendar year taxpayer who manufactures industrial machinery, contracts with F to build and install one large item of industrial machinery to be delivered in August 1983 and to be installed and tested by X in F's factory. The contract provides that the machinery will be accepted by F when the tests performed by X demonstrate that the machinery will perform within certain environmental standards required by a government agency, regardless of whether an operating permit has been obtained. Because of technical problems the machinery is not ready for delivery until December 1983. F accepts delivery of the machinery in December 1983 subject to installation and testing to determine if the assembled machinery meets the environmental standards. The machinery is installed and tested during December 1983 through February 1984, and F accepts the machinery in February 1984. An operating permit required to operate the machinery under the environmental standards is issued by the governmental agency in February, 1985. Under these circumstances final completion and acceptance of the machinery for Federal income tax purposes occurs in February, 1984.

Example (4). In 1983, D, a calendar year taxpayer, contracts with E to construct a shopping center and related parking areas. The shopping center is completed in October 1985. In December 1985, the shopping center and three-fourths of the parking area are opened to the general public. At that time, the entire parking area of the shopping center has been graded and three-fourths has been paved, but the final asphalt coating has not been laid due to general weather conditions. Under these circumstances, the contract to construct the shopping center and parking area is considered completed for Federal income tax purposes in December 1985, because the shopping center and a major portion of the parking area were ready to be used and were used at that time.

(ii) *Contracts with more than one subject matter*—(A) *General rule.* In the case of a long-term contract (which, after the application of the rules provided in paragraph (e) of this section, is treated as a single long-term contract for Federal income tax purposes) for one or more units (such as an aircraft or an item of industrial machinery) that represent the primary subject matter of the contract, and for other items (such as training manuals, or spare or replacement parts or components) that do not represent the primary subject matter of the contract, "final completion and acceptance" shall be determined without regard to the contractor's obligation to supply the other items that do not represent the primary subject matter of the contract. If at the end of the taxable year in which the long-term contract is completed there remain any other items that do not represent the primary subject matter of the contract and that have not been finally completed and accepted then the costs that have been incurred prior to the end of such year and that are properly allocable to such other items (determined pursuant to paragraph (d)(5) or (6) (as the case may be) of this section), and a portion of the gross contract price (if any) reasonably allocable to such other items shall be separated from the long-term contract, and such costs and such portion of the gross contract price shall be accounted for under a proper method of accounting. Such proper method of accounting includes a long-term contract method only if a separate contract for such other items would be a long-term contract (as defined in paragraph (b)(1) of this section).

(B) *Example.* The principles of paragraph (b)(2)(ii)(A) of this section may be illustrated by the following example:

Example. In 1982, X contracts with the Y Government to manufacture five aircraft and to manufacture 12 spare and replacement parts for the five aircraft and for certain other aircraft supplied to Y under prior contracts. Assume that under all the facts and circumstances it is determined that the portion of the contract relating to the 12 spare and replacement parts does not have to be severed from the portion of the contract relating to the five aircraft. Assume also that under all the facts and circumstances it is determined that the five aircraft represent the primary subject matter of the contract, and that the spare and replacement parts do not represent the primary subject matter of the contract. In 1984, X tenders the five aircraft and seven of the spare and replacement parts to Y. Y accepts the aircraft and the parts subject to X's delivery of the balance of the spare and replacement parts. For Federal income tax purposes the contract is deemed to have been completed in 1984. Accordingly, X must include in gross income in 1984 the entire contract price, less the portion of the gross contract price reasonably allocable (if any) to the parts not delivered in 1984. X must deduct from gross income in 1984 the entire costs properly allocable to the contract, less the entire costs incurred that are properly allocable to the parts not delivered in 1984. X will account for the income and costs allocable to the parts not delivered in 1984 under a proper method of accounting.

(iii) *Contingent compensation.* In the case of a long-term contract, "final completion and acceptance" shall be determined without regard to any term of the contract providing for additional compensation contingent upon the continued successful performance of the subject matter of the contract after the subject matter of the contract has been accepted by the purchaser (such as an incentive fee payable if a satellite remains in operation after it is placed on orbit). Such contingent compensation shall be included in gross income in the appropriate taxable year determined under the taxpayer's method of accounting other than a long-term contract method.

(iv) *Certain supervision of installation.* In the case of a long-term contract, "final completion and acceptance" shall be determined without regard to any obligation on the part of the contractor to assist or to supervise installation or assembly of the subject matter of the contract where such installation or assembly is to be performed by the purchaser and, under applicable contract law, the subject matter of the contract may be accepted by the purchaser prior to such installation or assembly. If the preceding sentence applies to a contract, "final completion and acceptance" shall be determined without regard to such obligation [.] In addition, the entire gross contract price less the portion of the gross contract price (if any) reasonably allocable to such obligation, shall be included in gross income in the taxable year in which the contract is completed[.] Further, all costs properly allocable to the contract and which have been incurred prior to the end of the taxable year in which such contract is completed shall be deducted in such year[.] Finally, all other costs properly allocable to such contract and the portion of the gross contract price reasonably allocable to the obligation to assist or to supervise installation shall be accounted for under a proper method of accounting other than a long-term contract method.

(v) *Subcontractors.* In the case of a subcontractor who completes work on a long-term contract prior to the completion of the entire contract, "final completion and acceptance" of the contract with respect to such subcontractor shall be deemed to have occurred when the subcontractor's work has been completed and has been accepted by the party with whom the subcontractor has contracted.

(vi) *Disputes.* Completion of a long-term contract is determined without regard to whether a dispute exists at the

time the taxpayer tenders the subject matter of the contract to the party with whom the taxpayer has contracted. See paragraphs (d)(2), (3) and (4) of this section.

(3) *Extended period long-term contract*—(i) *General Rule.* This paragraph (b)(3) does not apply to contracts accounted for under the percentage of completion method. Except as provided in paragraph (b)(3)(ii) of this section, the term "extended period long-term contract" means any long-term contract that the taxpayer estimates (at the time such contract is entered into) will not be completed (as defined in paragraph (b)(2) of this section) within the 2-year period beginning on the first date (hereinafter, "the contract commencement date") that the taxpayer incurs any costs (other than costs such as bidding expenses, or expenses incurred in connection with negotiating the contract) allocable to such contract (under the cost allocation rules of paragraph (d)(6) of this section). The preceding sentence shall be applied without regard to when costs allocable to a contract are recorded under the cost accounting procedures used by the taxpayer. In general, the contract commencement date will be the first date that any of the following activities occur: the taxpayer incurs design or engineering costs allocable to the contract other than design or engineering costs incurred solely for purposes of bidding for the contract; materials or equipment are shipped to the jobsite; or workers whose labor costs is treated as direct labor are sent to the jobsite. If the first date when any costs allocable to a contract are incurred is not determinable, the contract commencement date of a contract shall be the date such contract is entered into, unless the taxpayer establishes to the satisfaction of the district director that another date is a more appropriate contract commencement date. The contract commencement date shall not be earlier than the date the contract is entered into, unless the taxpayer delayed entering into the contract for a principal purpose of avoiding the rules of this section.

(ii) *Certain construction contracts.* The term "extended period long-term contract" does not include any construction contract entered into by a taxpayer—

(A) Who estimates (at the time such contract is entered into) that such contract will be completed within the 3-year period beginning on the contract commencement date of such contract, or

(B) Whose average annual gross receipts (determined under paragraph (b)(3)(iii) of the this section) over the 3 taxable years preceding the taxable year the contract is entered into (or, if less, the number of preceding taxable years the taxpayer has been in existence) do not exceed $25 million.

For purposes of this paragraph (b)(3)(ii), the term "construction contract" means any contract for the building, construction, or erection of, or the installation of any integral component to, improvements to real property. For purposes of the preceding sentence, construction includes reconstruction and rehabilitation. An improvement to real property includes buildings or other structures intended to be permanently affixed to real property, roadways, dams, or bridges, but does not include such items as vessels or offshore drilling platforms. An integral component to an improvement to real property includes property not produced at the site of the real property but intended to be permanently affixed to an improvement to real property, for example, elevators and central heating and cooling systems. In the case of a contract that provides for the manufacture and the installation of an integral component to an improvement to real property (such as the pollution control equipment for a power plant), only the part of the overall gross contract price and the costs properly allocable to the work of installing the finished component is a construction contract. For example, in the case of a contract both to manufacture and to install an elevator in an office building, only the portion of the gross contract price and only the costs properly allocable to installing the elevator is a construction contract. However, in determining whether the installation portion of a contract is expected to be completed within three years, the time expected to complete both the manufacture and the installation of the contract subject matter must be taken into account. Similarly, in determining whether the manufacturing portion of a contract is expected to be completed within two years, the time expected to complete both the manufacture and the installation of the contract subject matter must be taken into account. Alternatively, the taxpayer may consistently account for the manufacturing portion and the installation portion of all such agreements as separate contracts if there is an appropriate allocation of the gross contract price between the manufacturing portion and the installation portion of the agreement. The preceding sentence applies without regard to paragraph (e)(1) of this section.

(iii) *Determination of gross receipts*—(A) *Aggregation and attribution of gross receipts.* The following rules shall apply in determining the gross receipts of the taxpayer for purposes of paragraph (b)(3)(ii)(B) of this section, that is, for determining if the average annual gross receipts of the taxpayer over the 3 taxable years preceding the taxable year in which a construction contract is entered into (or, if less, the number of preceding taxable years the taxpayer been in existence) exceed $25 million. Under paragraph (b)(3)(iii)(B) of this section, the average annual gross receipts of all trades or businesses (regardless of the nature of such trades or businesses) under common control with the taxpayer who enters into the construction contract are combined. Under paragraph (b)(3)(iii)(C), a portion of the average annual gross receipts from building, installation or construction contracts (hereinafter "construction gross receipts") of trades or businesses not under common control with the taxpayer who enters into the contract, but which are related to the taxpayer through a chain of attribution (using indirect and constructive ownership), are attributed to the taxpayer who enters into the contract. Except as provided in paragraph (b)(3)(iii)(C)(*4*)(*i*), the rules of paragraph (b)(3)(iii) (B) and (C) are both applied. For purposes of paragraph (b)(3) of this section, "gross receipts" include the gross receipts realized from the active conduct of any trade or business, (*e.g.*,— sales revenue), and shall be the gross receipts of the taxable year in which such receipts are recognized properly under the tax accounting method of the taxpayer. For this purpose "gross receipts" shall not include amounts that, under Federal income tax law, are interest, dividends, rents, royalties, annuities or the amount realized from the sale or exchange of property used in the trade or business or held for the production of income. Gross receipts of a contract includes the gross contract price (whether the contract is a general contract or a subcontract, and whether or not the contract is a long-term contract). If the taxpayer enters into a contract which provides that any direct materials (as described in paragraph (d)(5)(i) of this section) will be supplied by the party for whom the contract is being performed (and thus the cost of which is not represented in the gross contract price), gross receipts do not include the cost of such direct materials unless the contractual arrangement was

entered into for a principal purpose of reducing the contractor's gross receipts.

(B) *Aggregation of all gross receipts of trades or businesses under common control.* If, at any time during the calendar year in which the taxpayer enters into a construction contract, such taxpayer and any other trades or businesses (whether or not incorporated) are under common control, then the average annual gross receipts of each such trade or business (for the 3 taxable years of such trade or business preceding the taxable year of such trade or business in which the construction contract is entered into or, if less, the number of preceding taxable years such trade or business has been in existence) shall be combined with the average annual gross receipts of the taxpayer for taxpayer's 3 taxable years preceding the taxable year of the taxpayer in which the construction contract is entered into (or, if less, the number of preceding taxable years the taxpayer has been in existence). Gross receipts attributable to transactions between trades or businesses under common control shall be eliminated. For purposes of paragraph (b)(3) of this section, the term "trades or businesses under common control" means any group of trades or businesses that is either—

(*1*) A "parent-subsidiary group under common control" as defined in § 1.52–1(c),

(*2*) A "brother-sister group under common control" as defined in § 1.52–1(d), or

(*3*) A "combined group under common control" as defined in § 1.52–1(e).

(C) *Attribution of construction gross receipts to or from individuals, proprietorships, corporations, partnerships, trusts and estates not under common control.—(1) Attribution of construction gross receipts to the contractor from persons owning an interest in the contractor.* For purposes of paragraph (b)(3) of this section, if a 5 percent or greater interest in the person who enters into a construction contract (hereinafter, "the contractor") is owned (at any time during the calendar year in which the construction contract is entered into), directly, or indirectly through the application of this paragraph (b)(3)(iii)(C), by or for any person, the average annual gross receipts of the contractor for the contractor's 3 taxable years preceding the taxable year of the contractor in which the contract was entered into (or, if less, the number of preceding taxable years the contractor has been in existence) shall include the average annual construction gross receipts of such person (for the 3 taxable years of such person preceding the taxable year of such person in which the contract was entered into or, if less, the number of preceding taxable years in which such person has been in existence) in proportion to the interest of such person in the contractor. If an interest is not owned for the entire calendar year, or if an interest varies during the calendar year, the amount of such interest for such year shall be the weighted average based on the number of days each interest is owned during such calendar year.

(*2*) *Attribution of construction gross receipts to the contractor from persons in which the contractor owns an interest.* For purposes of paragraph (b)(3) of this section, if (at any time during the calendar year in which the contractor enters into a construction contract) a 5 percent or greater interest in any person is owned, directly, or indirectly through the application of this paragraph (b)(3)(iii)(C), by or for the contractor, the average annual gross receipts of the contractor for the contractor's 3 taxable years preceding the taxable year of the contractor in which the contract was entered into (or, if less, the number of preceding taxable years the taxpayer has been in existence) shall include the average annual construction gross receipts of such person (for the 3 taxable years of such person preceding the taxable year of such person in which the contract was entered into or, if less, the number of preceding taxable years such person has been in existence) in proportion to the interest of the contractor in such person. If an interest is not owned for the entire calendar year, or if an interest varies during the calendar year, the amount of such interest for such year shall be the weighted average based on the number of days each interest is owned during such calendar year.

(3) *Rules for determining ownership—(i) In general.* In determining the ownership of an interest in any person for purposes of paragraph (b)(3)(iii)(C) of this section, the indirect and constructive ownership rules of this paragraph (b)(3)(iii)(C)(*3*) shall apply, subject to the operating rules contained in paragraph (b)(3)(iii)(C)(*4*). For purposes of paragraph (b)(3)(iii)(C), an "interest" means: in the case of a corporation, stock; in the case of a trust or estate, an actuarial interest; in the case of a partnership, an interest in capital or profits; and in the case of a sole proprietorship, the proprietorship.

(*ii*) *Members of a family.* An individual shall be considered as owning any interest in any person owned, directly or indirectly, by or for—

(*A*) Such individual's spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance, whether final or interlocutory), and

(*B*) Such individual's children, grandchildren, parents and grandparents. A legally adopted child of an individual shall be treated as the child of such individual.

(*iii*) *Attribution from partnerships, estates, trusts and corporations (A) From Partnerships.* An interest in any person owned, directly or indirectly, by or for a partnership shall be considered as owned by any partner having a 5 percent or greater interest in either the profits or capital of the partnership, in proportion to such partner's interest in profits or capital, whichever is greater.

(*B*) *From estate and trusts.* An interest in any person (hereinafter an "organization interest") owned, directly or indirectly, by or for an estate or trust shall be considered as owned by any beneficiary of such estate or trust who has an actuarial interest of 5 percent or greater in such organization interest, to the extent of such actuarial interest, as determined under § 11.414(c)–4(b)(3).

An interest in any person owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners) shall be considered as owned by such person.

(*C*) *From corporations.* An interest in any person owned, directly or indirectly, by or for a corporation shall be considered as owned by any shareholder who owns (directly, and indirectly through the application of paragraph (b)(3)(iii)(C) of this section) 5 percent or more in value of such corporation's stock, in proportion to the value of the stock owned by such shareholder to the total value of all the outstanding stock in such corporation.

(*iv*) *Attribution to partnerships, estates, trusts and corporations—(A) To partnerships.* An interest in any person owned, directly or indirectly, by or for a partner having a 5 percent or greater interest in partnership profits or capital shall be considered as owned by the partnership in proportion to the partner's interest in profits or capital, whichever is greater.

(*B*) *To estates and trusts.* An interest in any person owned, directly or indirectly, by or for a beneficiary having an actuarial interest of 5 percent or greater in the value of property of an estate or trust shall be considered as owned by such estate or trust in proportion to the beneficiary's actuarial

interest in the assets of the estate or trust. For purposes of this paragraph (b)(3)(iii)(C)(*3*)(*iv*)(*B*) the actuarial interest of a beneficiary shall be determined under the maximum exercise of discretion by the executor or trustee in favor of such beneficiary.

An interest in any person owned, directly or indirectly, by or for a person who is considered the owner of any portion of a trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners) shall be considered as owned by such trust.

(*C*) *To corporations.* An interest in any person owned, directly or in directly, by or for a shareholder who owns (directly and indirectly through the application of paragraph (b)(3)(iii)(C) of this section) 5 percent or more in value of the stock in a corporation shall be considered as owned by such corporation in proportion to the value of the stock owned by such shareholder to the total value of all the outstanding stock in such corporation.

(*v*) *Options.* If a person has an option to acquire any outstanding interest in any organization, such interest shall be considered as owned by such person. An option to acquire an option, and each one of a series of such options, shall be considered as an option to acquire such an interest.

(4) Operating rules—(i) Common control. Paragraph (b)(3)(iii)(C) of this section shall not apply between two persons both of whom, under paragraph (b)(3)(iii)(B), are members of the group of trades or businesses under common control that includes the contractor. However, in applying paragraph (b)(3)(iii)(C) between two persons where one or both of such persons are not members of the group of trades or businesses under common control that includes the contractor, paragraph (b)(3)(iii)(C) shall be applied without regard to paragraph (b)(3)(iii)(B).

(*ii*) *Reattribution.* Except as provided in paragraph (b)(3)(iii)(C)(*4*)(*iii*) (relating to no double family attribution) or (iv) (relating to no reattribution to certain co-owners), in applying paragraphs (b)(3)(iii)(C)(*3*) (*ii*), (*iii*), (*iv*), or (*v*), an interest constructively owned by a person shall, in applying paragraphs (b)(3)(iii)(C)(*3*), (*ii*), (*iii*), (*iv*) or (*v*), be considered as actually owned by such person, and such interest may be reattributed to another person.

(*iii*) *No double family attribution.* An interest constructively owned by an individual by reason of paragraph (b)(3)(iii)(C)(*3*)(*ii*) shall not be considered as owned by such individual for purposes of again applying such paragraph to make another the constructive owner of such interest.

(iv) No reattribution to certain co-owners. An interest constructively owned by a person by reason of paragraph (b)(3)(iii)(C)(*3*)(*iv*) shall not be considered as owned by such person for purposes of applying paragraph (b)(3)(iii)(C)(*3*)(*iii*) in order to make another person the constructive owner of such interest.

(v) Option rule in lieu of family rule. If an interest may be considered as owned by an individual under paragraphs (b)(3)(iii)(C)(*3*) (*ii*) or (*v*), it shall be considered as owned by such individual under paragraph (b)(3)(iii)(C)(*3*)(*v*).

(vi) Limitation. In applying paragraph (b)(3)(iii)(C)(*3*) to determine the ownership of an interest by any person for any one purpose—

(*A*) A corporation shall not be considered to own its own stock by reason of paragraph (b)(3)(iii)(C)(*3*)(*iv*)(*C*), and

(B) If an interest owned by any person may be included in the computation more than one time, such interest shall be included only once, in the manner that will impute to the person concerned the largest total interest.

(C) *Short taxable years.* For any taxpayer required to determine its average annual gross receipts over the three taxable year period of such person preceding the taxable year in which a construction contract is entered into, if such period includes a taxable year of less than 12 full months, the taxpayer shall place the gross receipts of such taxable year on an annual basis by dividing the gross receipts of such taxable year by the number of full calendar months in such taxable year and multiplying the result by 12.

(iv) *Classification of contracts*—(A) *Initial classification by taxpayer.* The taxpayer shall determine whether a contract is an extended period long-term contract at the time such contract is entered into. In estimating the time required to perform any contract, the taxpayer shall anticipate and provide a reasonable allowance for delay, rework, change orders, technology or design problems, and other problems. If the taxpayer determines that a contract is an extended period long-term contract, the cost allocation rules of paragraph (d)(6) of this section shall apply, and such contract shall be treated as an extended period long-term contract even if such contract is actually completed within the 2-year period (3 years in the case of certain construction contracts) beginning on the contract commencement date of such contract. Except as provided in paragraph (b)(3)(iv)(B) of this section, a long-term contract that is not completed within the 2-year period (3 years in the case of certain construction contracts) beginning on the actual contract commencement date of such contract and which the taxpayer did not classify and account for as an extended period long-term contract will not be required to be reclassified (for any taxable year) and accounted for as an extended period long-term contract if, at the time the contract was entered into, the taxpayer reasonably could have expected the contract to be completed within that time. The taxpayer shall maintain contemporaneous written records setting forth the basis for classifying each contract, and such records shall be in sufficient detail to enable the district director readily to determine whether the taxpayer's estimate of the time required to complete a contract was made on a reasonable basis. A contract term specifying an expected completion or delivery date may be considered evidence that the parties expected completion or delivery to occur on or about the date specified, especially if there are actual bona fide penalties for not meeting the specified date. The taxpayer's estimate will not be considered unreasonable if a contract was not completed within the expected time primarily because of unforeseeable factors not within the control of the taxpayer. For purposes of the preceding sentence, "unforeseeable factors" are abnormal factors, such as prolonged third-party litigation, abnormal weather (considering the season and the jobsite), prolonged strikes, and prolonged delays in securing required permits or licenses, that could not reasonably be anticipated considering the nature of the contract and prior experience.

(B) *Exception for unreasonable classification, amended returns.* If under all the facts and circumstances it is determined that a contract which the taxpayer did not classify and account for as an extended period long-term contract reasonably should have been so classified and accounted for, the taxpayer shall reclassify and account for such contract as an extended period long-term contract for the current taxable year and all subsequent taxable years. In addition, the taxpayer should file an amended return for each prior taxable year (assuming that the period for assessment has not run for such year) in which costs were incurred with respect to such contract, and such amended returns should reflect an allocation to the contract of costs incurred in such prior years using the cost allocation rules provided in

paragraph (d)(6) of this section. If a contract is not an extended period long-term contract by reason of the $25 million gross receipts test of paragraph (b)(3)(ii)(B) of this section, such contract shall not be reclassified regardless of the taxpayer's gross receipts for any subsequent year and regardless of the time required to complete such contract.

(v) *Special rule for contract commencement date in case of components or subassemblies produced by the taxpayer.* If the cost of components or subassemblies produced by the taxpayer represents a significant amount of the total costs allocable to a contract, the contract commencement date of such contract shall be the first date the taxpayer incurs any costs allocable either to (1) such type or category of components or subassemblies, or (2) any other subject matter of the contract. The contract commencement date shall not be earlier than the date the contract is entered into, unless the taxpayer delayed entering into the contract for a principal purpose of avoiding the rules for this section. For example, assume an airplane manufacturer who also manufactures a type of engine that represents a significant amount of the total costs of the airplanes produced enters into one or more contracts to manufacture airplanes containing such type of engine. For purposes of determining the contract commencement date with respect to each contract, the first date the manufacturer incurs any cost allocable to any of the engines is the first date that the taxpayer incurs any cost allocable to such type of engine, even if the manufacturer has not yet produced enough engines to satisfy all contracts.

See § 1.451-3(d)(6)(iv) for the cost allocation rules required in the case of certain components or subassemblies.

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(d) *Completed contract method*—(1) *In general.* Except as otherwise provided in paragraphs (d) (2), (3) or (4) (relating to disputes) of this section, under the completed contract method, gross income derived from long-term contracts must be reported by including the gross contract price of each contract in gross income for the taxable year in which such contract is completed (as defined in paragraph (b)(2) of this section). All costs properly allocable to a long-term contract (determined pursuant to paragraph (d) (5) or (6) of this section) must be deducted from gross income for the taxable year in which the contract is completed. In addition, account must be taken of any material and supplies charged to the contract but remaining on hand at the time of completion.

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(5) *General rule for allocation of costs to long-term contracts.* The following rules shall apply in determining what costs are properly allocable to a long-term contract (other than an extended period long-term contract to which the rules of paragraph (d)(6) of this section apply) in the case of a taxpayer using the completed contract method of accounting for tax purposes:

(i) *Direct costs.* Direct material costs and direct labor costs must be treated as costs properly allocable to a long-term contract "Direct material costs" include the costs of those materials which become an integral part of the subject matter of the long-term contract and those materials which are consumed in the ordinary course of building, constructing, installing, or manufacturing the subject matter of a long-term contract. See § 1.471-3(b) for the elements of direct material costs. "Direct labor costs" include the cost of labor which can be identified or associated with a particular long-term contract. The elements of direct labor costs include such items as basic compensation, overtime pay, vacation and holiday pay, sick leave pay (other than payments pursuant to a wage continuation plan under section 105(d) as it existed prior to its repeal in 1983), shift differential, payroll taxes and payments to a supplemental unemployment benefit plan paid or incurred on behalf of employees engaged in direct labor.

(ii) *Indirect costs allocated to long-term contracts.* The term "indirect costs" includes all costs (other than direct material costs and direct labor costs) which are incident to and necessary for the performance of particular long-term contracts. Indirect costs which must be allocated to long-term contracts include:

(A) Repair expenses of equipment or facilities used in the performance of particular long-term contracts,

(B) Maintenance of equipment or facilities used in the performance of particular long-term contracts,

(C) Utilities, such as heat, light, and power, relating to equipment or facilities used in the performance of particular long-term contracts,

(D) Rent of equipment or facilities used in the performance of particular long-term contracts,

(E) Indirect labor and contract supervisory wages, including basic compensation, overtime pay, vacation and holiday pay, sick leave pay, (other than payments pursuant to a wage continuation plan under section 105(d) as it existed prior to its repeal in 1983), shift differential payroll taxes and contributions to a supplemental unemployment benefit plan incurred in the performance of particular long-term contracts,

(F) Indirect materials and supplies used in the performance of particular long-term contract,

(G) Tools and equipment not capitalized used in the performance of particular long-term contracts,

(H) Costs of quality control and inspection incurred in the performance of particular long-term contracts,

(I) Taxes otherwise allowable as a deduction under section 164 (other than State and local, and foreign income taxes) to the extent such taxes are attributable to labor, materials, supplies, equipment or facilities used in the performance of particular long-term contracts,

(J) Depreciation, amortization and cost recovery allowances reported for the taxable year for financial purposes on equipment and facilities used in the performance of particular long-term contracts (but not in excess of the depreciation, amortization or cost recovery allowance allowable for the taxable year under Chapter I of the Code with respect to any item of equipment or facility),

(K) Cost depletion incurred in the performance of particular long-term contracts,

(L) Administrative costs incurred in the performance of particular long-term contracts (but not including any costs of selling or any return on capital),

(M) Compensation paid to officers attributable to services performed on particular long-term contracts (other than incidental or occasional services), and

(N) Cost of insurance incurred in the performance of particular long-term contracts, such as insurance on machinery and equipment used in the construction of the subject matter of a long-term contract.

(iii) Costs not allocated to long-term contracts. Costs which are not required to be included in costs attributable to a long-term contract include:

(A) Marketing and selling expenses, including bidding expenses,

(B) Advertising expenses,

(C) Other distribution expenses,

(D) Interest,

(E) General and administrative expenses attributable to the performance of services which benefit the long-term contractor's activities as a whole (such as payroll expenses, legal and accounting expenses, etc.),

(F) Research and experimental expenses (described in section 174 and the regulations thereunder),

(G) Losses under section 165 and the regulations thereunder,

(H) Percentage of depletion in excess of cost depletion,

(I) Depreciation, amortization and cost recovery allowances on equipment and facilities that have been placed in service but are temporarily idle (for this purpose, an asset is not considered to be temporarily idle on non-working days, and an asset used in contruction is considered to be idle when it is not enroute to or not located at a job-site), and depreciation, amortization and cost recovery allowances under Chapter I of the Code in excess of depreciation, amortization and cost recovery allowances reported by the taxpayer in the taxpayer's financial reports,

(J) Income taxes attributable to income received from long-term contracts,

(K) Contributions paid to or under a stock bonus, pension, profit-sharing or annuity plan or other plan deferring the receipt of compensation whether or not the plan qualifies under section 401(a), and other employee benefit expenses paid or accrued on behalf of labor, to the extent such contributions or expenses are otherwise allowable as deductions under chapter 1 of the Code. "Other employee benefit expenses" include (but are not limited to): worker's compensation; amounts deductible or for whose payment reduction in earnings and profits is allowed under section 404A and the regulations thereunder; payments pursuant to a wage continuation plan under section 105(d) as it existed prior to its repeal in 1983; amounts includible in the gross income of employees under a method or arrangement of employer contributions or compensation which has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or other plan deferring the receipt of compensation or providing deferred benefits; premiums on life and health insurance; and miscellaneous benefits provided for employees such as safety, medical treatment, recreational and eating facilities, membership dues, etc.

(L) Cost attributable to strikes, rework labor, scrap and spoilage, and

(M) Compensation paid to officers attributable to the performance of services which benefit the long-term contractor's activities as a whole.

(6) *Allocation of costs to extended period long-term contracts.* Except as provided in paragraph (g) of this section, this paragraph (d)(6) applies to taxable years beginning after December 31, 1982. The following rules shall apply in determining what costs are properly allocable to an extended period long-term contract (as defined in paragraph (b)(3) of this section) in the case of a taxpayer using the completed contract method of accounting for long-term contracts for tax purposes. These rules may also apply to certain extended period long-term contracts accounted for under a method of accounting that uses inventories (other than a long-term contract method). See paragraph (d)(6)(v) of this section.

(i) *Direct costs.* Direct material costs and direct labor costs must be treated as costs properly allocable to an extended period long-term contract. "Direct material costs" include the costs of those materials which become an integral part of the subject matter of the extended period long-term contract and those materials which are consumed in the ordinary course of building, constructing, installing or manufacturing the subject matter of an extended period long-term contract. See § 1.471-3(b) for the elements of direct material costs. "Direct labor costs" include the cost of labor which can be identified or associated with a particular extended period long-term contract. The elements of direct labor costs include such items as basic compensation, overtime pay, vacation and holiday pay, sick leave pay (other than payments pursuant to a wage continuation plan under section 105(d) as it existed prior to its repeal in 1983), shift differential, payroll taxes and payments to a supplemental unemployment benefit plan paid or incurred on behalf of employees engaged in direct labor.

(ii) *Indirect costs allocated to extended period long-term contracts.* The term "indirect costs" include all costs other than direct material costs and direct labor costs. In determining what indirect costs are properly allocable to an extended period long-term contract, all such costs that directly benefit the performance of extended period long-term contracts, or are incurred by reason of the performance of extended period long-term contracts must be allocated to extended period long-term contracts unless otherwise provided in paragraph (d)(6)(iii) of this section. Certain types of costs may directly benefit, or be incurred by reason of the performance of extended period long-term contracts of the taxpayer even though the same type of costs also benefits other activities of the taxpayer. Accordingly, such costs require a reasonable allocation between the portion of such costs that are attributable to extended period long-term contracts and the portion attributable to the other activities of the taxpayer. Indirect costs that must be allocated to extended period long-term contracts include:

(A) Repair expenses of equipment or facilities used in the performance of particular extended period long-term contracts,

(B) Maintenance of equipment or facilities used in the performance of particular extended period long-term contracts,

(C) Utilities, such as heat, light, and power, relating to equipment or facilities used in the performance of particular extended period long-term contracts,

(D) Rent of equipment or facilities used in the performance of particular extended period long-term contracts,

(E) Indirect labor and contract supervisory wages, including basic compensation, overtime pay, vacation and holiday pay, sick leave pay (other than payments pursuant to a wage continuation plan under section 105(d) as it existed prior to its repeal in 1983), shift differential, payroll taxes and contributions to a supplemental unemployment benefit plan incurred in the performance of particular extended period long-term contracts,

(F) Indirect materials and supplies used in the performance of particular extended period long-term contracts,

(G) Tools and equipment not capitalized used in the performance of particular extended period long-term contracts,

(H) Costs of quality control and inspection incurred in the performance of particular extended period long-term contracts,

(I) Taxes otherwise allowable as a deduction under section 164 (other than State and local[,] and foreign income taxes) to the extent such taxes are attributable to labor, materials, supplies, equipment or facilities used in the performance of particular extended period long-term contracts,

(J) Depreciation, amortization and cost recovery allowances on equipment and facilities (to the extent allowable as deductions under Chapter I of the Code) used in the performance of particular extended period long-term contracts,

(K) Depletion (whether or not in excess of cost) incurred in the performance of particular extended period long-term contracts,

(L) Administrative costs (whether or not performed on a job-site) directly attributable to the performance of particular extended period long-term contracts (but not including any cost of selling, or any return on capital),

(M) Direct and indirect costs incurred by any administrative, service, or support function or department to the

extent such costs are allocable to particular extended period long-term contracts pursuant to paragraph (d)(9) of this section.

(N) Compensation paid to officers attributable to services performed on particular extended period long-term contracts (but not including any cost of selling),

(O) Costs of insurance incurred in the performance of particular extended period long-term contracts, such as insurance on machinery and equipment used in the construction of the subject matter of an extended period long-term contract,

(P) Contributions paid to or under a stock bonus, pension, profit-sharing or annuity plan or other plan deferring the receipt of compensation whether or not the plan qualifies under section 401(a) (except for amounts described in paragraph (d)(6)(iii)(I) of this section), and other employees benefit expenses paid or accrued on behalf of labor, to the extent such contributions or expenses are otherwise allowable as deductions under chapter 1 of the Code. "Other employee benefit expenses" include (but are not limited to): worker's compensation; amounts deductible or for whose payment reduction in earnings of profits is allowed under section 404A and the regulations thereunder; payments pursuant to a wage contribution plan under section 105(d) as it existed prior to its repeal in 1983; amounts includible in the gross income of employees under a method or arrangement of employer contributions or compensation which has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or other plan deferring the receipt of compensation or providing deferred benefits; premiums on life and health insurance; and miscellaneous benefits provided for employees such as safety, medical treatment, recreational and eating facilities, membership dues, etc.,

(Q) Research and experimental expenses (described in section 174 and the regulations thereunder) directly attributable to particular extended period long-term contracts in existence at the time such expenses are incurred, or incurred under an agreement to perform research or experimentation,

(R) Rework labor, scrap and spoilage to the extent incurred in the performance of particular extended period long-term contracts, and

(S) Bidding expenses incurred in the solicitation of particular extended period long-term contracts ultimately awarded to the taxpayer. For purposes of this section, the term "bidding expenses" does not include any research and experimental expenses described in section 174 and the regulations thereunder. The taxpayer shall defer all bidding expenses paid or incurred in the solicitation of a particular extended period long-term contract until the contract is awarded. If the contract is awarded to the taxpayer, the bidding costs become part of the indirect costs assigned to the contract. If the contract is not awarded to the taxpayer, bidding costs become deductible in the taxable year the contract is awarded, or the taxable year the taxpayer is notified in writing that no contract will be awarded and that the contract (or similar or related contract) will not be re-bid, or in the taxable year that the taxpayer abandons its bid or proposal, whichever occurs first. Abandoning a bid does not include modifying, supplementing, or changing the original bid or proposal. If the taxpayer is awarded only part of the bid (for example, the taxpayer submitted one bid to build each of two different types of bridges and the taxpayer was awarded a contract to build only one of the two bridges), the taxpayer shall deduct the portion of the bidding expenses related to the portion of the bid not awarded to the taxpayer; in the case of a bid or proposal for a multi-unit contract, however, all the bidding expenses shall be allocated to a contract awarded to the taxpayer to produce any or such units (for example, where the taxpayer submitted one bid to produce three similar turbines and the taxpayer was awarded a contract to produce only two of the three turbines).

(iii) *Costs not allocated to extended period long-term contracts.* Costs which are not required to be included in costs attributable to an extended period long-term contract include:

(A) Marketing, selling and advertising expenses;

(B) Bidding expenses incurred in the solicitation of contracts not awarded to the taxpayer (see paragraph (d)(6)(ii)(S) of this section),

(C) Interest,

(D) General and administrative expenses (but not including any cost described in paragraph (d)(6)(ii) (L) or (M) of this section) and compensation paid to officers attributable to the performance of services that do not directly benefit or are not incurred by reason of any extended period long-term contracts,

(E) Research and experimental expenses (described in section 174 and the regulations thereunder) neither directly attributable to particular extended period long-term contracts in existence at the time such expenses are incurred nor incurred under any agreement to perform research or experimentation,

(F) Losses under section 165 and the regulations thereunder,

(G) Depreciation, amortization and cost recovery allowances on equipment and facilities that have been placed in service but are temporarily idle (for this purpose, an asset is not considered to be temporarily idle on non-working days, and an asset used in construction is considered to be idle when it is not en route to or not located at a job-site),

(H) Income taxes attributable to income received from extended period long-time contracts,

(I) Contributions paid to or under a pension or annuity plan allowable as a deduction under section 404 (and section 404A if applicable) to the extent such contributions represent past service costs, and

(J) Costs attributable to strikes.

(iv) *Special rule for component parts or subassemblies produced by the taxpayer.* In the case of any type of component or subassembly produced by the taxpayer, the taxpayer shall use the cost allocation rules prescribed in paragraph (d) (6) and (8) of this section to determine the unit cost of the components or subassemblies that reasonably can be expected to be incorporated into the subject matter of extended period long-term contracts of the taxpayer. The taxpayer may use other proper cost allocation rules (see § 1.471–11) to determine the unit cost of the components or subassemblies other than those described in the preceding sentence. For each taxable year, the taxpayer's estimate of the number of components or subassemblies that can be expected to be incorporated into the subject matter of extended period long-term contracts shall be considered reasonable if the estimate is based upon facts known at the beginning of the taxable year.

(v) *Taxpayers not using a long-term contract method.* Taxpayers who use a method of accounting that uses inventories (other than a long-term contract method) must use the cost allocation rules provided in paragraph (d)(6) of this section (rather than the cost allocation rules provided in § 1.471–11) for any extended period long-term contract unless the taxpayer reasonably expects that

(A) 40% of the gross income from such contract will be recognized no later than the taxable year after the taxable year in which the contract is entered into;

(B) 70% of the gross income from such contract will be recognized no later than the second taxable year after the

taxable year in which the contract is entered into; and

(C) 100% of the gross income from such contract will be recognized no later than the third taxable year after the taxable year in which the contract is entered into.

In determining whether the taxpayer meets the "reasonably expected" test of this paragraph (d)(6)(v), rules consistent with the rules of paragraph (b)(3)(iv) of this section will apply.

(7) *Guarantees, warranties, maintenance costs, etc.* "Costs which are properly allocable to a long-term contract" do not include costs incurred with respect to any guarantee, warranty, maintenance, or other service agreement relating to the subject matter of the long-term contract. See paragraph (a)(3) of this section.

(8) *Separate accounts; annual cost allocation; use of inventory methods in connection with the completed contract method*—(i) *General rule.* This paragraph (d)(8) is effective for taxable years beginning after December 31, 1982. For taxable years beginning before January 1, 1983, see 26 CFR 1.451–3(d)(6) (revised as of April 1, 1985). The taxpayer shall maintain separate accounts for each long-term contract, and both the direct costs (as described in paragraph (d)(5)(i) or (d)(6)(i) of this section) and the indirect costs (as described in paragraph (d)(5)(ii) or (d)(6)(ii) of this section) incurred during the taxable year attributable to long-term contracts shall be allocated to particular long-term contracts for the taxable year such costs are incurred. Any change in the taxpayer's method of accounting for costs attributable to long-term contracts required by this paragraph (d)(8) is a change in method of accounting to which section 446(e) and the regulations and procedures thereunder apply.

(ii) *Direct labor.* Direct labor costs incurred during the taxable year shall be allocated to particular long-term contracts using a specific identification (or "tracing") method. However, if direct labor costs attributable to more than one long-term contract are intermingled so that it is impractical to specifically identify (or "trace") such costs to a particular long-term contract, such costs shall be allocated to particular long-term contracts using any reasonable method, provided that the method employed reasonably allocates direct labor costs among long-term contracts completed during the taxable year and long-term contracts that have not been completed as of the end of the taxable year. For the purpose of allocating elements of direct labor cost other than basic compensation to particular long-term contracts, all such cost elements may be grouped together and then allocated to particular long-term contracts in proportion to the charge for basic compensation.

(iii) *Direct materials*—(A) *General rule.* The cost of direct materials that are dedicated to a long-term contract in a taxable year shall be allocated to that long-term contract for that year. The cost that is allocated to the particular contract for the year of dedication shall be determined using the taxpayer's method of accounting for inventories (e.g., specific identification, FIFO, LIFO, etc.) of the material whose cost is being allocated. The costing rule in the preceding sentence applies both when materials are purchased specifically for a contract and when materials previously held by the taxpayer are dedicated to the contract. Examples of dedication of materials to a long-term contract include the following: (*1*) Delivery of materials to a job site (if only one contract is being performed at that site); (*2*) association of materials with a specific contract (for example, by purchase order, entry on books and records, shipping instructions, etc.); and, if not previously assigned, the physical incorporation of the material into the subject matter of the contract or the consumption of the material in the production of the subject matter of the contract.

(B) *Alternative rule for taxable years beginning after December 31, 1982 and before January 1, 1986.* For taxable years beginning after December 31, 1982, and before January 1, 1986, taxpayers may, in lieu of applying the general rule of paragraph (d)(8)(iii)(A) of this section, allocate direct costs incurred during the taxable year to particular long-term contracts using the specific identification (or "tracing") method, and if direct costs attributable to more than one long-term contract are intermingled so that such costs cannot be identified (or "traced") specifically to a particular long-term contract, such costs shall be allocated to particular long-term contracts using any reasonable method, provided that the method employed reasonably allocates direct costs among long-term contracts completed during the taxable year and long-term contracts that have not been completed as of the end of the taxable year. However, taxpayers utilizing the rule of this paragraph (d)(8)(iii)(B) may not use any LIFO or lower of cost or market method of identifying or allocating direct costs to any long-term contract.

(iv) *Indirect costs.* The indirect costs required to be allocated to a long-term contract under paragraph (d)(5)(ii) or (d)(6)(ii) of this section shall be allocated to particular contracts for the year such costs are incurred using either—

(A) A specific identification (or "tracing") method, or

(B) A method using burden rates, such as ratios based on direct costs, hours, or other items, or similar formulas, so long as the method employed for such allocation reasonably allocates indirect costs among long-term contracts completed during the taxable year and long-term contracts that have not been completed as of the end of the taxable year. Indirect costs may ordinarily be allocated to long-term contracts on the basis of direct labor and material costs, direct labor hours, or any other basis which results in a reasonable allocation of such indirect costs.

(9) *Allocation of administrative, service, or support costs to extended period long-term contracts*—(i) *Introduction.* (A) If a function or department of the taxpayer incurs costs that directly benefit or are incurred by reason of the extended period long-term contract activities of the taxpayer, the costs of such function or department are allocable to such extended period long-term contracts. See paragraph (d)(6)(ii)(M) of this section. However, if a function or department incurs costs that do not directly benefit and are not incurred by reason of the taxpayer's extended period long-term contracts, but rather, for example, benefit only the overall management or policy guidance functions of the taxpayer, the costs incurred by such function or department are not allocable to any extended period long-term contract. In some cases, the costs incurred by a function or department may directly benefit or be incurred by reason of the taxpayer's extended period long-term contract activities as well as the taxpayer's overall management or policy guidance function. In such cases, the taxpayer shall reasonably allocate the costs of such function or department between the taxpayer's extended period long-term contract activities and the taxpayer's overall management or policy guidance functions. Paragraph (d)(9) of this section provides guidance in making these allocations.

(B) If the methods of allocation used by the taxpayer, or the taxpayer's selection of specific types of costs to be allocated differs from the allocation methods or the specific types of costs to be allocated described in this paragraph (d)(9), the taxpayer's allocation methods and selection of specific types of costs to be allocated shall generally not be changed if, with respect to the

taxpayer's extended period long-term contracts taken as a whole—

(*1*) The total amount of costs incurred during the taxable year of a type described in this paragraph (d)(9) that the taxpayer allocated to such contracts does not differ significantly from the total amount of costs that would be allocated to such contracts under this paragraph (d)(9); and

(*2*) The taxpayer's selection of cost allocation methods and specific types of costs to be allocated are applied consistently and do not result in any disproportionate allocation of costs to contracts expected to be completed in the near future.

(ii) *General rule.* The total amount of administrative, service, or support costs that directly benefit or are incurred by reason of only a particular extended period long-term contract shall be directly assigned to such contract. The direct and indirect cost (hereinafter "service costs") of administrative, service or support functions or departments (hereinafter "service departments") that directly benefit or are incurred by reason of more than one activity shall be allocated to particular extended period long-term contracts on the basis of a factor or relationship that reasonably relates the incurring of the service cost to the benefits received by the extended period long-term contract. In general, the direct costs of a service department include costs that can be identified specifically with the services provided by the department, and the indirect costs of a service department include costs not identified specifically with the services provided by the function or department, but incurred by reason of the direct costs of the function or department. Such direct and indirect costs include, but are not limited to, compensation (including compensation described in paragraph (d)(6)(ii) (E) and (P) of this section) of employees directly engaged in performing the services provided by the department, travel, materials and supplies consumed by the department, supervisory and clerical compensation, occupancy costs (rents or an allocable share of depreciation and property taxes), depreciation or rent of office machines, utilities, telephone, and other department overhead. The types of activities that are administrative, service or support functions or departments are not predetermined, but depend upon the facts and circumstances of each contractor's activities and business organization. In a decentralized business organization, all costs incurred at higher levels, for example, at a parent corporation or organization, or at the headquarters of a subsidiary corporation or division, are not necessarily general and administrative expenses (as described in paragraph (d)(5)(iii)(D) of this section) with respect to an extended period long-term contract.

(iii) *Rules for allocation of service costs.* The taxpayer shall allocate the total direct and indirect costs of a service department to extended period long-term contracts by applying consistently any reasonable method of cost allocation authorized by cost accounting principles. Reasonable methods include:

(A) The direct reallocation method, whereby the total costs (direct and indirect) of all service departments are allocated only to production departments, and then from the production departments to particular extended period long-term contracts and to other production activities that are not extended period long-term contracts. The service costs allocable to such other production activities shall be accounted for under a proper method of accounting. This direct reallocation method ignores benefits provided by one service department for other service departments, and also excludes such other service departments from the base used to make the allocation;

(B) The step-allocation method, whereby a sequence of allocations is made beginning with the allocation to other service departments and to production departments of the total costs (direct and indirect) of the service department that provides benefits to the greatest number of other service departments, and ending with the allocation of the total costs (including the costs allocated to it from the other service departments) of the service department that provides benefits to the least number of other service departments. Under this allocation method, the cost of service departments allocated properly to functions or departments that are not service departments or production departments (for example, payroll costs allocated to a financial planning function or department) are not reallocated to any other service department or production department. The taxpayer shall then allocate the costs of the production departments (including the reallocated service department costs) to extended period long-term contracts and to other production activities that are not extended period long-term contracts. The service costs allocable to such other production activities shall be accounted for under a proper method of accounting, or

(C) Other methods of cost allocation authorized by cost accounting principles. However, a reasonable method does not include allocating service department costs to other service departments without taking such allocation into account in allocating the costs of such other service departments.

(iv) *Relationship of service costs to benefits received.* Factors or relationships that relate the incurring of service costs to the benefits received by an extended period long-term contract include measures based upon the total output of the service department (for example, the approximate number of service hours or the approximate number or the dollar volume of transactions provided to an extended period long-term contract as a fraction of the total number of service hours or the total number or the total dollar volume of transactions provided by the department), or measures based upon the relative size of the extended period long-term contract to the size of the taxpayer's other production activities (for example, the number of direct labor employees or direct labor hours or direct labor costs (as described in paragraph (d)(6)(i) of this section) incurred on an extended period long-term contract as a fraction of the total number of direct labor employees, direct labor hours, or direct labor costs incurred by the taxpayer in all production activities). In general, allocation methods prescribed in regulations of the Cost Accounting Standards Board, 4 CFR Chapter III, Subchapter G, as well as other allocation methods consistent with the principles or paragraph (d)(g) of this section are acceptable allocation methods, provided that the taxpayer applies such methods consistently.

(v) *Additional requirements.* (A) If, pursuant to section 482 and the regulations thereunder, the district director makes an allocation of income or deductions between members of a group of controlled entities to reflect the performance of services or the provision of equipment or facilities at other than an arm's length charge, any taxpayer that has extended period long-term contracts and is affected by such allocation is required to take such allocation into account in making the taxpayer's allocation to extended period long-term contracts of the cost of administrative, service or support functions or departments. (B) If the taxpayer establishes to the satisfaction of the district director that all of a particular type of administrative, service or support function is performed only at the jobsite (that is, at the offices of a production plant or at a construction

site), then all the direct and indirect costs of such function incurred at the jobsite shall be directly allocated to each particular extended period long-term contract and any other activities performed no further allocation of that type of cost shall be required at the jobsite, and (C) For each taxable year that the taxpayer allocates costs service to an extended period long-term contract, the taxpayer shall maintain the records used to make such allocation so that the allocations may be readily examined and verified by the district director. The taxpayer shall also maintain records describing the types of costs that the taxpayer has deducted currently under paragraph (d)(6)(iii)(D) (general and administrative expenses), so that the amount, nature and allocation of such costs may be verified readily by the district director. A change in the method or base used in allocating such service costs (such as changing from an allocation base using direct labor cost to a base using direct labor hours), or a change in the taxpayer's determination of what functions or departments of the taxpayer are required or not required to be allocated to extended period long-term contracts is a change in method of accounting to which section 446(e) and the regulations and procedures thereunder apply. See § 1.446–1(e).

(vi) *Illustration of types of activities with respect to which costs ordinarily are required to be allocated.* Costs incurred by the following types of functions or departments ordinarily are required to be allocated to extended period long-term contracts:

(A) The administration and coordination of manufacturing or construction projects (wherever performed in the business organization of the taxpayer);

(B) Personnel operations, including the cost of recruiting, hiring, relocating, assigning, and maintaining personnel records of employees whose labor cost is allocable to extended period long-term contracts;

(C) Purchasing operations, including purchasing materials and equipment, scheduling and coordinating delivery and return of materials and equipment to or from factories or jobsites, and expediting and follow-up;

(D) Materials handling and warehousing operations;

(E) Accounting and data services operations related to contract activities, including cost accounting, accounts payable, disbursements, billing, accounts receivable and payroll;

(F) Data processing;

(G) Security services; and

(H) Legal departments that provide legal services to contracts.

(vii) *Illustration of types of activities with respect to which costs ordinarily are not required to be allocated.* Costs incurred by the following types of functions or departments ordinarily are not required to be allocated to extended period long-term contracts:

(A) Functions or departments responsible for overall management of the taxpayer, or for setting overall policy for all of the taxpayer's activities or trades or businesses (such as, the board of directors (including their immediate staff), and the chief executive, financial, accounting and legal officers (including their immediate staffs) of the taxpayer, provided that no substantial part of the costs of such departments or functions directly benefit extended period long-term contracts);

(B) General business planning;

(C) Financial accounting (including the accounting services required to prepare consolidated reports, but not including any accounting for particular contracts);

(D) General financial planning (including general budgeting) and financial management (including bank relations and cash management);

(E) General economic analysis and forecasting;

(F) Internal audit;

(G) Shareholder, public and industrial relations;

(H) Tax department; and

(I) Other departments or functions that are not responsible for day-to-day operations but are instead responsible for setting policy and establishing procedures to be used by all of the taxpayer's activities or trades or businesses.

(viii) *Policy and overall management services.* Examples of such functions or departments that are responsible for setting policy and establishing procedures applicable to all of the taxpayer's activities or trades or businesses (see paragraph (d)(9)(vii)(I) of this section) are:

(A) Purchasing policy (such as maintaining lists of approved suppliers, developing purchasing manuals and policy directives of general application, developing general quality standards for purchased materials and components, general auditing and review of purchasing activities to assure compliance with the taxpayer's purchasing policy and compliance with government purchasing requirements, and management of small business participation),

(B) Personnel policy (such as establishing and managing personnel policy in general, developing general wage, salary and benefit policies, developing employee training programs unrelated to particular contracts, negotiations with labor unions and relations with retired workers),

(C) Quality control policy,

(D) Safety engineering policy,

(E) Insurance or risk management policy (but not including bid or performance bonds or insurance related to particular contracts), and

(F) Environmental management policy. However, the cost of establishing any system or procedure that will only benefit a particular extended period long-term contract shall be directly allocated to such contract.

(ix) *Costs not described.* The costs of any administrative, service or support function or department of the taxpayer not described in paragraph (d)(9) (iv) or (vii) of this section are required to be allocated to extended period long-term contracts to the extent that the nature of the benefits provided by such function or department is more like the type of benefits described in paragraph (d)(9)(vi) than the type of benefits described in paragraph (d)(9)(vii).

(x) *Illustrations of the allocations required by this paragraph (d)(9).* The following illustrate the types of considerations that are to be taken into account in making the allocations required by paragraph (d)(9) of this section. The taxpayer need not use the same method to allocate a particular type of administrative, service or support cost as the method described in these illustrations provided that the method used by the taxpayer is reasonable. See paragraph (d)(9)(iii) of this section. The allocation methods illustrated may be used to allocate other types of service costs not illustrated.

(A) *Security services.* The cost of security or protection services benefits all areas covered by the service and should be allocated to each physical area that receives the service in proportion either to the size of the physical area, number of employees in the area, or in proportion to the relative fair market value of assets located in the area, or in any other reasonable basis applied consistently. That part of the total cost allocable to a factory or jobsite where the only work being performed is an extended period long-term contract shall be directly allocated to that contract. The treatment of the cost of security services allocable to other service departments depends upon the method of allocation adopted by the taxpayer under paragraph (d)(9)(iii) of this section.

(B) *Legal services.* The cost of a legal department includes rent (or an allocation of building depreciation and occupancy costs), travel, office machines, supplies, telephone, library, and other overhead and the compensation of the attorneys and other employees assigned to the department. For this purpose compensation includes compensation described in paragraphs (d)(6)(ii) (E) and (P) of this section. These costs only benefit activities of the taxpayer requiring legal services. These costs are generally allocable directly to an extended period long-term contract on the basis of the approximate number of hours of legal services (including research) performed in connection with the contract, including bidding, negotiating, drafting, or reviewing the contract (including subcontracts and supply contracts), obtaining necessary licenses and permits, and in resolving contract disputes, termination claims or disputes arising from the performance of the contract. Different hourly rates may be appropriate for different services. In determining the number of hours allocable to any contract, approximations are appropriate, detailed time records need not be kept, and insubstantial amounts of services provided to a contract by senior legal staff as administrators or as reviewers may be ignored. The taxpayer shall also allocate directly to a contract the cost of any outside legal services provided to the contract. Instead of an allocation based upon total hours of legal services provided to an activity, the taxpayer may choose to allocate the costs of a legal department to an extended period long-term contract and to other production activities on the basis of total direct costs (as described in paragraph (d)(6)(i) of this seciton) incurred on an extended period long-term contract as a fraction of the total direct costs incurred on all production activities. Legal costs may also be allocable to long-term contracts of the taxpayer that are not extended period long-term contracts under paragraph (d)(5)(ii) of this section. Legal activities relating to general corporate functions, financing, securities law compliance, antitrust law compliance, tax compliance, industrial relations, compliance with laws and regulations not related to particular contracts, after the fact review of contracts to insure compliance with company policies, patents and licensing unrelated to particular contracts, and similar general legal functions are not required to be allocated to long-term contracts.

(C) *Centralized payroll department.* The cost of a payroll department includes rent (or an allocation of building depreciation and occupancy costs), office machines, supplies, telephones and other overhead and compensation of employees assigned to the department. The department cost may also include the cost of data processing and file maintenance, or these costs may be incurred by a separate data processing or records department and allocated to the payroll department. Payroll service costs benefit any production department or other service department incurring labor costs. The cost of a payroll department is generally allocated on the basis of the gross amount of payroll processed.

(D) *Centralized data processing.* The cost of a data processing department includes rent or depreciation of data processing machines, supplies, rent (or an allocation of building depreciation and occupancy costs), power, telephone and other overhead, and the compensation of employees assigned to the department. These costs benefit all production departments and all other service departments that require data processing services. Data processing costs are generally allocated based upon the number of data processing hours supplied. Other reasonable bases, such as an allocation based upon total direct costs, may also be used. The costs of data processing systems developed for particular long-term contract shall be directly allocated to such contract.

(E) *Engineering and design services.* The cost of an engineering or design department includes rent (or an allocation of building depreciation and occupancy costs), travel, office machines, supplies, telephones, library, and other overhead, and compensation of employees assigned to the department. Unless the engineering and design services are properly accounted for separately, the cost of engineering or design service departments generally is directly allocable to a long-term contract (whether or not the contract is an extended period long-term contract) on the basis of the approximate number of hours of work performed on the contract as a fraction of the total hours of engineering or design work performed for all activities. Different services may be allocated at different hourly rates. Engineering and design services may also be treated as direct costs of the contract, provided that the taxpayer also treats all engineering and design overhead as a direct or indirect cost of the contract.

(F) *Safety engineering.* The cost of a safety engineering department includes the compensation paid to employees assigned to the department, rent (or an allocation of building depreciation and occupancy costs), travel, office, machines, supplies, telephones, library, and other overhead. These costs benefit all the production activities of the taxpayer and should be allocated to an extended period long-term contract on the basis of the approximate number of safety inspections made on the contract as a fraction of total inspections, or on the basis of the number of employees assigned to the contract as a fraction of total production employees or on the basis of total labor hours worked on the contract as a fraction of total production hours, whichever is most reasonable. The cost of a safety engineering department reponsible only for setting safety policy and establishing safety procedures to be used in all of the taxpayer's production activities or trades or businesses is not required to be allocated to extended period long-term contracts and other production activities. However, in determining the total costs of a safety engineering department to be allocated, costs attributable to providing a safety program only for a particular long-term contract shall be directly assigned to the contract.

(e) *Severing and aggregating contracts*—(1) *In general.* (i)(A) For the purpose of clearly reflecting income (*e.g.*, to prevent the unreasonable deferral of recognition of income or the premature recognition of loss), it may be necessary in some instances for the Commissioner either to treat one agreement as several contracts or to treat several agreements as one contract.

(B) However, in the case of long-term contracts since the factors described in this paragraph are different from the factors for determining whether certain elements of an agreement are eligible for long-term contract treatment, the factors described in this paragraph do not apply in determining which elements of an agreement that are ineligible for long-term contract treatment must be separated from those elements that are eligible for long-term contract treatment.

(C) In general only the Commissioner (and not the taxpayer may take action under this paragraph. Thus, for example, if the taxpayer enters into one agreement, the taxpayer may not treat that agreement as several contracts for purposes of this section unless and until that agreement is changed into several agreements. See examples 3 and 5 for instances when one agreement is changed into several agreements.

(ii) Whether an agreement should be so severed or several agreements so aggregated will depend on all the facts

and circumstances. Such facts and circumstances may include whether there is separate delivery or separate acceptance of units representing a portion of the subject matter of the contract, whether such units are independently priced, whether there is no business purpose for one agreement rather than several agreements or several agreements rather than one agreement, and such other factors as customary commercial practice, the dealings between parties to the contract, the nature of the subject matter of the contract, the total number of units to be constructed, manufactured, or installed under the contract, and the contemplated time between the completion of each unit.

(iii) Generally, one agreement will not be treated as several contracts unless such agreement contemplates separate delivery or separate acceptance of portions of the subject matter of the contract. However, separate delivery or separate acceptance of portions of the subject matter of a contract does not necessarily require severing of an agreement (see example (4) of paragraph (e)(2) of this section).

(iv) One agreement may be severed, or several agreements may be aggregated, based upon the pricing formula of such agreements. For example, in the case of a multi-unit agreement for several similar items, if the price to be paid for similar units is determined under different terms or formulas (for example, if some units are priced under a cost-plus incentive fee arrangement, and later units are to be priced under a fixed-price arrangement), then the difference in the pricing terms or formulas may indicate that the agreement should be treated as several contracts.

(v) An agreement generally will be treated as several contracts where there is no business purpose for entering into one agreement rather than several agreements.

A factor which may evidence that no such business purpose exists is that the agreement covers two or more subject matters, none of which readily can be determined to be the primary subject matter of the contract (within the meaning of paragraph (b)(2)(ii) of this section); such factor must be considered along with other factors indicating the presence or absence of business purpose.

(vi) Several agreements generally will not be aggregated unless there is no business purpose for entering into several agreements rather than one agreement.

(vii) An example of a factor which is evidence that two agreements entered into between the same parties should be aggregated is that (without regard to the order in which the agreements were entered into or performed, and without regard to whether one of the agreements could actually be performed without the prior or contemporaneous performance of the other agreement) a reasonable business-person would not have entered into one of the agreement for the terms agreed upon but for entering into the other agreement in such other agreement for the terms agreed upon (or for more favorable terms). See example (2) of paragraph (e)(2) of this section. An example of a factor which is not evidence that two agreements entered into between the same parties should be aggregated is that one of the agreements would not have been entered into containing the terms agreed upon but for the expectation that the parties would enter into the other agreement.

(viii) If the number of items to be supplied is increased (as by the exercise of an option or the issuance of a "change order"), the supplying of such additional items generally results in the agreement being changed into several agreements. See paragraph § 1.451–3(e)(1)(i).

(ix) See paragraph (b)(2)(ii) of this section for special rules relating to the time for completion of certain contracts having more than one subject matter.

(2) *Examples.* The application of paragraph (e) of this section may be illustrated by the following examples.

Example (1). X, a calendar year taxpayer engaged in the construction business and using a long-term contract method, enters into one agreement in 1972 with A, a real estate developer, to build three houses of different designs in three different suburbs of a large city. The houses are to be completed, accepted, and put into service in 1973, 1974, and 1975, respectively. The portion of the total contract price attributable to each house can reasonably be determined. In these circumstances it may be necessary for the Commissioner to sever and treat the agreement as separate contracts to build each house for purposes of applying X's long-term contract method.

Example (2). Y, a calendar year shipbuilder using a long-term contract method, enters into two agreements at about the same time during 1982 with M. These agreements are the product of a single negotiation. Under each agreement the taxpayer is to construct for M a submarine of the same class. Although the specifications for each submarine are similar, it is anticipated that, since the taxpayer has never constructed this class of submarine before, the costs incurred in constructing the first submarine (to be delivered in 1983) will be substantially greater than the costs incurred in constructing the second submarine (to be delivered in 1984.) If the agreements are treated as separate contracts, it is estimated that the first contract could result in little or no gain, while the second contract would result in substantial profits. A reasonable business person would not have entered into the agreement to construct the first submarine for the price specified without entering into the agreement to construct the second submarine. In these circumstances, it may be necessary for the Commissioner to aggregate the two agreements for purposes of applying Y's long-term contract method.

Example (3). Assume the same facts as in example (2) with the addition of the following facts: In 1983, M issues a "change order" providing for a third submarine of the same class to be constructed by Y and delivered to M in 1985. The portion of the total contract price attributable to the "change order" providing for the third submarine can reasonably be determined. A reasonable business person would have entered into the agreements to construct the first two submarines for the price specified without regard to whether M would issue the "change order" for the third submarine. In these circumstances the "change order" providing for the third submarine must be treated as a separate contract for purposes of applying Y's long-term contract method.

Example (4). Z, a calendar year taxpayer engaged in the construction business and using a long-term contract method, enters into an agreement in 1983 to build a ten story office building for the Y Bank. In 1984, the structure is completed and the first three floors of the building are completed and accepted, and Y occupies these floors and uses them for the conduct of its banking business. Construction, however, continues on the remaining seven floors, which are completed and accepted in 1985. In these circumstances, it is clear that even though separate acceptance of portions of the subject matter of the agreement has occurred, the subject matter of the agreement was essentially a single unit, namely a building, and that there was a business purpose for entering into one contract rather than several contracts. Consequently, the agreement ordinarily will not be severed into separate contracts for purposes of applying Z's long-term contract method.

Example (5). The facts are the same as in example (4), except that due to a change in business conditions, Y will not require (either for its own use or for rental) the remaining seven floors for at least two years and, pursuant to a separate agreement entered into in 1984 between the parties, substantially all work on completing the remaining seven floors is stopped. In these cricumstances, due to the change in business conditions and the actions of the parties, the original agreement (as modified by the second agreement) is changed into two agreements, each of which is treated as a separate contract for purposes of this section, one contract (entered into in 1983) for the construction of a ten story building with the first three floors completed for occupancy, and a separate contract (or contracts) to finish work on the remaining seven floors on an "as requested" basis.

Example (6). T, a calendar year taxpayer engaged in the business of manufacturing aircraft and related equipment, enters into an agreement in 1982 with the B government to manufacture 10 military aircraft for delivery in 1984. It is anticipated at the time the

agreement is entered into that B may enter into an agreement with T for the production and sale of as many as 300 of these aircraft over the next 20 years. In negotiating the price for the agreement, B and T take into account the expected total cost of manufacturing the 10 aircraft, the risks and the opportunities associated with the agreement and all other factors that the parties consider relevant, in such a manner that T would have entered into the agreement with the terms agreed upon whether or not T would actually enter into one or more additional production agreements. However, it is unlikely that T would have entered into the agreements but for the expectation that T and B would enter into additional production agreements. In 1984, the 10 aircraft are completed by T and accepted by B. In 1984, T also enters into an agreement with B to manufacture 20 aircraft of the same type for delivery in 1986. In negotiating the price for these 20 aircraft, B and T take into account the fact that the expected unit costs for this production of 20 will be different than the unit costs of the 10 aircraft completed in 1984, but also that the expected unit costs of this production of 20 will be substantially higher than the costs of future production. Because the price awarded for each of the two agreements takes into account the expected total costs and the risks expected for each agreement standing alone, the terms agreed upon for any one of the agreements are independent of the terms agreed upon for the other agreements. Under the facts of this example, the two agreements may not be aggregated into one contract for purposes of applying T's long-term contract method.

Example (7). R, a calendar year taxpayer engaged in the manufacture of industrial machinery, enters into one agreement in 1982 with Z to manufacture five specialized machines and to manufacture spare and replacement parts for the machines. The machines are to be delivered in 1982 and 1983, and the spare and replacement parts are to be delivered in 1983 through 1985. The portion of the total contract price attributable to the five machines and to the spare and replacement parts reasonably can be determined. The portion of the total contract price reasonably attributable to the spare and replacement parts is more than an insignificant amount of the total contract price. Assume that, under all the facts and circumstance, it is determined that the portion of the agreement attributable to the five machines need not be severed as between the machines. In these circumstances, because the agreement contemplates separate delivery of the machines and the parts, because more than an insignificant amount of the total contract price is allocable to the spare and replacement parts, and because spare or replacement parts are items different than an entire machine, it may be necessary for the Commissioner to sever the agreement, treating the agreement to manufacture the five machines as a separate contract and the agreement to manufacture the spare and replacement parts as another separate contract (or as several separate contracts depending on the facts and circumstances) for purposes of applying R's long-term contract method.

(3) *Cross reference.* See § 1.6001–1 (a) regarding the duty of taxpayers to keep such records as are sufficient to establish the amount of gross income, deductions, etc.

* * * * *

(g) *Effective date and transition to 1983 cost allocation rules; special rules*—(1) *In general.* In the case of a taxpayer using the completed contract method or a method of accounting that uses inventories (other than a long-term contract method), the cost allocation rules prescribed in paragraph (d)(6) of this section (hereinafter "the 1983 cost allocation method") shall apply (with the phase-in described in paragraph (g)(2) of this section) to costs incurred by the taxpayer in taxable years beginning after December 31, 1982, but only with respect to extended period long-term contracts (as defined in paragraph (b)(3) of this section) entered into after December 31, 1982. No costs incurred with respect to any contract entered into before January 1, 1983 are required to be accounted for under the 1983 cost allocation method. Such costs shall be accounted for under the cost allocation method prescribed in paragraph (d)(5) of this section. Because the transition to the 1983 cost allocation method is to be applied on a "cut-off" basis, sections 446(e) and 481 do not apply to the transition to the 1983 cost allocation method.

(2) *Phase-in.* For costs required to be allocated to an extended period long-term contract under the 1983 cost allocation method that are not required to be allocated to the contract under the cost allocation method prescribed in paragraph (d)(5) of this section (or in paragraph (c) of § 1.471–11 in the case of a taxpayer accounting for extended period long-term contracts under a method of accounting that uses inventories (other than a long-term contract method)), in lieu of allocating the full amount of such costs to the extended period long-term contract, the taxpayer shall allocate to the contract only the applicable percentage of such costs incurred in taxable years beginning after December 31, 1982 and before January 1, 1986, with respect to extending period long-term contracts entered into after December 31, 1982. The applicable percentage shall be determined as follows:

For taxable years beginning in calendar year—	The applicable percentage is—
1983	33⅓
1984	66⅔
1985 or thereafter	100

In the case of a taxpayer whose taxable year does not begin on January 1, costs incurred with respect to extended period long-term contracts entered into after December 31, 1982, shall be accounted for under the cost allocation method prescribed in paragraph (d)(5) of this section or paragraph (c) of § 1.471–11 in the case of a taxpayer using an inventory method in the case of costs incurred in taxable years begininng before January 1, 1983, and under the 1983 cost allocation method (with the application of paragraph (g) of this section) in the case of taxable years beginning after December 31, 1982.

(3) *Special rule for completion of certain contracts in taxable years ending before January 1, 1983.* Any contract that would (but for this paragraph (g)(3)) be considered to be completed in a taxable year ending before January 1, 1983, solely by reason of the application of paragraphs (b)(2)(i)(B), (ii), (iii), or (iv) of this section, shall be considered to be completed on the first day of the taxpayer's first taxable year ending after December 31, 1982. The application of this paragraph (g)(3) shall not be considered to be a change in method of accounting to which section 481 applies.

(4) *Special rule for severing and aggregating certain contracts in taxable years ending before January 1, 1983.* Any contract of a taxpayer that would (but for this paragraph (g)(4)) be considered completed in a taxable year ending before January 1, 1983—

(i) Solely by reason of the application of those provisions of paragraph (e)(1) of this section expressly made applicable to taxable years ending after December 31, 1982 (hereinafter, the "severing/aggregating modifications") or,

(ii) Solely by reason of the application of both the severing/aggregating modifications and the application of paragraphs (b)(2)(i)(B), (ii), (iii) or (iv) of this section (hereinafter, the "completion modifications"), shall be treated as having been completed on the first day after December 31, 1982, on which any contract that was severed from such contract (by reason of the severing/aggregating modifications) is completed (determined with application of the completion modifications). The application of this paragraph (g)(4) shall not be considered to be a change in

method of accounting to which section 481 applies.

(5) *Special rule for estimated tax payments.* For purposes of the addition to the tax for underpayment of estimated tax under section 6654 (relating to individuals) and section 6655 (relating to corporations), the gross income realized in the taxpayer's first taxable year ending after December 31, 1982, attributable to long-term contracts deemed to be completed in such taxable years solely by the application of paragraphs (b)(2)(i)(B), (ii), (iii), or (iv), (g)(3) or (g)(4) of this section or those portions of paragraph (e)(1) of this section made applicable to taxable years ending after December 31, 1982, shall be considered to be taxable income for such taxable year, but only with respect to installments of estimated tax required to be paid on or after April 13, 1983.

(6) *Taxpayer changing from a method more inclusive of indirect costs.* Except as provided in paragraphs (g)(1) and (2) of this section, if a taxpayer wishes to change to a method of accounting for indirect costs prescribed under this section (or under § 1.471–11 (c) in the case of a taxpayer using an inventory method of accounting for long-term contracts) from a method of accounting for indirect costs that is more inclusive of indirect costs, the taxpayer must secure the consent of the Commissioner prior to making the change in accordance with the regulations and procedures established under section 446(e).

Par. 4. Paragraph (b) of § 1.451–5 is revised to read as follows:

§ 1.451–5 Advance payments for goods and long-term contracts.

* * * * *

(b) *Taxable year of inclusion*—(1) *In general.* Advance payments must be included in income either—

(i) In the taxable year of receipt; or

(ii) Except as provided in paragraph (c) of this section,

(*a*) In the taxable year in which properly accruable under the taxpayer's method of accounting for tax purposes if such method results in including advance payments in gross receipts no later than the time such advance payments are included in gross receipts for purposes of all of his reports (including consolidated financial statements) to shareholders, partners, beneficiaries, other proprietors, and for credit purposes, or

(*b*) If the taxpayer's method of accounting for purposes of such reports results in advance payments (or any portion of such payments) being included in gross receipts earlier than for tax purposes, in the taxable year in which includible in gross receipts pursuant to his method of accounting for purposes of such reports.

(2) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). S, a retailer who uses for tax purposes and for purposes of the reports referred to in subparagraph (1)(ii)(*a*) of this paragraph, an accrual method of accounting under which it accounts for its sales of goods when the goods are shipped, receives advance payments for such goods. Such advance payments must be included in gross receipts for tax purposes either in the taxable year the payments are received or in the taxable year such goods are shipped (except as provided in paragraph (c) of this section).

Example (2). T, a manufacturer of household furniture, is a calendar year taxpayer who uses an accrual method of accounting pursuant to which income is accrued when furniture is shipped for purposes of its financial reports (referred to in subparagraph (1)(ii)(*a*) of this paragraph) and an accrual method of accounting pursuant to which the income is accrued when furniture is delivered and accepted for tax purposes. See § 1.446–1(c)(1)(ii). In 1974, T receives an advance payment of $8,000 from X with respect to an order of furniture to be manufactured for X for a total price of $20,000. The furniture is shipped to X in December 1974, but it is not delivered to and accepted by X until January 1975. As a result of this contract, T must include the entire advance payment in its gross income for tax purposes in 1974 pursuant to subparagraph (1)(ii)(*b*) of this paragraph. T must include the remaining $12,000 of the gross contract price in its gross income in 1975 for tax purposes.

(3) *Long-term contracts.* In the case of a taxpayer accounting for advance payments for tax purposes pursuant to a long-term contract method of accounting under § 1.451–3, or of a taxpayer accounting for advance payments with respect to a long-term contract pursuant to an accrual method of accounting referred to in the succeeding sentence, advance payments shall be included in income in the taxable year in which properly included in gross receipts pursuant to such method of accounting (without regard to the financial reporting requirement contained in subparagraph (1)(ii) (*a*) or (*b*) of this paragraph). An accrual method of accounting to which the preceding sentence applies shall consist of any method of accounting under which the income is accrued when, and costs are accumulated until, the subject matter of the contract (or, if the subject matter of the contract consists of more than one item, an item) is shipped, delivered, or accepted.

(4) *Installment method.* The financial reporting requirement of subparagraph (1)(ii) (*a*) or (*b*) of this paragraph shall not be construed to prevent the use of the installment method under section 453. See § 1.446–1(c)(1)(ii).

* * * * *

Par. 5. Section 1.471–10 is revised to read as follows:

§ 1.471–10 Applicability of long-term contract methods.

See § 1.451–3 for rules providing for the application of the long-term contract methods to certain manufacturing contracts.

Par. 6. Paragraph (c) of § 1.471–11 is amended by revising paragraph (c) (1) and (3) to read as follows:

§ 1.471–11 Inventories of manufactures.

* * * * *

(c) *Certain indirect and production costs*—(1) *General rule.* Except as provided in paragraph (c)(3) of this section and in paragraph (d)(6)(v) of § 1.451–3, in order to determine whether indirect production costs referred to in paragraph (b) of this section must be included in a taxpayer's computation of the amount of inventoriable costs, three categories of costs have been provided in subparagraph (2) of this paragraph. Costs described in subparagraph (2)(i) of this paragraph must be included in the taxpayer's computation of the amount of inventoriable costs, regardless of their treatment by the taxpayer in his financial reports. Costs described in subparagraph (2)(ii) of this paragraph need not enter into the taxpayer's computation of the amount of inventoriable costs, regardless of their treatment by the taxpayer in his financial reports. Costs described in subparagraph (2)(iii) of this paragraph must be included in or excluded from the taxpayer's computation of the amount inventoriable costs in accordance with the treatment of such costs by the taxpayer in his financial reports and generally accepted accounting principles. For the treatment of indirect production costs described in subparagraph (2) of this paragraph in the case of a taxpayer who is not using comparable methods of accounting for such costs for tax and financial reporting see paragraph (c)(3) of this section. For contracts entered into after December 31, 1982, notwithstanding this section, taxpayers who use an inventory method of accounting for extended period long-term contracts (as defined in paragraph (b)(3) of § 1.451–3) for tax purposes may be required to use the cost allocation rules provided in paragraph (d)(6) of § 1.451–3 rather than the cost allocation rules provided in this section. See paragraph (d)(6)(v) of § 1.451–3. After a taxpayer has determined which costs must be treated

as indirect production costs includible in the computation of the amount of inventoriable costs, such costs must be allocated to a taxpayer's ending inventory in a manner prescribed by paragraph (d) of this section.

* * * * *

(3) *Exception.* Except as provided in paragraph (d)(6) of § 1.451–3, in the case of a taxpayer whose method of accounting for production costs in his financial reports is not comparable to his method of accounting for such costs for tax purposes (such as a taxpayer using the prime cost method for purposes of financial reports), the following rules apply:

* * * * *

Par. 7. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 8. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.446, 1.451 and 1.471 . . . 1545–0736".

* Approved: December 20, 1985.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85–30814 Filed 12–30–85; 3:12 pm]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD7–84–40]

Special Anchorage Area; Indian River at Vero Beach FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing two Special Anchorage Areas in the Indian River near Vero Beach, FL. The number of permanently moored vessels and cruising vessels using this area as an anchorage has substantially increased in the last several years. There are presently no designated special anchorage areas for these vessels. Other vessels passing through the area are subject to substantial hazard because of the randomly anchored vessels. This rulemaking will provide defined special anchorage areas. Further, by virtue of excluding that portion of the Indian River between the special anchorage areas, the rulemaking effectively lessens the probability of vessels anchoring within what amounts to a "channel", thus providing a safer, less obstructed transit.

EFFECTIVE DATE: February 5, 1986.

FOR FURTHER INFORMATION CONTACT: Lieutenant(j.g.) Harry D. Craig, (305) 350–5651.

SUPPLEMENTARY INFORMATION: On January 14, 1985 the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for this regulation (50 FR 1869). Interested persons were requested to submit comments and twelve comments were received.

Drafting Information

The drafters of this notice are Lieutenant(j.g.) Harry D. Craig, project officer, Seventh Coast Guard District Port Safety Branch, and Lieutenant Commander Kenneth E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Comments.

The majority of the comments received on the proposed rule supported establishment of a special anchorage area. Several of the comments addressed issues not within the jurisdiction of the Coast Guard. The Coast Guard is addressing those items germane to the proposed action. Two commenters suggested that the northern boundary of the special anchorage area be moved south to the area near the northern end of Fritz Island, since the water north of there is very shallow and may cause vessels to run aground. Two commenters mentioned that the northern boundary listed in the proposed rule would limit access for vessles transiting from Bethel Creek to the Indian River. Due to shallow water, boats entering or leaving Bethel Creek would have to pass very close to Cache Cay and between the two northernmost islands within the proposed special anchorage area. If vessels were anchored in this passage, it would be difficult to make a safe transit. A local fishing club commented that the area east of Fritz Island is a good fishing ground in the winter months and that navigation is sometimes impeded by randomly anchored vessels putting out excessive bow lines. The Coast Guard recognized these comments and revised the final rule to enhance navigational safety in two areas. First, the single special anchorage area in the proposed rule was divided into two areas in the final rule to clearly exclude the access channel and turning basin from being within the defined special anchorage areas. Second, the northern boundary of the northern special anchorage area was moved south to the northern end of Fritz Island to maintain reasonable access to Bethel Creek and to preserve some of the area for fishing grounds outside the designated special anchorage areas. Reducing the size of the anchorage by eliminating these shallow areas will have a negligible impact on the function of the anchorage.

One commenter wrote that several boats presently anchored at the Vero Beach Marina do not have holding tank type toilets, and that the Vero Beach Municipal Marina does not have a pump out station. Installation of a sewage pump out station is not a requirement for establishment of a special anchorage area. Vessels operators are responsible for complying with the laws concerning Marine Sanitation Devices and refuse discharge. The City of Vero Beach has informed the Coast Guard that they intend to monitor the special anchorage areas and have provisions for correcting those who discharge improperly treated or untreated sewage into the water.

One commenter felt that the special anchorage areas encourage a concentration of boats to anchor forever, without charge, in waters which should be used by tax paying residents and that it will add to the pollution by the increased dumping of sewage and trash in this one area. United States law grants vessels in the waters of the United States the right of navigation, including the right to anchor incident to navigation. The Indian River has historically been used as natural anchorage off the Intracoastal Waterway. Established special anchorage areas encourage vessels to anchor within the defined areas by being listed on nautical charts and by relieving vessel operators of the requirement to show anchor lights while anchored within the designated areas. For those vessels which remain in the area long-term, the City of Vero Beach has indicated an intention to require vessels to anchor within the designated special anchorage area after 72 hours and to charge user fees for use of onshore health and sanitation facilities for vessels remaining at anchor longer than 10 days. As addressed above, the Coast Guard expects that monitoring by the City of Vero Beach will prevent accumulation of trash and sewage pollution, particularly within designated special anchorage areas. The Coast Guard is satisfied that the City of Vero Beach has established such regulations and services which best serve all involved.

A group of waterfront property owners adjacent to the proposed special anchorage area wrote that "introduction

of an anchorage in this area is bound to impact adversely on the beauty and tranquility of the area and on the property value, i.e. noise, water pollution, visual pollution, air pollution and waterway congestion. There would be an increased threat to the physical security of property, expecially waterfront homesites. The degree of regulation and control which the City of Vero Beach is capable would not overcome these negative aspects." The Coast Guard does not believe that the special anchorage area would have the negative impact as stated above. The City of Vero Beach has informed the Coast Guard that through the harbormaster and police department, they intend to enforce city ordinances to maintain good order in the special anchorage areas, including physical security of adjoining waterfront properties. The special anchorge areas are designed to avoid congestion in the channels. Oversight of a designated special anchorage area is more easily accomplished than enforcing regulations for a large number of vessels randomly anchored throughout the area. No request for a public hearing was received and one was not held. This action has been thoroughly reviewed by the Coast Guard and has been determined to be categorically excluded from further environmental documentation in accordance with paragraph 2–B–3 of Commandant Instruction M1 6475.1A.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that full regulatory evaluation is unnecessary. This regulation will provide defined special anchorage areas and by virtue of its exclusion from such special anchorage areas, effectively encourage a "channel" into an area already being used as an anchorage by many permanent and transient vessels. Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulation

PART 110—[AMENDED]

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 110 continues to read as follows:

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

2. A new § 110.73b is added to read as follows:

§ 110.73b Indian River at Vero Beach, Fla.

(a) *Area A.* Beginning at a point located on the eastern shore of Fritz Is. at latitude 27°39'32.5" N., longitude 80°22'20.6" W. following the shoreline northward to the northwest point at latitude 27°39'46" N., longitude 80°22'25.9" W., thence due east to a point on Orchid Is. at approximately latitude 27°39'46" N., longitude 80°22'16.2" W., thence southerly along the shoreline of Orchid Is. to latitude 27°39'32.5" N., longitude, 80°22'13.4" W., thence due west to the point of beginning.

(b) *Area B.* Beginning at a point located at the entrance channel maraker No. 2 at latitude 27°39'12" N., longitude 80°22'17.3" W., thence northeasterly to channel marker No. 4 at latitude 27°39'21" N., longitude 80°22'15.8" W., thence due east to Orchid Is. at approximately latitude 27°39'21" N., longitude 80°22'11.8" W., thence southerly along the western shoreline of Orchid Is. to latitude 27°39'12" N., longitude 80°22'15.6" W., thence due west to the point of beginning.

(c) Vessels shall be so anchored so that no part of the vessel obstructs the turning basin or channels adjacent to the special anchorage areas.

Dated: December 24, 1985.

R.P. Cueroni,

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

[FR Doc. 86–71 Filed 1–3–86; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD7–85–40]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Florida Department of Transportation the Coast Guard is adding regulations governing the Port Orange bridge, State Road A1A, mile 835.5, by permitting the number of openings to be limited during certain periods. This change is being made because vehicular traffic has increased. This action will accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on February 5, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 536–4103.

SUPPLEMENTARY INFORMATION: On September 13, 1985 the Coast Guard published (50 FR 37384) a proposal to revise these regulations. The proposed regulations were also published in a public notice issued by Commander, Seventh Coast Guard District on October 1, 1985. In each notice interested persons were given until November 1, 1985 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

Numerous comments were received supporting the proposal to limit openings of the Port Orange bridge. Most supported the rule as proposed, but a sizeable minority supported alternatives such as openings every half hour, weekday schedules, a year-round schedule or a high level fixed bridge. The data submitted by the bridgeowner does not justify these more restrictive opening schedules. A high level fixed bridge at the site is presently in the planning stages, but is not expected to be built until 1989. Some comments expressed concern that draw openings could delay emergency vehicles or that some draw openings are for easily lowered vessel appurtenances. These matters are addressed in 33 CFR 117.31 and 117.11, respectively. Two comments opposing the proposal as hazardous to navigation were received. We conducted an onsite investigation on October 26, 1985 and noted that oyster bars line the ICW channel near the bridge. These oyster bars uncover at low tide, but are difficult to see at high tide when they are submerged. Swift currents also occur at the bridge during periods of maximum tidal current. However, there are long straight waterway approaches to this bridge and the nearest drawbridge is five miles away. This should enable vessels to

time an approach to the Port Orange bridge and avoid having to contend with these hazards while waiting for an opening.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.261 is amended by revising paragraph (g) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Miami.

* * * * *

(g) *SR A1A bridge, mile 835.5 at Port Orange.* The draw shall open on signal; except that, from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m. Monday through Friday except federal holidays, the draw need open only at 8 a.m. and 5 p.m. From March 15 through October 15, from 10 a.m. to 6 p.m. Saturdays, Sundays, and federal holidays the draw need only open on the hour, 20 mimutes past the hour and 30 minutes past the hour.

* * * * *

Dated: December 23, 1985.

R.P. Cueroni,

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

[FR Doc. 86–72 Filed 1–3–86; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD7 85–40]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Florida Department of Transportation the Coast Guard is changing the regulations governing the Coronado Beach bridge by permitting the number of openings to be limited during certain periods. This change is being made because vehicular traffic has increased. This action will accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on February 5, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky (305) 536–4103.

SUPPLEMENTARY INFORMATION: On September 13, 1985 the Coast Guard published (50 FR 37384) a proposal to revise these regulations. The proposed regulations were also published in a public notice issued by Commander, Seventh Coast Guard District on October 1, 1985. In each notice interested persons were given until November 1, 1985 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

Numerous comments were received supporting the proposal to limit openings of the Coronado Beach bridge: Most of these comments endorsed City of New Smyrna Beach Resolution No. 38–85 (adopted September 10, 1985, after our proposal was signed but before it was published in the **Federal Register**) and appear inspired by an advertising campaign sponsored by the New Smyrna Beach-Edgewater Chamber of Commerce.

While the resolution addressed areas beyond the scope of the proposed rulemaking, it did request that scheduled openings be limited to one each half hour to coincide with scheduled half hour openings at the Harris Saxon bridge, about 1½ miles south of the Coronado Beach bridge. The City claimed that a recently authorized no wake zone between the two bridges causes vessel transits between these bridges to take about 30 minutes, suggesting that 15-minute openings are not needed at the Coronado Beach bridge.

We note that, in order to transit the distance between the two bridges in 15 minutes, a vessel need proceed at only 5.4 knots, a no wake speed for many vessels. A more significant reason for disputing the rationale of the City's resolution is evident from a comparison of the vertical clearances of the two bridges when closed. Because the Coronado Beach bridge is 10 feet lower, many vessels that require it to open can pass beneath the closed Harris Saxon bridge. Their arrival time at the Coronado Beach bridge is therefore independent of Harris Saxon bridge opening times.

Two comments opposed the 30-minute openings requested by the resolution and may be construed as opposing the 15-minute openings proposed by our notice of proposed rulemaking. One noted the difficulty experienced by large shrimpboats in attempting to hold for bridge openings in a narrow channel with strong currents. The other comment claimed the resolution was unduly restrictive to vessels and noted that, during periods that boat traffic and vehicle traffic are both light, occasional boats shouldn't be required to wait up to a half hour for a draw opening.

Some comments expressed concern that draw openings could delay emergency vehicles or that some draw openings are for easily lowered vessel appurtenances. These matters are addressed in 33 CFR 117.31 and 117.11, respectively.

Other comments asked the Coast Guard to make an on site inspection of traffic conditions. This was done on October 27, 1985.

Our review of the comments received was complicated because most of them were addressed to a municipal resolution rather than to the notice of proposed rulemaking. Nevertheless the Coast Guard has determined that no new information has been presented which justifies changing the proposed regulation.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these

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

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.261 is amended by revising paragraph (h) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Miami.

* * * * *

(h) *Coronado Beach bridge, mile 845 at New Smyrna Beach.* The draw shall open on signal; except that, from March 15 through October 15 from 10 a.m. to 6 p.m. Saturdays, Sundays, and federal holidays the draw need only open on the hour, quarter-hour, half-hour, and three quarter hour.

* * * * *

Dated: December 16, 1985.

R.P. Cueroni,

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

[FR Doc. 86–65 Filed 1–3–86; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

49 CFR Part 573

[Docket No. 74–7; Notice 7]

Defect and Noncompliance Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend 49 CFR Part 573—*Defect and Noncompliance Reports*, to delete certain reporting requirements for motor vehicle or motor vehicle equipment manufacturers conducting a defect or noncompliance notification campaign. Under this rule, motor vehicle manufacturers no longer have to submit, in the third quarterly report to the agency, the vehicle identification number (VIN) for each vehicle for which corrective measures have not been completed. Other quarterly report information requirements are also deleted or clarified, based on the agency's experience since 1974 with this portion of the defect and noncompliance reports.

EFFECTIVE DATE: January 6, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James Murray, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–426–2840).

SUPPLEMENTARY INFORMATION: Part 573—*Defect and Noncompliance Reports* includes requirements for manufacturers to report to NHTSA safety-related defects and nonconformities with Federal motor vehicle safety standards, to maintain list of purchasers and owners notified of defective and noncomplying motor vehicles and items of equipment, and to provide the agency with quarterly reports on the progress of defect and noncompliance notification campaigns. The quarterly reports must contain specified information and be submitted for six consecutive quarters after initiation of a campaign, unless corrective action is completed earlier.

This rule amends only § 573.6 of Part 573 which sets forth the information required to be submitted to the agency in these quarterly reports. The notice of proposed rulemaking, which was issued on March 27, 1985 (50 FR 12056), proposed to delete or clarify certain information requirements in the third quarterly report. This amendment was proposed in response to a petition by the Motor Vehicle Manufacturers Association (MVMA). The agency received comments on the proposal from nine motor vehicle manufacturers and the MVMA. All comments supported the proposal as lessening an administrative and cost burden. The agency is adopting the changes as proposed.

First, the rule deletes the requirement in § 573.6(b)(7) that manufacturers submit, in the third quarterly report to the agency, the VIN for the vehicle for which corrective measures have not been completed. All commenters supported this change, stating that the deletion of these VIN's from the third quarterly report would lessen the administrative and cost burdens of producing the information and would not adversely affect the progress of safety campaigns. In addition, all commenters agreed that these VIN's would be supplied to the agency, if requested, within a reasonable time.

As stated in the proposal, this rule will not change the agency's practice of assisting any individual vehicle owner who requests recall information about a particular vehicle or item of equipment. The agency will continue to provide information to enable the owner to contact the appropriated office of the manufacturer.

Second, this rule also deletes the requirement in § 573.6(b)(4) that each quarterly report include the number of vehicles or items of equipment estimated to contain the defect. This total number is initially supplied to NHTSA under the requirements of § 573.5 which states that the manufacturer's first report must include information specifically identifying the vehicles or items of equipment potentially containing the defect or noncompliance, and the percentage of those vehicles or equipment items estimated to acutally contain the defect or noncompliance.

The agency's purpose in having this number updated in the quarterly reports has been to determine the potential size of notification campaigns. Ford Motor Company stated that updated information could be sent, if needed, within 10 working days. Ford added that information requiring supplier analysis on returned components would take longer. The agency concludes that updated estimates in the quarterly reports are no longer necessary. NHTSA will continue to receive quarterly report information on the number of vehicles or items of equipment involved in the notification campaign under § 573.6(b)(3). The requirement in § 573.6(b)(4) is therefore deleted in the rule.

Third, commenters also agreed with the proposed amendment to the language in § 573.6(b)(5) which clarifies the agency's intent that the number of vehicles and equipment items inspected and repaired and the number inspected and determined not to need repair should be separately reported. The rule adopts this clarification.

Fourth, the rule deletes the requirement in § 573.6(c) concerning the correction of errors in quarterly reports. Under this section, manufacturers must submit revised information in quarterly reports when they determine that an original report contained incorrect data concerning the number of vehicles or items of equipment (1) involved in a notification campaign, (2) estimated to contain the defect, or (3) determined to be unreachable for inspection for any reason. The agency does not believe submittal of this information on a regular basis is necessary and commenters agreed, adding the data could be supplied if necessary, upon request from NHTSA.

In their comments, Ford requested that the final sentence of § 573.6(b)(6) be deleted. This section requires that the number of vehicles or items of equipment, which are determined to be unreachable for inspection due to export, theft, scrapping, failure to receive notification, or other reasons, be reported to NHTSA. The last sentence of the section requires that the number of vehicles or items of equipment in each of these categories be specified. The agency did not propose in the March notice that this sentence be deleted, because this information is utilized by the agency. For example, NHTSA keeps track of the number of owners who were unreachable to assist the agency in determining whether renotification to new owners is necessary or whether additional types of notification should be adopted. Moreover, the manufacturers currently receive notice of whether a vehicle or equipment item has been exported, stolen, or scrapped by return postcard, from the person notified of the campaign. Therefore, this requirement is not changed.

Paperwork Reduction

The information collection requirements in this rule have been submitted to and approved by the Office of Management and Budget (OMB), pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements have been approved through December 1987 (OMB Approval No. 2127–0004).

Costs and Other Impacts

The agency has evaluated the economic and other impacts of this proposed rule and determined that they are neither major as defined by Executive Order 12291 nor significant as defined by the Department's Regulatory Policies and Procedures. The agency concludes that the economic and other consequences of the amendment are so minimal as not to require the preparation of a full regulatory evaluation. Manufacturers of motor vehicles and items of equipment involved in a notification campaign will be spared the administrative and cost burdens of preparing the information which this proposal deletes from the quarterly reports. The agency estimates that this action will save the government approximately $10,000 per year, which is the cost of processing and storing this information on notification campaigns.

The agency has considered the effects of this final rule in relation to the Regulatory Flexibility Act. I certify that this final rule will not have a significant economic impact on a substantial number of small entities. Few, if any, motor vehicle manufacturers are small businesses within the meaning of the Act. Small businesses which are motor vehicle equipment manufacturers will benefit from reduced costs in preparing and submitting quarterly report information to the agency. Therefore, some administrative and cost savings will accrue to these small businesses. Small organizations and small government jurisdictions will not be affected.

The agency has analyzed these amendments for purposes of the National Environmental Policy Act and determined that this final rule will not have a significant effect on the human environment.

Since the amendments made by this notice do not impose new requirements, but instead delete certain requirements and clarify others, the agency has determined that an immediate effective date is in the public interest.

List of Subjects in 49 CFR Part 573

Imports, Motor vehicle safety, Motor vehicles.

PART 573—[AMENDED]

In consideration of the foregoing, 49 CFR Part 573 is amended as follows:

1. The authority citation for Part 573 is revised to read as follows:

Authority: 15 U.S.C. 1397, 1401, 1408, 1411–20; delegation of authority at 49 CFR 1.50.

2. Section 573.6 is revised to read as follows:

§ 573.6 Quarterly reports.

(a) Each manufacturer who is conducting a defect or noncompliance notification campaign to manufacturers, distributors, dealers, or purchasers, shall submit to NHTSA a report in accordance with paragraphs (b) and (c) of this section, not more than 25 working days after the close of each calendar

quarter. Unless otherwise directed by the NHTSA, the information specified in paragraphs (b)(1) through (5) of this section shall be included in the quarterly report, with respect to each notification campaign, for each of six consecutive quarters beginning with the quarter in which the campaign was initiated (i.e., the date of initial mailing of the defect or noncompliance notification to owners) or corrective action has been completed on all defective or noncomplying vehicles or items of replacement equipment involved in the campaign, whichever occurs first.

(b) Each report shall include the following information identified by and in the order of the subparagraph headings of this paragraph.

(1) The notification campaign number assigned by NHTSA.

(2) The date notification began and the date completed.

(3) The number of vehicles or items of equipment involved in the notification campaign.

(4) The number of vehicles and equipment items which have been inspected and repaired and the number of vehicles and equipment items inspected and determined not to need repair.

(5) The number of vehicles or items of equipment determined to be unreachable for inspection due to export, theft, scrapping, failure to receive notification, or other reasons (specify). The number of vehicles or items or equipment in each category shall be specified.

(c) Information supplied in response to the paragraphs (b)(4) and (5) of this section shall be cumulative totals.

Issued on: December 31, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 86-180 Filed 1-3-86; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 51, No. 3
Monday, January 6, 1986

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 530

Special Salary Rate Schedules for Recruitment and Retention

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to establish higher minimum rates and rate ranges for Police Officer, GS–4, and GS–5, at the Portsmouth Naval Shipyard, New Hampshire. This action is based on a review of current staffing conditions through which OPM has determined, after considering competing salary rates in private enterprise, that establishment of special salary rates is necessary to ensure that the subject positions are adequately staffed by well-qualified employees. The special salary rates have been established at levels deemed necessary to achieve this outcome.

DATE: Comments are invited and must be received on or before February 5, 1986.

ADDRESS: Send or deliver written comments to: Office of Personnel Management, Compensation Group, Allowances and Special Rates Division (FR), Room 3353, 1900 E Street, NW. Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Kenneth Pritchard, (202) 632–7858.

SUPPLEMENTARY INFORMATION: Section 5303 of title 5, United States Code, authorizes the President to establish special minimum rates of basic pay for one or more grades, occupational groups, series, classes, or subdivisions of classes subject to statutory pay schedules in one or more areas or locations, when the pay rates in private enterprise are so substantially above the statutory pay rates for the positions concerned as to handicap significantly the Government's recruitment or retention of well-qualified persons.

Section 301(a) of Executive Order 11721 of May 23, 1973, is amended, authorizes OPM to exercise the authority conferred upon the President by 5 U.S.C. 5303. The rates proposed in this notice were determined in accordance with § 530.303 of Title 5, Code of Federal Regulations.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to selected Federal employees at the Portsmouth Naval Shipyard, New Hampshire.

List of Subjects in 5 CFR Part 530

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Constance Horner,

Director.

OPM is proposing to amend Part 530 as follows:

PART 530—PAY RATES AND SYSTEMS (GENERAL)

1. The authority citation for Part 530 continues to read as follows:

Authority: 5 U.S.C. 5303, andf Chapter 54; E.O. 11721, as amended.

§ 5300.307 [Amended]

2. In § 530.307 (proposed at 50 FR 39698, September 30, 1985), the "Local Authorization" table is amended by adding the following item in numerical order by GS number as follows:

Occupational series	Geographic coverage	Grade	1st step rate	10th step rate	Within-grade increase	Table No.	Proposed action
• • •	•	•	•	•	•		•
GS–083, Police Officer	Portsmouth Naval Shipyard, NH.	GS–4	$14,149	$18,010	$429	006	Establish
		GS–5	15,350	19,670	480		
• • •	•	•	•	•	•		•

[FR Doc. 86–135 Filed 1–3–86; 8:45 am]

BILLING CODE 6326–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

Law and Order on Indian Reservations

December 26, 1985.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; Extension of Comment Period.

SUMMARY: This notice extends the comment period from December 23, 1985 to January 31, 1986, on the proposed rule revising regulations governing courts of Indian offenses to provide these courts with a complete and updated code of laws, and to clarify the jurisdiction of these courts and their relationship to tribal governments and the Department of the Interior. This proposed rule was published in the **Federal Register** on October 24, 1985 (50 FR 43235). The extension of the comment period is in response to requests received from the public to allow additional time for comment.

DATE: Comments must be received no later than January 31, 1986.

ADDRESS: Comments should be mailed to the Chief, Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Room 2618, Washington, DC 20245.

FOR FURTHER INFORMATION CONTACT: Mr. Allen L. Davis, Washington, DC at (202) 343–7885.

Hazel E. Elbert,

Acting Deputy, Assistant Secretary—Indian Affairs.

[FR Doc. 86–175 Filed 1–3–86; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Accounting for Long-Term Contracts; Corporations Filing Consolidated Returns With a Contractor

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing a Treasury decision, adopting final regulations relating to accounting for long-term contracts. This document contains a notice of proposed rulemaking to amend the regulations adopted by that Treasury decision. The amendments clarify how certain rules of the Treasury decision apply in the case of certain corporations which produce components of subassemblies with which the contractor joins in filing a consolidated return.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 7, 1986. The proposed regulations are proposed to be effective on [date of publication of this document as a Treasury Decision] and would apply to taxable years ending after such date.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR–121–85) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Paulette Chernyshev of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T (202–566–3288, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 451 of the Internal Revenue Code of 1954 which have been adopted by Treasury decision and published in the Rules and Regulation portion of this issue of the **Federal Register**. The Treasury decision provides that the beginning of manufacture by the taxpayer of components and subassemblies related to a contract can constitute the contract commencement date, and that the taxpayer must use the extended period costing rules for components and subassemblies produced by the taxpayer which reasonably can be expected to be incorporated into the subject matter of extended period long-term contracts. These amendments are proposed to extend the rules set forth in the preceding sentence to certain corporations with which the taxpayer joins in filing a consolidated return.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Regulatory Flexibility Act and Executive Order 12291

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

Drafting Information

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

List of Subjects in 26 CFR 1.441–1—1.483–2

Income taxes, Accounting, Deferred compensation plans.

Proposed Amendments to Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

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

Authority: 26 U.S.C. 7805 * * * Sec. 1.451–3 amended under the authority in 96 Stat. 324, 493.

Par. 2. Section 1.451–3 is amended as follows:

1. Paragraph (b) is amended by adding a sentence to the end of paragraph (b)(3)(v) as set forth below;

2. Paragraph (d) is amended by adding a sentence to the end of paragraph (d)(6)(iv) as set forth below.

The added language reads as follows:

§ 1.451–3 Long-term contracts.

* * * * *

(b) *Definitions, and special rules relating to certain contracts.* * * *

(3) *Extended period long-term contract.* * * *

(v) *Special rule for contract commencement date in case of components of subassemblies produced by the taxpayer.* * * * For taxable years ending after the date the Treasury decision based on these proposed amendments is published in the **Federal Register**, the term "taxpayer" as used in this paragraph (b)(3)(v) includes members of a group with which the taxpayer joins in the filing of a consolidated return if such group does not elect not to defer gains and losses on intercompany transactions (See § 1.1502–13(c)(3)).

* * * * *

(d) *Completed contract method.* * * *

(6) *Allocation of costs to extended period long-term contracts.* * * *

(iv) *Special rule for component parts of subassemblies produced by the taxpayer.* * * *

For taxable years ending after the date the Treasury decision based on these proposed amendments is published in the **Federal Register**, the term "taxpayer" as used in this paragraph (d)(6)(iv) includes members of a group with which the taxpayer joins in the filing of a consolidated return if such group does not elect not to defer gains and losses on intercompany transactions (See § 1.1502–13(c)(3)).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR. Doc. 85–30815 Filed 12–30–85: 3:12 pm]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 85-55]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, SC

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the South Carolina Department of Highways and Public Transportation the Coast Guard is considering a change to the regulations governing the Limehouse Bridge, mile 479 at Johns Island, by permitting the number of openings to be limited during certain periods. This proposal is being made because of complaints of delays to vehicular traffic. This action should reduce delays to vehicular traffic yet still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before February 20, 1986.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 SW. 1st Avenue, Miami, Florida 33130. The comments and other materials referenced in this notice will be available for inspection and copying at 51 SW. 1st Avenue, Room 816, Miami, Florida. Normal office hours are from 7:30 a.m. to 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Proposed Regulations

The bridge is now required to open on signal at all times. The proposed rule would limit openings to twenty minute intervals during weekday rush hours virtually eliminating delays to vehicular traffic caused by back-to-back bridge openings.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifices that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.911 is proposed to be amended by revising paragraph (e) to read as follows:

§ 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.

* * * * *

(e) *John Limehouse bridge across Stono River, mile 479.3 at Johns Island.* The draw shall open on signal except that from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. Monday through Friday except federal holidays the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour.

* * * * *

Dated: December 23, 1985.

R.P. Cueroni,

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

[FR Doc. 86-66 Filed 1-3-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 162

[CGD 85-060]

Inland Waterways Navigation Regulations; Connecting Waters From Lake Huron to Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the existing Inland Waterway Navigation Regulations for the connecting waters between Lake Huron and Lake Erie. These amendments are the results of the Coast Guard's commitment to review the reporting points after a period of experience with the rules. Other changes are also proposed based on a full season's operation under the original rules. The changes will serve to maintain the existing level of safety while reducing the burden of compliance on ship owners.

DATES: Comments must be received on or before February 20, 1986.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/21) (CGD 85-060), U.S. Coast Guard, Washington, DC 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC-21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, between the hours of 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Powers, Project Manager, Office of Marine Environment and Systems, (202) 426-4958, between the hours of 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Written comments should include this docket number (CGD 85-060), the specific section of the proposal to which each comment applies, and the reason for the comments. All commenters should include their names and addresses. Those desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope. The proposed rule may be changed in view of the comments received. All comments received before the expiration date of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held if written requests for a hearing

are received from interested persons and it is determined that the opportunity to make oral presentations will aid in the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are Mr. Michael J. Powers, Project Manager, Office of Marine Environment and Systems, and Mr. Stanley Colby, Project Counsel, Office of Chief Counsel.

Background

Inland Waterways Navigation Safety Regulations for the connecting waters from Lake Huron to Lake Erie were published on April 30, 1984 (49 FR 19297). In the preamble to this final rule the Coast Guard stated that changes to the reporting points would be considered if operational experience showed a need for such changes. Since the regulations were promulgated, numerous comments have been received, including complaints about the number of reporting points, poor geographic location of the reporting points, and excess communications traffic from small recreational boaters. In addition to the amendments proposed in this rulemaking, action has been taken under paragraphs 4 and 5 of Article VII of the Agreement between the United States and Canada for Promotion of Safety on the Great Lakes by Radio, 1973 (25 U.S.T. 937, TIAS 7837) to relieve the communications burden, especially on vessels only required to have one radio. Vessels transiting these waters are now only required to guard the appropriate sector frequency (Ch. 11 or 12). The Canadian Coast Guard will guard the distress and safety frequency (Ch. 16) and relay information to vessels as needed over the appropriate sector frequency. It should be noted that the U.S. and Canadian Governments have embarked on a program to establish Ch. 13 as a dedicated Great Lakes Bridge to Bridge Radiotelephone frequency. As the result of these comments and meetings between U.S. and Canadian Coast Guard officials, certain changes to these regulations are proposed. The changes encompass revisions to the reporting points and respective changes in reporting procedures. These changes will be compatible with regulations presently being drafted by the Canadian authorities to cover their portion of the waterways. The Canadian Coast Guard will also invite comments from interested persons on their rules.

Discussion

Proposed §162.130(e) would amend the delegation of authority to make local arrangements. This would be accompanied by removing the authority of the Captain of the Port to make local arrangements with appropriate Canadian officials. The result would be to continue the delegation of authority to the District Commander to make local arrangements as necessary. The District Commander may redelegate this authority as necessitated by circumstances. Proposed §162.132(e) would change the permanent reporting points. Concerns over these points range from requiring redundant information to their being located in positions where ships must change course while making a report. The proposed reporting points would reduce the workload for masters and pilots complying with these regulations.

Upbound Reporting Points

This revision would reduce the nine reporting points presently required to eight.

The first upbound reporting point at the Detroit River Light would be unchanged from existing reporting requirements. A report at this point informs Sarnia Traffic Center and other vessels in the Detroit River that a ship is about to enter the Detroit River from Lake Erie.

The second reporting point would be at Grassy Island Light instead of Fighting Island Channel North Light. At this point the vessel is on a steady course instead of making a course change. An upbound report is notification that a vessel is approaching the River Rouge and Detroit/Windsor area. Upbound vessels would no longer have to report at Belle Isle Light. Reports at Grassy Island Light and Lake St. Clair Light should be sufficient to inform other vessels of the reporting vessel's location and progress.

The third upbound reporting point, at Lake St. Clair Light, would be unchanged from existing reporting requirements. This is the point where a change of radio frequency is made from Channel 12 to Channel 11 (as provided by § 162.132(a)). The fourth upbound reporting point, at St. Clair Flats Canal Light "2", would be unchanged from existing reporting requirements. This report is notification that a ship is approaching the bend at Light "13".

Upbound vessels would no longer be required to report at Grande Point Light "23". Reporting at St. Clair Flats Canal Light "2" and the Marine City Salt Dock Light is sufficient notice of movement in this area.

The fifth upbound reporting point would be at the Marine City Salt Dock Light. This reporting point is proposed because it provides notice that a ship is leaving the bend at Light "13".

The sixth upbound reporting point, at Stag Island Upper Light, would be unchanged from existing reporting requirements. A report at this point gives notice that a ship is approaching the one-way area and establishes a right-of-way in that area.

The seventh upbound reporting point would be at the Black River Entrance Light instead of the Port Huron Traffic Lighted Buoy. This reporting point is proposed because the Port Huron Traffic Lighted Buoy may be relocated or removed. An upbound report at this point is notification that an upbound ship is entering the one-way area.

The final upbound reporting point, at Lake Huron Cut Lighted Buoy "1", would be unchanged from existing reporting requirements. A report at this point is notification that an upbound ship has departed the one way area in the St. Clair River Cut to Lake Huron and informs downbound vessels that the one-way area is clear.

Downbound Reporting Points

This revision would reduce the eleven reporting points presently required to nine.

The first downbound reporting point would be 30 minutes north of Lake Huron Cut Lighted Horn Buoy "11" instead of at Lake Huron Cut Lighted Horn Buoy "11". This report provides notification that a downbound ship is about to enter the St. Clair River Cut. Movement information is more timely at this point than at Lake Huron Cut Lighted Horn Buoy "11", by which time a vessel has already entered the St. Clair River Cut.

The second downbound reporting point, at Lake Huron Cut Lighted Buoy "7", would be unchanged from existing reporting requirements. This report is notice that a downbound ship is about to enter the one way area and serves to establish a right of way in that area.

Downbound vessels would no longer have to report at Lake Huron Cut Lighted Buoy "1". A report at Lake Huron Cut Lighted Buoy "7" is sufficient notice of entry into the one way area.

The third downbound reporting point would be at the Black River Entrance Light instead of at the Port Huron Traffic Lighted Buoy. This reporting point is proposed because the Port Huron Traffic Lighted Buoy may be relocated or removed. This report is notice that a downbound ship has cleared the one-way area.

The fourth downbound reporting point, at the Marine City Salt Dock Light, would be unchanged from existing reporting requirements and gives notice

that a downbound ship is approaching the St. Clair Flats area.

The fifth downbound reporting point, at Grande Point Light "23", would be unchanged from current reporting requirements and is notice that a downbound ship is approaching the bend at Light "13".

Downbound vessels would no longer be required to report at St. Clair Flats Canal Light "2". Reporting at Grande Point Light "23" and Lake St. Clair Light is sufficient notice of departure from the St. Clair River.

The sixth downbound reporting point, at Lake St. Clair Light, would be unchanged from current reporting requirements. This is the point where a change of radio frequency is made from Channel 11 to Channel 12 (as provided by § 162.132(a)).

The seventh downbound reporting point, at Belle Isle Light, would be unchanged from current reporting requirements. A downbound report is notification that a ship is approaching the Windsor/Detroit/River Rouge area.

The eighth downbound reporting point would be at Grassy Island Light instead of Fighting Island Channel North Light. At this point, a vessel is on a steady course instead of making a course change. This report provides information that a downbound vessel is about to enter the narrow waters of Fighting Island Channel and Livingstone Channel.

The final downbound reporting point, at the Detroit River Light, would be unchanged from existing reporting requirements and provides notice that a vessel is departing from the Detroit River into Lake Erie.

Other Reports

Proposed § 162.132(f)(1) would expand current requirements to required a report when leaving any dock, mooring, or anchorage in the waters to which § 162.130 applies, except movements wthin the River Rouge (which includes the Short Cut Canal) and movements of ferries on regular runs. Presently, reports must be made only when getting underway in the St. Clair River between Lake Huron Cut Lighted Buoy "1" and the Black River Entrance Light and in the Detroit River between Belle Isle Light and Fighting Island Channel North Light. The reasoning behind the proposed change is that vessel may be underway in the rivers without anyone knowing of their movements until reaching a required reporting point. Knowledge of the movement durir.g the time from getting underway until reaching the first reporting point may be critical in keeping other vessels informed of the presence of the reporting vessel.

Section 162.132(f)(3)(i) would retain the requirement a report be made 20 minutes before entering the River Rouge. The requirement for this report was suspended by the Commander, Ninth Coast Guard District under the local arrangement authority of § 162.132(e), and published in Local Notice to Mariners (LNM) No. 10/85 of May 17, 1985. Further evaluation of the need for information on vessel traffic at the intersection of the Detroit River and the River Rouge indicates that advance notification is desirable. This report gives 20 minutes advance notice to other vessels in the River Rouge and the Detroit River that a vessel will be entering the River Rouge.

Proposed § 162.132(f)(3)(ii) would be revised to require a report 20 minutes before departing the River Rouge and to delete the report 20 minutes before departing a mooring in the River Rouge. The report before departing any mooring is unnecessary for local traffic and is not directly related to merging with traffic on the Detroit River. The 20-minute advance report and the report immediately before entering or leaving the River Rouge would offer more siginficant notification of vessel transits between the rivers and provide a level of safety not available if only reports immediately before entering or leaving the River Rouge were required.

The U.S. and Canadian Coast Guards are particularly interested in comments regarding these changes in light of the experiences gained since the original rules were put into effect.

The proposed exemption for ferries from making reports required by § 162.132(f)(1) is based on experiences under the local arrangements announced by LNM No. 10/85. The reports from ferries were suspended to decrease the communications traffice on the sector frequencies. This exemption would not relieve ferries from complying with other parts of this regulation. In addition to the above substantive changes, it is proposed the definition for District Commander be added and the following definitions be deleted: Harbor Master, Lake St. Clair, and Regional Director General.

Anchorages

It is also proposed that a note be added to § 162.136(a). This note would inform mariners that an authorized anchorage has been established under 33 CFR 110.206 south of Belle Isle. The notice of proposed rulemaking for this anchorage was published on July 5, 1985 (50 FR 27622).

Regulatory Evaluation

These proposed regulatory changes are considered to be non-major under Executive Order 12291 and non-significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal has been found to be so minimal that further evaluation is unnecessary. Although these changes realign and reduce existing operational reporting requirements they have no cost impact. Sine the economic impact is expected to be minimal, the Coast Guard certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 162

Navigation (water), Waterways.

Regulations

In consideration of the foregoing, it is proposed that Part 162 of Title 33 of the Code of Federal Regulations be amended as follows:

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS—[AMENDED]

1. The authority citation for Part 162 is revised to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46(n)(4).

§ 162.30 [Amended]

2. § 162.130 (c) is amended by removing the definitions of "Harbor Master", "Lake St. Clair", and "Regional Director General" and adding the following definition in alphabetical order: "District Commander" means, Commander, Ninth Coast Guard District, Cleveland, Ohio.

3. By revising § 162.130(e) to read as follows:

§ 162.130 Connecting Waters from Lake Huron to Lake Erie; General Rules.

* * * * *

(e) *Delegations.* The District Commander, in coordination with appropriate Canadian officials may make local arrangements that do not conflict with these regulations in the interest of safety of operations, to facilitate traffic movement and anchorage, to avoid disputes as to jurisdiction and to take necessary action to render assistance in emergencies.

4. By amending § 162.132 by revising paragraphs (e), (f)(1), and (f)(3) to read as follows:

§ 162.132 Connecting Waters from Lake Huron to Lake Erie; communication rules.

* * * * *

(e) Permanent Reporting Points. The master of each vessel to which this section applies shall report as required by paragraph (d) of this section at location indicated in Table I.

TABLE I

Downbound vessels	Reporting points	Upbound vessels
Report	30 minutes north of Lake Huron Cut lighted horn buoy "11".	
Do	Lake Huron Cut lighted buoy "7".	
Do	Lake Huron Cut lighted buoy "1".	Report
Do	Black River entrance light	Do.
Do	Stag Island upper light	Do.
Do	Marine Salt Dock light	Do.
Do	Grand Point light "23".	
Do	St. Clair Flats Canal light "2"	Report
Do	Lake St. Clair light	Do.
Do	Belle Island light	
Do	Grassy Island light	Report
Do	Detroit River light	Do.

* * * * *

(f) Additional Traffic Reports. (1) A report shall be made upon leaving any dock, mooring, or anchorage, in the Detroit River, Lake St. Clair, and the St. Clair River except for-

(i) ferries on regular runs; and

(ii) vessels in the River Rouge.

* * * * *

(3) A report shall be made—

(i) 20 minutes before entering or departing the River Rouge; and

(ii) Immediately before entering or departing the River Rouge.

* * * * *

5. By revising the note following § 162.136(a) to read as follows: § 162.136 Connecting Waters from Lake Huron to Lake Erie; anchorage grounds.

(a) * * *

Note.—There is an authorized anchorage in Canadian waters just above Fighting Island and an authorized anchorage in U.S. waters south of Belle Isle (33 CFR 110.206).

* * * * *

Dated: December 30, 1985.

J.H. Parent,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 86-64 Filed 1-3-86; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 58-348]

GTE Sprint Communications Corp. et al; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: On December 10, 1985 (50 FR 50316), the Commission published a Notice of Proposed Rule Making in this proceeding concerning GTE Sprint Communications Corp., et al. Inadvertently, the reply comment date was referred to as being January 21, 1986. This document corrects that date to read: January 27, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William Kirsch, (202) 632-6363.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-131 Filed 1-3-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 22

[CC Docket No. 85-388; RM-5167; FCC 85-646]

Rural Cellular Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to adopt rules to establish fixed boundaries for cellular markets not categorized according to Metropolitan Statistical Areas or New England County Metropolitan Areas. The proposed rules are intended to promote efficiency and predictability in the licensing of these areas. While the proposed action may have an adverse impact on small wireline carriers who may face increased competition in applying for cellular licenses in non-MSA areas, these same carriers may benefit from more expeditious licensing of those areas and from having a presence in a larger geographic region.

DATES: Comments must be filed by February 21, 1986, and reply comments by March 24, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Common Carrier Bureau, Audrey A. Bashkin (202) 632-6450.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 22

Communications common carriers, Radio Rural areas.

Notice of Proposed Rulemaking

In the matter of amendment of the Commission's rules for Rural Cellular Service, CC Docket No. 85-388; RM 5167.

Adopted: December 10, 1985.

Released: December 17, 1985.

By the Commission.

1. This Notice of Proposed Rulemaking concerns the authorization of cellular service in the rural areas of the country and, in particular, the establishment of defined boundaries for cellular markets not categorized according to Metropolitan Statistical Areas (MSAs) or New England County Metropolitan Areas (NECMAs). In *Cellular Communications Systems* (Cellular Reconsideration Order),[1] we established cellular market definitions based on MSAs (formerly Standard Metropolitan Statistical Areas or "SMSAs") and NECMAs.[2] For non-MSA areas, however, no fixed geographic boundaries were established. Instead, it was determined that after selection of the permittees for all 305 of the MSAs, applications for non-MSA permits would be accepted for Cellular Geographic Service Areas (CGSAs) of no larger than 2000 square miles, with boundaries defined by the applicant.[3]

2. The delay in accepting applications for non-MSA areas [4] coupled with the fear by some parties that licensing non-MSA areas under our present rules will be unpredictable and administratively confusing has prompted several alternative suggestions. Before us is a petition by Metro Mobile CTS, Inc. and several affiliated companies (Metro Mobile),[5] a petition for rulemaking by

[1] 89 FCC 2d 58, 86-90 (1982), *further modified*, 90 FCC 2d 571, 577-79, (1982), *appeal dismissed sub nom.* U.S. v. FCC, No. 82-1526 (D.C. Cir. 1983).

[2] For purposes of simplicity, the term "MSA" will be used to refer to both MSAs and NECMAs.

[3] *See* § 22.903(a) of the Commission's Rules. *See also* Cellular Lottery Decision, 98 FCC 2d 175 at paras. 56-62 (1984), *reconsideration*, FCC 85-117 at paras. 35-36, released May 3, 1985.

[4] Non-MSA applications will be accepted only after the remaining MSAs have been processed. We recently dealt with proposals by NewVector Communications, Inc., Western Union Personal Communications, Inc., and the Cellular Telecommunications Industry Association (CTIA) to expedite the pre-screening of cellular applications for markets beyond 120 in the Cellular Lottery Further Reconsideration Order, CC Docket No. 83-1096, released December 3, 1985 (Further Reconsideration Order). That order renders moot CTIA's proposal, filed as a comment to Metro Mobile's petition, as well as those portions of the proposal of United Telespectrum, Inc., *infra*, suggesting methods to speed the pre-screening process.

[5] Metro Mobile CTS of Phoenix, Inc., Metro Mobile CTS of Charlotte, Inc., Tuscon Cellular Telephone Company, and Greenville Cellular Telephone Company.

Telephone and Data Systems, Inc. (TDS), and a proposal by United Telespectrum, Inc. (United). These three proposals have together prompted nearly 100 comments and reply comments.[6] We tentatively conclude that United's proposal to establish defined boundaries for non-MSA areas will benefit the public by promoting prompt and efficient initiation of cellular service in areas beyond the MSAs. We shall also present for comment TDS' proposal as a possible alternative to United's. For reasons set forth below, however, Metro Mobile's petition will be denied.

The Metro Mobile Petition for Corridor Waiver Criteria

3. Metro Mobile asks that we establish criteria to govern requests for waivers of our filing procedures to permit the immediate acceptance and processing of cellular applications for certain non-MSA areas or "corridors" lying between two authorized MSAs. Metro Mobile limits its proposal to those corridors which encompass an interstate highway linking a city within one MSA with a city within the other MSA and where the airline distance between the two MSAs at the points where they are intersected by the highway is no greater than 75 miles. Metro Mobile has suggested that the entity seeking the waiver must either have a controlling interest in both the MSAs or be a wireline carrier eligible to serve the corridor area, or else that the waiver must be jointly requested by a permittee from each of the MSAs. Metro Mobile describes the primary rationale for its proposal as being the need to speed cellular service to those non-MSA corridors where the authorized MSAs on either end have created an "immediate" cellular demand among existing subscribers.

4. Metro Mobile's petition presents two significant problems. The first is the delay in licensing the remaining MSAs that would result from the diversion of Commission staff in processing such waiver applications and subsequent corridor authorization applications. As commenters such as Phillips Communications, Inc. and the Rural Telephone Coalition point out, Metro Mobile has not shown that the public is best served by meeting demand in these non-MSA corridors before attending to demand in the remaining MSAs. The second problem is that Metro Mobile's waiver criteria would interfere with the more orderly non-MSA licensing process we propose below.

[6] A list of commenters is attached as Appendix A.

5. Ultimately, the public interest in making cellular service available in non-MSA areas in the near term would be better served by: (1) Speeding up the acceptance and processing of applications for the remaining MSAs and thereby reaching the non-MSA areas for processing; and (2) developing a procedure that will permit the rapid processing of non-MSA applications once the non-MSA areas are open for applications. We have already taken steps to expedite licensing of the remaining MSAs.[7] Our focus will consequently be on developing a process for quickly handling applications on a non-waiver basis for the areas outside of MSAs. While Metro Mobile is to be commended for bringing the issue of non-MSA service to the fore, we find that alternatives to its specific proposal would better serve the public interest. We will therefore deny Metro Mobile's petition.[8]

TDS and United Proposals for Fixed Non-MSA Boundaries

6. TDS and United have each proposed altering our rules to establish defined boundaries for non-MSA areas, and each has presented maps dividing the nation's non-MSA areas into defined cellular service areas. United has suggested that each state be divided along county boundaries within the state (there are apparently no interstate service areas) and represents that these groupings reflect communities of interest. The average population of each of United's non-MSA areas is approximately 150,000, and the average number of such markets per state is eight, although Texas has 20, Missouri has 19, and Connecticut, Delaware, and Hawaii have one each. TDS similarly suggests dividing the states along county lines with an average of 6.7 cellular markets per state. While United includes only non-MSA areas in its divisions, however, TDS combines MSAs 211 and below (i.e., 211–305) with surrounding non-MSA areas, by counties, to create service areas with populations of approximately 200,000 each. The TDS proposal, presented as a petition for rulemaking, has generated considerable comment, predominately opposed to the petition. United's plan, presented as part of its comments to the Metro Mobile petition, has precipitated fewer responses, but these, almost without exception, support the proposal.

7. TDS argues that its proposal will speed service to present non-MSA areas, which might otherwise be neither available for licensing nor economically attractive for several years. It contends that our current rules, which allow individual applicants to define the boundaries of their non-MSA CGSAs, encourage "daisy chain" applications, making settlements difficult and potentially resulting in a lottery winner willing to cover only a small fraction of the areas proposed by the losing applicants. TDS explains further that the 2000 square mile limitation might be too small to support a viable cellular system in many areas but contends that these systems would become viable if combined with the adjacent population centers contained in the smaller MSAs.

8. We have decided to revisit the issue of defined non-MSA boundaries. Our present rules were based upon our relatively limited cellular licensing experience as well as the prevailing public response. Public comment now shows strong support for defined rural application boundaries. United's proposal is virtually without detractors, and much of the opposition to the TDS petition concerns the specifics of its plan rather than the idea of defining non-MSA boundaries *per se*. We tentatively determine that the public interest would be served by the certainty and efficiency that would result from established non-MSA boundaries and by the more streamlined, efficacious administration of the licensing process that would ensue.

9. We shall entertain comments on both the TDS and the United proposals; however, we tentatively conclude that United's plan would better serve the public interest.[9] United would not disrupt the current expedited licensing of the remaining MSAs, whereas TDS proposes to alter the boundaries of MSAs 211–305. We agree with several commenters representing the interests of both wireline and non-wireline companies that to redefine MSAs at this stage of our proceedings would delay service in the affected MSAs and perhaps in surrounding areas as well.[10]

[7] See note 4, *supra*.

[8] We similarly reject the alternative to Metro Mobile's proposal by Carolina Metro Net, Inc. This proposal suggests requiring the Commission to accept amendments allowing a licensee to increase its CGSA up to 40 miles beyond the MSA boundary as long as (1) the extension is not into a central MSA and (2) the licensee constructs the expanded facilities within a year.

[9] Copies of United's and TDS' county lists and maps depicting the proposed non-MSA boundaries will be placed in the public file for this Docket. We note that the proposals do not include the non-MSA areas of Puerto Rico. Accordingly, we welcome comments regarding whether and how to divide these non-MSA areas.

[10] We have recently adopted a streamlined application process for the MSAs that will result in

Continued

Further criticisms of TDS' plan center around the sometimes massive size of the service areas it proposes.[11] Some commenters argue that such sparsely populated, large rural areas would be uneconomical to serve as a single system and that some areas might never receive service.[12] Several comments suggest that large service areas are designed to promote the interest of large operators, since other wireline companies would, at best, be able to obtain only small minority shares.[13] Our initial preference for United's proposal is strengthened by the fact that it is the product of a lengthy coordination effort with the Cellular Telecommunications Industry Association (CTIA) and represents the views of nearly all of CTIA's members.[14] We are not yet eliminating the TDS proposal from consideration, however. In order to adequately compare it with United's plan, we seek public input, supported where possible by factual information, as to whether or not MSAs 211 through 305 would be more, less, or equally capable of supporting economically viable cellular systems when combined with surrounding non-MSA areas. We are equally concerned about how the surrounding non-MSA areas would be economically affected by TDS' suggestion.

10. Three South Carolina telephone companies (Rock Hill, Fort Mill, and Lancaster Telephone Companies) have proposed a plan for local input into the process of establishing rural cellular service areas. They propose, in essence, that local carriers work with their State Public Service Commissions to develop plans for their states. We believe that there is considerable merit in encouraging local input into the Commission's line-drawing process. However, we find it preferable to complete the general rulemaking adopting a nationwide scheme, after which we will consider alterations and waivers for individual states. This procedure will give states sufficient time to consider whether the general plan serves their interests without unduly delaying the rulemaking process. We will therefore establish a date following the Report and Order in this proceeding for the submission of modifications or refinements of rural cellular service area recommendations by state commissions. The commissions are encouraged to consider the views of all interested parties in assessing state plans in accordance with local procedures. This method will facilitate consideration of local economic and demographic factors, which are likely to be important in developing the most effective cellular areas for rural America.

11. Accordingly, we tentatively conclude that it will best serve the pubic interest to establish defined boundaries for non-MSA cellular markets. We propose to call these markets Rural Service Areas or RSAs. While we propose to adopt United's plan, we solicit comments, particularly from the states, on modifications to the plan that might enhance the economic viability of rural cellular systems. We do not intend, however, to consider basic approaches that differ significantly from that proposed by United.

12. TDS and United both ask that we adopt a more relaxed schedule for coverage of RSAs than that used for MSAs.[15] United suggests that a grantee cover 40% of the market population "initially" (i.e., within 18 months after grant, since United also asks that systems be constructed within this time period) and 70% of the population after three years. TDS proposes that grantees cover 40% of the area population three years after receiving a license to cover and 60% of the population within seven years of receipt of covering license. We recognize that the less-densely populated RSAs will be more difficult to cover rapidly than MSAs, for both economic and technical reasons. We are therefore sympathetic to the need for a lowered initial coverage standard. At the same time, we are concerned that granting a carrier an exclusive CGSA which it need not cover for an extended period may serve as an incentive to serve only the most profitable population centers while precluding other companies from the opportunity to serve more isolated regions.

13. Two separate issues are raised here: first, whether permittees in RSAs should be required to initiate service under the timetable applicable to permittees in MSAs; and second, whether the CGSA in an RSA may cover less than the 75% required for the CGSA in an MSA (see § 22.903(a)). With respect to the first issue, we believe that our recent proposal in CC Docket No. 85-347 to require the initiation of service within 12 months and 75% coverage of the CGSA within 3 years adequately accommodates the coditions in RSAs.[16] With respect to the second issue, it may be advisable to adopt a CGSA standard lower than the current 75% to take account of the larger geographic areas and lower population densities of RSAs. On the other hand, the 75% coverage of area or population is already quite flexible while assuring that cellular service is brought to most Americans who might want to use it. We invite comment on the specific coverage proposals of both TDS (40–60%) and United (70%), although we are inclined to retain the current rule that a CGSA cover 75% of the RSA with the obligation to provide service to 75% of the area of the CGSA (as determined by 39 dBu Carey contours) within three years. Once a carrier has been authorized in an RSA, the remaining uncovered areas in that RSA, as in the MSAs, would be opened to applications by other potential carriers without a minimum coverage requirement. We would, therefore, permit small independent telephone companies and other entrepreneurs the opportunity to serve isolated areas not proposed to be served by the initially-authorized carriers.

14. Providing effective coverage in thinly populated areas may be excessively difficult and expensive under our existing antenna height and power limitations. Sections 22.904 and 22.905 provide for a maximum Effective Radiated Power of 100 watts at a height above average terrain of 500 feet. These provisions result in a cell radius of about 15 miles, based on 39 dBu Carey contours. Recognizing that intensive frequency reuse is not the concern in rural areas that it is in urban areas, we invite comment on what, if any, modifications to the height and power limitations should be adopted for rural areas. We also invite comment on whether such modified height and power standards should be applicable only in

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the filing and processing of applications for all MSAs in 1986. See note 4, *supra*. It is not our intention at this time to modify the dates for filing applications in markets 211–305 set forth in the Further Reconsideration Order. If, as a result of this proceeding, we decide to incorporate non-MSA areas into those MSAs as TDS has suggested, amendments to any pending applications for those markets may be required. Commenters are requested to address the impact of such a requirement.

[11] One such area in Texas is 51,453 square miles large.

[12] These concerns are enhanced by TDS' proposed requirement that only a minimum 60% of the population of these area must even be served. Centel Cellular Company suggests instead that a CGSA should not exceed 5000 square miles.

[13] Some of these criticism may apply equally to United's proposed service areas, and we invite comment in this regard.

[14] See comments of NewVector Communications, Inc.

[15] For MSAs, applicants must propose a CGSA covering 75% of the population or area of the MSA; the applicant's 39 dBu contours must cover at least 75% of the area of the CGSA, with a three-year deadline for implementing that coverage.

[16] Notice of Proposed Rulemaking in CC Docket No. 85–347, released December 3, 1985. Changes proposed in CC Docket No. 84–347 are reflected in the proposed rules set forth in Appendix B.

RSAs, in RSAs and low-population MSAs, or in any area with low population density.[17]

Regulatory Flexibility Act—Initial Analysis

15. *Reasons for action and objectives.* The proposed action will promote efficient and expedient authorization of cellular licenses in the non-MSA areas of the country.

16. *Legal Basis.* The authority for this proposed rulemaking is contained in sections 1, 4(i), 301 and 303 of the Communications Act of 1934, as amended.

17. *Small entities affected and potential impact.* The proposed action may have an adverse impact on small wireline carriers who may face increased competition in applying for cellular licenses in non-MSA areas. The same carriers may benefit, however, from more expeditious licensing of those areas and from having a presence in a larger geographic region.

18. *Reflect federal rules which overlap, duplicate or conflict with this action.* As discussed in the *Notice*, the proposed rules alter the Commission's existing rules regarding the licensing of cellular systems in non-MSA areas. Other than the specific rules changed, to our knowledge there is no federal rule that conflicts with, duplicates, or overlaps the proposal made in this Notice.

19. *Reporting, record-keeping and compliance requirements.* None.

20. *Specific alternatives that could accomplish the same objectives.* We have determined no specific alternatives that would allow for equally predictable and efficient licensing of cellular service in non-MSA areas without also retarding the licensing of the smaller MSAs. It is conceivable, however, that alternative boundaries could be proposed for non-MSA areas following the general guidelines we have set forth in this Notice.

21. Comments on all aspects of the analysis and proposed rule (see Appendix B) of this *Notice* are encouraged. Interested persons are invited to submit comments in accordance with § 1.419 of the Commission's Rules, 47 CFR 1.419. Comments must be filed by February 21, 1986 and reply comments by March 24, 1986.

[17] While we are willing to entertain the possibility of increased antenna height and power in outlying, low-density parts of MSAs (for example, the Mojave Desert in the Los Angeles MSA), we do not intend to permit antenna heights and powers to exceed those currently specified in highly urbanized portions of MSAs.

22. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation of the day of oral presentation. That written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served and must also state by docket number the proceeding to which it relates. See 47 CFR 1.1231. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

23. A copy of this Notice of Proposed Rulemaking shall be sent to the Chief, Counsel of Advocacy of the Small Business Administration.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Metro-Mobile

Comments

American Cellular Network Corporation
Bell Atlantic Mobile Systems, Inc.
BellSouth Mobility Inc.
Blue Grass Cellular Communications
Carolina Metronet, Inc.
Cellular Telecommunications Industry Association
Centel Cellular Company
Chickasaw Telephone Company
Colorado Cellular, Inc., Intercell Systems, Inc.
Concord Telephone Company
Contel Cellular Inc.
Fairmount Telephone Company, Inc.; Hughes Telephone Company; Interstate Telephone Company; Mid-South Telephone Company; Moultrie Independent Telephone Company; Plant Telephone and Power Company; Statesboro Telephone Company; Waitsfield-Fayston Telephone Company
Greensboro Cellular Telephone Company
Maxcell Telecomn Plus, Inc.
McCaw Cellular Communications, Inc.
Mid-West Cellular Telephone, Inc.; Kennebec Cellular Telecommunications Company; Blackhawk Metro Cellular Company; Lake Area Cellular Company; Bernard Independent Cellular Telephone Company; East Texas Independent Cellular Telephone Company; Pembroke Cellular Company; Mississippi Valley Cellular Telephone Company, Inc.; Mid-Iowa Cellular Company; Excell; Androscoggin Cellular Telecommunications Company; Coastal Cellular Systems, Inc.; Clinton Cellular Company; Norway Cellular Communications Company
New York Independent Cellular Partnership
North-West Telephone Company; Northwestern Indiana Telephone Company, Inc.; The Orwell Telephone Company
PacTel Mobile Access
Phillips Communications, Inc.
Reserve Telephone Company, Inc.
Rural Telephone Coalition
Southwestern Bell
Telecommunications Site Acquisitions, Inc.
Telephone and Data Systems, Inc.
Cellular Telecommunications Division of Telocator Network of America
United States Telephone Association
United TeleSpectrum, Inc.

Reply Comments

AllTel Mobile Communications, Inc.
Bell Atlantic Mobile Systems, Inc.
BellSouth Mobility Inc.
Carolina Metronet, Inc.
Cellular Telecommunications Industry Association
Commonwealth Telephone Company
GTE Mobilnet Incorporated
Maxcell Telecom Plus, Inc.
McCaw Cellular Communications, Inc.
Metro Mobile CTS, Inc.; Metro Mobile CTS of Phoenix, Inc.; Metro Mobile CTS of Charlotte, Inc.; Tuscon Cellular Telephone; Greenville Cellular Telephone Company
NewVector Communications, Inc.
Nynex Mobile Communications Company
PacTel Mobile Access
Rural Telephone Coalition
Southwestern Bell Mobile Systems, Inc.
Telephone and Data Systems, Inc.
Cellular Telecommunications Division of Telocator Network of America
United States Telephone Association

TDS

Comments

Alabama-Mississippi Independent Telephone Association
AllTel Mobile Communications, Inc.
American Cellular Network Corporation
Atlas Telephone Company
Beggs Telephone Company
Bell Atlantic Mobile Systems, Inc.
Canadian Valley Telephone Company
Carnegie Telephone Company
Cellular Telecommunications Industry Association
Centel Cellular Company
Central Oklahoma Telephone Co.
Cross Telephone Company
Community Telephone Company, Inc.; Mid-Plains Telephone Cooperative, Inc.; Poka-Lambro Rural Telephone Cooperative, Inc.; South Plains Telephone Cooperative, Inc.; Taylor Cooperation, Inc.; Wes-Tex Telephone Cooperative, Inc.; XIT Rural Telephone Cooperative, Inc.
Etex Telephone Cooperative, Inc.; Peoples Telephone Cooperative, Inc.; Eastex Telephone Cooperative, Inc.; The Orwell Telephone Company; Northwestern Indian Telephone Company, Inc.
Heins Telephone Company
Hennessey, Stambler & Siebert
Hinton Telephone Company
Intercell Corporation; Colorado Cellular, Inc.
Kaplan Telephone Co.
Kaplan Telephone Co. (separate comment)
Metro Mobile CTS, Inc.
Missouri Telephone Company
NewVector Communications, Inc.
Oklahoma Telephone and Telegraph
Oklahoma Western Telephone Company
PacTel Mobile Access
Pine Telephone Company
Pioneer Telephone Cooperative, Inc.
Reserve Telephone Company, Inc.
Rural Telephone Coalition
Salina-Spavinaw Telephone Company
Southwestern Bell Mobile Systems, Inc.
Cellular Telecommunications Division of Telocator Network of America
United States Telephone Association

Reply Comments

Alabama-Mississippi Independent Telephone Association
Amherst Telephone Company
Arrowhead Communications Corporation
Eagle Valley Telephone Company
Granada Telephone Company
Heins Telephone Company
Indianhead Telephone Company
Mid-Plains Telephone, Inc.
Pine Island Telephone Company
Rock Hill Telephone Company; Fort Mill Telephone Company; Lancaster Telephone Company
Santa Rosa Telephone Cooperative
Southeast Telephone Company of Wisconsin, Inc.
Telephone and Data Systems, Inc.
Universal Telephone, Inc.

Appendix B

The Commission proposes to amend Part 22 of Title 47 of the Code of Federal Regulations as follows:

1. The authority citation for Part 22 continues to read:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 USC 154, 303.

PART 22—PUBLIC MOBILE SERVICE

Subpart A—General

2. Section 22.2 is amended by adding a definition for the term "Rural Service Area (RSA)" alphabetically to read as follows:

§ 22.2 Definitions.

* * * * *

Rural Service Area (RSA). An area not included in either a Metropolitan Statistical Area or a New England County Metropolitan Area for which a common carrier may have a license to provide cellular service. The counties included in each RSA are listed in FCC Report ———.

* * * * *

Subpart B—Applications and Licenses

1. Section 22.43(c) is revised to read as follows.

§ 22.43 Period of construction.

(c) *Cellular Base Stations.* (1) Initial Operations. The holder of a construction permit for a new cellular communications system shall initiate and continuously provide service to the public within 12 months from the date the station authorization was granted.

(2) Completion of Construction. Metropolitan Statistical Area, New England County Metropolitan Area, and Rural Service Area cellular base stations, which will provide 39 dBu coverage over 75% of the Cellular Geographic Service Area (CGSA), as defined in § 22.903 of these rules, shall be completed, and ready for operation, within 36 months from the date the station authorization was granted.

Section 22.903(a) is revised to read as follows:

§ 22.903 Cellular system service areas.

(a) The Cellular Geographic Service Area (CGSA) of the cellular system shall be defined by the applicant as the area intended to be served. No CGSA which includes area within a Metropolitan Statistical Area (MSA), a New England County Metropolitan Area (NECMA), or a Rural Service Area (RSA), as modified in subsection (e), below, may extend beyond the boundaries of the MSA, NECMA, or RSA except where any such extensions are *de minimis* and do not include area within another central MSA or NECMA. For MSAs and NECMAs below the top 90 and for RSAs the boundaries of the CGSA must include at least 75% of either the land area or population of the MSA, NECMA, or RSA. The CGSA must be drawn on one or more U.S. Geological survey map(s) with a scale of 1:250,000. Within the CGSA the applicant must depict each base station site and its respective 39 dBu contour as determined by the methods described in paragraph (c) below. An applicant must demonstrate that the combined 39 dBu contours of all base stations will cover at least 75% of the total CGSA.

* * * * *

[FR Doc. 85-132 Filed 1-3-86; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Game Bird Hunting; Zones in Which Lead Shot Will Be Prohibited for Waterfowl and Coot Hunting in the 1986–87 Hunting Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: When eaten by waterfowl and other migratory birds, spent lead shotgun pellets may have a toxic effect. To alleviate this problem, this proposal describes areas in which lead shot would be prohibited for waterfowl and coot hunting in the 1986–87 hunting season. It describes the same areas that were identified as nontoxic shot zones for waterfowl and coot hunting in § 20.108 of Title 50 of the Code of Federal Regulations (50 CFR) for the 1985–86 hunting season with the following additions: (1) 11 National Wildlife Refuges (NWRs) identified as a result of monitoring studies conducted in 1984–85 by the Fish and Wildlife Service (FWS) where lead-poisoning problems are of a magnitude that warrants discontinuing the use of lead shot in 1986–87; (2) one NWR in Montana initially proposed by FWS, based on 1983–84 monitoring, as a nontoxic shot zone for the 1985–86 waterfowl hunting season but which was not approved for implementation and enforcement by the State under a provision in the Department of the Interior Appropriations Act; (3) areas in 26 States being proposed to protect bald eagles from ingesting lead in their waterfowl prey; (4) Statewide nontoxic shot requirements for the States of Iowa and Nebraska based on the decisions of these States to prohibit lead shot for the 1985–86 season after § 20.108 was published last year; and (5) boundary

adjustment, corrections and additions submitted recently by the States.

DATE: Comments on this proposal will be accepted until February 5, 1986.

ADDRESSES: Submit comments to Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Room 536 Matomic Building, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 536, Matomic Building, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and time and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

When eaten by waterfowl and other migratory birds, spent lead shotgun pellets may have a toxic effect. The only nontoxic shot available at present is steel shot. To alleviate lead-poisoning problems 50 CFR §§ 20.21(j) and 20.108 currently require nontoxic shot for waterfowl and coot hunting in certain designated zones. This rule proposes to amend § 20.108 as outlined below.

Since 1978, the FWS has not been able to implement or enforce nontoxic shot zones in a State without approval of the appropriate State authorities. This restriction on use of funds by FWS has been contained in the Interior Department's Appropriations Act each year since 1978 (Pub. L. 98–473, Sec. 305). As a consequence of this restriction, the FWS has proposed additions and deletions to the designated nontoxic shot zones for waterfowl and coot hunting only with the approval of State authorities.

Each State was contacted by the FWS and notified that a proposal would be published to establish zones in which lead shot would be prohibited for the 1986–87 hunting seasons. On or about July 19, 1985, each State listed in the current nontoxic shot regulations received a letter requesting approval in writing for the Service to implement and enforce the regulations in the 1986–87 hunting season. Responses received from some States included requests for boundary adjustments, corrections, and additions. These changes are being proposed for Arizona, Delaware, Florida, Indiana, Kansas, Kentucky, Michigan, Missouri, North Carolina, Rhode Island, South Dakota, and Wyoming. A FWS lead-poisoning monitoring program indicated a lead-poisoning problem on several national wildlife refuges in California in 1984–85, necessitating the proposal for nontoxic shot zones there for the 1986–87 hunting season (see below). However, California has been unable to respond to the July 19 FWS request until its commissioners meet to decide on the proposals affecting the State.

The States of Iowa and Nebraska indicated that nontoxic shot would be required throughout their respective States in the 1985–86 waterfowl hunting season. The decisions of these States came too late for their inclusion in the regulations in § 20.108 for the 1985–86 season. However, they are included in this proposed rulemaking for the 1986–87 season.

The FWS recently updated the Final Environmental Statement on the use of steel shot for hunting waterfowl in the United States, which was published in 1976. A draft of the Supplemental Environmental Impact Statement (SEIS) is currently available for public review (see Notice of Availability in the December 19, 1985, issued of the **Federal Register**). The draft SES outlines several alternatives for eliminating lead-shot poisoning as a significant mortality factor among migratory birds. The FWS' preferred alternative is to promulgate regulations that prohibit the use of lead shot to hunt waterfowl in zones where lead poisoning has been determined to be a known or potential problem using the criteria summarized below for waterfowl and bald eagle protection. For the 1986–87 hunting season, the FWS proposes to prohibit lead shot for waterfowl and coot hunting in certain zones set forth in this proposed rule. (Under State regulations, lead shot will be prohibited for the hunting of certain other migratory game bird species in Iowa, Kansas, Kentucky, Michigan and Wyoming.)

On July 30, 1985, at 50 FR 30849, the FWS published final criteria that serve as guidelines in determining areas where waterfowl ingestion of lead shotgun pellets is considered to be a significant problem and where use of lead shot by waterfowl hunters should be prohibited. In 1984–85, the FWS conducted a program to monitor the occurrence of lead poisoning on 24 selected NWRs. Based on the results of this work, and using the criteria described in the July 30 **Federal Register**, the FWS has concluded that lead poisoning is a matter of concern on at least 11 of the 24 refuges monitored. The NWRs on which lead shot prohibitions are proposed are: Cibola in Arizona and California; White River in Arkansas; Colusa, Delevan, Modoc, Sacramento and Sutter in California; Red Rock Lakes in Montana; Ruby Lake and Stillwater in Nevada (Stillwater was monitored in 1983–84 and, at the State's request, in 1984–85); and Lewis and Clark in Oregon. Benton Lake NWR, which was not approved as nontoxic shot zone by Montana in 1985-86, is again proposed for the 1986–87 waterfowl hunting season. The results of the FWS monitoring studies for 1983–84 and 1984–85 are available for public inspection and copying in Room 536 Matomic Building, 1717 H Street, NW., Washington, DC, or by mail, addressing the Director at the above address.

The FWS is also proposing to prohibit the use of lead shot in certain areas in 26 States to iminimize the threat of lead poisoning to bald eagles. These proposed nontoxic shot zones, presented in Table 1, give highest priority to areas where bald eagles are concentrated in winter and are associated with large harvests of ducks and geese. The FWS believes it is reasonable to assume that the highest risks to bald eagles occur where large numbers of crippled or dead waterfowl are available at major harvest areas. To locate such areas, the FWS identified counties in the United States based on two criteria: (1) An average harvest of 5,000 or more ducks and geese annually between 1971 and 1980, using data from Carney et. al. (1983. Distribution of waterfowl species harvested in States and counties during 1971–80 hunting seasons. FWS Special Scientific Report—Wildlife No. 254.), and (2) a winter count of at least 25 bald eagles in one or more years between 1978 and 1984, using data from the National Wildlife Federation Bald Eagle Survey (1980–82), National Audubon Society Christmas Bird Count (1978–83), or FWS surveys done on individual national wildlife refuges (1984).

One hundred and twenty-three counties were identified by the process described above. In the course of identifying these counties, it was recognized that bald eagles perceive geographical and ecological boundaries rather than political ones. Therefore, 50 additional counties whose geographical/ecological boundaries are contiguous with those of counties meeting the above criteria were added to the list. Thus, a total of 173 counties in 26 States are being proposed as bald eagle zones, as noted in Table 1. Approximately 75 of the counties listed in Table 1 were also identified for inclusion in § 20.108 on the

basis of the waterfowl lead-poisoning criteria and the refuge monitoring studies mentioned above, or because individual States previously concurred with or requested that additional nontoxic shot zones containing these counties be established in their States.

The FWS notes that some proposed bald eagle zones in which lead shot would be prohibited for waterfowl hunting include Federal Indian reservations and other areas in which Indian tribes retain reserved hunting rights. The FWS solicits comments on whether all or some of those areas should be included in, or partially or wholly exempted from, the final rule. Prior to promulgating a final rule relating to those areas, the FWS intends to consult with affected tribes and their wildlife officials.

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Table 1. Counties where it is proposed to prohibit the use of lead shot to minimize the threat of lead poisoning to bald eagles.

STATE AND COUNTY	Bald Eagle Count	Waterfowl Harvest
ARIZONA		
Coconino	53	5,811
ARKANSAS		
Arkansas	38	77,397
Desha[1/]	7	35,160
Monroe[1/]	1	38,598
Phillips[1/]	1	13,736
Little River	38	14,813
Sevier	25	8,634
Yell	25	13,843
Pope[1/]	30	3,123
CALIFORNIA		
Butte	37	111,203
Lassen	57	42,948
Modoc	41	27,190
Plumas	31	9,921
San Luis Obispo	29	5,800
Shasta	61	10,506
Siskiyou	441	77,309
COLORADO		
Montrose	38	5,716
Morgan	44	12,738
Weld	81	39,947
FLORIDA		
Brevard	32	36,634
Collier	29	9,556
Osceola	99	9,538
Polk	80	10,700
Volusia	72	7,154
IDAHO		
Bannock	49	16,799
Bingham	101	12,472
Boundary	100	7,597
Canyon	34	52,260
Jefferson	87	22,203
Kootenai	72	5,407
Bonner[1/]	100	2,080
Owyhee	39	13,072
Malheur, OR[1/]	15	17,279
Power	41	13,856
ILLINOIS		
Alexander	72	11,329
Scott, MO[1/]	0	867
Bureau	26	8,503
Calhoun	205	6,431
Greene[1/]	11	3,973
Jersey[1/]	0	6,168
Carroll	39	12,507
Cass	35	9,404
Schuyler[1/]	5	762
Fulton	75	7,109
Henderson	159	11,816
Des Moines, IA[1/]	157	3,122
Lee, IA[1/]	55	4,052
Jackson	26	10,646
Perry, MO[1/]	0	3,477
Jo Daviess	31	5,077
Mason	111	12,427
Peoria	89	6,501
Tazewell[1/]	3	3,909
Woodford[1/]	22	8,689
Pike	37	8,569
Ralls, MO[1/]	16	—
Putnam	49	12,040
Rock Island	239	5,579
Muscatine, IA[1/]	29	3,415
Scott, IA[1/]	64	4,719
Union	67	11,361
Cape Girardeau, MO[1/]	26	1,600
Whiteside	109	5,529
Williamson	37	22,910

IOWA

Allamakee	See Crawford County, WI	
Clayton	See Grant County, WI	
Clinton	35	22,002
Des Moines	See Henderson County, IL	
Dubuque	See Grant County, WI	
Freemont	49	33,029
Harrison	72	10,005
Washington, NE[1/]	22	2,334
Jackson	78	10,102
Lee	See Henderson County, IL	
Muscatine	See Rock Island County, IL	
Scott	See Rock Island County, IL	

KANSAS

Barton	35	38,792
Coffey	48	7,298
Cowley	25	5,636
Doniphan	See Holt County, MO	
Ellsworth	34	8,347
Jefferson	45	10,744
Mitchell	38	7,909
Stafford	53	13,189

KENTUCKY

Ballard	49	13,617

MAINE

Hancock	31	13,788
Washington	42	10,377

MARYLAND

Dorchester	38	34,744

MINNESOTA

Dakota	See Pierce County, WI	
Houston	See Vernon County, WI	
Wabasha	See Buffalo County, WI	
Winona	See Buffalo County, WI	

MISSOURI

Cape Girardeau	See Union County, IL	
Chariton	185	48,044
Henry	53	16,609
Benton[1/]	31	1,121
St. Clair[1/]	53	2,884
Vernon[1/]	23	16,804
Holt	184	24,993
Doniphan, KS[1/]	0	1,560
Richardson, NE[1/]	0	1,139
Lincoln	164	9,192
Linn	74	14,568
Perry	See Jackson County, IL	
Pike	56	15,155
Ralls	See Pike County, IL	
Scott	See Alexander County, IL	
St. Charles	60	19,378
Stoddard	35	16,204

MONTANA

Flathead	29	21,700
Lake	63	8,774
Lewis & Clark	39	8,495
Sanders	27	7,254
Yellowstone	64	6,728

NEBRASKA

Dawson	64	10,457
Garden	56	10,384
Harlan	83	5,250
Knox	28	7,315
Bon Homme, SD[1/]	11	8,438
Lincoln	48	6,225
Richardson	See Holt County, NE	
Scotts Bluff	34	6,983

Washington	See Harrison County, IA	
NEW MEXICO		
Colfax	2/	2/
San Juan	80	5,367
OKLAHOMA		
Bryan	31	5,219
Fannin, TX 1/	6	4,498
Haskell	32	6,059
McIntosh 1/	2	9,767
Pittsburg 1/	2	3,579
Marshall	26	5,900
Muskogee	38	8,505
Osage	140	8,671
Kay 1/	33	1,914
Pawnee 1/	11	525
Sequoyah	77	10,565
OREGON		
Columbia	26	42,670
Harney	31	25,685
Klamath	295	59,232
Lake	91	31,522
Malheur	See Owyhee County, ID	
Morrow	See Benton County, WA	
Multnomah	27	37,737
SOUTH DAKOTA		
Bon Homme	See Knox County, NE	
Charles Mix	112	9,739
Gregory 1/	5	3,309
Hughes	100	11,562
Stanley 1/	37	1,498
TENNESSEE		
Lake	164	9,310
Obion	49	5,568

TEXAS		
Deaf Smith	35	8,259
Fannin	See Bryan County, OK	
Grayson	36	11,618
Henderson	41	6,598
Marion	52	5,886
Upshur 1/	1	1,739
UTAH		
Box Elder	87	94,065
Utah	41	9,664
Weber	45	54,029
WASHINGTON		
Benton	47	13,654
Morrow, OR 1/	19	8,728
Clallam	154	30,991
Jefferson 1/	104	3,071
San Juan 1/	318	667
Clark	27	16,592
Cowlitz 1/	16	2,542
Douglas	91	11,645
Chelan 1/	18	679
Okanogan 1/	87	4,264
Grant	194	135,435
Grays Harbor	79	17,821
King	34	14,226
Lincoln	28	17,847
Ferry 1/	22	354
Stevens 1/	27	2,418
Pierce	30	11,029
Skagit	414	49,580
Island 1/	34	3,429
Snohomish	101	24,559
Thurston	28	14,624
Whatcom	284	10,195
WISCONSIN		
Buffalo	33	24,838
Wabasha, MN 1/	10	9,998
Winona, MN 1/	4	6,481
Crawford	36	17,290
Allamakee, IA 1/	5	17,701
Grant	190	26,115

Clayton, IA[1/]	7	7,860
Dubuque, IA[1/]	5	373
Juneau	31	6,403
Pierce	36	7,841
Dakota, MN[1/]	11	9,929
Vernon	40	6,600
Houston, MN[1/]	0	14,161
WYOMING		
Bighorn	50	5,050
Goshen	29	6,508

[1/] County indicated is proposed because its geographic/ecological boundary is contiguous with that of the county listed directly above it, which was identified as a bald eagle zone using FWS criteria described in the text.

[2/] Colfax County, NM, is included because the FWS' National Wildlife Health Laboratory has confirmed four bald eagle deaths there in the last two years. Review of the situation indicates that the source of lead exposure is in this county.

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The nature of the data used in the above process necessitated identifying entire counties as nontoxic shot zones for protecting bald eagles. The FWS realizes that parties reviewing this proposed rule may have additional information that will allow the boundaries of the proposed zones to be refined while still affording adequate protection to eagles. Such refinements have been made to the counties identified for bald eagle protection in Missouri and are reflected in the amendatory language for § 20.108 of this rule. Modifications to the proposed bald eagle protection zones also may be made if feeding habits of the eagles using the areas suggest that waterfowl do not constitute a major part of their diet in a particular area.

The purpose of this proposed rulemaking is to seek public input regarding the proposed amendments to 50 CFR 20.108, which deal with prohibitions against use of lead shot for waterfowl and coot hunting in certain areas. In addition, the FWS hereby gives notice that it does not intend to open the 1986–87 waterfowl hunting seasons in the areas proposed unless the States involved approve the proposed prohibitions against lead shot, assuming that the Service, after reviewing all comments, is of the judgment that such prohibitions would be necessary to protect wildlife resources. Accordingly, interested persons may submit written comments, suggestions, or objections concerning this proposal to the Director (address above) by the end of the comment period. All relevant comments will be considered by the Department prior to issuance of a final rule.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) further requires the preparation of flexibility analyses for rules that will have a significant affect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

In accordance with Executive Order 12291, a determination has been made that this rule is not a major rule. In accordance with the Regulatory Flexibility Act, a determination has been made that this rule, if implemented without adequate notice, could result in lead shot ammunition supplies for which there would be no local demand. Conversely, nontoxic shot zones could conceivably be established where little or no nontoxic shot ammunition would be available to hunters. The FWS believes, however, that adequate notice will be provided by this proposed rule and that sufficient supplies of nontoxic shot ammunition will be available to hunters. Therefore, this rule would not have a significant economic affect on a substantial number of small entities. A copy of the analysis relating to these decisions is available for public inspection and copying in room 536 Matomic Building, 1717 H Street, NW., Washington, DC, or by mail, addressing the Director at the above address.

Paperwork Reduction Act

This rule will not result in the collection of information from or place recordkeeping requirements on the public under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmenal Policy Act of 1969 (42 U.S.C. 4332(C)), a Final Environmental Statement (FES) on the use of steel shot for hunting waterfowl in the United States was published in 1976. As stated previously, a draft Supplemnental Environmental Impact Statement to the FES has been prepared and is currently available for public review. Pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531), as amended, a section 7 consultation was done on the potential impacts of the provisions of this rule on bald eagles. These documents are available for public inspection and copying in room 536 Matomic Building, 1717 H Street, NW., Washington, D.C., or by mail, addressing the Director at the above address.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

Accordingly, it is proposed to amend Part 20, Subchapter B, Chapter I of Title 50 of the Code of Federal Regulations as set forth below:

PART 20—[AMENDED]

1. The authority citation for Part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712), unless otherwise noted.

2. Section 20.108 would be revised to read as follows:

§ 20.108 Nontoxic shot zones.

The areas described within the States indicated below are designated for the purpose of § 20.21(j) as nontoxic shot zones for waterfowl and coot hunting. (For the 1986–87 hunting season, State regulations prohibit the use of lead shot for the hunting of certain other migratory game bird species in Iowa, Kansas, Kentucky, Michigan, and Wyoming.)

Atlantic Flyway

Connecticut

1. That portion of New Haven and Fairfield Counties bounded by a line beginning at the north end of the breakwater at Milford Point extending south to Stratford Point, north along Prospect Drive and Route 113 to Interstate 95, easterly along I–95 to Naugatuck Avenue, southerly along Naugatuck Avenue and Milford Point Road and continuing along a line extending from the end of Milford Point Road to the north end of the breakwater at Milford Point.

2. That portion of New Haven County along the Quinnipiac River known as the Quinnipiac Meadows beginning at the intersection of Sackett Point Road and I–91, extending south along I–91 to Route 5, northerly along Route 5 to Sackett Point Road, and easterly along Sackett Point Road to I–91.

Delaware

All State and Federally owned property within the following areas:

1. Assawoman State Wildlife Area.
2. Augustine State Wildlife Area.
3. Cedar Swamp State Wildlife Area.
4. Chesapeake and Delaware Canal State Wildlife Area.
5. Gordon's Pond State Wildlife Area.
6. Little Creek State Wildlife Area.
7. Prime Hook State Wildlife Area.
8. Ted Harvey State Wildlife Area.
9. Woodland Beach State Wildlife Area.
10. Cape Henlopen State Park.
11. Delaware Seashores State Park.
12. Bombay Hook National Wildlife Refuge.
13. Prime Hook National Wildlife Refuge.

Florida

1. That portion of Brevard County lying east of Interstate Highway 95; Osceola, Broward, Polk, and Dade Counties; Leon County (exclusive of Lake Talquin and the Ochlockonee River); Lake Miccosukee in Leon and Jefferson Counties; Orange Lake and Lochloosa Lake in Alachua County; the area lying lakeward of, and bounded by the Lake Okeechobee levee, by the State Road 78 Kissimmee River bridge, and State Road 78 from its intersections with the Lake Okeechobee levee at points near Lakeport and the Old Sportsman's Village site; Occidental Wildlife Management Area as well as all of the Occidental Chemical Company phosphate pits east of State Road 135 and north of White springs, all in Township 1 North, Range 15 and 16 East and

Township 1 South, Range 15 and 16 East in Hamilton County comprising approximately 35,000 acres; Lake Ponte Vedra in St. Johns County (all waters north of the Guana Dam); M–K Ranch Public waterfowl area in Gulf County; and Everglades Conservation Area 2 in Palm Beach County.

2. Brevard, Collier, Osceola, Polk, and Volusia Counties.

3. Chassahowitzka National Wildlife Refuge.

4. Lower Suwannee National Wildlife Refuge.

5. Loxahatchee National Wildlife Refuge.

6. Merritt Island National Wildlife Refuge.

Georgia

1. Eufaula National Wildlife Refuge.

2. Savannah National Wildlife Refuge.

Maine

1. Washington and Hancock Counties.

Maryland

1. Dorchester County.

Massachusetts

1. Plum Island.

2. Parker River National Wildlife Refuge.

New Jersey

1. That portion of the State bounded on the north by the Shark River, on the west by the Garden State Parkway, on the south by the Cape May Canal, and on the east by the Atlantic Ocean.

2. Edwin B. Forsythe National Wildlife Refuge.

New York

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams, and ocean waters but not including temporary or sheet water) and all land areas within 150-yards of all waters of the following portions of New York:

1. That part of upstate New York west of I–81 that is north of I–90, and within a 150-yard zone of land adjacent to the margins of said waters in those areas, but not to include drainage ditches and temporary sheet waters outside the 150-yard zone of land adjacent to the margins of aforesaid waters, nor the waters of the Niagara River north of the Peace Bridge and the waters of Lake Ontario, outside the barrier beach, from the mouth of the Niagara River in Niagara County to Tibbets Point in Jefferson County but not to include the Henderson Bay-Black River Bay area east of a line running from Snowshoe Point on Henderson Harbor to Pillar Point on the southward portion of Pillar Point Peninsula.

2. That part of Nassau County south of Route 27 that is west of Wantagh Parkway and its southerly extension to the Atlantic Ocean.

3. Oneida Lake and adjacent areas bounded on the north by Route 49, on the east by Route 13, on the south by Route 31 and on the west by I–81.

4. Upper and Lower Lakes Wildlife Management Area in St. Lawrence County.

5. Wilson Hill Wildlife Management area in St. Lawrence County.

6. That area including adjacent to the Hudson River south of an imaginary line extending perpendicular from the east and west shores and passing through the flashing green light buoy number 13 in the river near Lampman Hill in the Town of Coxsackie, and north of an imaginary line extending perpendicular from the east and west shores and passing through flashing red light buoy number 28 in the river near Tyler Point in the Town of Ulster; except for that portion of the area enclosed by a continuous line starting on the west shore of the river and extending eastward along the imaginary perpendicular line to flashing red light buoy number 28, then northward along the east side of the deep water channel which is marked by red buoys to red buoy number 50 (Cruger and Magdalen Islands are entirely in the steel shot zone), then westward to the west shore of the river following an imaginary line perpendicular to the shore, then southward along the shore to the point of beginning.

7. Iroquois National Wildlife Refuge.

8. Montezuma National Wildlife Refuge.

North Carolina

1. Cedar Island National Wildlife Refuge.

2. Mattamuskeet National Wildlife Refuge.

3. Swanquarter National Wildlife Refuge.

4. Cape Hatteras National Seashore Recreation Area.

Pennsylvania

1. Crawford County, Middle Creek Wildlife Management Area in Lancaster and Lebanon Counties, and the waters of the Susquehanna River beginning at the confluence of the North and West branches at Northumberland and continuing southward to the Maryland-Pennsylvania State boundary and including a 25-yard zone of land adjacent to the waters of the Susquehanna River that are described above.

2. Erie National Wildlife Refuge.

Rhode Island

1. That portion of Washington County lying south and east of U.S. Route 1 but excluding Block Island and the waters of Block Island Sound and Narragansett Bay.

2. The Great Swamp Dike and Waterfowl Impoundment within the Great Swamp Management Area in South Kingstown.

South Carolina

1. Savannah National Wildlife Refuge.

Vermont

1. Missisquoi National Wildlife Refuge.

Mississippi Flyway

Alabama

1. Eufaula National Wildlife Refuge.

Arkansas

1. Sevier, Little River, Arkansas, Monroe, Yell, Pope, Phillips and Desha Counties.

2. White River National Wildlife Refuge.

Illinois

1. Oakwood Bottoms Greentree Reservoir, Rice Lake Public Hunting Area, Union County Public Hunting Area, Horseshoe Lake Public Hunting Area (Alexander County), Rend Lake and related subimpoundments, and all adjacent lands managed by the U.S. Army Corps of Engineers and the Illinois Department of Conservation.

2. Henderson, Peoria, Fulton, Mason, Calhoun, Pike, Alexander, Jackson, Jersey, Green, Union, Williamson, Bureau, Putnam, Woodford, Tazewell, Cass, Schuyler, Jo Daviess, Carroll, Whiteside and Rock Island Counties.

3. Crab Orchard National Wildlife Refuge.

4. Mark Twain National Wildlife Refuge (except that portion in Mercer County).

5. Upper Mississippi River Wildlife and Fish Refuge.

Indiana

1. On all waters of Lake, Porter (except that area south of U.S. 30 and north of S.R. 8), LaPorte, Newton (north of S.R. 114), Jasper (north of S.R. 114), Starke, Elkhart, Kosciusko, LaGrange, and Steuben Counties and within 150-yard zone of land in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonably flooded areas of all types. Excluded from these provisions are the waters of Lake Michigan and drainage ditches and temporary sheet water that are more than 150-yards from the waters described above.

2. All waters and within a 150-yard zone of land adjacent to the margins of these waters on the Jasper-Pulaski, Tri-County, and Glendale Fish and Wildlife Areas.

3. Within the boundaries of the following State-owned or State-operated properties: Hovey Lake Fish and Wildlife Area in Posey County, Mallard Roost Wetland Conservation Area in Noble County, Monroe Reservoir in Monroe and Brown Counties, Patoka Reservoir in Dubois, Crawford and Orange Counties, and Turtle Creek State Fish and Wildlife Area in Sullivan County.

4. Within the proposed boundaries of the Menominee Wetlands Conservation Area in Marshall County.

Iowa

1. On all lands and waters under the jurisdiction of the State Conservation Commission, the United States Government, or any county conservation board. Also on all waters and a 150-yard zone of land adjacent to these waters, including reservoirs, lakes, ponds, marshes, bayous, swamps, rivers, streams, and seasonally flooded areas of all types, except that temporary sheet water, farm ponds smaller than two surface acres in size, and streams with the water less than twenty-five feet in average width at the site where the hunting is occurring shall be excluded from the steel shot requirement, provided they are at least 150-yards from the water areas described above.

2. DeSoto National Wildlife Refuge.

3. Mark Twain National Wildlife Refuge.

4. Union Slough National Wildlife Refuge.

5. Upper Mississippi River Wildlife and Fish Refuge.

Kentucky

1. Western Zone—That area west of a line beginning at the Kentucky-Tennessee border at Fulton, Kentucky, and running northeast along the Purchase Parkway to Interstate 24, east to U.S. Highway 641, north to U.S. Highway 60, north to U.S. Highway 41, then north to the Kentucky-Indiana border near Henderson, Kentucky.

Louisiana

1. Lacassine National Wildlife Refuge.
2. Sabine National Wildlife Refuge.

Michigan

1. Eastern Upper Peninsula—

A. That area of Chippewa County within the following described boundary: Starting at the SW corner of Sec. 33, T44N, R1E on a line extending north 4 miles along the west side of Secs. 33, 29, 21, and 16 to the NW corner of Sec. 16, T44N, R1E; then east 1½ to the S quarter corner of Sec. 10, T44N, R1E; then north 1 mile to the N quarter corner of Sec. 10, T44N, R1E; then east ½ mile to the SW corner of Sec. 2, T44N, R1E, then north 1 mile to the NW corner of Sec. 2, T44N, R1E; then east along the north section lines of Secs. 1 and 2, T44N, R1E and Secs. 4, 5, and 6, T44N, R2E, to the NE meander corner Sec. 4, T44N, R2E; then on a line southerly across Munuscong Lake to the NE meander corner of Sec. 28, T44N, R2E, then south on the E section lines of Secs. 28 and 33, T44N, R2E to the SE corner of Sec. 33, T44N, R2E; then west 7 miles along the south section line of Sec. 33, 32, and 31, T44N, R2E, and Secs. 36, 35, 34, and 33, T44N, R1E, to the point of beginning—the area the same as that named the "Munuscong Bay Goose Management Area."

B. The waters of Potagannissing Wildlife Flooding on Drummond Island.

2. Houghton Lake—

That area of water and land encompassing Houghton Lake, Roscommon County, described by road boundaries as follows: south of Meads Landing Road, County 300 and County 100; west of M–18; north of M–55; and east of US–27.

3. Saginaw Bay—

A. That area of Arenac, Bay, Tuscola, and Huron Counties south of US–23; east of M–13; north of M–25; south of Cresent Beach Road (Caseville Township, Huron County); and southwest of a line from the tip of Sand Point (Section 11, T17N R9E, Huron County) to Point Lookout (Section 13, T19N R7E, Arenac County); and Shore Road (Sims Township, Arenac County).

B. On all lands and waters within the posted boundaries of the following State or Federal management areas: Crow Island State Game Area (Bay and Saginaw Counties), Shiawassee River State Game Area (Saginaw County), and Shiawassee National Wildlife Refuge (Saginaw County).

4. Central Michigan—

That area of land and water encompassing the controlled water level impoundments (wetlands wildlife management units) of the Maple River State Game Area adjacent to US–27 in Gratiot County, as posted.

5. Southeastern Michigan—

A. That area of Jackson County (north of I–94 and east of M–106); Ingham County (east of M–106/M–52 and south of M–36); Livingston County (south of M–36, east of M–155, and south of M–59); Oakland County (south of M–59, west of US–24 [Telegraph Road], north of I–96, and west of I–275); Wayne County (west of I–275 and north of M–14); Washtenaw County (north of M–14 and I–94); and St. Clair, Macomb, Wayne and Monroe Counties east of I–94 and I–75 including the U.S. waters of the St. Clair River, Lake St. Clair, the Detroit River, and Lake Erie.

B. On all lands and waters within the posted boundaries of the U.S. Fish and Wildlife Service Schlee Waterfowl Production Area located in Section 6, T3S R2E of Grass Lake Township, Jackson County.

6. Southwestern Michigan—

A. That area of water and land encompassing Muskegon, Ottawa, and Kalamazoo Counties, and Allegan County west of US–131, including the waters of Lake Michigan lakeward for one-half mile from the shore. All county boundary waters and lakes partially within the steel shot zone are totally included.

Minnesota

1. All State Wildlife Management Areas and all Federal Waterfowl Production Areas.

2. On the waters of Swan and Middle Lakes in Nicollet County, North and South Heron Lakes in Jackson County, Pelican Lake in Wright County, Bear Lake in Freeborn County, and Christina Lake in Douglas and Grant Counties, and within a 150-yard zone of land adjacent to the margins of the above lakes.

3. Beginning at the intersection of the midline of the Mississippi River and U.S. Highway 61 at Hastings, thence southerly along U.S. Highway 61 to State Trunk Highway 16 at LaCrescent, thence southerly along State Trunk Highway 16 to State Trunk Highway 26, thence southerly along State Trunk Highway 26 to the southern boundary of the State; thence along the southern and eastern boundaries of the State to the confluence of the St. Croix and Mississippi Rivers, thence along the midline of the Mississippi River to the point of beginning.

4. Lac qui Parle Zone: Beginning at the intersection of U.S. Highway 212 and County State Aid Highway (CSAH) 27, Lac qui Parle County; thence along CSAH 27 to CSAH 20, Lac qui Parle County, thence along CSAH 20 to State Trunk Highway (STH) 40; thence along STH 40 to STH 119; thence along STH 119 to CSAH 34, Lac qui Parle County; thence along CSAH 34 to CSAH 19, Lac qui Parle County; thence along CSAH 19 to CSAH 38, Lac qui Parle County; thence along CSAH 38 to U.S. Highway 75; thence along U.S. Highway 75 to STH 7; thence along STH 7 to CSAH 6, Swift County; thence along CSAH 6 to County Road 65, Swift County; thence along County Road 65 to County Road 34, Chippewa County; thence along County Road 34 to CSAH 12, Chippewa County; thence along CSAH 12 to CSAH 9, Chippewa County; thence along CSAH 9 to STH 7; thence along STH 7 to Montevideo; thence along the municipal boundary of Montevideo to U.S. Highway 212; thence along U.S. Highway 212 to the point of the beginning.

5. Dakota, Houston, Wabasha, and Winona Counties.

6. Minnesota Valley National Wildlife Refuge.

7. Sherburne National Wildlife Refuge.

8. Tamarac National Wildlife Refuge.

9. Upper Mississippi River Wildlife and Fish Refuge.

Mississippi

1. Hillside National Wildlife Refuge.

2. Mathews Brake National Wildlife Refuge.

3. Morgan Brake National Wildlife Refuge.

4. Noxubee National Wildlife Refuge.

5. Panther Swamp National Wildlife Refuge.

Missouri

1. The northwest Missouri area west of Interstate Highway 29 from St. Joseph to the Iowa State line.

2. The Swan Lake zone, bounded by U.S. Highway 36 on the north, Missouri Highway 5 on the east, Missouri Highway 240 and U.S. Highway 65 on the south, and U.S. Highway 65 on the west.

3. The northeast Missouri area north of the Missouri River from its confluence with the Mississippi River west to the U.S. Highway 61, jthen east of the U.S. Highway 61 to Hannibal.

4. Benton, Cape Girardeau, Perry, and Scott Counties.

5. Duck Creek Wildlife Management Area.

6. Fountain Grove Wildlife Management Area.

7. Marais Temps Clair Wildlife Management Area.

8. Montrose Wildlife Management Area.

9. Otter Slough Wildlife Management Area.

10. Schell-Osage Wildlife Management Area.

11. Ted Shanks Wildlife Management Area.

12. Clarence Cannon National Wildlife Refuge.

13. Mark Twain National Wildlife Refuge.

14. Mingo National Wildlife Refuge.

15. Swan Lake National Wildlife Refuge.

Ohio

1. On the Maumee River in Wood County and on all waters of Erie, Ottawa, Sandusky, Cuyahoga, Wayne, Holmes, and Lucas Counties and within a 150-yard zone of land adjacent to the margins of these waters. These waters include lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described are excluded from the nontoxic shot requirements.

2. Ottawa National Wildlife Refuge.

Tennessee

1. Lake and Obion Counties.

2. Cross Creeks National Wildlife Refuge.

3. Hatchie National Wildlife Refuge.

4. Lower Hatchie National Wildlife Refuge.

Wisconsin

1. That portion of the State lying west of the Burlington Northern Railway in Pierce, Pepin, Buffalo, Trempealeau, La Crosse, Vernon, Crawford and Grant Counties and all signed Federal lands lying east of such railway in these same counties.

2. All waters in the Counties of Calumet, Columbia, Dodge, Fond du Lac, Green Ozaukee, Racine, Sheboygan, Walworth, Winnebago, Waukesha, Washington, Waupaca and those portions of Oconto and Marinette Counties east of U.S. Highway 41, Waushara County east of Highway 49 and that portion of Brown County lying northwest of the Fox River and east of U.S. Highway 141, and the Brown County islands in Green Bay and including the west 1,000 feet of

Green Bay waters, and within a 150-yard zone of land adjacent to the margins of these waters, except that in the Horicon and Central goose management zones, The wasters referred to above include lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150-yards from the water areas described above and the open water of Lake Michigan and Green Bay are excluded from the nontoxic shot requirements. All county boundary waters and lakes partially within a nontoxic shot zone are totally included.

3. On any State wildlife area within the zones described above, steel shot is required for hunting waterfowl anywhere on State-owned lands or waters within the boundaries of said wildlife area and on the following State-owned wildlife areas which are not within the zones described: Mead Wildlife Area in Marathon, Wood, and Portage Counties; Wood County Wildlife Area and Sandhill Wildlife Area in Wood County; and Meadow Valley Wildlife Area in Juneau and Monroe Counties.

4. Vernon, Buffalo, Allamakee, Crawford, Grant, Juneau and Pierce Counties.

5. Horicon National Wildlife Refuge.

6. Necedah National Wildlife Refuge.

7. Trempealu National Wildlife Refuge.

8. Upper Mississippi River Wildlife and Fish Refuge.

Central Flyway

Colorado

1. Weld and Morgan Counties.

Kansas

1. Barton, Ellsworth, Cowley, Stafford, Mitchell, Doniphan, Jefferson and Coffey Counties.

2. Cheyene Bottoms Wildlife Area, except that area west of U.S. Highway 281 commonly known as the inlet canal; Texas Lake Wildlife Area Neosho Wildlife Area; Marais des Cygnes Wildlife Area; and Jamestown Wildlife Area.

3. All State wildlife areas.

4. Flint Hills National Wildlife Refuge.

5. Kirwin National Wildlife Refuge.

6. Quivira National Wildlife Refuge.

Montana

1. Yellowstone County.

2. Benton Lake National Wildlife Refuge.

3. Red Rock Lakes National Wildlife Refuge.

4. Swan River National Wildlife Refuge.

Nebraska

1. Statewide.

2. Valentine National Wildlife Refuge.

New Mexico

1. That area bounded by a line beginning at the northeast corner of the Bosque del Apache National Wildlife Refuge (BNWR) boundary and running east to the road joining the White Sands Missile Range Military Reservation Extension Co-Use boundary (WSMRMREC) from the northwest, thence southeast along the road to its junction with the WSMRMREC boundary, thence north, east, and west along the WSMRMREC boundary to its junction with the Sevilleta National Wildlife Refuge (SNWR), thence north and east along the boundary of the SNWR to its intersection with U.S. Highway 60, thence west along U.S. Highway 60 to its junction with State Highway 47, thence north along State Highway 47 to its intersection with the Isleta Indian Reservation, thence west and south along the southern boundary of the Isleta Indian Reservation to its intersection with Interstate Highway 25, thence south along Interstate Highway 25 to its junction with the SNWR boundary, thence following the SNWR boundary west, north, then south and east to Interstate Highway 25, thence south along Interstate Highway 25 to its junction with BNWR boundary and following the BNWR boundary west, southwest, southeast, east, and northeast to the northeast corner of BNWR.

2. That area bounded by a line starting at the junction of State Highway 3 and State Highway 21 and running northeast along State Highway 21 to its junction with Coyote Creek; thence southeast along Coyote Creek to its junction with the Mora River; thence westerly along the Mora River to its junction with State Highway 160 to its intersection with State Highway 3 and north on State Highway 3 to its junction with State Highway 21.

3. Colfax and San Juan Counties.

4. The designated portions of Bitter Lake and Las Vegas National Wildlife Refuges, and the Santa Fe Spillway Basin Marsh.

5. Artesia State Game Refuge.

6. Belen State Game Refuge.

7. Bernardo State Game Refuge.

8. Jackson Lake State Game Refuge.

9. Karr Farm State Game Refuge.

10. La Joya State Game Refuge.

11. McAllister State Game Refuge.

12. Miller Mesa State Game Refuge.

13. Salt Lake State Game Refuge.

Oklahoma

1. Kay, Osage, Pawnee, Muskogee, Sequoyah, Haskell, McIntosh, Pittsburg, Marshall, and Bryan Counties.

2. Sequoyah National Wildlife Refuge.

3. Tishomingo National Wildlife Refuge.

4. Washita National Wildlife Refuge.

South Dakota

1. Those portions of Potter and Sully counties lying west of U.S. Highway 83; that portion of Hughes County lying west of U.S. Highway 83 and that portion of Hughes County lying south of U.S. Highway 14; that portion of Hyde County lying south of U.S. Highway 14 and west of Hyde County Federal Aid Secondary Highway 6547 (commonly called the Holabird Grade) and that portion of Hyde County lying south of U.S. Highway 34 and west of State Highway 47; that portion of Buffalo County lying west of State Highway 37; that portion of Lyman and Stanley counties lying east and north of the Lower Brule-Antelope Creek Road from State Highway 47 to Fort Pierre; that portion of Stanley County lying north of State Highway 34 for approximately five miles west of Fort Pierre and east of Stanley County Federal Aid Secondary Highway 6193 and State Highway 1806 to Minneconjou Bay, including all waters, islands, and bars of the Missouri River and its embayments from the north Potter County line downstream to the Big Bend Dam, including the Cheyenne River embayment downstream from Minneconjou Bay.

2. Within 100 yards of the water's edge or on the waters of Lake Andes in Charles Mix County.

3. Within 100 yards of the water's edge or on the waters of the Missouri River, including Lake Yankton and all islands and bars, from Fort Randall Dam downstream to the Iowa border.

4. On or within 100 yards of Grupe Slough State Game Bird Refuge in Marshall County.

5. Hughes, Gregory, Stanley, Charles Mix and Bon Homme Counties.

Texas

1. That area lying within boundaries beginning at the Louisiana State line, thence westward along IH 10 to the junction of U.S. Highway 90 and IH 10 in Beaumont, thence westward along U.S. 90 to its junction with IH 610 in Houston, thence north and west along IH 610 to its junction with U.S. Highway 290 in Houston, thence westward along U.S. Highway 290 to its junction with State Highway 159 in Hempstead, thence southwestward along State Highway 159 to its junction with State Highway 36 in Bellville, thence eastward along State Highway 36 to its junction with FM 2429, thence southward along FM 2429 to its junction with FM 949, thence southwestward along FM 949 to its junction with IH 10, thence westward along IH 10 to its junction with U.S. Highway 77 at Schulenburg, thence southward along U.S. Highway 77 to its junction with the U.S.-Mexico international boundary at Brownsville, thence eastward along the U.S.-Mexico international boundary to the Gulf of Mexico, thence east and seaward to the three marine league limit, thence northeastward along the three marine league limit to the Louisiana State line, thence northward along the Texas-Louisiana State line to its junction with IH 10.

2. Grayson, Deaf Smith, Fannin, Upshur, Henderson, and Marion Counties.

3. Anahuac National Wildlife Refuge.

4. Big Boggy National Wildlife Refuge.

5. Brazoria National Wildlife Refuge.

6. Matagorda Island National Wildlife Refuge.

7. McFaddin National Wildlife Refuge.

8. San Bernard National Wildlife Refuge.

9. Texas Point National Wildlife Refuge.

Wyoming

1. Big Horn and Goshen Counties.

2. Springer Wildlife Management Unit.

Pacific Flyway

Arizona

1. Coconino County.

2. Game management unit 5B, Upper Lake Mary, Lower Lake Mary, and Mormon Lake.

3. Cibola National Wildlife Refuge.

California

1. That portion of the Lower Klamath Basin (including all of Lower Klamath National Wildlife Refuge) beginning at the junction of Highway 161 (State Line Road) and the Dorris-Brownell Road at the NW corner of

Indian Tom Lake; thence south and east of the Dorris-Brownell Road as it makes a semicircle and unites again with Highway 161; thence west along Highway 161 to the point of origin at the NW side of Indian Tom Lake.

2. Siskiyou, San Luis Obispo, Modoc, Shasta, Lassen, Plumas, and Butte Counties.

3. Grizzly Island Wildlife Management Area.

4. Cibola National Wildlife Refuge.

5. Clear Lake National Wildlife Refuge.

6. Colusa National Wildlife Refuge.

7. Delevan National Wildlife Refuge.

8. Lower Klamath National Wildlife Refuge.

9. Modoc National Wildlife Refuge.

10. Sacramento National Wildlife Refuge.

11. Sutter National Wildlife Refuge.

12. Tule Lake National Wildlife Refuge.

Colorado

1. Montrose County.

Idaho

1. Boundary, Bonner, Kootenai, Canyon, Jefferson, Bingham, Owyhee, Power and Bannock Counties.

2. Camas National Wildlife Refuge.

3. Deer Flat National Wildlife Refuge.

4. Kootenai National Wildlife Refuge.

5. Minidoka National Wildlife Refuge.

Montana

1. Sanders, Flathead, Lake, and Lewis and Clark Counties.

Nevada

1. Ruby Lake National Wildlife Refuge.

2. Stillwater National Wildlife Refuge.

Oregon

1. That portion of Klamath County lying west and south of a line commencing at the Oregon-California State line and proceeding along State Highway 39 and 39–140, U.S. Highway 97, and State Highway 62 to the Klamath County-Jackson County line.

2. Klamath, Lake, Malheur, Morrow, Multnomah, and Columbia Counties.

3. Sauvie Island Wildlife Management Area.

4. Ankeny National Wildlife Refuge.

5. Baskett Slough National Wildlife Refuge.

6. Deer Flat National Wildlife Refuge.

7. Hart Mountain National Antelope Range.

8. Klamath Forest National Wildlife Refuge.

9. Lewis and Clark National Wildlife Refuge.

10. Malheur National Wildlife Refuge.

11. Umatilla National Wildlife Refuge.

12. Upper Klamath National Wildlife Refuge.

13. William L. Finley National Wildlife Refuge.

Utah

1. Box Elder, Weber and Utah Counties.

2. Bear River Migratory Bird Refuge.

Washington

1. Beginning at Interstate 5 and Highway 20 at Burlington, thence easterly along Highway 20 to Highway 9 at Sedro Woolley; thence southerly along Highway 9 to Highway 538 at Big Rock; thence westerly along Highway 538 to Mt. Vernon and Interstate 5; thence northerly along Interstate 5 to the point of origin.

2. Clallam, Ferry, Jefferson, San Juan, Clark, Cowlitz, Grays Harbor, Thurston, Island, Pierce, King, Snohomish, Skagit, Whatcom, Okanogan, Chelan, Douglas, Grant, Benton, Lincoln and Steven Counties.

3. Columbia National Wildlife Refuge.

4. Ridgefield National Wildlife Refuge.

5. Umatilla National Wildlife Refuge.

Dated: December 18, 1985.

P. Daniel Smith

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–209 Filed 1–3–86; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 51, No. 3
Monday, January 6, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Intent To Award Cooperative Agreement; University of Michigan

AGENCY: Office of International Cooperation and Development, USDA.

ACTION: Notice of intent to award a cooperative agreement.

ACTIVITY: The Office of International Cooperation and Development intends to award a cooperative agreement to the University of Michigan to conduct research in the development of practical cost-effectiveness models for vitamin A interventions for use in developing countries.

AUTHORITY: Section 1458 of The National Agricultural Research Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291).

The Office of International Cooperation and Development (OICD) announces the ava lability of funds for fiscal year 1986 to enter a cooperative agreement with the Department of Population Planning and International Health, School of Public Health, University of Michigan, in the amount of $50,000. The agreement is required to enable the University to cooperate with OICD to assist developing countries alleviate vitamin A deficiencies and to assist in the preparation and evaluation of cost-effectiveness models suitable for use in the analysis of the major types of vitamin A interventions. The University is uniquely qualified to cooperate in this activity as it has long standing interest in cost effectiveness analysis of public health interventions and also has a special knowledge of the three major types of vitamin A intervention programs. Assistance will be provided only to the University of Michigan. Based on the above, this is not a formal request for applications. It is estimated that approximately $50,000 will be available in Fiscal Year 1986 to support this work. It is anticipated that the cooperative agreement will be funded over a budget period of 12 months.

Information may be obtained from: Mr. Paul R. Crowley, Food Technology Branch, Technical Assistance Division, Office of International Cooperation and Development, U.S. Department of Agriculture (± 58–319R–6–008).

Dated: December 31, 1985.

Charle A. Rooney,

Acting Chief, Management Services.

[FR Doc. 86–164 Filed 1–3–86; 8:45 am]

BILLING CODE 3410–DP–M

Federal Grain Inspection Service

Cancellation of Designation Issued to Enid Grain Inspection Co., Inc.; Interim Assignment of Designation to Enid Grain Inspection Co., Inc.; and Request for Designation Applicants (OK)

Correction

In FR Doc. 85–30718 beginning on page 52974 in the issue of Friday, December 27, 1985, make the following correction: On page 52974, in the third column, in the DATE paragraph, in the second line, the date should read "January 27, 1986".

BILLING CODE 1505–01–M

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to D.L. Boltenhouse Grain Inspection Service (OH)

Correction

In FR Doc. 85–30716 beginning on page 52975 in the issue of Friday, December 27, 1985, made the following correction: On page 52975, in the second column, in the **DATE** paragraph, the date in the second line should read "January 27, 1986".

BILLING CODE 1505–01–M

Forest Service

Timber Sales on the Mapleton Ranger District, Siuslaw National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intention to sell timber on the Mapleton Ranger District, Siuslaw National Forest, Oregon.

SUMMARY: On May 8, 1985, the Chief of the Forest Service issued a public notice at 50 FR 19425 that the Forest Service was terminating the Seven-Year Action Plan for the Mapleton Ranger District of the Siuslaw National Forest in Oregon. At that time, the Forest Service intended to defer all major decisions about future timber sales in the Mapleton Ranger District until completion of appropriate environmental analysis, as required by the National Environmental Policy Act, for the forthcoming Siuslaw National Forest Land and Resource Management Plan (Forest Plan). Thereafter, however, the Supplemental Appropriations Act for Fiscal Year 1985, Pub. L. 99–88, 99 Stat. 293 (August 15, 1985), was enacted. This act embodies a Congressional intention that the Forest Service proceed promptly to sell at least some of the timber it regains on the Mapleton Ranger District through either contract defaults or pursuant to the provisions of the Federal Timber Contract Payment Modification Act, Pub. L. 98–478, 98 Stat. 2213 (October 16, 1984). Moreover, the Ninth Circuit Court of Appeals, on October 23, 1985, modified its injunction against further timber sales on the Mapleton Ranger District to permit sales subject to the Supplemental Appropriations Act.

In view of the enactment of the Supplemental Appropriations Act and the modification of the Ninth Circuit injunction, the Forest Service has decided to make sales of timber on the Mapleton Ranger District without awaiting completion of the Forest Plan. This determination to make timber sales on the Mapleton Ranger District affects only such timber as is within the authority granted the Forest Service in the Supplemental Appropriations Act; any other decisions respecting future timber sales on the Mapleton Ranger District will continue to await completion of the environmental analysis for the Forest Plan.

DATE: This decision is effective January 6, 1986.

FOR FURTHER INFORMATION CONTACT: Dave Spores, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013; (202) 447–4051.

Dated: December 24, 1985.

R. Max Peterson,

Chief.

[FR Doc. 86–140 Filed 1–3–86; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit; Northwest & Alaska Fisheries Center, National Marine Fisheries Service

On November 4, 1985, notice was published in the Federal Register (50 FR 45849) that an application had been filed by the Northwest & Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, N.E., Seattle, Washington, 98115, to take six species of Antarctic seals for scientific research over a five (5) year period.

Notice is hereby given that on December 26, 1985 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC;
Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington, 98115;
Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731; and
Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: December 26, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–165 Filed 1–3–86; 8:45 am]

BILLING CODE 3510-22-M

[Modification No. 4 to Permit No. 305]

Marine Mammals; Modification of Permit; State of Washington, Department of Game

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 305 issued to the State of Washington, Department of Game, 600 North Capitol Way, Olympia, Washington, 98504–0091, on October 10, 1985 (45 FR 69533), as modified on March 16, 1981 (46 FR 18065), May 12, 1981 (46 FR 27153) and October 15, 1981 (46 FR 50818) is further modified as follows:

Section B–5 is modified by substituting the following:

5. "This Permit is valid with respect to the activities authorized herein until December 31, 1986."

This modification becomes effective December 31, 1985.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC; and
Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, N.E. BIN C15700, Seattle, Washington, 98115.

Dated: December 23, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–166 Filed 1–3–86; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council and its advisory bodies will convene public meetings, January 15–17, 1986, in Sitka, AK, at the Centennial Building, as follows:

North Pacific Fishery Management Council

The Council will convene its meeting at 9 a.m., January 15, to consider halibut management measures for 1986 and to consider the next steps in sablefish management in the Gulf of Alaska. The Council may take emergency actions to control the crab and halibut interceptions by bottom trawlers in the Eastern Bering Sea and salmon and crab bycatch by trawls in the Gulf of Alaska. The Council will consider how to control the harvest of the trawl share of sablefish in the Gulf of Alaska and hear an informational report on frameworking optimum yield for the Gulf of Alaska groundfish fisheries.

Proposals for amendments to the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan (FMP) will be reviewed and the Council will give guidance to the National Marine Fisheries Service (NMFS) on how to handle fisheries closures resulting from species harvest guidelines being attained. The Council will review the status of the crab regulations and NMFS' delegation of regulatory authority to the Alaska Department of Fish and Game under the recently implemented king crab FMP. There will be a review of regulatory actions by the Alaska Board of Fisheries concerning salmon in Southeast Alaska and the Council will give direction to the Salmon Plan Team on needed amendments and the proposed plan revision. The Council will also approve a policy on the confidentiality of statistics and hear a status report on the domestic observer program and its funding needs. The Council will review work plans for all joint ventures and set bycatch restrictions by operation. A closed session (not open to the public) will be held January 15 and 16, by the Council during lunch to discuss personnel matters.

Scientific and Statistical Committee (SSC), Advisory Panel (AP) and Permit Review Committee

The Council's SSC and its AP public meeting will convene on January 13, at 1 p.m. The Council's Permit Review Committee will convene on January 14, at 1 p.m. Other plan team, committee and workgroup meetings may be held on short notice during the week. 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: December 31, 1985.

Richard B. Roe,

Director, Office of Fisheries Management

[FR Doc. 86–80 Filed 1–3–86; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Exchange Proposal To Trade Commodity Options; Chicago Board of Trade

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions for the applications of the Chicago Mercantile Exchange for trading commodity options on Japanese yen and three-month Treasury bill futures contracts.

SUMMARY: The Chicago Mercantile Exchange ("CME") has submitted applications to trade options on Japanese yen and three-month Treasury bill futures contracts under the pilot program adopted by the Commodity Futures Trading Commission ("Commission"). The Director of the

Division of Economic Analysis of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest and is consistent with the option regulations and with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before February 5, 1986.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CME Japanese yen and three-month Treasury bill option contacts.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–7227.

SUPPLEMENTARY INFORMATION: The Commission has previously adopted regulations to govern a pilot program under which options on certain commodity futures contracts and physical commodities are permitted to be traded on domestic boards of trade designated by the Commission as contract markets for option trading.[1] Initially, the pilot program provided that each board of trade would be approved for trading in no more than one futures option contract (46 FR 54500 (November 3, 1981)). These regulations were subsequently amended to permit domestic boards of trade to be designated as contract markets for up to five options on certain commodities, of which no more than two contracts may involve an option on a physical commodity (49 FR 33641 (August 24, 1984)). The option pilot program was further expanded to permit domestic boards of trade to be designated as contract markets for up to eight options on certain commodities, of which no more than two contracts may involve an option on a physical commodity (50 FR 45811 (November 4, 1985)). The CME has been designated as a contract market in options on the S&P 500 Index, Deutschemark, Swiss franc, British pound and Eurodollar futures contracts.[2]

The CME has applied for contract market designation, pursuant to section 4c(c) of the Commodity Exchange Act, 7 U.S.C. 6c(c) (1982) ("Act"), and Commission Regulation 33.5, to trade options on Japanese yen and three-month Treasury bill futures contracts. The Division Director, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest and is consistent with the option regulations and with the purposes of the Commodity Exchange Act.

Copies of the terms and conditions of the proposed CME option contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of these materials can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CME in support of its applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1985)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed option contracts, or with respect to other materials submitted by the CME in support of its applications should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by January 6, 1986.

Issued in Washington, DC, on December 30, 1985

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 86–121 Filed 1–3–86; 8:45 am]

BILLING CODE 6351-01-M

[1] The commodities which are eligible for the initial pilot program are commodities which are not enumerated in section 2(a)(1)(A) of the Commodity Exchange Act. The enumerated commodities are generally agricultural products which are produced in this country. The Japanese yen and three-month Treasury bill are not enumerated commodities.

[2] In addition, the Commission permits each board of trade to be designated in up to two options on domestic agricultural futures contracts in addition to the eight permissible option designations noted above (49 FR 2752 (January 23, 1984)). Under this amendment, the CME has been designated as a contract market for options on live cattle and live hog futures contracts.

DEPARTMENT OF EDUCATION

Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages

AGENCY: Department of Education.

ACTION: Notice of final annual funding priorities, required activities, and restriction on the use of funds.

SUMMARY: The Secretary of Education (the Secretary) announces final annual funding priorities for nationally significant project grants under the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages. The Secretary is reserving funds under this program for projects designed to enhance the professional status and improve the skills and qualifications of teachers, and to improve the quality of instruction in mathematics, science, computer learning, and foreign languages at the elementary and secondary school levels.

EFFECTIVE DATE: The priorities established in this notice take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these priorities write or call the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Patricia Alexander, Secretary's Discretionary Programs, U.S. Department of Education, 1200 19th Street, NW, Washington, DC. 20208. Telephone (202) 254–8227.

SUPPLEMENTARY INFORMATION:

Program Information

The Education for Economic Security Act (EESA), Pub. L. 98–377 (20 U.S.C. 3901–4074), was enacted "to improve the quality of mathematics and science teaching and instruction in the United States."

Section 212 of Title II of the EESA (20 U.S.C. 3972) addresses the importance of mathematics, science, computer learning, and foreign language competency by authorizing the Secretary to make grants to State and local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, educational television stations, and professional mathematics, science and engineering societies and associations, for projects designed to have nationwide impact in these critical areas.

A notice of proposed funding priorities was published in the **Federal**

Register on August 28, 1985 (50 FR 35028). An application notice for new awards under this program was published in the same issue of the Federal Register (50 FR 35029). No substantive changes have been made in these final funding priorities. Therefore, it will not be necessary for applicants to revise or resubmit their applications. See 50 FR 35030 (Applicable Regulations, par. [b]).

Summary of Comments and Responses

A notice of proposed annual funding priorities, required activities, and restriction on the use of funds was published in the Federal Register on August 28, 1985 (50 FR 35028).

No comments were received in response to this notice.

Funding Priorities

To address the need to improve the quality of teaching and instruction in mathematics, science, computer learning, and foreign languages, the Secretary is reserving funds under this program for projects that enhance the profesionalism and improve the qualifications of teachers, and that improve instruction in mathematics, science, computer learning, and/or critical foreign languages.

The Secretary further limits these priorities to activities that affect elementary and secondary education.

The Secretary is particularly interested in projects of national significance that can be demonstrated successfully in an individual school or school district. Statewide or regional projects are also welcome.

1. Improving the Quality of Teaching. The Secretary expects to award ten to fifteen grants for projects that offer bold approaches to recruiting, inservice training, retraining, and retaining elementary and secondary teachers in the fields of mathematics, science, computer learning, and/or critical foreign languages.

The Secretary is particularly interested in projects that:

- Provide opportunities to upgrade and enhance the knowledge and skills of teachers currently in the classroom;
- Provide opportunities to recruit and train otherwise well qualified individuals who lack teaching certification or pedagogical preparation in these subjects; or
- Establish procedures to recognize and reward outstanding teachers.

Activities

Project activities may include, but are not limited to:

- The development of innovative approaches to recruiting qualified content specialists from such sources as corporations, businesses, college faculties, government agencies, research facilities, college graduates who lack pedagogical training, and the increasing pool of retired professionals, through such means as sabbaticals, exchange programs, accelerated training programs, and alternative certification programs.
- The development of programs that recognize and reward outstanding teachers in mathematics, science, computer learning, and/or foreign languages by providing them with research opportunities, sabbaticals, advanced training in their fields, or other means of conferring increased status, new responsibility, and greater financial remuneration.
- The establishment of collaborative partnerships between State and local educational agencies, colleges and universities, museums, and other nonprofit organizations to develop innovative teacher training programs.

The above examples are meant to illustrate the types of activities the Secretary is interested in supporting. Applicants are encouraged to submit proposals that expand upon, combine, or consider ideas other than these examples.

It is expected that awards under this priority will range from $50,000 to $150,000 each. Applicants may apply for funding for a project that is up to 18 months in duration.

2. Improving the Quality of Instruction. The Secretary expects to award ten to fifteen grants for projects that develop approaches to strengthening and improving the content and coherence of the school curriculum in mathematics, science, computer learning, and/or critical foreign languages, and to upgrading and enhancing instructional materials (including textbooks and computer software) in the four subject areas.

The Secretary is particularly interested in projects that:

- Determine the extent to which textbooks and other instructional materials include the most important and up-to-date knowledge available;
- Evaluation the curriculum, course content, and graduation requirements to determine whether they ensure that students will be knowledgeable in mathematics, science, computer, learning, and foreign languages, and that high aptitude students have access to especially challenging courses; or
- Develop new instructional approaches that promise to improve teaching and increasing learning. (Please note: The Secretary discourages the use of these funds for the development of instructional materials).

Activities

Project activities may include, but are not limited to:

- The establishment of partnerships between individual schools, State and local educational agencies, colleges and universities, museums, libraries, and other nonprofit organizations to develop innovative approaches to upgrading instructional methods and materials.
- The development of activities or programs by museums, libraries, and other eligible non-profit organizations that provide alternative or supplementary instruction to students and/or teachers in mathematics, science, computer learning, and/or foreign languages.
- The systematic review of textbooks and other instructional materials to identify specific weaknesses such as limited coverage of important topics, inadequate scholarship, poor writing, or a lack of challenging material.
- The development of guidelines to be used by teachers, parents and education groups in reviewing textbooks and other instructional materials.
- The development of guidelines or criteria that can be used by schools and school boards in reviewing and establishing curricula in mathematics, science, computer learning, and/or foreign languages.

The above examples are meant to illustrate the types of activities the Secretary is interested in supporting. Applicants are encouraged to submit proposals that expand upon, combine, or consider ideas other than these examples.

It is expected that awards under this priority will range from $50,000 to $150,000 each. Applicants may apply for funding for a project that is up to 18 months in duration.

Competitive Preference

Section 212(b)(1) (20 U.S.C. 3972(b)(1)) of the EESA requires the Secretary to give special consideration to local educational agencies (LEAs), or consortia of LEAs, proposing to establish or improve magnet school programs for gifted and talented students, and applicants proposing to provide special services to historically underserved and underrepresented populations in the fields of mathematics and science.

Therefore, the Secretary will give a competitive preference of up to ten additional points to those applicants whose projects, under either of the annual funding priorities, address one or

both of the above areas of special consideration.

Required Activities

The Secretary requires, as a condition for funding under both priorities, that applicants agree to:

(a) Where appropriate, develop models for improving the qualify of teaching and instruction in mathematics, science, computer learning, and/or critical foreign language; and

(b) Provide a final case study of the project that is suitable for widespread distribution and possible utilization by individual schools, school districts, or education policy-makers.

Restriction on Use of Funds

Under 34 CFR 755.34, the Secretary may restrict the amount of grant funds used under this program to purchase equipment. For the purposes of this competition, no more than ten percent of the grant funds may be used to purchase equipment.

However, this restriction does not apply to the acquisition of laboratory supplies (e.g., chemicals for chemistry labs), provided that the costs of these supplies are reasonable and are necessary to carry out the project's objectives and activities.

Program Authority: 20 U.S.C. 3972.

(Catalog of Federal Domestic Assistance Number 84.168, Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages)

Dated: December 31, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-139 Filed 1-3-86; 8:45 am]

BILLING CODE 4000-01-M

Office of Educational Research and Improvement;

Unsolicited Proposal Program

AGENCY: Department of Education.

ACTION: Application Notice for New Awards Under the Unsolicited Proposal Program for Fiscal Year (FY) 1986.

Programmatic and Fiscal Information

Applications are invited for new projects under the Office of Educational Research and Improvement's (OERI) Unsolicited Proposal Program.

In addition to conducting a program of soclicited research grants competitions, the Department encourages eligible parties to develop promising and fresh ideas relevant to the Office's mission and to submit such ideas in unsolicited proposal applications. The Secretary is seeking applications that propose work that is both significant and potentially useful for the betterment of knowledge and practice about American education.

Evaluation of Proposals

The Secretary has not established particular areas of education or research as competive priorities for the Unsolicited Proposal Program for FY 1986 as authorized by the regulations on Eligibility and Application for Research Grant Assistance at 34 CFR 701.6(c)(2)(ii) and (iii) and the Education Department General Administrative Regulations at 34 CFR 75.105(c)(2). Each proposal will be evaluated accordng to the condition set forth in 34 CFR 701.6(c)(2)(i) and the evaluation criteria set forth in 34 CFR 701.10(b).

Eligible Applicants

Eligible applicants for awards include any individual and any public or nonprofit private organization, institution, or agency found by the Secretary to be authorized and qualified by educational, scientific, or other relevant competence to carry out a proposed research project.

Available Funds

The estimated amount of funds avaialble for new awards under this program is $500,000.

The number and size of awards for unsolicited proposals funded in FY 1986 will depend on a number of factors, including the quality of the proposals and the availability of resources. Only projects of the highest quality will be supported, whether or not the resources of the program are exhausted. The total amount allocated to the Unsolicited Proposal Program may be increased by the Secretary, based on the merits of applications received. The Secretary expects to make awards for a project period of approximately twelve (12) months.

Timing of Awards

During FY 1986, the Secretary will evaluate all proposals which have been received. The Secretary may than make awards based on those evaluations. At his discretion, the Secretary may evaluate proposals and make awards several times during FY 1986.

Closing Date for Transmittal of Applications

Applications for unsolicited proposals must be mailed or hand delivered by July 31, 1986.

Each late applicant will be notified that its application will not be considered during the FY 1986 competition.

Applications sent by mail must be addressed to the United States Department of Education, OERI Unsolicited Proposal Clearinghouse, Room 619-J, Office of Educational Research and Improvement, 1200 19th Street, NW., Washington, DC 20208.

Applications that are had delievered must be taken to the United States Department of Education, OERI Unsolicited Proposal Clearinghouse, Room 619-J, Brown Building, 1200 19th Street, NW., Washington, DC.

The Unsolicited Proposal Clearinghouse will accept hand delivered applications between 8:00 am and 4:30 pm (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations governing Eligibility and Application for Research Grant Assitance in 34 CFR Parts 700 and 701.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

Application Forms

The Department has no application forms or prescribed format for the unsolicited proposal program. Applicants are encouraged to clearly label the application "Unsolicited Proposal" to insure efficient administrative processing of the application.

Further Information

For further information, contract Ms. Clara Copeland, Office of Research, Office of Educational Research and Improvement, United States Department of Education, 1200 19th Street, NW., Mail Stop Number 1805, Washington, DC 20208. Telephone Number: (202) 254-5407.

Program Authority: (20 U.S.C. 1221e).

Dated: December 30, 1985.

Chester E. Finn, Jr.,

Assistant Secretary, Educational Research and Improvement.

[FR Doc. 86-138 Filed 1-3-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

Atomic Energy Agreements, Proposed Subsequent Arrangement; European Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer:

RTD/SW(EU)–134, for the retransfer of 45,605 kilograms of uranium, containing 1,440 kilograms of uranium-235 (3.16% enrichment) from France to Sweden, for use as fuel in the Baresbaek I and II power reactors.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 31, 1985.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86–192 Filed 1–3–86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Empire Gas Corp.; Acting on Consent Order

AGENCY: Economic Regulatory Administration [ERA], DOE.

ACTION: Adoption of proposed consent order as final order.

SUMMARY: The Department of Energy [DOE] hereby gives the notice required by 10 CFR 205.199J that it has adopted as final the Consent Order with Empire Gas Corporation [Empire], executed on October 30, 1985 and published for comment in 50 FR 46819 on November 13, 1985. The Consent Order resolves a Proposed Remedial Order [PRO], Case Number HRO–0250, in which the Economic Regulatory Administration [ERA] alleged violations of $818,412.00, plus interest raising the total to $1.6 million. In settlement of the allegations contained in the PRO, and to resolve the issue of Empire's compliance with the Federal petroleum price and allocation regulations for the period August 19, 1973 through January 27, 1981, Empire has agreed to pay the sum of $925,000.00 to DOE. ERA will then initiate a special refund proceeding under 10 CFR Part 205, Subpart V.

As required by § 205.199J, DOE provided a period of not less than thirty days following publication of the notice of Proposed Consent Order for the submission of comments. ERA received one comment, which arrived late, supporting ERA's determination to seek a Subpart V special refund proceeding. Accordingly, ERA has determined that the Consent Order should be made final without modification. The Consent Order becomes effective as a Final Order of the DOE on the date of the publication of this notice.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Assistant Chief Counsel for Administrative Litigation, Economic Regulatory Administration, RG–15, Room 3H–017, U.S. Department of Energy, Washington, DC 20585, (202) 252–4387.

Copies of the Consent Order may be received free of charge by written request to: Empire Consent Order Request, Administrative Litigation Division, Economic Regulatory Administration, RG–15, Room 3H–017, Forrestal Building, 1000 Independence Avenue, SW., Washington DC 20585.

Copies may also be obtained in person at the same address or at the: Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC.

SUPPLEMENTARY INFORMATION: On November 13, 1985, DOE published notice in the **Federal Register** at pages 46,819 through 46,820, announcing the execution of a proposed Consent Order between Empire and DOE. In compliance with DOE Regulations, that Notice, and a Press Release issued December 4, 1985, summarized the Consent Order and the facts behind it. The Notice and Press Release also gave instructions for obtaining copies of the Consent Order.

The Consent Order can be summarized as follows:

1. Empire and DOE resolve: (1) An audit conducted by the DOE, which resulted in the issuance of a Proposed Remedial Order to Empire on August 20, 1984 alleging violations of the Federal petroleum price and allocation regulations during the period May 1978 through February 1979, and (2) Empire's compliance with these regulations during the remainder of the period August 19, 1973 through January 27, 1981.

2. Empire will pay $325,000 to DOE within 10 days of the effective date of this Consent Order, and two payments of $300,000 each, plus interest at the rate of 10.44%, not later than March 1, 1986 and June 1, 1986. The funds will be deposited in escrow for disposition by the DOE. ERA has determined that it will petition to initiate a special refund proceeding under 10 CFR Part 205, Subpart V to determine the appropriate distribution of the funds.

3. Empire and DOE release each other from further liability for the matters covered by the Consent Order. DOE agrees not to seek penalties.

4. The Consent Order also provides details concerning the confidentiality of the audit date, further recordkeeping, enforcement of the Consent Order and further action in the event of concealment or misrepresentation. The Consent Order does not constitute an admission by Empire or a finding by DOE of a violation of the Federal petroleum price and allocation statutes or regulations.

As note, the only comment received supported the use of a Subpart V special refund proceeding. Accordingly, ERA has determined to adopt the Proposed Consent Order, without modification, as a final order of the DOE, pursuant to 10 CFR § 205.199J. The Consent Order becomes effective upon publication of this notice.

Issued in Washington, DC, December 17, 1985.

Carl A. Corrallo,

Chief Counsel, Economic Regulatory Administration.

[FR Doc. 86–188 Filed 1–3–86; 8:45 am]

BILLING CODE 6450-01-M

Texas Pacific Oil Co., Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Doe.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed

Consent Order for $1,300,000 with Texas Pacific Oil Company, Inc. and provides an oppportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by: February 5, 1986.

ADDRESS: Send comments to: Texas Pacific Consent Order Comments, Office of the Chief Counsel for Administrative Litigation, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Alan R. Fedman, Office of Administrative Litigation, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Copies of the proposed Consent Order may be obtained free of charge by writing or calling this office (202/252–2856).

SUPPLEMENTARY INFORMATION: On December 12, 1985, the ERA executed a proposed Consent Order with Texas Pacific Oil Company, Inc. Under 10 CFR 205.199j(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than February 5, 1985, requesting comments concerning the proposed Consent Order. Although ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order, or issue the Consent Order as signed.

I. Background

During the period September 1, 1973 through December 31, 1975, Texas Pacific Oil Company, Inc. (Texas Pacific) owned and operated working interests in the W. W. McClure, J. W. Tharp, and Rosa Baranett "A" properties located in Texas, and the Southwest Eaton property located in New Mexico. Accordingly, Texas Pacific was a "producer" of crude oil, as defined in 10 CFR 212.31, and was subject to the regulations governing first sales of domestic crude oil in 10 CFR Part 212, Subpart D. The ERA conducted an audit of the sales of crude oil made during this period by Texas Pacific from those properties. The audit concluded that these sales were made at prices in excess of the maximum lawful ceiling prices provided by Subpart D.

On December 15, 1978, DOE issued a Proposed Remedial Order (PRO) to Texas Pacific. The PRO alleged that Texas Pacific caused overcharges in the amount of $735,438.64 during the audit period attributable to sales from the four properties described above. The PRO also ordered Texas Pacific to determine the amount of overcharges occurring since the end of the audit period and to refund these amounts. Texas Pacific filed a Notice of Objection to the PRO on December 27, 1978. Texas Pacific's Statement of Objections (S/O) to the PRO was filed on February 27, 1979. In its S/O, Texas Pacific objected to the property designations relied on by ERA in calculating overcharges and raised several additional defenses which it claimed reduced its liability for overcharges.

After considering briefs and oral argument by ERA and Texas Pacific DOE's Office of Hearings and Appeals issued the PRO as a Remedial Order (RO) on October 27, 1984. In the RO, OHA rejected Texas Pacific's multiple property treatment for the Eaton and Barnett properties. OHA determined, however, that separate properties existed at the McClure and Tharp tracts and that each of these tracts should both be treated as two properties. Under this decision, Texas Pacific's liability, inclusive of interest and continuing violations, is approximately $2,400,000. On December 19, 1984, Texas Pacific appealed this decision to the Federal Energy Regulatory Commission.

Throughout the foregoing proceeding, Texas Pacific has claimed that its treatment of its operated leases as multiple properties was consistent with the crude oil provisions of the Mandatory Petroleum Price Regulations. In taking this position, Texas Pacific contends that it has met the factual criteria necessary to qualify for several of the exceptions to the property definition. Based on an analysis of the firm's arguments and the entire record in this proceeding, and in light of the expense to the government associated with any additional litigation, ERA believes that a payment of $1.3 million is a satisfactory compromise of the issues raised in this audit. This amount includes interest.

II. The Consent Order

The proposed Consent Order has been entered into in order to resolve all civil and administrative disputes, claims, and causes of action by DOE relating to Texas Pacific's compliance with the federal petroleum price and allocation regulations during the period August 19, 1973 through January 28, 1981. Although Texas Pacific contends that in all respects it correctly construed and applied the applicable regulations, Texas Pacific has entered into this proposed Consent Order to a void the expense of litigation and the disruption of business. DOE believes the proposed Consent Order is in the public interest and provides a satisfactory resolution of the issues raised by the audit.

III. Refunds

Under the terms of the proposed Consent Order, Texas Pacific shall pay to DOE the sum of $1,300,000 in a single payment to be made thirty days from the date the consent order becomes final. The refund will be deposited in a suitable account for appropriate distribution by DOE.

IV. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this proposed Consent Order to the address given above. The ERA will consider all comments it receives by 4:30 P.M., local time, on the 30th day after the date of publication of this notice.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, DC, on the 23d day of December 1985.

Carl A. Corrallo,

Chief Counsel for Administrative Litigation, Economic Regulatory Administration.

[FR Doc. 86–189 Filed 1–3–86; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 85–40–NG]

Tennessee Gas Pipeline Co.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Application for Blanket Authorization to Import Natural Gas from Canada for Short-Term and Spot Sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on December 18, 1985, of the application of Tennessee Gas Pipeline Company (Tennessee), a division of Tenneco, Inc., for blanket authorization to import from Canada up to 200 Bcf of natural gas over a two-year period beginning on the date of first delivery. The gas would be purchased from various Canadian sellers on a spot or short-term basis either on Tennessee's own account for its system supply or on behalf of customers. Tennessee proposes to buy Canadian spot gas only if the price plus transportation costs is lower than the rest of other available gas supplies. Tennessee proposes to file quarterly reports with the ERA giving the specific

terms of each import sale, including the price and volumes.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., on February 5, 1986.

FOR FURTHER INFORMATION CONTACT:

Norman Breckner, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9482

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, 100 Independence Ave., SW., Forrestal Building, Room 6E–042, Washington, DC 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., February 5, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial/type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party request additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Tennessee's application is available for inspection and copying in the Natural Gas Division Docket Room GA–076–A, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, December 31, 1985.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–190 Filed 1–3–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[IR–000–1111; IR–000–772; IR–000–151; IR–000–433

City of Longmont, CO; City of Loveland, CO; Town of Estes Park, CO; City of Fort Collins, CO; Requests for Waiver

December 30, 1985.

Notice is hereby given that the four nonregulated utilities identified above have filed pursuant to § 292.403 of the Commission's regulations for waiver of certain requirements established by the Commission under Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). These entities seek a waiver of the requirement that they implement the provisions of § 292.303(a) of the Commission's regulations (18 CFR Part 292, Subpart C).

Each of the nonregulated electric utilities has provided public notice in its service area of its intent to request this waiver and has requested comments from any interested person. Each utility has requested a waiver from § 292.303(a) of the Commission's regulations under 18 CFR Part 292, Subpart C which would require these utilities to purchase any power made available from any qualifying facility either directly or indirectly. Each utility has arranged for the Platte River Power Authority, their jointly-owned agent and instrumentality and all-requirements wholesale supplier, to make purchases from qualifying facilities on their behalf. The Platte River Power Authority has duly implemented the Commission's PURPA regulations, having filed its implementation plan (IR–000–599) on March 24, 1981. Given this arrangement, the applicants believe that direct purchases are not necessary to encourage cogeneration and small power production and are not otherwise required by § 210 of PURPA.

Any person desiring to be heard or to protest any of the above filings should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed with thirty (30) days of publication of notice in the **Federal Register**, and should reference the applicable docket number or numbers. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-126 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES86-23-000]

Gulf States Utilities Co.; Application

December 31, 1985.

Take notice that on December 19, 1985, Gulf States Utilities Company (Applicant) filed an application seeking an order under § 204(a) of the Federal Power Act authorizing the Applicant to issue up to $100,000,000 Principal Amount of First Mortgage Bonds and seeking exemption from competitive bidding requirements.

Any person desiring to be heard or to make any protest with reference to the Application should, on or before January 17, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-127 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 8323-001, et al.]

City of Leesburg, Florida, et al.; Surrender of Preliminary Permits

December 31, 1985.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. City of Leesburg, Florida

[Project No. 8323-001]

Take notice that the City of Leesburg, Florida, Permittee for the proposed Moss Bluff Hydro Project No. 8323, has requested that its preliminary permit be terminated. The permit was issued on November 29, 1984, and would have expired April 30, 1986. The project would have been located on the Oklawaha River near the City of Leesburg, Marion County, Florida. The Permittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The Permittee filed the request on November 7, 1985.

2. City of Yakima, Washington

[Project No. 8154-003]

Take notice that the City of Yakima, Washington, Permittee for the Rattlesnake Creek Project No. 8154, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8154 was issued on September 24, 1984, and would have expired on August 31, 1986. The project would have been located on Rattlesnake Creek in Yakima County, Washington.

The Permittee filed the request on November 26, 1985.

3. Enertech, Inc.

[Project No. 8044-003]

Take notice that Enertech, Inc., Permittee for the Upper and Lower Mesa Falls Project No. 8044, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8044 was issued on May 14, 1985, and would have expired on April 30, 1987. The project would have been located on Henry's Fork in Fremont County, Idaho.

The Permittee filed the request on November 4, 1985.

4. Gilead Power Company

[Project No. 7913-001]

Take notice that the Gilead Power Company, Permittee for the Gilead Project No. 7913, located on the Androscoggin River in Oxford County, Maine has requested that its preliminary permit be terminated. The permit was issued on December 20, 1984, and would have expired November 30, 1986. The Permittee states that analysis of the Gilead Project did not indicate feasibility for developoment.

The Permittee filed the request on December 2, 1985.

5. Guilford Industries, Inc.

[Project No. 8318-001]

Take notice that the Guilford Industries, Inc., Permittee for the Newport Project No. 8318, located on the East Branch of the Sebasticook River in Penobscot County, Maine has requested that its preliminary permit be terminated. The permit was issued on November 27, 1984, and would have expired April 30, 1986. The Permittee states that analysis of the Newport project did not indicate feasibility for development.

The Permittee filed the request on December 3, 1985.

6. Hudson River—Black River Regulating District

[Project No. 6366-002]

Take notice that the Hudson River—Black River Regulating District, Permittee for the Indian Lake Project No. 6366, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 6366 was issued on June 7, 1985, and would have expired on November 30, 1986. The project would have been located on the Indian River, in Hamilton County, New York.

The Permittee filed the request on November 5, 1985.

7. James W. Caples

[Project No. 8194-008]

Take notice that James W. Caples, Permittee for the Napias Creek Project No. 8194, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 8194 was issued on September 24, 1984, and would have expired on February 28, 1986. The project would have been located on Naples Creek in Lemhi County, Idaho.

the Permittee filed the request on November 12, 1985.

8. PRODEK, Inc.

[Project No. 8576-001]

Take notice that PRODEK, Inc., Permittee for the proposed Stillhouse Hollow Dam Water Hydro Project No. 8576, has requested that its preliminary permit be terminated. The permit was issued on March 14, 1985 and would have expired February 28, 1987. The project would have been located on the Lampasas River near Belton, Bell County, Texas. The Permittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The Permittee filed the request on December 2, 1985.

9. Price City

[Project No. 8077-001]

Take notice that Price City, Permittee for the proposed Scofield Water Power Project No. 8077, has requested that its preliminary permit be terminated. The preliminary permit was issued on August 20, 1984, and would have expired on January 31, 1985. The project would have been located on the Price River in Carbon County, Utah.

The Permittee filed the request on October 22, 1985.

10. White Chuck Water Company

[Project No. 5773-001]

Take notice that White Chuck Water Company, Permittee for the White Chuck River No. 1 Project No. 5773, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5773 was issued on August 29, 1985, and would have expired on July 31, 1988. The project would have been located on the White Chuck River in Snohomish County, Washington.

The Permittee filed the request on December 2, 1985.

11. White Chuck Water Company

[Project No. 5774-001]

Take notice that White Chuck Water Company, Permittee for the White Chuck River No. 2 Project No. 5774, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5774 was issued on August 29, 1985, and would have expired on July 31, 1988. The project would have been located on the White Chuck River in Snohomish County, Washington.

The Permittee filed the request on December 2, 1985.

Standard Paragraphs

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-178 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-150-004]

Natural Gas Pipeline Co., of America; Motion to Make Suspended Tariff Sheets Effective

December 30, 1985.

Take notice that on December 20, 1985, Natural Gas Pipeline Company of America (Natural) filed at Docket No. RP85-150 with the Federal Energy Regulatory Commission a Motion to Make Suspended Tariff Sheets Effective January 1, 1986. By agreement with its customers and as stated in its motion to Defer Hearing and for Expedited Consideration filed November 12, 1985, Natural proposed that the Base Rates to be effective at the termination of the suspension period would be at the lower levels set out in its Stipulation and Agreement submitted in this proceeding to the Commission on November 8, 1985, pursuant to Commission Rule 602 (18 CFR 385.102).

In addition, Natural filed a revised GRI surcharge of 1.31¢ per Mcf to be effective January 1, 1986, pursuant to section 26 of its General Terms and Conditions. Natural states that the 1.31¢ per Mcf surcharge is in accordance with the Commission's Opinion No. 243, issued September 26, 1985, in Docket with the Commission's Opinion No. 243, issued September 26, 1985, in Docket No. RP85-154-000, which approved a GRI Funding Unit of 1.35¢ per Mcf. Under Natural's billing basis of 14.65 psia at 1000 Btu, the approved GRI Funding Unit Converts to 1.31¢ per Mcf.

Natural states that copies of this filing have been served on all of its jurisdictional customers, all parties at Docket No. RP85-150, and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before January 6, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-126 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-19-103]

Salmon River Basin, ID; Availability of an Environmental Assessment for the Resource Sort Phase of the Salmon River Basin Cluster Impact Assessment Procedure

December 30, 1985.

As part of the Commission Staff's Cluster Impact Assessment Procedure, an environmental assessment for the Resource Sort Phase has been prepared on the subject river basin.

A copy of this document is available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-129 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-8-000]

Transcontinental Gas Pipe Line Corp., and Transco Gas Supply v. American Petrofina Co. of Texas, Fina Oil and Gas, Inc. and Petrofina Delaware, Inc.; Complaint and Petition for Declaratory Order

Issued: December 30, 1985.

On November 7, 1985, Transcontinental Gas Pipe Line Corporation and Transco Gas Supply Corporation (Transco) filed a complaint against American Petrofina Company of Texas, Fina Oil and Gas, Inc. and Petrofina Delaware, Inc. (Fina). Transco requests that the Federal Energy Regulatory Commission (Commission) find that a violation of section 504(a)(1) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3414(a)(1) (1982), would result if Fina were to receive the take-or-pay payments for natural gas that it has demanded. Transco further requests that the Commission issue a declaratory order to terminate the controversy between Fina and Transco and to remove uncertainty.

As one basis for its complaint, Transco states that if it were to make take-or-pay payments to Fina, Transco could not recoup all of these payments by later taking delivery of sufficient gas volumes from Fina. The receipt of additional value in the form of take-or-pay payments that cannot be recouped, asserts Transco, increases the price actually received by Fina above the price permitted under the NGPA. Even where payments are recouped, states Transco, the time value of the money advanced effectively raises the prices of gas above the applicable regulatory price ceilings.

As another basis of its complaint, Transco states that Fina violated 18 CFR 154.103 (1985). This regulation requires that a five-year make-up period be accorded buyers in which to recoup gas paid for but not yet taken. Transco asserts that although its contracts with Fina provide on their face for a five-year recoupment period, the small amount of gas reserves in the properties at issue render such recoupment impossible. Transco concludes that the recoupment provisions are therefore illusory and do not comply with the intent of § 154.103 of the Commission's regulations.

Transco additionally requests the Commission to issue a declaratory order:

a. Finding that the maximum lawful price ceilings established under Title I of the NGPA would be exceeded if Fina were to receive take-or-pay payments for natural gas that may not be recouped by Transco;

b. Removing uncertainty as to whether maximum lawful price ceilings established under Title I of the NGPA would be exceeded if Fina were to receive take-or-pay payments for natural gas, even if such payments could be made up by Transco;

c. Finding that the take-or-pay and make-up provisions contained in the Fina contracts do not comply with the intent of § 154.103 of the Commission's regulations, 18 CFR 154.103 (1985); and

d. Any other findings which the Commission may deem appropriate or relevant to the underlying controversry between Transco and Fina.

Any person who desires to be heard or to make protest to the complaint and petition for declaratory order should file, within 30 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1985)). All protests filed will be considered but will not make the protestants parties to the proceeding. Answers to the complaint shall be made under Rules 206 and 213 (18 CFR 385.206 and 385.213 (1985)).

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–130 Filed 1–3–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85–1–000 (Parts A–D)]

Regulation of Natural Gas Pipelines After Partial Decontrol; Natural Gas Pipeline Co. of America

Issued: December 20, 1985.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Order denying request for clarification.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this part, the Commmission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Natural Gas Pipeline Company of America, the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Sharon Schellhardt, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8574.

SUPPLEMENTARY INFORMATION:

Order Denying Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On November 25, 1985, Natural Gas Pipeline Company of America filed a request for clarification of the Commission's Regulations. Specifically, Natural requests clarification of the transitional provisions of § 284.105.

Natural entered into two transportation agreements with GHR Transmission Corporation (GHR), an intrastate pipeline company. Under the first agreement, dated April 12, 1984, Natural agreed to transport up to 100,000 MMBtu's of gas per day for two years, and 50,000 MMBtu's of gas per day for three years thereafter, subject to the receipt of section 7(c) or section 311(a) transportation approval from the Commission. The parties, however, never filed for a long-term authorization of this transportation arrangement.

Under the second transportation agreement, Natural agreed to provide transportation service under the self-implementing provisions of Subpart B of Part 284 of the Commission's Regulations until the earlier or (1) the date of acceptance by Natural of long-term authorization of the transportation service to be provided under the first agreement or (2) twelve months from the date of initial deliveries. Since long term authorization was never sought by the parties, the twelve month period was the governing term and the contract expired on November 21, 1985. The parties did not file extension reports pursuant to § 284.106(c) of the old regulations.

Natural argues that clarification should be granted because of a mutual understanding of the parties that transportation would continue. As support for this position, Natural cites the language of the second contract, which contemplates the possibility of a term beyond the specified twelve-month period.

We find that neither contract between Natural and GHR satisfies the requirements of § 284.105. The first contract, signed in April 1984, specifies that the agreement is "subject to" receipt of section 7(c) j or section 311(a) transportation approval from the Commission. As stated in Natural's petition, such approval of the transaction was not sought. The transportation arrangement was, therefore, not in effect on October 9, 1985. The second contract does not meet the requirements of the transitional provisons because the contract expired and extension reports were not filed pursuant to § 284.106 of the old regulations. Initiation of service under a new contract signed after October 9, 1985 would constitute a new NGPA section 311 transportation transaction under section 284.102.[1] Accordingly, Natural's request for clarification is denied.

By the Commisison.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–32 Filed 1–3–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85–1–000 (Parts A–D)]

Regulation of Natural Gas Pipelines After Partial Decontrol; Brooklyn Union Gas Co.

Issued: December 20, 1985.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Order denying petition for stay or waiver.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Brooklyn Union Gas Company, the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Jim Golembeck, Federal Energy

[1] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Berkshire Gas Company), 33 FERC ¶ (December 13, 1985).

Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, (202) 357–5333.

SUPPLEMENTARY INFORMATION: .

Order Denying Petition For Stay or Waiver

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt, C. M. Naeve.

On November 19, 1985, Brooklyn Union Gas Company (Brooklyn Union) filed a petition for stay until April 15, 1986, of the contract demand conversion/reduction provisions of § 284.10 of Order No. 436.[1] Brooklyn Union requests, alternatively, that the Commission waive the applicability of § 284.10 to any interstate pipeline that files for a traditional certificate under section 7 of the Natural Gas Act to continue transportation that was provided until December 15, 1985, under Subpart B of Part 284.[2] Brooklyn Union requests that such waivers continue until thirty days after the issuance of the section 7 certificate.

Brooklyn Union asserts that either a stay or the waiver policy is necessary to prevent the interruption of gas supplies. Brooklyn Union indicates that it has a number of contracts with interstate pipelines for NGPA section 311 service that was authorized and commenced prior to October 9, 1985. Some of these contracts terminate around December 15, 1985. Several pipelines have indicated to Brooklyn Union that they do not intend to renew these contracts for transportation after December 15, 1985 on grounds that it would subject them to the contract demand reduction and conversion conditions in § 284.10.

The Commission denies Brooklyn Union's request for a limited stay or policy of waiving the conditions of § 284.10. While section 705 of the Administrative Procedure Act [3] authorizes the Commission to postpone the effective date of its actions when justice so requires, the Commission is unable to make that finding here. Order No. 436–A, issued on December 12, 1985, amended § 284.10(a) to allow NGPA section 311 transportation arrangements begun or renewed after November 1, 1985, to continue until February 15, 1986, without triggering the contract damend reduction/conversion conditions of § 284.10. As stated in Order No. 436–A, "the extended transition period is intended to permit different segments of the industry to adjust their commercial arrangements to take advantage of the opportunities under Order No. 436, without unduly disrupting transportation during the winter heating season." (Order No. 436–A, Mimeo at 276–77.)

By the Commission

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–33 Filed 1–3–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM85–1–000 (Parts A–D)]

Regulation of Natural Gas Pipelines After Partial Decontrol; Columbia Gas Transmission Corp.

Issued: December 20, 1985.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Order denying request for clarification.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Columbia Gas Transmission Corporation, the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Foerster, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8317.

SUPPLEMENTARY INFORMATION: .

Order Denying Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

Columbia Gas Transmission Corporation has requested that we clarify that it has no obligation to provide transportation service pursuant to § 284.223(g)(2) of the regulations promulgated in Order No. 436 [1] to customers who have refused to pay Commission authorized charges. Columbia states that it should not be required to accommodate Mountaineer Gas Company's November 1, 1985 request for 80,000 Dth per day of transportation service on the ground that Mountaineer has refused since June 1985 to pay demand charges associated with its purchases of natural gas under Columbia's Rate Schedule CDS. Columbia further states that the demand charges including a substantial portion of the fixed costs associated with the capacity of its system and relate to the same facilities that Columbia is using to provide service to Mountaineer under § 284.223(g)(2). Columbia indicates that it should be able to impose a requirement, as a condition of transportation, that Mountaineer pay the CDS demand charges before transportation service is provided.[2]

We note with respect to this matter that Mountaineer has petitioned us for an order declaring that its obligations to Columbia under its service agreements are unenforceable and of no further force and effect. *Mountaineer Gas Co.*, Docket No. GP85–32–000. Columbia, in the same proceeding, has petitioned us to issue an order declaring that Mountaineer has violated Columbia's tariff. The proceeding is pending.

Columbia must continue to provide transportation service to Mountaineer. Section 284.223(g)(2) authorizes a pipeline to continue to transport gas for its customers under its blanket certificate for a 45-day period after October 31, 1985, if it complies with §§ 284.8(b) and 284.9(b) of the Order No. 436 regulations. Those regulations provide that any transportation services must be provided without any undue discrimination or preference. Mountaineer's refusal to pay demand charges under Columbia's CDS rate schedule does not excuse Columbia from its obligations under those non-discriminatory access provisions, and Columbia may not require payment of such charges as a condition of providing transportation service. Refusing to provide transportation services under 284.223(g)(2) is not an appropriate means of resolving a dispute between the two parties concerning Columbia's sales tariff. That dispute should be resolved either in Docket No. GP85–32–000 or in a court action, as appropriate.

We note that Columbia, on December 13, 1985, filed an application for a blanket certificate to provide transportation under § 284.221 of the Order No. 436 regulations. Columbia may continue to provide transportation service on an interim basis under § 284.223(g) of the regulations until such

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[1] 50 FR 42408 (Oct. 18, 1985).

[2] Subpart B of Part 284 contains the Commission's regulations implementing section 311 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432 (1982).

[3] 5. U.S.C. 551 *et seq.* (1982).

[1] RM85–1–000, 50 FR 42408 (October 18, 1985).

[2] On November 8, 1985, Mountaineer filed an answer to Columbia's request for Clarification.

time as the Commission takes action on its blanket certificate application.

By the Commission.

Kenneth F. Plumb,

Secretary

[FR Doc. 86-34 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000 Parts A-D]

Regulation of Natural Gas Pipelines After Partial Decontrol; Valley Gas Transmission, Inc.

Issued: December 20, 1985.

AGENCY: Federal Energy Regulatory Commission; Energy.

ACTION: Order granting request for clarification.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Valley Gas Transmission, Inc., the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Bruce Neely, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8491.

SUPPLEMENTARY INFORMATION:

Order Granting Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On December 6, 1985, Valley Gas Transmission, Inc. (Valley Gas) petitioned for clarification in accordance with Rule 207 of the Commission's Rules of Practice and Procedure.[1] Valley Gas seeks clarification of § 284.7(b)(1) of the regulations promulgated in Order No. 436.[2]

Valley Gas currently performs several NGPA section 311 transportation arrangements that qualify for continuation of service beyond November 1, 1985 within the grandfather provisions of new § 284.105(a). Prior to November 1, 1985, the rate Valley Gas charged for providing the NGPA 311 transportation was, pursuant to § 284.103(c)(2) of the previously effective regulations, the rate set forth in its T-1 Rate Schedule for transportation provided under section 7(c) of the Natural Gas Act. Valley Gas requests confirmation that the T-1 rate qualifies as an interim rate under § 284.7(b)(1) for the grandfathered NGPA section 311 transportation.

Valley Gas' understanding of the § 284.7(b)(1) is correct. We recently stated that a one-part rate that is permitted to be charged for NGPA section 311 pursuant to § 284.103(c)(2) of the previously effective regulations qualifies as an interim rate under § 284.7(b)(1).[3] Since Valley Gas' T-1 rate is a one-part rate that was permitted to be charged pursuant to § 284.103(c)(2) of the previously effective regulations, it qualifies as an interim rate.

Valley Gas also asks whether its T-1 rate qualifies as an interim rate for new transportation services provided under NGPA section 311 or a new blanket certificate issued pursuant to new § 284.221(b).[4] It does. Section 284.7(b)(1) does not limit the applicability of interim rates to grandfathered transportation services. Instead, the intent of § 284.7(b) is "to provide a transition period that would allow pipelines to take advantage of the new transportation opportunities under Order No. 436 by using rates that were on file when Order No. 436 went into effect. These provisions were intended to alleviate the need for numerous rate filings that would be necessary if all the rate conditions in § 284.7 had to be complied with for the interim period." [5]

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-35 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Decontrol; Midwest Solvents Co.

Issued: December 19, 1985.

AGENCY: Federal Energy Regulatory Commission; Energy.

ACTION: Order granting rehearing.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a request for rehearing filed by Midwest Solvents Company of the October 31, 1985 order denying Midwest Solvents' request for clarification of Order No. 436, the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Kevin Rees, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, (202) 357-9221.

SUPPLEMENTARY INFORMATION:

Order Granting Rehearing

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On November 8, 1985, Midwest Solvents Company filed a request for rehearing of the Commission's October 31, 1985 order denying Midwest Solvents' requests for clarification [1] of Order No. 436.[2] In the alternative, Midwest Solvents requests that we grant a waiver of the regulations affecting it. By this order,[3] we are granting Midwest Solvents' request for rehearing.

In denying Midwest Solvents' request for clarification, we held that Midwest Solvents' transportation arrangement with Panhandle Eastern Pipe Line Company did not qualify under § 284.223(g)(1) of the Regulations adopted by Order No. 436 for continued transportation authorization after November 1, 1985. In that order, we found that had Panhandle filed for authorization pursuant to § 157.209(e) of the old regulations, and that Midwest Solvents had been on notice that Panhandle was relying on authorization under § 157.209(e) (which authorized transportation for all end uses regardless of priority) since June 1984,

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[1] *See* 18 CFR 385.207 (1985).

[2] 50 FR 42408 (October 18, 1985).

[3] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Algonquin Gas Transmission Company), 33 FERC ¶ 61,183 (1985).

[4] A new blanket certificate was issued to Valley Gas on November 29, 1985. Valley Gas states that it plans to accept the certification.

[5] Columbia Gulf Transmission Co., *et al.*, 33 FERC ¶ 61,250 (1985).

[1] 33 FERC ¶61,157

[2] 33 FERC ¶61,007 (1985), 50 FR 42,408 (October 18, 1985).

[3] On December 6, 1985, we issued an order granting rehearing solely for the purpose of affording the Commission additional time to consider the issues raised in the rehearing request.

when notice appeared in the **Federal Register** that Panhandle had requested authorization to transport on Midwest Solvents' behalf.

On rehearing, we agree with Midwest Solvent that its transportation arrangement with Panhandle qualifies for continuing transportation authorization under § 284.233(g)(1) because it was authorized under § 157.209(a)(1) automatically with the commencement of service. This is so because Midwest Solvents is a high-priority end-user and no filing was necessary under § 157.209(a)(1) for service to such an end-user.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-36 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Decontrol

Issued December, 17, 1985.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Order Granting Requests for Waivers, Denying Requests for Clarifications, and Granting Rehearing.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to petitions filed by Judel Glassware Co., Creole Gas Pipeline Corporation, Northwest Central Pipeline Corporation and Montco Gas, Kansas Pipeline Company, L.P., GGSI Gathering and Processing Co. and Power-Tex, McMoRan Oil and Gas Co., Pride Energy Pipeline of Kentucky Corporation, Transcontinental Gas Pipe Line Corporation, Southern Gas Pipeline Company, Victoria Gas Corporation, Energas Company, Republic Mineral Corporation, Power-Tex, Texas Gas Transmission Corporation, Feagan Gas, Inc., and Intercon Gas, Inc., the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Joel Arneson, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8570.

SUPPLEMENTARY INFORMATION:

In the matter of: Regulation of Natural Gas Pipelines, After Partial Wellhead DeControl (Judel Glassware Co., Inc.) (Creole Gas Pipeline Corporation) (Northwest Central Pipeline Corporation and MontCo Gas) (Kansas Pipeline Company, L.P.) (GGSI Gathering and Processing Co. and Power-Tex) (McMoRan Oil and Gas Co.) (Pride Energy Pipeline of Kentucky Corporation) (Transcontinental Gas Pipe Line Corporation) (Southern Gas Pipeline Company) (Victoria Gas Corporation) (Energas Company) (Republic Mineral Corporation) (Power-Tex) (Texas Gas Transmission Corporation) (Feagan Gas, Inc.) (Intrcon Gas, Inc.); Docket No. RM85-1-000 and Docket No. RM85-1-005.

Order Granting Requests for Waivers, Denying Requests for Clarifications, and Granting Rehearing

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

The first fifteen of the transporters, sellers, and end users identified above have filed petitions for clarification of the transitional provisions of Order No. 436.[1] Intercon Gas, Inc. has filed a request for rehearing of the Commission's order that denied its petition for clarification of the transitional provisions.[2]

The transportation transactions herein are performed under section 311 of the Natural Gas Policy Act of 1978 (NGPA), § 157.209(a) of the Commission's Regulations, or § 284.221 of the Commission's Regulations, as the latter two sections were effective before November 1, 1985. The transitional

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[1] 33 FERC ¶ 61,007 (1985), 50 FR 42 408 (October 18, 1985).

[2] 33 FERC ¶61,141 (October 30, 1985).

provisions involved in this order are § 284.105 (transportation by an interstate pipeline) and § 284.223(g)(1) (transportation for high priority end users). Section 284.105 provides that a transportation arrangement authorized and for which service had commenced on or before October 9, 1985, under Subpart B or C of Part 284 or under § 284.221 or 284.222 of Subpart G as such subparts were effective before November 1, 1985, may continue until the earlier of (i) the original or extended term of the authorized transportation arrangement, or (ii) October 9, 1987. Section 284.223(g)(1) provides that a transportation arrangement authorized under § 157.209(a)(1), which commenced on or before October 9, 1985, may continue for the full term originally authorized.

We discuss below the facts and circumstances of each transportation transaction for which a clarification request was filed, and grant or deny waiver of the regulations based on an economic substance standard adopted herein. We also grant rehearing of our decision in *Intercon* in light of that standard, and grant a waiver to Intercon.

Judel Glassware Co., Inc.

Judel entered into an agreement to purchase gas from a producer, TXG Gas Marketing Company, on October 11, 1985. Negotiations with TXG started in September 1985. Judel intends to use the gas to manufacture glass, a high priority end use. Under the agreement, TXG agreed to deliver the gas to Texas Gas Transmission Corporation in Arcadia Parish, Louisiana. Texas Gas agreed to transport the gas to Judel's agent, Consolidated Gas Transmission Corporation, in Warren County, Ohio, pursuant to former § 157.209(a) of the Commission's Regulations under authorization issued on September 2, 1982, in Docket No. CP82-407-000, 20 FERC ¶ 62,417. Consolidated agreed to transport the gas to Hope Gas, Inc., in Harrison County, West Virginia. Finally, Hope agreed to transport the gas to Judel's plant in Salem, West Virginia.

In anticipation of finding a gas supplier, Judel began constructing expansion facilities at its plant in September 1985 to utilize the additional gas purchased. The plant expansion would employ an additional 12 to 14 persons. Construction was completed in October and deliveries from Hope commenced on October 31, 1985. Deliveries ceased the same day.

Judel states that it started to manufacture glass in March 1984. Judel also states that without this gas supply its future is "uncertain" and 60 people in an economically distressed area could lose their jobs.

Creole Gas Pipeline Corporation

On August 14, 1985, Creole agreed to sell gas to Crown Zellerback Corporation.[3] In order to deliver gas to Crown, Creole and Texas Eastern Transmission Corporation entered into an agreement whereby Texas Eastern agreed to transport gas on behalf of Creole under section 311 of the NGPA. Texas Eastern agreed to receive gas from Tennessee Gas Pipeline Corporation, a Division of Tenneco Inc., and to deliver gas to Creole in West Feliciana Parish, Lousiana. In addition, on October 7, 1985, Creole and Texas Eastern orally agreed to add six delivery points, one of which was in LaFourche Parish, Louisiana. Transportation commenced after October 9, 1985, and ceased on October 31, 1985.

To effectuate the transportation and sale, Creole constructed 1.7 miles of pipeline, plus measurement and dehydration facilities. These facilities cost approximately $500,000. Texas Eastern constructed a delivery point in LaFourche Parish, Louisiana, pursuant to its oral agreement with Creole, at a cost of approximately $400,000. Crown has spent approximately $27,000,000 to construct its cogeneration plant.

Northwest Central Pipeline Corporation and MontCo Gas

Northwest Central commenced transporting gas to Pacific Gas and Electric Company, Faustina Pipe Line Company, Northern Gas Marketing, and Scissortail Natural Gas Company (jointly referred to as customers) prior to October 9, 1985, under the provisions of § 284.102 (transportation by interstate pipelines on behalf of intrastate pipelines or local distribution companies), or § 157.209(a)(1) (blanket certificate transportation for high priority end-users), as those sections were in effect prior to November 1, 1985. Also, prior to October 9, 1985, Northwest Central entered into written contracts with six shippers [4] to receive and transport their gas to the customers. The six shippers agreed to construct taps and gathering facilities in order to deliver gas to Northwest Central.[5]

Kansas Pipeline Company, L.P.

Kansas Pipeline and Panhandle Eastern Pipe Line Company entered into an agreement on June 14, 1985, whereby Panhandle agreed to transport gas for Kansas Pipeline. In reliance upon this agreement, Kansas Pipeline purchased more than 275 miles of pipeline and related facilities in eastern Kansas. Kansas Pipeline estimates that it spent more than $5,000,000 in purchasing, testing, and modifying the pipeline, and constructing a connection with Panhandle's system. Construction delays have postponed the start-up of the transportation service until after October 9, 1985. Kansas Pipeline has been granted authority by the Kansas Corporation Commission to purchase, sell, and transport gas in Kansas, following full hearings in November 1984.

GGSI Gathering and Processing Co. and Power-Tex

On September 12, 1985, GGSI entered into agreements to purchase natural gas

[3] Crown filed a answer in support of Creole's request.

[4] MontCo Gas, one of the six shippers, filed a petition for special relief from the Commission's Regulations under Order No. 436. Four of the other shippers, *i.e.*, Triple-T Pipeline, Inc., Diamond Shamrock Exploration Company, Jerry Lutz, Simco Petroleum, and Caporale Energy Corporation, filed answers in support of Northwest Central's request.

[5] In its petition, MontCo states that it is a small company whose major focus has been the construction of an 8.5-mile pipeline for this transportation service. MontCo also states that the livelihoods of ten employees depend on this project.

In their answers, Triple-T, Jerry Lutz, Simco, and Caporale state that they are small producers who have spent substantial sums in the construction of facilities. Simco and Caporale claim that they were formed for the specific purpose of constructing the facilities that are used in this transportation transaction. Finally, MontCo, Simco, and Caporale claim that small landowners will suffer hardship because they will lose royalty payments upon which they are depending. Construction of the facilities was not completed until after October 9, 1985. The aggregate cost of the taps is $483,000. In addition, gathering systems to deliver gas to the new taps were constructed at an aggregate cost of $3.8 million.

from independent producers in New Mexico and sell the gas to Power-Tex. On September 10, 1985, El Paso Natural Gas Company orally agreed that it would transport the gas for Power-Tex from New Mexico to a local distribution company in Lubbock, Texas, under an NGPA section 311 transportation agreement that has been in existence since November 9, 1984.

In order to implement the various agreements, GGSI and Power-Tex constructed meters in New Mexico and Lubbock. GGSI also constructed approximately 13,000 feet of pipeline and a dehydration plant. Total cost of all these facilities is estimated to be $185,000. Weather related problems in construction delayed the commencement of service until October 11, 1985. Service ceased on October 31, 1985.

McMoRan Oil and Gas Co.

On June 7, 1985, FMP Operating Company, a subsidiary of McMoRan, entered into an agreement to sell gas from South Marsh Island Block 174 to Transcontinental Gas Pipe Line Corporation. Trunkline Gas Company agreed to transport the gas for Transco, pursuant to § 284.221 of the Commission's Regulations under its blanket certificate issued on February 21, 1980, in Docket No. CP80–133, 10 FERC ¶ 61,166.

In reliance on these agreements, FMP commenced construction of a "tie-in" with Trunkline's system. The construction of the tie-in cost approximately $3,000,000. Delays in construction postponed the commencement of deliveries to Trunkline until October 22, 1985. Trunkline ceased transporting the gas on October 31, 1985.

Pride Energy Pipeline of Kentucky Corporation

On August 21 and September 11, 1985, Pride entered into agreements to sell gas to two high priority end users in Memphis, Tennessee. The end users will use the gas to operate a hospital and for food processing. Texas Gas agreed to transport the gas for the end users under § 157.209(a) of the Commission's Regulations, as they existed before November 1, 1985.

In reliance on these agreements, Pride constructed 22 miles of gathering lines that connected with the facilities of Texas Gas. The cost of these lines was approximately $2,700,000. After construction, the gathering lines were fully tested to make sure that they were operational. Deliveries to Texas Gas for sale to the end users commenced on October 8, 1985. After only 20 minutes, deliveries ceased because of compressor problems. Deliveries started again on October 9, but another compressor malfunction shut the system down. The system operated "intermittently" between October 12 and 30. Finally, on October 31, repairs were completed and full deliveries to Texas Gas began. On November 1, 1985, Texas Gas terminated the gas flow from Pride. Because Texas Gas will no longer transport its gas, Pride states that it is forced to sell the gas at "distress prices" to Texas Gas.

Transcontinental Gas Pipe Line Corporation

Transco and the Gas Utility Division of UGI Corporation (UGI) entered into an agreement on January 2, 1985, whereby Transco agreed to transport gas for UGI. In reliance upon this agreement, UGI constructed a meter and regulator station in North Coventry Township, Pennsylvania. The approximate cost of these facilities was $650,000. Construction was completed on October 30, 1985. Gas deliveries commenced and ceased on October 31.

Transco states that UGI will be deprived of vital gas supplies and left with useless facilities if the transitional provisions do not apply to this transportation service. Further, UGI states, in a supporting affadavit, that its attempt to obtain lower cost gas for its customers will be defeated without waiver of the transitional provisions of Order No. 436.

Southern Gas Pipeline Company

Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Southern entered into an agreement whereby Tennessee agreed to transport gas for Southern under section 311 of the NGPA. In reliance upon this agreement, Southern has spent, or contracted to spend, approximately $300,000 to construct facilities to connect its system with Tennessee. Tennessee also needs to construct a tap before deliveries can begin. Tennessee suspended construction of the tap because of its concerns about the final rule in Docket No. RM85–1–000.

Victoria Gas Corporation

Victoria, a producer, spent approximately $357,000 to construct a pipeline and meter facilities in reliance upon United Gas Pipe Line Company's agreement to transport gas for Victoria. Right-of-way problems delayed construction. Testing of Victoria's wells did not begin until October 8, 1985. Water in the line prevented deliveries from commencing on October 9. Gas did not begin to flow until October 14. On October 31, United ceased transporting for Victoria.

Victoria states that United's failure to transport has shut-in one of its wells. As a result, well pressure has dropped. Well pressure continues to drop each day the well is shut-in, and this has placed Victoria in danger of losing a $500,000 investment in the well.

Energas Company

On July 26, 1985, Energas, a local distribution company, entered into an agreement to purchase up to 40,000 MMBtu of gas per day from Northern Gas Marketing, Inc. On August 27, 1985, Transwestern Pipeline Company agreed to transport the gas from Northern to Energas.

In reliance on this agreement, Energas constructed facilities costing approximately $210,000 to connect its system to Transwestern's system. Inclement weather delayed the completion of construction until October 16. Although gas could have commenced flowing on October 16, Energas has no need for the gas until October 28. Transwestern ceased transporting on October 31.

Republic Mineral Corporation

On July 25, 1985, Republic entered into a contract to sell gas from one well in Louisiana to Swanee Petroleum Company. Swanee, a gas broker, arranged to sell the gas to Washington Gas Light Company. On April 1, 1985, Transcontinental Gas Pipe Line Corporation (Transco) agreed to transport the gas from Republic to WGL.

In reliance on these arrangements, Republic constructed four miles of 4-inch pipeline at a cost of approximately $450,000 to connect its well with Transco's system. Surveying, right-of-way acquisition, and securing the necessary permits for the construction began in July 1985. Actual construction commenced on October 8, 1985. Construction was delayed by two hurricanes and the pipeline was not completed until November 15, 1985.

Transco has refused to transport the gas from Republic. Republic claims that without Transco's transportation the will will remain shut-in and the newly constructed facilities will be rendered useless.

Power-Tex

On May 15, 1985, Power-Tex and Amoco Production Company entered into an agreement whereby Power-Tex agreed to sell gas to Amoco. The gas will be used by Amoco on an "as needed basis" at its Lowell and Slaughter gas processing plants in

Hockley County, Texas. The processing plants process casinghead gas. In cold weather, extra gas is needed to meet the fuel requirements of "heater-treaters" and to prevent line freeze-ups. Gas shortfalls would force Amoco to shut in numerous oil wells.

In May 1985, El Paso Natural Gas Company orally agreed to transport gas for Power-Tex under an NGPA section 311 transportation agreement that has been in existence since November 9, 1984. Power-Tex agreed to pay for the construction of pipeline and tap facilities necessary to connect Amoco's plants to El Paso's system. These facilities were completed on October 2, 1985, at a cost of approximately $40,000. As of November 1, 1985, no gas had flowed to Amoco due to an absence of cold weather.

Texas Gas Transmission Corporation

Texas Gas commenced transporting gas to Citizens Gas & Coke Utility for two high priority end users in Indianapolis, Indiana, under § 157.209(a) of the Commission's Regulations, before October 9, 1985. Texas Gas delivers gas to Citizens Gas at their existing connection near Worthington, Indiana. Because of problems with the Worthington connection, Texas Gas filed an application in Docket No. CP85–830–000 under section 7(c) of the Natural Gas Act to construct and operate a new delivery point with Citizens Gas on its Terre Haute-Martinsville main line.

Texas Gas states that the proposed delivery point in Docket No. CP85–830–000 was included as a proposed point of receipt in the initial reports filed with the Commission prior to October 9, 1985, in Dockets Nos. ST85–1482–000 and ST85–1684–000. Texas Gas states that no objection was made by the Commission to Texas Gas's initial report. Finally, Texas Gas states that only the lack of Commission authorization in Docket No. CP85–830–000 prevented the construction of the new delivery point and the transportation of gas to that point before October 9, 1985.

Feagan Energy, Inc.

On October 1, 1985, Feagan entered into an agreement to sell gas to El Paso Gas Marketing Co. (EPGM). In order to deliver gas to EPGM, Feagan entered into negotiations with El Paso Natural Gas Company to purchase a portion of their gathering system. A verbal agreement to purchase these facilities was made, but El Paso was forced to back out of the deal due to a change in circumstances. As an alternative method of delivering gas to EPGM, Feagan decided to construct its own gathering system. However, the Texas Railroad Commission closed a lease that Feagan was planning to cross with its gathering system. Due to these circumstances, Feagan did not construct facilities or commence transporting gas to EPGM prior to October 9.

Intercon Gas, Inc.

Intercon has filed a request for rehearing of a Commission order issued on October 30, 1985, in Docket No. RM85–1–000, 33 FERC ¶ 61,141. In *Intercon*, we denied Intercon's petition for waiver of the transitional provisions of Order No. 436.

As stated in its petition and request for rehearing, Intercon entered into an agreement to sell gas to Faustina Pipe Line Company on August 30, 1985. Natural Gas Pipeline Company of America and Texas Gas Transmission Corporation agreed to transport the gas from Intercon to Faustina. In order to deliver the gas to Natural and Texas Gas, Intercon constructed gathering, dehydration, measuring, and tap facilities at a cost of approximately $215,000. After Order No. 436 was adopted, Intercon filed a petition for waiver of the transitional provisions so that the transportation could commence. We denied Intercon's request.

Discussion

The objectives of the transitional provisions of Order No. 436 are to minimize disruption in the gas markets and to prevent undue hardship that might result from the transition from one regulatory scheme to another. The transitional provisions are designed to allow the continuation of transactions that had actual economic substance prior to the issuance of Order No. 436, while disallowing transactions initiated by parties after the date of the order unless the transporting pipeline agrees to provide non-discriminatory transportation services.

Under the transitional provisions, a transportation transaction can continue if the transportation was authorized and had commenced as of October 9, 1985. The petitioners herein have presented a variety of facts and circumstances that do not meet the requirements of these provisions. Most of these petitioners, however, have demonstrated that there was genuine economic substance to their transactions prior to October 9, 1985, that these transactions were entered into in reliance on a transportation contract that predated issuance of Order No. 436, and that hardship would result from inability to qualify for transition treatment. Under these circumstances, granting waivers to the petitioners would not defeat the objectives of the transitional provisions.

Therefore, in order to more fully meet these objectives, we will grant waivers of the restrictions in the transitional provisions of Order No. 436, so that the transportation transaction may commence or continue, in those cases where the moving party has so demonstrated that there was economic substance to the transportation transaction prior to October 9, 1985. To demonstrate economic substance, the purchaser, seller, or end user must show that, in reliance on a transportation contract, it constructed significant facilities for delivery of gas prior to October 9, or expended substantial funds prior to October 9. This test will not be satisfied if the facilities were constructed, or the funds expended, only by the transporter itself, because the transporter has the option of utilizing the transportation authority of Order No. 436.

Based on the facts recited above, we conclude that the transportation transactions identified in the petitions of Judel,[6] Creole, Northwest Central, Kansas Pipeline, GGSI, McMoRan, Pride, Transco, Southern, Victoria, Energas, Republic, and Power-Tex show the requisite construction of facilities or expenditure of substantial funds by a purchaser, seller or end user, prior to October 9, 1985, in reliance on a transportation contract entered into prior to that date. In addition, we will grant Intercon's request for rehearing because Intercon has shown that it had constructed facilities and expended substantial funds prior to October 9. Accordingly, by this order we hereby waive the restrictions in the transitional provisions of the regulations adopted in Order No. 436 to the extent necessary to permit the transportation transactions described in these 15 petitions to commence or continue.

The petitions of Texas Gas and Feagan, however, do not make the requisite showing of construction of facilities or expenditure of substantial funds by a purchaser, seller or end user prior to October 9. Thus, we decline to waive our regulations with respect to those transportation transactions.

[6] Although Judel's transportation agreements were executed on October 11, those agreements were based on extensive negotiations and oral understandings reached prior to October 9. In light of the substantial investment Judel undertook in reliance on those negotiations and oral understandings, we conclude that the facts and circumstances justify grant of a waiver even though the documents were formally executed two days after October 9.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-37 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Decontrol; Natural Gas Pipeline Co. of America

Issued: December 17, 1985

AGENCY: Federal Energy Regulatory Commission; Energy.

ACTION: Order Granting and Denying in Part, Request for Clarification.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Natural Gas Pipeline Company of America, the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Kevin Rees, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-9221.

SUPPLEMENTARY INFORMATION:

Order Granting and Denying in Part, Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On November 17, 1985, Natural Gas Pipeline Company of America (Natural) filed a request for clarification concerning various aspects of Order No. 436.[1] We are granting clarification concerning some issues raised by Natural and denying Natural's request concerning other issues raised.

1. Natural seeks clarification of § 284.7(b), which allows the use of interim rates for transportation service under Subparts B, G, or H of Part 284 prior to November 1, 1985, until an appropriate rate is filed. Natural states that it has filed an IOST rate in Docket No. RP86-13, which lists all of its existing offshore transportation services under Part 284. Natural requests clarification that transportation services otherwise grandfathered under § 284.105 may continue even though it has no interim rate on file.

On November 27, 1985, the Commission issued an order in Docket No. RP86-13-000 in which it accepted Natural's rate effective October 31, 1985.[2] Therefore, the issue Natural raises concerning the continuation of its offshore transportation has been rendered moot. Natural may continue such services in accordance with the Commission's regulations.

2. Natural next seeks clarification that a receipt or delivery point existing in an agreement as of October 9, 1985, but not utilized prior to October 10, 1985, may be used after October 31, 1985, without subjecting the transporter to §§ 284.8, 284.8 and 284.10 of the new regulations as long as service under the agreement commenced as of October 9, 1985. We grant Natural's request for clarification on this point. Natural's transportation arrangement was authorized and service commenced on or before October 9, 1985. Thus, commencement of use of particular receipt or delivery point will not subject Natural to §§ 284.8, 284.9 and 284.10, as long as those points were specified in the agreement prior to October 10.

3. Natural is requesting clarification that imbalances remaining after the termination of an agreement may be corrected on or after November 1, 1985 without subjecting the transporter to the non-discriminatory access provision of §§ 284.8, 284.9 and 284.10. Assuming that deliveries or other types of adjustments on or after November 1, 1985, are made, as Natural indicates, solely for the purpose of correcting deliveries made on or prior to October 9, 1985, Natural will not become subject to §§ 284.9, 284.9, and 284.10 by reason of such adjustments, provided that all such imbalances are corrected not later than February 15, 1986.

4. Natural is seeking clarification that the transition provisions of § 284.105 are applicable to service which commenced pursuant to a verbal agreement prior to October 9, 1985, as long as the parties to the transaction have complied with all applicable reporting requirements. Natural also seeks clarification as to whether § 284.106, the 30-day reporting requirement for filing changes to initial reports for transportation under Subpart B of Part 284, is applicable to instances where service was being provided on October 9, 1985, from a receipt point that was not reflected in the contractual agreement until an amendment was executed after October 9, 1985. Natural points out that prior to November 1, 1985, § 284.106 did not specify a specific time period within changes in a transportation arrangement had to be reported.

We will grant Natural's request for clarification that the transportation arrangement concerned qualifies under §284.105, since the change in receipt points, while effected pursuant to an oral agreement, actually occurred prior to October 9, 1985. The Commission has recently clarified that transportation authority under § 284.105 is available for service which commenced pursuant to a verbal agreement made prior to October 9, 1985, as long as the parties to the transaction have compiled with all applicable reporting requirements.[3]

However, we will deny Natural's request concerning § 284.106. Assuming that transportation service was authorized and commenced on or before October 9, 1985, Natural may continue such service; however, the rate condition (§ 284.7) and the reporting requirements (§ 284.106) of the new regulations apply to this service. This service may be continued only for the term of the authorized transportation arrangement as it was in effect on October 9, 1985, or until October 9, 1987, whichever is earlier.

5. Natural seeks clarification as to whether a certain transportation service it performed for Channel Industries Gas Company may recommence and continue pursuant to § 284.105 until March 18, 1986. Natural states it filed an extension report on December 16, 1983 in Docket No. ST82-248 to continue service for an additional one-year period commencing March 18, 1984. Service continued beyond March 18, 1985 until October 31, 1985. As a result of a review of its contract files, Natural discovered that neither a written amendment to the contract nor a supplement to the extension report had been filed.

We deny Natural's request that it may continue transportation for Channel Industries under § 294.105. To qualify for transition under that provision, the transportation authorization would have had to exist on or before October 9, 1985. As Natural failed to file for an extension, it is without authority to continue the transportation service under section 284.105.

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[1] 33 FERC ¶ 61,007 (1985), 50 FR 41408 (October 18, 1985)

[2] 33 FERC ¶ 61,—— (issued November 27, 1985).

[3] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Pacific Gas and Electric Company, 33 FERC ¶ 61,——, (Issued October 31, 1985).

6. Natural next seeks clarification as to what the Commission intended by the "expiration of the original or extended term of any authorized transportation arrangement," as that language is used in § 284.105(a). Natural states that it has a number of agreements for which the initial or extended two-year authorization period expired or will expire after October 9, 1985. In some cases the underlying contract provides for a term ending on a date subsequent to the expiration of the two-year authorization period in effect on October 9, 1985. In other cases the underlying contract provides for a two-year term, plus successive two-year periods, continuation being dependant solely on necessary regulatory approval, up to some stated date.

Natural's agreements for which the initial or extended two-year authorization period expired or will expire after October 9, 1985, qualify for transition treatment under §284.105(a) only until the date that the original or extended term of the authorized transportation arrangement expires, regardless of whether the underlying contract has an expiration date subsequent to the expiration of the Commission authorization. Extensions of contracts which are for a two-year term plus successive two-year periods qualify for transition treatment under section 285.105(a) only to the extent that the extensions were authorized on or before October 9, 1985.[4]

7. Finally, Natural seeks clarification that it may recommence a service being provided Mississippi River Transmission Corporation under Order No. 60 authorization in Docket No. ST84–125. According to Natural, the original two-year authorization ended on October 28, 1985. On July 20, 1985, Natural timely filed an extension report to continue the service until October 28, 1987. Natural indicates that a verbal agreement existed but that a written amendment to the underlying contract reflective of the verbal agreement was not fully executed until October 31, 1985.

We grant Natural's final request for clarification. Natural had commenced service pursuant to an oral agreement prior to October 9, 1985. Provided the written amendments are merely reflective of the oral agreement, this transaction falls within the transition provisions of § 284.105.

[4] We note, however, that if the parties filed for an extension under §§ 284.105 and 284.106 of the old regulations on or before October 9, 1985, such arrangements would continue to be authorized for the term applied for, provided the extension is granted.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–38 Filed 1–3–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85–1–141]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Battle Creek Gas Co.; Order Granting Rehearing

Issued: December 30, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On December 20, 1985, Battle Creek Gas Company filed a request for rehearing of the Commission's November 22, 1985 order denying Battle Creek's request for clarification [1] of Order No. 436.[2] Battle Creek requests that the Commission clarify that Panhandle Eastern Pipeline Company (Panhandle) and Michigan Gas Storage Company may transport natural gas for Kellogg Company under § 284.223(g)(1) of the regulations adopted in Order No. 436.

On rehearing, we agree with Battle Creek that its situation is substantially identical with that of Midwest Solvents Company, and falls within the scope of the clarification granted to Midwest Solvents on rehearing.[3] Battle Creek's transportation arrangement with Panhandle was authorized under § 157.209(a)(1) automatically with the commencement of service, and thus qualifies for continuing transportation authorization under § 284.223(g)(1).

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–194 Filed 1–3–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85–1–000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Caliche Pipeline Co.; Order Granting Request for Waiver

Issued: December 26, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On December 11, 1985, Caliche Pipeline Company (Caliche), a gas gatherer and marketer, filed a request for clarification of the transitional provisions of Order No. 436 [1] as they apply to three transportation transactions performed under section 311 of the Natural Gas Policy Act of 1978 (NGPA) and former § 157.209(a) of the Commission's Regulations. We will grant Caliche's request.

On June 12 and June 17, 1985, Caliche entered into agreements with Baltimore Gas & Electric Company and Eastern Shore Natural Gas Company, respectively, whereby Caliche agreed to supply gas from a well in Oklahoma to BG&E and Eastern Shore for system supply. At the same time, ANR agreed to transport the gas for Caliche to BG&E and Eastern Shore under section 311 of the NGPA.

ANR has been transporting gas from Caliche to Sohio Chemical Company, a high priority end user, under former § 157.209(a) of the Commission's Regulations since January 1985. In August 1985, Caliche and ANR amended their transportation agreement to provide transportation from the new well in Oklahoma to Sohio.

In reliance on these agreements, Mewbourne, the parent company of Caliche, spent $373,000 to drill and complete the new well. Caliche spent $35,000 to connect the well to ANR's system. The well was capable of producing gas by July 6, 1985. Gas was prevented from flowing until October 20, due to ANR's failure to complete its tap.

In *Judel Glassware Co., Inc.*, 33 FERC ¶ —— (December 17, 1985), we enunciated an economic substance test for grant of a waiver. We stated that a "purchaser, seller, or end user must show that, in reliance on a transportation contract, it constructed significant facilities for delivery of gas prior to October 9, or expended substantial funds prior to October 9." The test is meant to grant relief from the transitional provisions of Order No. 436 without defeating its objectives.

We conclude that Caliche has shown that it constructed significant facilities and expended substantial funds in reliance on a transportation contract executed prior to October 9. Accordingly, we hereby waive the restrictions in §§ 284.105 and 284.223(g)(1) to the extent necessary to permit Caliche's transportation transactions to continue.

[1] 33 FERC ¶ 61,249.

[2] RM85–1–000, 50 FR 42408 (October 18, 1985).

[3] Order Granting Rehearing, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Midwest Solvents Company), 33 FERC ¶ 61,395 (issued December 19, 1985)

[1] 33 FERC ¶ 61.007 (1985), 50 FR 42408 (October 18, 1985).

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-195 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Entrade Corp.; Order Granting Request for Clarification

Issued: December 30, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On November 14, 1985, Entrade Corporation filed a request for clarification that Order No. 436 [1] permits delivery imbalances remaining after the termination, on October 31, 1985, of a blanket certificate transportation arrangement to be corrected after that date without subjecting the transporter to the non-discriminatory access conditions of Order No. 436. The Commission confirms that a pipeline will not become subject to the conditions of §§ 284.8, 284.9, and 284.10 of the regulations adopted in Order No. 436 by reason of deliveries or other types of adjustments made after October 31, 1985, to correct imbalances created by authorized deliveries made on or prior to that date, provided that all such adjustments are made no later than February 15, 1986. See the order issued December 17, 1985, granting a similar request for clarification by Natural Gas Pipeline Company of America, 33 FERC ¶ 61,401 (1985).

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-197 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; United Gas Pipe Line Co.; Order Granting Waiver and Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Issued December 26, 1985.

On November 26, 1985, United Gas Pipe Line Company filed a request for clarification of the Commission's Regulations. Specifically, United requests that we clarify whether a section 311 transportation service which commenced prior to October 9, 1985 may be extended for an additional period of time under § 284.105 even though the extension report required by § 284.106(c) was filed nine days late.

United and Mississippi Gulf South Transmission Company entered into a two-year section 311 transportation arrangement which expired on December 1, 1985. The parties sought to extend this arrangement for an additional two years and filed the requisite report pursuant to § 284.106(c). That section requires that an extension report be filed not less than 90 days prior to the expiration of the contract. United filed the report on September 11, 1985, nine days late.

In *El Paso Natural Gas Company*,[1] we clarified that § 284.105 is applicable to extensions of transportation and arrangements where the initial transportation was authorized and commenced prior to October 9, 1985 and appropriate extension reports were filed pursuant to § 284.106.

Inasmuch as United's filing was only nine days late and was made prior to October 9, 1985, we will grant a waiver of the 90-day requirement of § 284.106(c) and accept the filing. Thus, the transportation may continue for the extended term (but not beyond October 9, 1987) without otherwise subjecting United to the non-discriminatory access requirements of the new regulations.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-196 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol;. (Sohio Petroleum Co. and Sohio Chemical Co., Bishop Pipeline Corp., Cascade Natural Gas Corp.; Order Granting Requests for Clarification

Issued: December 30, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

The above-captioned parties filed petitions for clarification and/or waiver of §§ 284.223(g)(1) and 284.105 of the regulations adopted in Order No. 436.[1] Section 284.223(g)(1) provides that a transportation arrangement authorized under § 157.209(a)(1), which commenced on or before October 9, 1985, may continue. Section 284.105 provides that a transportation arrangement authorized under section 311 of the Natural Gas Policy Act which commenced on or before October 9, 1985, may continue until the earlier of the end of the extended contract term or October 9, 1987. The three petitioners request clarification as to whether certain receipt points qualify for the transitional provisions. The parties outlined the following fact and circumstances in their respective petitions.

Sohio Petroleum Company and Sohio Chemical Company

Pursuant to a contract dated April 5, 1984 and amended June 6, 1984, ANR Pipeline Company transports gas on behalf of Sohio Chemical Company for the latter's high-priority end use. Service under the agreement commenced April 27, 1984. The agreement established a central receipt point. That central receipt point is clearly covered under the transitional provisions. Subsequent to October 9, 1985, an additional well from several of the same leases serving the central receipt point was connected to it. The contract between ANR and Sohio Chemical did not require any amendment or change by reason of the connection of the additional well. The volume of gas authorized under the contract remains unchanged. ANR agreed to transport gas from this well during the interim period through December 14, 1985. However, ANR has refused to transport gas from this well beyond that date absent clarification from the Commission that the addition of this well will not preclude the receipt point from qualifying under the transitional provisions of § 284.223(g)(1).

Bishop Pipeline Corporation

Prior to October 9, 1985, Bishop entered into a contract with Tennessee Gas Pipeline Company (Tennessee) for the transportation of gas to certain high priority end-users. The terms of the contract established three points of receipt. Prior to October 9, 1985, service commenced and gas was delivered to all end-users under the agreement. However, gas was received at only two of the three established receipt points. The third receipt point, Little Temple Field, was not completed until the week of October 21, 1985. The facility was constructed at a cost of approximately $500,000 to implement the transportation arrangement. Gas receipt has not yet commenced at the Little Temple Field

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[1] 33 FERC ¶ 61,007 (1985), 50 FR 41408 (October 18, 1985)

[1] El Paso Natural Gas Company, 33 FERC 61,153 (October 31, 1985)

[1] 33 FERC ¶ 61,007; 50 FR 42408 (October 18, 1985).

receipt point as Tennessee refuses to install the tap absent clarification from the Commission that the Little Field receipt point qualifies under the transitional provisons of § 284.223(g)(1).

Cascade Natural Gas Corporation

On July 2, 1985, Cascade and Northweat Pipeline Corporation entered into a section 311 transportation agreement. The contract specified an initial period of six months and an additional period of eighteen months, subject to termination by either party upon thirty days written notice. As originally executed, the contract specified a single receipt point at Sumas, Washington. On August 7, 1985, the contract was amended to add a second receipt point at Ignacio, Colorado. Pursuant to the agreement, service commenced on August 13, 1985 at the Ignacio receipt point. Service has not yet commenced at the Sumas receipt point. In its petition, Cascade states that Northwest has refused to commence service at the Sumas receipt point absent clarification from the Commission that the Sumas receipt point qualifies under the transitional provisions of § 284.105.

We grant all three requests for clarification. In each case, transportation under the respective contracts was authorized and service actually commenced prior to October 9, 1985. The contracts were not amended or changed after that date.

The Commission recently clarified that where a transportation arrangement was authorized and service commenced on or before October 9, 1985, commencement of use of a particular receipt or delivery point after that date will not subject the party to §§ 284.8, 284.9, and 284.10, as long as those points were specified in the agreement prior to October 10, 1985.[2] We find that the receipts points at issue herein qualify for the transitional provisions of § 284.223(g)(1) and § 284.105, respectively.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-198 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[2] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol [Natural Gas Pipline Company of America] 33 FERC ¶ 61,385 (issued December 17, 1985).

[Docket No. RM85-1-000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Southern Natural Gas Co.; Order Granting Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Issued: December 27, 1985.

On November 5, 1985, Southern Natural Gas Company filed a request for clarification of Order No. 436.[1] On December 13, 1985, the Commission issued an order clarifying that certain transportation arrangements qualified under the transitional provisions of § 284.223(g)(1).[2] However, the Commission deferred responding to Southern's clarification request concerning other transportation arrangements. By this order, the Commission is granting Southern's request as it applies to the remainder of its transportation arrangements.

With respect to the transaction at issue, Southern states that it filed timely reports indicating that gas would be transported for both high-priority and low-priority end-users, but Southern did not specifically state what percent of the total volumes would be used for high-priority end-uses and thus transported under § 157.209(a)(1) or what percent of the total would be transported under § 157.209(a)(2) and (e)(1). During September and October, Southern filed, pursuant to § 157.209(e)(2), prior-notice requests to extend such transportation beyond the 120-day self-implementing period for those low-priority end-users that would have experienced an interruption on or before December 15, 1985.[3] Southern is requesting clarification that it may continue transporting high-priority gas under these arrangements under § 284.223(g)(1) for high-priority transportation that qualified under § 157.209(a)(1) of our old regulations.

We will grant Southern's request for clarification. Although Southern may no longer transport gas under these arrangements for a use which would have qualified for transportation only under old § 157.209 (a)(2) and (e) unless Southern agrees to become subject to the non-discriminatory access provisions of Order No. 436, Southern may continue transporting, under § 284.223(g)(1), gas which qualified for transportation under old § 157.209(a)(1) for high-priority end-uses and for which transportation had commenced prior to October 9, 1985.[4]

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-199 Filed 1-3-86; 8:45 am]

BILLING CODE 6717-01-M

[1] 33 FERC ¶ 61,007 (1985), 50 FR 42,408 (October 18, 1985).

[2] 33 FERC ¶ 61,377.

[3] *See* Docket Nos. CP85-878-000, CP86-14-000, CP86-15-000, CP86-49-000, CP86-55-000, CP86-57-000, CP86-58-000.

[4] *See* Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol [Midwest Solvents Company], 33 FERC ¶ 61 —— (issued December 19, 1985).

ENVIRONMENTAL PROTECTION AGENCY

[A-9-FRL-2950-2]

Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to Corn Products (EPA Project SJ 85-04)

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

ACTION: Notice.

SUMMARY: Notice is hereby given that on December 16, 1985 the Environmental Protection Agency issued a PSD permit under EPA's federal regulations 40 CFR §52.21 to the applicant named above. The PSD permit grants approval to construct a 49.9 megawatt circulating fluidized bed cogeneration plant in Stockton, San Joaguin County, California. Primary fuel for the facility will be low sulfur Utah coal. The permit is subject to certain conditions, including an allowable emission rate as follows: SO_2 at 59 lbs/hr and NO_x at 42 lbs/hr.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address request to: Anita Tenley (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8240, FTS 454-8240.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include the use of limestone injection, staged combustion, and ammonia injection at the rate of 5.5 lb NH_3/lb NO_x (Selective Noncatalytic Reduction).

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by March 7, 1986.

Dated: December 22, 1985

David P. Howekamp,

Director, Air Management Division, Region 9.

[FR Doc. 86-162 Filed 1-3-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59745; FRL-2950-7]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manfacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of four such PMN and provides a summary.

DATES: Close of Review Period: Y 86-47, 86-48 and 86-49, January 13, 1986. Y 86-50, January 16, 1986.

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

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-47

Manufacturer. Reichold Chemicals, Inc.

Chemical. (G) Styrene butadiene acrylate copolymer.

Use/Production. (S) Pressure sensitive adhesive for removable labels. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-48

Importer. Kay-Fries, Inc.

Chemical. (G) Polyester resin of aryl and alkane dicarboxylic acids plus alkane diols.

Use/Import. (S) Industrial metal coating. Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-49

Manufacturer. Bostick Division of USM Corporation.

Chemical. (G) Polyester.

Use/Production. (G) Adhesive, open, non-dispersive use. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-50

Importer. Kaneka Texas Corporation.

Chemical. (G) Styrenic—acrylic methyl methacrylate copolymer.

Use/Import. (G) Processing aid for polyvinyl chloride. Import range. Confidential.

Toxicity Data. Ames test: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Dated: December 30, 1985.

Linda K. Smith,

Acting Director, Information Management Division.

[FR Doc. 86-154 Filed 1-3-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51604; FRL 2950-6]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of nineteen PMNs and provides a summary of each.

DATES: Close of Review Period: P 86-314, March 19, 1986. P 86-315, 86-316, 86-317, 86-318, 86-319, 86-320, and 86-321, March 22, 1986. P 86-322, 86-323, 86-324, 86-325, and 86-326, March 23, 1986. P 86-327, 86-328, and 86-329, March 25, 1986. P 86-330, 86-331, and 86-332, March 26, 1986.

Written comments by: P 86-314, February 17, 1986. P 86-315, 86-316, 86-317, 86-318, 86-319, 86-320, and 86-321, February 20, 1986. P 86-322, 86-323, 86-324, 86-325, and 86-326, February 22, 1986. P 86-327, 86-328, and 86-329, February 23, 1986. P 86-330, 86-331, and 86-332, February 24, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-51604]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW, Washington, DC 20460, (202) 382-3532.

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

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

P 86-314

Manufacturer. Confidential.

Chemical. (G) Polyether.

Use/Production. (G) Polyurethane elastomers. Prod. range. Confidential.

Toxicity Data. Acute oral: >5000 mg/kg; Acute dermal: >2000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Skin sensitization: Non-sensitizer.

Exposure. Manufacture: dermal, a total of 6 workers, up to 5 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

P 86-315

Importer. Confidential.

Chemical. (G) Olefinic aldehyde.

Use/Import. (G) Highly dispersive use. Import range. Confidential.

Toxicity Data. Acute oral: >8000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

P 86–316

Manufacturer. Confidential.
Chemical. (G) Water reducible oil-free polyester.
Use/Production. (S) Industrial water reducible baking enamels. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers.
Environmental Release/Disposal. Confidential.

P 86–317

Manufacturer. Confidential.
Chemical. (G) Polyester.
Use/Production. (S) Polymer for industrial metal coatings. Prod. range. 29,000–175,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 3 hrs/da, up to 4 da/yr.
Environmental Release/Disposal. Released to air and landfill, 20 kg/batch incinerated. Disposal by publicly owned treatment works (POTW).

P 86–318

Manufacturer. Alpha Resins Corporation.
Chemical. (G) Unsaturated polyester polymer.
Use/Production. (G) Polyester resin system component. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–319

Manufacturer. Confidential.
Chemical. (G) Acrylic emulsion.
Use/Production. (G) Open, non-dispersive use and highly dispersive use. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

P 86–320

Manufacturer. Confidential.
Chemical. (G) Polymer of alkyl propenoates and ethenyl benzene.
Use/Production. (S) Intermediate used in metal coating formulation. Prod. range. 50,000–150,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, dermal, a total of 2 workers, up to 1 hr/da.
Environmental Release/Disposal. No release.

P 86–321

Manufacturer. Confidential.
Chemical. Further clarification needed before information can be released to the public files.
Use/Production. (S) Site-limited metal coating intermediate. Prod. range. 125,000–375,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, dermal, a total of 4 workers, up to 1 hr/da, up to 25 da/yr.
Environmental Release/Disposal. No release.

P 86–322

Importer. Confidential.
Chemical. (G) Fluoroalkylcarbonylaminoalkyl alkylamine oxide.
Use/Import. (S) Industrial surface active agent. Import range. Confidential.
Toxicity Data. Acute oral: 25,400 mg/kg; Ames test: Negative.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86–323

Manufacturer. Confidential.
Chemical. (G) Acrylourethane.
Use/Production. (G) Coatings/adhesives for open, non-dispersive use. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–324

Manufacturer. The Dow Chemical Company.
Chemical. (G) Unsaturated aromatic hydrocarbon.
Use/Production. (S) Site-limited chemical intermediate. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, use: dermal.
Environmental Release/Disposal. 1 to less than 4 kg/batch released to air and water. Disposal by navigable waterway.

P 86–325

Manufacturer. Confidential.
Chemical. (G) Acrylic resin solution.
Use/Production. (G) Open, non-dispersive use. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

P 86–326

Manufacturer. Confidential.
Chemical. (G) Ester-imide.
Use/Production. (S) Wire enamel. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–327

Manufacturer. Confidential.
Chemical. (S) 3-(3-oxo-1H, 3H-naphtho (1,8-cd) pyran-1-ylidene)-3H-indole-7-carboxylic acid, sodium salt.
Use/Production. (S) Industrial intermediate. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 3 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. 0.3 to 18 kg/batch released to water. Disposal by POTW.

P 86–328

Manufacturer. Confidential.
Chemical. (S) 3-(3-oxo-1H, 3H-naphtho (1,8-cd) pyran-1-ylidene)-3H-indole-7-carboxylic acid.
Use/Production. (S) Industrial intermediate. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 8 workers, up to 3 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. 0 to 12 kg/batch released to water and land. Disposal by POTW.

P 86–329

Importer. Confidential.
Chemical. (G) Polymer of heteromonocyclic diazine, carbomonocyclic alkyl halide and heteromonocyclic methyl chloride.
Use/Import. (S) Industrial textile auxiliary. Import range. 1100–8800 kg/yr.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-Irritant, Eye—Non-irritant; Ames test: Negative.
Exposure. No data submitted.
Environmental Release/Disposal. No release.

P 86–330

Manufacturer. Confidential.
Chemical. (G) Propoxylated amines.
Use/Production. (S) Chemical intermediate. Prod. range. Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant.
Exposure. Manufacture and use: dermal, a total of 4 workers, up to 0.5 hrs/da, up to 120 da/yr.
Environmental Release/Disposal. .18 to 15.3 kg/batch released to land. Disposal by approved landfill.

P 86-331

Manufacturer. Confidential.

Chemical. (G) Propoxylated quaternary amine.

Use/Production. (S) Detergents, oil field chemicals, and petroleum, and polymer processing. Prod. range. Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant.

Exposure. Confidential.

Environmental Release/Disposal. 6 kg/batch released to water with 0.8 kg/batch to land.

P 86-332

Manufacturer. Confidential.

Chemical. (G) Propoxylated amines.

Use/Production. (S) Chemical intermediate. Prod. range. Confidential.

Toxicity Data. Irritation: Skin—Irritant, Eye—Irritant.

Exposure. Manufacture and use: dermal, a total of 4 workers, up to 0.5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. .18 to 15.3 kg/batch released to land. Disposal by approved landfill.

Dated: December 30, 1985.

Linda K. Smith,

Acting Director, Information Management Division.

[FR Doc. 86-155 Filed 1-3-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-00067; FRL-2949-5]

Small Company Obligations Under the Toxic Substances control act; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The EPA will hold a public meeting to discuss certain provisions of the Toxic Substances Control Act (TSCA) and the circumstances under which small domestic manufacturers, importers, and processors of chemical substances are subject to TSCA regulations as are larger companies. EPA staff also will discuss recordkeeping reporting, importing and exporting, compliance monitoring, enforcement, certain aspects of the new chemical and existing chemical programs, EPA assistance for small companies, and related issues of interest.

DATE: The meeting will be held on Tuesday, February 4, 1986, from 9:30 a.m. to 4:00 p.m. Preregistration is required. There is no registration fee, but seating is limited. Registration closes January 28, 1986.

ADDRESS: The meeting will be held in the: Labor Education Center, Rutgers University, Ryders Lane and Clifton Avenue, New Brunswick, NJ.

FOR FURTHER INFORMATION AND TO REGISTER: Call the TSCA Assistance Office toll-free: 800-424-9065; in Washington, DC, 554-1404.

Dated: December 27, 1985.

Edwin F. Tinsworth,

Acting Director, Office of Toxic Substances.

[FR Doc. 86-156 Filed 1-3-86; 8:45 am]

BILLING CODE 6560-50-M

[OPPE-FRL-2950-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected inpact, and where appropriate includes the acutal data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382-2740 or FTS 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Pesticide Dealers and Applicators-Recordkeeping and Reporting Requirements (EPA ICR #0154). (This is a renewal of an expired ICR; no changes is proposed.)

Abstract: This information collection request identifies sellers of restricted-use pesticides and requires applicators of these pesticides to maintain records concerning their use.

Respondents: Dealers, distributors, and applicators of restricted use pesticides.

Title: TSCA Inspection-Related Forms (EPA ICR #0163). (This is a renewal of an expired ICR; no change is proposed.)

Abstract: TSCA inspection-related forms are used to meet the Agency's statutory obligations to provide notice for inspections and confidential treatment of information collected under TSCA.

Respondents: Chemical manufacturing facilities.

Water Programs

National Pollutant Discharge Elimination System (NPDES)

The following items request renewal of existing requirements. No changes are being proposed.

Title: NPDES Requirements for Approved State Programs (EPA ICR #0168).

Abstract: States with EPA-approved wastewater permit programs must collect permittee information for direct enforcement purposes and for reporting to EPA. EPA uses the information for national program oversight and support of enforcement actions.

Respondents: State water pollution control agencies.

Title: Pretreatment Removal Credit Approval Request (EPA ICR #0004, 40 CFR 403.7).

Abstract: A Federal categorical pretreatment standard may be revised to reflect removal of regulated pollutants by the publicly owned treatment works (POTW). EPA or the approved state agency reviews the POTW submission and approves/denies the use of removal credits for industrial users.

Respondents: Publicly owned treatment works.

Title: Industry and POTW Maintenance of Monitoring Records. EPA #0009, 40 CFR 403.12(n).

Abstract: Industrial users and publicly owned treatment works (POTW) must maintain records of monitoring activity for possible inspection by the POTW, state agency, or EPA to determine compliance with EPA pretreatment standards.

Respondents: Businesses and publicly owned treatment works.

Title: POTW Report of New or Increased Pollutant Introduction. EPA ICR #0126, 40 CFR 122.42(b).

Abstract: A publicly owned treatment works (POTW) must notify the permit authority (EPA or state agency) of 1) Any new introduction of pollutants from indirect discharges or 2) Any substantial change in the volume or character of pollutants introduced by a source that was introducing pollutants at the time of permit issuance. The permit authority determines water quality impacts and the need for permit modifications.

Respondents: Publicly owned treatment works.

Agency PRA Clearance Requests Completed by OMB

EPA #0234; Laboratory Performance Evaluation of Water and Waste Laboratories, was approved 12/24/85 (OMB #0240-0089; expires 7/31/88).

EPA #0827; Construction Grants Program Information, was approved 11/26/85 (OMB #2040–0027; expires 9/30/88).

EPA #0959; Reporting, Recordkeeping, and Planning Requirements for Ground-Water Monitoring, was approved 12/12/85 (OMB #2050–0033; expires 6/30/87).

EPA #1057; NSPS for Sulfuric Acid Plants—Information Requirements, was approved 12/16/85 (OMB 2060–0122; expires 6/30/86).

EPA #1063; NSPS for Sewage Treatment Plants, was approved 12/11/85 (OMB #2060–0035; expires 12/31/88).

EPA #1064; NSPS for Automobile and Light-Duty Truck Surface Coating, was approved 12/13/85 (OMB #2060–0034; expires 9/30/86).

EPA #1069; NSPS for Basis Oxygen Process Furnaces in Iron and Steel Plants (Subpart N)—Information Requirements, was approved 12/11/85 (OMB #2060–0029; expires 12/31/88).

EPA #1255; Request for Information from Manufacturers of Residential Wood Combustion Units, was approved 12/16/85 (OMB ±2060–0128; expires 9/30/86).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), Regulation and Information Management Division, 401 M Street, SW., Washington, DC 20460
and
Carlos Tellez (ICRs #0154, #0163) or Rick Otis (ICRs #0004, #009, #0126, #0168), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503

Dated: December 31, 1985.

Daniel J. Fiorino,

Acting Director, Regulation and Information Division.

[FR Doc. 86–163 Filed 1–3–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

[Docket No. 85–24]

Matson Navigation Company, Inc.; Proposed Overall Rate Increase of 2.5 Percent Between United States Pacific Coast Ports and Hawaii Ports; Order of Investigation and Suspension

On November 15, 1985 Matson Navigation Company, Inc. (Matson) filed amendments [1] to its Tariffs FMC–F Nos. 14, 15, 16 and 17 proposing an overall increase of 2.5 percent on all rates and charges on commodities moving in its Pacific Coast/Hawaii trade (except on household goods or personal effects), effective January 1, 1986.

A protest received from the State of Hawaii through the Department of Commerce and Consumer Affairs urged the rejection or suspension and investigation of Matson's increase. The State contends that Matson's last 2.5 percent rate increase, which was effective January 1, 1985, caused Matson's earnings to exceed the allowable rate of return. The State contends this was due to several factors: Matson's fuel expenses were overstated as bunker fuel prices declined during 1985; Matson underestimated the 1985 freight revenues; and Matson's vessel investment and rate base figures were inflated as several new Matson barges were not put into actual or useful service by the projected date.

In asking that Matson's January 1, 1986 rate increase either be rejected or suspended, the State also claims that Matson did not have effective competition in the Hawaiian Trade and that Matson will continue to operate in a favorable economic environment in 1986. Among the factors mentioned by the State in regard to Matson's 1986 operations are that conditions in the world oil market should stabilize or decrease fuel expenses, investments in new container equipment should reduce container maintenance and repair expenses, new inter-island barges should decrease cargo handling expenses, and one of Matson's vessels, the MATSONIA, a Ro/Ro vessel which has been inactive but which is now being reconfigured, may not be properly included in Matson's rate base. The State also questions the effect of the diversion of Matson's revenues from Commission regulated tariffs with the filing of a new Matson tariff with the Interstate Commerce Commission covering a storedoor-pickup service.

In its reply to the State's protest, Matson maintains that: (1) It does not have effective competition which is steadily increasing, (2) the State's discussion of the decline in fuel costs is not germane to Matson's projections of fuel costs for 1986, and (3) the State erroneously assumes that substantially all of Matson's revenues are regulated by the Commission. Matson states that revenues under Commission tariffs only account for 74% of the total and that Matson has projected a rate of return on rate base of 11.47% which is well below the allowable rate of return.

[1] Involved publications are Supplement No. 1 to Tariff FMC–F No. 14, Supplement No. 1 and 1st Revised Page 138 to Tariff FMC–F No. 15, Supplement No. 1 and 2nd Revised page 56 to Tariff FMC–F No. 16, and Supplement No. 1 to Tariff FMC–F No. 17.

Discussion

Matson's 2.5 percent general increase effective January 1, 1986 was not accompanied by any financial or operating data, schedules or justifications. The most recent financial information filed with the Commission by Matson was its annual submission for 1984. This financial data indicates that Matson earned a 13.07 percent rate of return in 1984. When Matson filed its last overall rate increase effective January 1, 1985 it did submit data in support of the increase which projected a 1985 rate of return of 13.65 percent. Matson's financial report showing actual results for 1985 is not due to be filed until May 1986.

Matson's last overall increase was the subject of Docket No. 85–3, *Matson Navigation Company, Inc. Proposed Overall Rate Increase of 2.5 Percent Between United States Pacific Coast Ports and Hawaii Ports.* This proceeding was initiated by the Commission to determine if a 2.5 percent increase was just and lawful in light of Matson's projected rate of return of 13.65 percent. On May 1, 1985 the Presiding Administrative Law Judge issued an Initial Decision in Docket No. 85–3 which held that Matson's rate increase was not excessive. This conclusion was based upon a finding that the evidence of record supported a rate of return in the range of 13.68 to 13.98 percent. Upon exception, the Commission by Notice served on June 28, 1985 advised:

> . . . Due to a vacancy on the Commission and a series of divided votes by the remaining Commissioners the Commission is unable to issue a "final decision" in this proceeding within the statutory period [expiring June 30, 1985]. Section 3 of the Intercoastal Shipping Act, 1933 provides that if a "final decision" is not issued within the statutory period the rates under investigation shall, for purposes of that section, be deemed to be just and reasonable.

By Order served December 27, 1985 the Commission announced that because the above Notice served June 28, 1985 precluded further litigation of the issues noted in the Order of Investigation in Docket No. 85–3 and no regulatory purpose was served by continuing that investigation, the proceeding would be discontinued.

The finding of reasonableness by operation of section 3 of the Intercoastal Shipping Act (46 U.S.C. app. 845), in

Docket No. 85–3 does not, however, preclude a subsequent investigation, instituted pursuant to sections 18(a) and 22 of the Shipping Act, 1916 (46 U.S.C. app. 817 and 821) to determine whether present circumstances render those rates unreasonable. Section 18(a) of the Shipping Act, 1916 (46 U.S.C. app. 817) requires common carrier rates in interstate commerce to continue to be just and reasonable while in effect. The most critical issues concerning Matson's current rates are whether declining fuel costs increased Matson's rate of return beyond the return projected for 1985 and whether a decline in the current trend in interest rates lowered the maximum reasonable rate of return.

In regard to Matson's proposed January 1, 1986 rate increase, there are several issues which are critical. In view of the uncertainty in world oil markets, a major issue is whether Matson has properly projected its fuel expenses for 1986. In reply to the State of Hawaii's protest Matson states it projected its 1986 fuel expenses on the cost of bunker fuel on September 15, 1985. It fails to give any explanation as to why the cost of fuel on this date should be the basis for its fuel expenses throughout 1986.

Matson failed to provide any information on its 1986 projected expenses and rate base to counter the State's contention that certain expenses in 1986 may be lower than projected and that the MATSONIA may be improperly included in the rate base. Matson has also made use of several exemptions from regulation by entering into joint rates with motor carriers for the carriage of exempt agricultural commodities and joint rates with railroads for carriage of exempt trailer and container on flatcar cargoes. It has entered into joint rates with motor carriers filed with the Interstate Commerce Commission for the carriage of cargoes moving in a storedoor-pickup service. Matson, in addition, carries mail under contracts with the U.S. Postal Service. As a result, Matson projects that Commission tariffs will only account for 74% of Matson's total revenues. Matson has, however, failed to provide any information on how it has allocated its revenues, expenses and rate base between the Commission regulated services and its other services.

There are also other points which were not addressed by Matson in justification of the rate increase. Matson has failed to provide the Commission with any information on what it considers to be a proper benchmark rate of return for 1986 and whether any adjustments need to be made to its 1986 benchmark rate of return for current risk factors or economic conditions. These are crucial factors as inflation and interest rates have stabilized and one of the major issues left unresolved in Docket No. 85–3 was Matson's projection that interest rates would continue to climb throughout 1985.

For the above reasons, the Commission has determined to suspend and investigate Matson's proposed January 1, 1986 rate increase. The issue of the reasonableness of Matson's existing rates under section 18(a) of the Shipping Act, 1916 (46 U.S.C. app. 817) will also be incorporated into this investigation.

Therefore, it is ordered, that pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916 (46 U.S.C. app. 817 and 821) and sections 3 and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 845 and 845a) an investigation is instituted to determine whether the rate increase of 2.5 percent shown in the following tariff supplements published by Matson is just and reasonable:

FMC–F No. 14, Supplement No. 1
FMC–F No. 15, Supplement No. 1 and 1st Revised Page 138
FMC–F No. 16, Supplement No. 1 and 2nd Revised Page 56
FMC–F No. 17, Supplement No. 1

It is further ordered, that pursuant to sections 18(a) and 22 of the Shipping Act, 1916 (46 U.S.C. app. 817 and 821) an investigation is instituted to determine whether the rates stated in the above named Matson tariffs are just and reasonable without the proposed 2.5% rate increase.

It is further ordered, that in determining the fair rate of return for Matson the following issues shall be addressed:

1. Has Matson properly projected its revenues, expenses and rate base for 1986?

2. Has Matson properly allocated its revenues, expenses and rate base between its Commission and non-Commission regulated services for 1986?

3. Are the business and financial risks faced by Matson greater or less than those faced by an average U.S. corporation? If so, should Matson's rate of return be adjusted? and

4. Are the current trends in rates of return and interest rates such that Matson's rate of return should be adjusted?

It is further ordered, that pursuant to the authority of section 3 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 845) the operation of that portion of the tariff matter under investigation which represents an increase of 2.5 percent to be effective January 1, 1986 is hereby suspended and the use thereof deferred to and including June 30, 1986, unless otherwise ordered by the Commission;

It is further ordered, that Matson Navigation Co. is named respondent in this proceeding;

It is further ordered, that the State of Hawaii, Department of Commerce and Consumer Affairs is named protestant and is made a party to this proceeding;

It is further ordered, that in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42) the Bureau of Hearing Counsel shall be a party to this proceeding;

It is further ordered, that Respondent immediately post and file tariff supplements in compliance with the requirements set forth in section 550.13(b) of the Commission's domestic tariff filing regulations (46 CFR 550.13(b));

It is further ordered, that this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge;

It is further ordered, that the prehearing statements required to be filed by all parties in accordance with Rule 67(d)(2) of the Commission's Rules of Practice and Procedure (46 CFR 502.67(d)(2)) shall be filed no later than seven days after the service of this Order of Investigation and Suspension;

It is further ordered, that the Administrative Law Judge shall, at his discretion, direct all parties to attend a prehearing conference to consider:

1. Simplification of issues;

2. Identification of issues which can be resolved readily on the basis of documents, admissions of fact, or stipulations;

3. The need for filing of testimony and exhibits, together with underlying workpapers;

4. Identification of any issues which require an evidentiary hearing;

5. Limitation of witnesses and areas of cross-examination should an evidentiary hearing be necessary;

6. Requests for subpoenas; and

7. Other matters which may aid in the disposition of the hearing.

It is further ordered, that after considering the procedural recommendations of the parties, the Administrative Law Judge shall limit the issues to the extent possible and establish a procedure for their resolution;

It is further ordered, that any hearing in this proceeding shall be completed by February 28, 1986, the initial decision of the Presiding Administrative Law Judge shall be submitted in writing to the Commission by April 30, 1986, and the final decision of the Commission shall be issued June 27, 1986;

It is further ordered, that during the pendency of the investigation, Respondent will serve the Administrative Law Judge and all parties of record with notice of any tariff changes affecting the material under investigation at the same time such changes are filed with the Commission;

It is further ordered, that notice of this Order be published in the **Federal Register** and a copy be served upon all parties of record;

It is further ordered, that any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, that all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record; and

Finally, it is ordered, that all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.[2]

Bruce A. Dombrowski,

Acting Secretary.

Commissioner Moakley, concurring and dissenting.

I concur in the majority's belief that an investigation of Matson's current rates in the Pacific Coast/Hawaii Trade is necessary in view of the recent realignment of the carrier's tariff and the resulting obsolescence of its previous financial reports. However, for reasons discussed below, I would conduct such an investigation solely under section 18(a) of the Shipping Act, 1916 (46 app. U.S.C. 817).

I strongly dissent from the majority's action suspending Matson's proposed 2.5 percent increase. The action is clearly contrary to the intent of Congress in the 1978 amendments to the Intercoastal Shipping Act, 1933 (46 app. U.S.C. 843 *et seq.*) (the 1933 Act), and will deprive the carrier of over 2.5 million dollars without any legitimate basis for concluding that the increase will produce unreasonable results.

In 1978, Congress amended the 1933 Act to make domestic offshore rate regulation and the exercise of the Commission's suspension power, more meaningful. Prior to the amendments, the Commission could suspend any rate increases or decreases for up to 120 days, pending a hearing on their lawfulness. Not once in the 45 year history of that statute had the Commission ever completed a rate proceeding within 120 days. Typically such proceedings took about one year to complete and several proceedings had taken more than three years from start to finish. Moreover, there was no clear authority in the statute to award refunds to shippers if the rates were ultimately found unjust or unreasonable. Under these circumstances, the suspension power was often invoked simply to delay rate increases that the Commission had little other power to control. For a number of reasons, not the least of which was the time consumed in litigation, increases were rarely found to be unjust or unreasonable.

The 1978 amendments sought to address all of these problems. The suspension period was lengthened to 180 days and the Commission was required to complete its proceedings in that same period of time. In order to do so, Congress directed the Commission to establish guidelines for determining what constitutes a fair rate of return so that these issues would not be re-litigated in each rate proceeding. They also recognized that the Commission would have to require a carrier to file all of its essential financial data simultaneously with the pertinent rate increase and to rely upon that data as its direct case in any subsequent proceeding.[1]

Congress then created what they termed as a "5 percent no-suspend zone" [2] which was designed to prevent the Commission from suspending the first 5 percent of across-the-board increases in any 12-month period. They also required the Commission to articulate, in detail its reasons for suspending any increase or decrease. Finally, they provided for refunds to shippers if the unsuspended portion of a general rate increase were later found unreasonable.

The instant 2.5 percent increase is an across-the-board increase and is the first such increase in 12 months. However, it does not fall within the 5 percent no-suspend zone because it does not fit the definition of "general rate increase" set forth in the statute.[3] Ironically, if Matson had filed a 3 percent across-the-board increase, it would qualify as a general rate increase and *could not* be suspended.

Because it does not meet the definition of a general rate increase, Matson's 2.5 percent increases was not required by the Commission's rules to be accompanied by any financial data.[4] The obvious reason is that both the statute and the Commission's rules view an increase of less than 3 percent to be below the threshold at which the expensive machinery of financial analysis and possibly, litigation should be activated.

Because the increase was not required to be accompanied by financial data, the Commission has been unable to do the type of intelligent analysis that Congress clearly requires of us before entering into an investigation or suspension of rates under section 3 of the 1933 Act. Moreover, the time requirements for hearings under section 3 of that Act are totally unrealistic unless the prerequisite financial data has been furnished well in advance, as Congress and the Commission contemplated.

The Commission has *no* evidence before it which would indicate that Matson's 2.5 percent increase will produce unreasonable high rates. The only financial projections relating to the restructured service are those provided by Matson in response to the State of Hawaii's protest. These projections indicate a rate of return of 11.47 percent with the increase and 10.4 percent if it does not take effect. Both Figures are safely below any recent notions of what constitutes a fair rate of return.[5] As

[2] Commissioner Thomas F. Moakley's concurring and dissenting opinion is attached.

[1] *See* H.R. Rep. No. 95-744, 95th Cong. 1st Sess., 9 (1977).

[2] The "no-suspended zone" was originally set at 7 percent. *Id.* This was changed to 5 percent when the bill (H.R. 6503) was reported out by the Senate Committee on Commerce, Science and Transportation. *See* S. Rep. No. 95-1240, 95th Cong. 2d Sess. (1978).

[3] A general rate increase is one which will result in an increase of not less than 50 percent of the total rate items in the carrier's tariffs in a particular trade and directly result in an increase in gross revenues of *not less than 3 percent. See*, 46 app. U S.C. 843. This definition was taken from an earlier FMC rule which prescribed the type of increase which required financial justification. *See*, 46 CFR 512.3 (1978).

[4] *See* 46 CFR 552.2(f).

[5] Recent pronouncements on the maximum permissible rate of return for carriers in the domestic offshore trades range from 13.6% in Docket No. 76-43, *Sea-Land Service, Inc., Trailer Marine Transport Corporation, Gulf Caribbean Marine Lines, Inc. and Puerto Rico Maritime Shipping Authority Proposed General Rate Increases in the Puerto Rico and Virgin Islands Trades* (1981) to

Continued

indicated above, suspension of the 2.5 percent for the full 180 days will permanently deprive Matson of more than 2.5 million dollars in revenue. If the rates are later found to be reasonable, there is no legal means by which Matson can recover that lost revenue from future ratepayers. Whatever its losses may have been in the past, a regulated carrier can never be permitted to charge higher than reasonable rates, even to recoup such losses.

In short, I believe that suspension of this increase is directly contrary to Congressional intent, and without a reasonable basis in fact.

[FR Doc. 86-133 Filed 1-3-86; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Fifth Third Kentucky Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 29, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Fifth Third Kentucky Bancorp, Inc.*, Florence, Kentucky that will be a subsidiary of Fifth Third Bancorp, Cincinnati, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of First Kentucky Bancshares, Inc., Florence, Kentucky, thereby indirectly acquiring Boone State Bank & Trust Co., Florence, Kentucky. Comments on this application must be received not later than January 30, 1986.

2. *Fifth Third Bancorp*, Cincinnati, Ohio; to acquire 100 percent of the voting shares of First Kentucky Bancshares, Inc., Florence, Kentucky, thereby indirectly acquiring Boon State Bank & Trust Co., Florence, Kentucky. Comments on this application must be received not later than January 30, 1986.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Banco Nororiental De Venezuela, C.A.*, Apartado Caracas, Venezuela; to acquire 10 percent of the voting shares of Eastern National Bank, Hialeah, Florida.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Crown Bancshares, Inc.*, Omaha, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Bellevue, Bellevue, Nebraska, a *de novo* bank.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Casa Linda Financial Corporation*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Independent Bank, N.A., Dallas, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, December 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-184 Filed 1-3-86; 8:45 am]
BILLING CODE 6210-01-M

First Fidelity Bancorporation; Application To Engage De Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is lised in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 23, 1986.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First Fidelity Bancorporation*, Newark, New Jersey; to engage *de novo* through its subsidiaries, First Fidelity Brokers, Inc.; First Fidelity Capital Corporation; First Fidelity Service Corporation; and Broad & Lombardy Associates, Inc., all located in Newark, New Jersey, in retail securities brokerage activities, pursuant to § 225.25(b)(15) of Regulation Y (activities would be conducted in the states of New

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14.5% in Docket No. 81-10, *Matson Navigation Company—Proposed Rate Increases in the United States Pacific Coast/Hawaii Domestic Offshore Trade* (1978). On May 1, 1985, the Administrative Law Judge assigned to Docket No. 85-3, *Matson Navigation Company, Inc.—Proposed General (sic) Rate Increase of 2.5 Percent Between United States Pacific Coast Ports and Hawaii Ports* issued an initial decision finding that a maximum reasonable rate of return for Matson should be between 13.68 and 13.98 percent. This decision, however was not adopted by the Commission, and the rates were instead deemed reasonable by virute of the language of section 3 of the Intercoastal Shipping Act, 1933 (46 app. U.S.C. 845).

York, Florida, and Pennsylvania); in consumer and commercial financing and leasing activities, pursuant to § 225.25(b)(1) of Regulation Y; consumer financing activities, pursuant to § 225.25(b)(1); and in acting as agent in the sale, pursuant to section 4(c)(8)(D)(i) of the Act, of credit-related life, accident and health, property and casualty insurance activities which were previously approved for sale by this subsidiary on or before May 1, 1982. This activity would be conducted in New York, which is immediately adjacent to applicant's principal state of banking operations, New Jersey.

Board of Governors of the Federal Reserve System, December 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-182 Filed 1-3-86; 8:45 am]

BILLING CODE 6210-01-M

First Union Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any 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 January 29, 1986.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Union Corporation,* Charlotte, North Carolina; to acquire 100 percent of the voting shares of Citizens DeKalb Bank, Clarkston, Georgia.

2. *First Union Corporation of Georgia,* Charlotte, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens DeKalb Bank, Clarkston, Georgia.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Lewis & Clark Bancshares, Inc.,* Wood River, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Wood River, Wood River, Illinois.

Board of Governors of the Federal Reserve System, December 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-183 Filed 1-3-86; 8:45 am]

BILLING CODE 6210-01-M

Fleet Financial Group, Inc.; Application To Engage De Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23 (a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the aplication 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 effeciency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 17, 1986.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.,* Providence, Rhode Island; to engage *de novo* through its subsidiary, Fleet Brokerage Services, Inc., Providence, Rhode Island, in securities brokerage services and incidental activities, pursuant to § 225.25(b)(15) of Regulation Y.

Board of Governors of the Federal Reserve System, December 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-185 Filed 1-3-86; 8:45 am]

BILLING CODE 6210-01-M

Norstar Bancorp 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 January 17, 1986.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Norstar Bancorp Inc.*, Albany, New York; to acquire Intercounty Mortgagee Corporation, Hempstead, New York, and thereby engage in making, acquiring, buying, selling and otherwise dealing in mortgage loans as principal or agent; servicing mortgage loans for affiliated or nonaffiliated entities; and second mortgage financing, pursuant to § 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, December 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-186 Filed 1-3-86; 8:45 am]

BILLING CODE 6210-01-M

Pinellas Bancshares Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the office 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 January 20, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. **Pinellas Bancshares Corporation**, St. Petersburg, Florida; to merge with United States Pinellas Corporation, St. Petersburg, Florida, thereby indirectly acquiring United Bank of Pinellas, St. Petersburg, Florida.

2. **United Pinellas Corporation**, St. Petersburg Florida; to become a bank holding company by acquiring 80 percent of the voting shares of Pinellas Bancshares Corporation, St. Petersburg, Florida, thereby indirectly acquiring United Bank of Pinellas, St. Petersburg, Florida.

Board of Governors of the Federal Reserve System, December 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-187 Filed 1-3-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administraton

Medicaid Program; Hearing; Reconsideration of Disapproval of the Effective Date of a South Dakota State Plan Amendment

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

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on February 12, 1986 in Denver, Colorado to reconsider our decision to disapprove the effective date of South Dakota State Plan Amendment 85-10.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk January 21, 1986.

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 South Dakota State Plan Amendment 85-10.

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 withing 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 petition 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 South Dakota's request to establish an effective date of January 1, 1985 for State Plan Amendment 85-10 violates Federal regulations at 42 CFR 447.253 and 42 CFR 447.205.

South Dakota's proposed plan would, for most hospitals, replace the State's retrospective reasonable cost payment methodolgy with a prospectively determined payment method based on diagnostic related groups (DRGs).

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 section 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 additionai requirements regarding the content of the notice.

The plan amendment was submitted by the State on March 21, 1985, together with assurances and related rate information. The State published a public notice which met the requirements of section 447.205 on March 28, 1985. Accordingly, HCFA has determined that the effective date for the amendment cannot be January 1, 1985 because the requirements at 42 CFR 447.253 and 42 CFR 447.205 were not met until March 28, 1985.

Therefore, HCFA approved the plan amendment with an effective date of

March 29, 1985, the day following publication of the State's notice.

The notice to South Dakota announcing an administrative hearing to reconsider our disapproval of portions of its State plan amendment reads as follows:

Mr. James Ellenbecker,
Secretary, Department of Social Services, Kneip Building, Pierre, South Dakota 57501.

Dear Mr. Ellenbecker: This is to advise you that your request for reconsideration of the decision to disapprove the effective date of South Dakota Plan Amendment 85–10 was received on December 2, 1985. South Dakota State Plan Amendment 85–10 would replace the State's retrospective reasonable cost payment methodology for inpatient hospital services with a prospectively determined payment methodology based on diagnostic related groups (DRGs). You have requested a reconsideration of whether the requested effective date of January 1, 1985 conforms to the requirements for approval under Federal regulations at 43 CFR 447.253 and 42 CFR 447.205.

I am scheduling a hearing on your request to be held February 12, 1986 at 10:00 a.m. in Room 1083, 1961 Stout Street, Denver, Colorado. 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. Stanley Krostar 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,

C. McClain Haddow,
Acting Administrator.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: December 30, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 86–145 Filed 1–3–86; 8:45 am]

BILLING CODE 4120–03–M

National Institutes of Health

Meeting; Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on January 16, 1986, in Conference Room 7, Building 31, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:00 a.m. to 9:20 a.m. to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 522b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting of the Transplantation Biology and Immunology Subcommittee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:20 a.m. until adjournment. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Lynn Trible, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institute of Heath, Bethesda, Maryland 20892, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the committees members.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 706, Bethesda, Maryland 20892, telephone (301) 496–7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: December 24, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–218 Filed 1–3–86; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Vital and Health Statistics National Committee; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Statistical Aspects of Physician Payment Systems established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Tuesday, January 14, 1986 from 9:30 a.m. to 5:00 p.m. in Room 529A of the Hubert H. Humphrey Building, 200 Indpendence Avenue, SW., Washington, DC 20201.

The Subcommittee will hear presentations from Federal agencies on the ambulatory care data flow for the patient-physician encounter in their respective programs amd from other users of ambulatory care data.

Further information regarding this meeting of the Subcommittee may be obtained by contacting Marjorie Greenberg, National Center for Health Statistics, Room 2–28, Center Building, 3700 East-West Highway, Hyattsville, MD 20782, telephone (301) 436–7122.

Dated: December 23, 1985.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 86–146 Filed 1–3–86; 8:45 am]

BILLING CODE 4160–17–M

Vital and Health Statistics National Committee; of Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Uniform Minimum Health Data Sets established pursuant to 42 USC 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Friday, January 17, 1986 from 9:00 a.m. to 4:30 p.m. in Room 405A of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

The Subcommittee will hear testimony from individuals and national associations involved in the provision of long term care on their reactions to the proposed long term care minimum data set.

Further information regarding this meeting of the Subcommittee may be obtained by contacting Henry S. Mount, National Center for Health Statistics, Room 2–28, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7122.

Dated: December 23, 1985.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 86–147 Filed 1–3–86; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 62094]

AGENCY: Bureau of Land Management, Butte District Office, Interior.

ACTION: Notice of realty action, exchange of public lands in Lewis and Clark, Jefferson, Park, Beaverhead, Deer Lodge, and Madison Counties for private property in Silver Bow, Deer Lodge, and Beaverhead Counties.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976; 43 U.S.C. 1716:

PRINCIPLE MERIDIAN, MONTANA

Tract No.	Legal Description	Acres
	Park County	
P-6	T. 8 S., R. 6 E., Section 10, SW¼SE¼	40
	Lewis and Clark County	
L-2	T. 11 N., R. 4 W., Section 22, Lot 1	25.41
	Madison County	
232	T. 4 S., R. 7 W., Section 22, W½SW¼, SE¼SW¼	120
234	T. 4 S., R. 7 W., Section 28, E½E½	160
235	T. 4 S., R. 7 W., Section 32, SE¼SW¼, SE¼	200
	Jefferson County	
J-14	T. 9 N., R. 3 W., Section 9, Lots 9 and 11	0.19
J-6	T. 7 N., R. 3 W., Section 17, Lot 24	1.07
J-7	T. 2 N., R. 5 W., Section 26, NW¼NW¼	40
J-8	T. 8 N., R., 4 W., Section 23, Lot 1	23.65
	Beaverhead County	
30	T. 5 S. R. 14 W., Section 29, NW¼SE¼	40
31	T. 5 S., R. 14 W., Section 32, NE¼NE¼	40
116	T. 15 S., R. 6 W., Section 4, SW¼NW¼, NW¼SW¼	80
BH-1	T. 14 S., R. 1 E., Section 22, SE¼NW¼	40
BH-2	T. 1 N., R. 12 W., Section 4, SW¼NE¼	40
	Deer Lodge County	
D-1	T. 2 N., R. 12 W., Sectoin 32, NE¼NE¼	40

In exchange for an equal value of these public lands, the United States will acquire the following described lands in Silver Bow, Beaverhead, and Deer Lodge Counties from the Ralston Ranch Company.

Principal Meridian, Montana

T. 1 N., R. 12 W., Section 3, 80 acres. W½SW¼.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the address shown below. Any adverse comments will be evaluated by the BLM, Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the exchange, including the environmental assessment and land report, is available for review at the Butte District Office, P.O. Box 3388 Butte, Montana 59702.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire 80 acres of high recreational valued land. This tract will provide public access to quality camping, picnicking, and boat launch sites adjacent to the Big Hole River. Acquisition of the subject land would also add one-half mile of Class I fisheries to the public land base. This is the highest rating available for a fisheries.

The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

This Notice constitutes formal notification under 43 CFR 4110.4-2(b) that the BLM may cancel grazing authorizations on the above described public lands at any time after two years from the receipt of this Notice by existing grazing lessees or permittees.

The Exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 USC 945.

2. The reservation to the United States of any identified mineral values on the Federal lands being transferred.

3. All valid existing rights (e.g., rights-of-way and leases of record).

4. Value equalization by cash payments or acreage adjustments.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with state and local officials. The public interest will be served by completion of this exchange.

Dated: December 30, 1985.

Paul Peek,

Acting District Manager.

[FR Doc. 86-245 Filed 1-3-86; 8:45 am]

BILLING CODE 4310-DN-M

National Park Service

Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Sub-Committee Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App. 1 10), that a meeting of a Cape Cod National Seashore Advisory Commission Sub-Committee will take place on Saturday, January 25, 1986, from 2:00 p.m. to 5:00 p.m. at the Orleans Middle School, Chatham Road, Route 28, Orleans, Massachusetts.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

At the October 18, 1985, meeting of the Advisory Commission, a subcommittee consisting of Commissioners George Bryant, as Chairman, and Frederick LaPiana and John Bicknell as members, was formed to sample public opinion on the revised off-road vehicle regulations that went into effect on September 3, 1985.

The meeting is open to the public with a maximum number of 500 people able to attend.

Interested persons may make oral/written presentations to the sub-committee or file written statements. Written statements should be sent to the

official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Code National Seashore, So. Wellfleet, MA 02663. Telephone (617) 349–3785. Minutes will be available for public information and copying two weeks after the meeting at the office of the Superintendent, Cape Code National Seashore, South Wellfleet, Massachusetts.

Herbert Olsen,

Superintendent.

December 24, 1985.

[FR Doc. 86–173 Filed 1–3–86; 8:45 am]

BILLING CODE 4310–70–M

History Committee, Statue of Liberty-Ellis Island Centennial Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice announces a forthcoming meeting of the History Committee of the Statue of Liberty-Ellis Insland Centennial Commission. The Committee will review its role in the Statue of Liberty-Ellis Inland restoration project and will discuss the Committee's suggestions and initiatives that will commemorate the hundredth anniversaries of the Statue of Liberty (1986) and Ellis Island (1992).

DATE: January 24–25, 1986, 9 a.m. to 4:30 p.m.

ADDRESS: The Statue of Liberty-Ellis Island Foundation, Inc., 101 Park Avenue, Suite 1205, New York, New York 10178.

FOR FURTHER INFORMATION CONTACT: Herbert S. Cables, Jr., Regional Director, National Park Service, 15 State Street, Boston, MA 02109.

Herbert S. Cables,

Regional Director, North Atlantic Region.

[FR Doc. 86–170 Filed 1–3–86; 8:45 am]

BILLING CODE 4310–70–M

Availability of Draft Land Protection Plan; Lake Clark National Park and Preserve, AK

AGENCY: National Park Service, Alaska Regional Office, Interior.

ACTION: Notice of availability of Draft Land Protection Plan.

SUMMARY: This notice announces the availability of the draft land protection plan for Lake Clark National Park and Preserve, Alaska. The document will be available for public comment for 60 days.

This document discusses nonfederal lands and other interests in and around the park/preserve and methods to protect the purposes for which the area was created.

Following consideration of public comments a final land protection plan will be prepared.

DATES AND ADDRESSES: Comments on the draft document should be received no later than March 6, 1986, and should be addressed to: Superintendent, Lake Clark National Park and Preserve, 701 C Street, Box 61, Anchorage, Alaska 99513, (907) 271–3751.

Copies of the document are available upon request from the above address.

For further information contact Superintendent Paul Haertel at the above address and telephone number.

Dated: December 9, 1985.

William C. Welch,

Acting Regional Director, Alaska Region.

[FR Doc. 86–171 Filed 1–3–86; 8:45 am]

BILLING CODE 4310–70–M

Availability; Draft National Historic Trail of Tears Study and Environmental Assessment; North Carolina, Georgia, Alabama, Tennessee, Kentucky, Illinois, Missouri, Arkansas, and Oklahoma

Pursuant to a March 1983 amendment to the National Trails System Act, Pub. L. 98–11 and the National Environmental Policy Act of 1969 and Part 516 of the Departmental Manual, the National Park Service has prepared a Draft National Historic Trail of Tears Study/Environmental Assessment. The trail passes through parts of the states of North Carolina, Georgia, Alabama, Tennessee, Kentucky, Illinois, Missouri, Arkansas, to the vicinity of Tahlequah, Oklahoma.

The Draft National Historic Trail of Tears Study/Environmental Assessment explores a number of options ranging from "no action" to adding the Trail of Tears as a historical component to the National Trails System. The selected alternative calls for the designation of a water route and the primary overland route as a national historic trail. Acceptance of the findings and conclusions of the study by the Congress would result in the trail being included in the System, the preparation of a comprehensive plan for management, and establishment of the trail as a national historic trail.

Copies of the Draft National Historic Trail of Tears Study/Environmental Assessment are available from the National Park Service, Southeast Regional Office, Planning and Federal Programs Division, 75 Spring Street, SW., Atlanta, Georgia 30303, telephone 404–331–5838; and the Southwest Regional Office, Division of Recreation Programs, Post Office Box 728, Santa Fe, New Mexico 87501, telephone 505–988–6835, and will be sent upon request.

Public meetings will be held in Fort Smith, Arkansas, and Tahlequah, Oklahoma, on January 21, 1986, and January 22, 1986, respectively. The meeting in Fort Smith will be at the Creekmore Park Community Building. The meeting in Tahlequah will be at the Cherokee Tribal office. Both meetings are scheduled to begin at 7:00 p.m.

Anyone wishing to submit comments on the Draft National Historic Trail of Tears Study/Environmental Assessment should provide them to Wally Brittain, National Partk Service, Southeast Regional Office, 75 Spring Street, SW., Atlanta, Georgia 30303, by February 24, 1986, or provide them at the public meetings.

Dated: December 24, 1985.

Keith Miller,

Acting Regional Director, Southwest Region.

[FR Doc. 86–174 Filed 1–3–86; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–223 (Final)]

Agricultural Tillage Tools From Brazil

Correction

In FR Doc. 85–25118 appearing on page 43008 in the issue of Wednesday, October 23, 1985 make the following correction:

In the first column, in the second paragraph, in the sixth line, "is" should read "is not".

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 458]

Railroad Cost of Capital—1984

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Decision.

SUMMARY: On January 6, 1986, the Commission served a decision to update its estimate of the railroad industry's cost of capital for 1984. The compositive cost of capital for 1984 is found to be 15.8 percent, based on a current cost of debt of 12.8 percent, a cost of equity

capital of 17.3 percent, and a 33.9 percent of debt/66.1 percent equity capital structure mix. The cost of capital finding made in this proceeding will enable the Commission to make its annual determination of railroad revenue adequacy for 1984. The decision also found that, in future cost of capital proceedings, the cost of preferred stock equity should be considered in determining the railroads' composite cost of capital. Finally, the decision set forth certain criteria for determining which companies should be included in the carrier study frame for future cost of capital determinations.

ADDRESSES: To purchase copies of the full decision contact: TS Infosystems, Inc., Room 2229, 12th St. & Constitution Ave., NW., Washington, DC 20423; (202) 289–4357—DC Metropolitan Area; (800) 424–5403—toll free for outside DC area.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 275–7489.

SUPPLEMENTARY INFORMATION: The cost of capital finding in this decision should be utilized to evaluate the adequacy of railroad revenues for 1984, under the procedures and standards promulgated in Ex Parte No. 393, *Standards for Railroad Revenue Adequacy*, 364 ICC 803 (1981). This finding may also be utilized in proceedings involving the prescription of maximum reasonable rate levels.

Dated: December 20 1985.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Taylor, Sterrett, Andre, Lamboley and Strenio. Commissioner Lamboley concurred in the result.

James H. Bayne,

Secretary.

[FR Doc. 86–150 Filed 1–3–86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–265 (Sub-No. IX); Financed Docket No. 30702]

State of Vermont and Vermont Railway, Inc:—Discontinuance of Service Exemption in Chittenden County VT—and Trustees of the Diocese of Vermont, et al. v. State of Vermont and Vermont Railway, Inc.; Exemption

Applicants, (the State of Vermont, owner of the rail line and the Vermont Railway, Inc., operator of the line), have filed a notice of exemption under 49 CFR 1152, Subpart F—*Exempt Abandonments and Discontinuance of Service and Trackage Rights* to discountinue service over the North Burlington branch rail line between milepost 124.687 and milepost 122.910, a distance of approximately 1.777 miles, in Chittenden County, VT

Preliminary Matters

Railways Labor Executives' Association (RLEA), by protest filed December 6, 1985, requests that the Commission impose protective labor conditions upon the grant of the exemption. United Transportation Union, by letter filed December 9, 1985, joins in the protest filed by RLEA. In accordance with Commission policy, protective labor conditions will be imposed.

The Trustees of the Diocese of Vermont, Burlington Lodge No. 916, Benevolent and Protective Order of Elks, and J. Paul Preseault and Patricia Preseault (Trustees), filed a motion for summary rejection, and a motion for the consolidation with Finance Docket No. 30702, *Trustees of the Diocese of Vermont, et al.* v. *State of Vermont and Vermont Railway, Inc.* The State of Vermont replied.

The Trustees urge consolidation because AB–265 (Sub-No. 1X) and Finance Docket No. 30702 relate to the same factual situation and legal issues. The Trustees are correct. Both cases involve the abandonment of the same line and the future use of that line. The proceedings will be consolidation.

The Trustees also argue that the notice of exemption should be rejected because it contains false and misleading information. They state that (1) service has already been discontinued and cannot be discontinued in the future; (2) the notice of exemption procedures do not apply to the discontinuance of service; (3) the opinion of Vermont's counsel as to the state of Vermont's law is not a fact that the Commission should rely on; and (4) legislation occurring after 1975 has no bearing on this line. Vermont replies to each allegation.

The notice will not be rejected. The proposed consummation date of February 15, 1986, is the date on which Vermont intends to formally discontinue service, despite the actual cessation of service in 1975, because of a lack of demand. This was the type of situation for which these procedures were created. *Exemption of Out of Service Rail Lines*, 366 I.C.C. 885, 982 (1983). The Commission expanded the notice of exemption procedures to apply to the discontinuance of service in Ex Parte No. 274 (Sub-No. 8A), *Exemption of Out of Service Lines (Discontinuance of Service and Trackage Rights)* (not printed), served April 20, 1984. The regulations require that Vermont furnish an opinion on any restrictions on title [49 CFR 1152.50(d)(2) and 1152.22 (e)(5)]. While Vermont has furnished the opinion required by the regulations, the Commission makes no findings on the validity of that opinion. Finally, the argument that legislation enacted since 1975 cannot affect this proceeding is contrary to the general legal precept that in processing cases the Commission is normally obliged to apply the law currently in effect. *Bradley* v. *Richmond Schoold Board*, 416 U.S. 696, 715 (1974). No exceptional circumstances have been presented by the Trustees that require deviation from this rule. Hence, no grounds have been presented warranting rejection of the notice of exemption.

Applicants' Evidence

Applicants have certified: (1) That no local traffic has moved over the line for at least 2 years and that overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line (or by a State of local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Count, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

Applicants do not seek to abandon any properties, only to discontinue service. Because of its scenic beauty and its contiguity to parks and other publicy owned properties, the subject right-of-way is suitable for trail use. The applicants will make the subject right-of-way available for trail use as a bicycle and pedestrian path during the period of time that rail service remains discontinued. The applicants and the City of Burlington, VT have entered into a lease, dated June 18, 1985, whereby the City of Burlington will assume full responsibility for management of the right-of-way and for any legal liability arising out of the transfer or use and for the payment of any and all taxes that may be levied or assessed against the right-of-way. The right-of-way is appropriate for use as a trial and the City of Burlington has the finanical capacity to make the commitment required by the *National Trails System Act*, 16 U.S.C. 1247(d) (Trails Act).

Discussion and Conclusions

Pursuant to our jurisdiction under 16 U.S.C. 1247(d) the City of Burlington is willing to take full responsibility for the management of the right-of-way, for any legal liability, and for the payment of taxes on the land. Therefore this line is suitable for trail use under the Trails

Act. Since Vermont and the City have entered an agreement so that the City may use the line for interim trail use under 16 U.S.C. 1247(d) no futher action by either party is necessary.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective February 5, 1986 (unless stayed pending reconsideration). Petitions to stay must be filed by January 16, 1986, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by January 27, 1986 with:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to the applicants' representatives:

John K. Dunleavy, State of Vermont, 133 State Street, Montpelier, VT 05602.

John R. Pennington, Vermont Railway, Inc., One Railway Lane, Burlington, VT 05401.

If the notice of exemption contains false of misleading information, use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is further conditioned upon environmental or public use conditions.

Since this notice resolves the issues raised in Finance Docket No. 30702, that proceeding will be dismissed.

It is ordered:

Finance Docket No. 30702 is dismissed.

Decided: January 2, 1986.

By the Commission, Jane F. Mackall, Acting Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-240 Filed 1-3-86; 8:45 am]

BILLING CODE 7035-01-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: National Survey of Academic Research Instruments and Instrumentation Needs

Affected Public: Non-Profit Institutions

Number of Responses: 6,400 responses; total of 1,280 burden hours

Abstract: This study of academic scientific research instruments, to be conducted during 1986-87, will update measures of equipment quantity, age, condition, utilization, and need obtained in the baseline survey of 1983-84. Changes and trends occurring over the period since the initial study will be documented, and reassessments made.

Dated: December 31, 1985.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 86-110 Filed 1-3-86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-413]

Duke Power Co., North Carolina Electric Membership Corp., Saluda River Electric Cooperative, Inc.; Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-35, issued to Duke Power Company, et al., the licensee, for the operation of the Catawba Nuclear Station, Unit 1, located in York County, South Carolina.

In accordance with Duke Power Company's applications for amendment dated March 15, 1985, August 7, 1985, October 30, 1985, November 7, 1985, December 17, 1985, December 20, 1985 and December 23, 1985, the proposed changes would revise the Catawba Unit 1 Technical Specifications to eliminate typographical errors, provide additional clarification, improve consistency, adjust nomenclature, bring portions of the Specifications into conformance with current NRC staff positions, incorporate Unit 2 information where appropriate, and make other minor changes. The NRC staff renumbered many pages to accommodate the additional information needed for Unit 2. The items included in this notice do not cover all the items requested by Duke Power Company; some of the items not included in this notice are still under consideration by the NRC staff.

A primary objective of the amendment request is to achieve a single Technical Specifications document that is common for Units 1 and 2 with individual specification for each Unit clearly indentified, as appropriate.

The following is a description of the proposed changes to the current Unit 1 Technical Specifications:

1. Page V of the Table of Contents is revised to change page numbers for 2 figures that had been rearranged for a more consistent format.

2. Page VII of the Table of Contents is revised to indicate that a new section 3/4.4.11 has been added.

3. Page 2-2, Specification 2.1, Figure 2.1-1, "1700 psia" is changed to "1775 psia" to correct a typographical error.

4. Pages 2-5, 3/4 3-21, and 3-31, Specifications 2.2.1 and 3.3.2, Tables 2.2-1 and 3.3-3 are revised to incorporate Unit 2 trip setpoints.

5. Page 2-8, Specification 2.2.1, Table 2.2-1 is revised to read "590.8°F (Nominal T_{avg} allowed by Safety Analysis)" for clarification of a parenthetical statement.

6. Page 2-8, Specification 2.2.1, Table 2.2-1 is revised ro read "$q_t - q_b$ is more negative than -43%," and to read "$q_t - q_b$ is more positive than -6.5%" to clarify the nomenclature by replacing the word "exceeds."

7. A new page 3/4 0-2, Specification 3.0.5 is added as a clarification to specify the applicability of all specifications to Units 1 and 2 individually and jointly.

8. Pages 3/4 1-12, Specification 3.1.2.6 is revised to correct a typographical error in the specification number.

9. Page 3/4 2-7, Specification 4.2.2.2 is revised to replace

$$\text{"}F\frac{L}{xy} = F\frac{RTP}{xy}\,[1+0.3(1-P)]\text{"}$$

with

$$\text{"}F\frac{L}{xy} = F\frac{RTP}{xy}\,[1+0.2(1-P)]\text{"}$$

to correct a typographical error.

10. Pages 3/4 2-6 through 2-8 are rearranged and renumbered for a more consistent format.

11. Pages 3/4 2-10 and 2-11 are rearranged and renumbered for more consistent format.

12. Pages 3/4 3-3, 3-8, and 3-10, Specifications 3.3.1 and 4.3.1.1, Tables 3.3-1, 3.3-2 and 4.3-1 are revised to incorporate Unit 2 specific values.

13. Pages 3/4 3-15, 3-23, 3-27, 3-34, 3-37, 3-38, 3-39, 3-42, 3-49, and 3-53, Specifications 3/4.3.2, and 3/4.3.3, Tables 3.3-3, 3.3-4, 3.3-5, 4.3-2, and 3.3-6 are revised to delete the word

"ventiliation" for a functional unit to correct and clarify the nomenclature of the functional unit.

14. Pages 3/4 3–18 and 3–19, Specification 3.3.2, Table 3.3–3 is revised to replace the word "loop" with "steam generator" to clarify the nomenclature for the actual systems.

15. Page 3/4 3–21, Specification 3.3.2, Table 3.3–3 is revised to correct a typographical error by replacing an instrument number "5231" with "5232".

16. Page 3/4 3–26, Specification 3.3.2, Table 3.3–3 is revised to add the words "with flow through the HEPA filters and carbon adsorbers" at the end of ACTION 24 to correct an inconsistency with other specifications.

17. Page 3/4 3–29 through 3–32, Specification 3.3.2, Table 3.3–4 is revised to replace the symbol for "less than" with the symbol for "less than or equal to" to correct a typographical error and to incorporate Unit 2 specific trip setpoints.

18. Page 3/4 3–40, Specification 3.3.2, Table 3.3–5 is revised to delete "N/A" from line containing "13. Loss-of-Offsite Power" to correct a typographical error.

19. Page 3/4 3–41, Specification 3.3.2, Table 3.3–5 is revised to clarify that the KC valves apply to both Units 1 and 2 to correct an inconsistency for equipment designation.

20. Pages 3/4 3–52 and 3–54, Specification 3.3.3.1, Tables 3.3–6 and 4.3–3 are revised to replace "EMF–15" with "1EMF–15, 2EMF–4" to incorporate a Unit 2 design difference and to replace "All" with "1,2,3,4" under applicable modes for functional unit item 4 to correct an inconsistency with other specifications.

21. Page 3/4 3–53, Specification 3.3.3.1, Table 3.3–6 is revised to replace "charcoal" with "carbon" in ACTIONs 31, 34, and 35 to ensure the consistency of the nomenclature for adsorbers.

22. Pages 3/4 3–62 and 3–65, Specifications 3.3.3.5 and 3.3.3.6 are revised to replace "HOT SHUTDOWN within the next 12 hours" with "HOT STANDBY within the next 6 hours and in HOT SHUTDOWN within the following 6 hours" to correct an inconsistency in the ACTION item with other specifications.

23. Pages 3/4 3–67 and 3–69, Specifications 3.3.3.6 and 4.3.3.6, Tables 3.3–10 and 4.3–7 are revised to replace "(EMF–26, 27, 28, or 29)" with "(1EMF–26, 27, 28, or 29 and 2EMF–10, 11, 12, or 13)" to incorporate Unit 2 design differences.

24. Page 3/4 3–70, Specification 3.3.3.7, is revised to replace "system" with "System" to correct a typographical error in reference to the Chlorine Detection System.

25. Page 3/4 3–71, Specification 3.3.3.8, is revised to replace "fire detection" with "smoke detection or flame detection," to replace the words "Fire detectors" with "Detectors," and to replace the words "fixed temperature/rate of rise" with "heat" to make the specification consistent with the correct nomenclature used in Table 3.3–11.

26. Pages 3/4 3–73 to 3–76, Specification 3.3.3.8, Table 3.3–11 is revised to add multiple fire detection instruments and locations for Unit 2 and to correct typographical errors.

27. Pages 3/4 3–79, Specification 3.3.3.10, Table 3.3–12 is revised to replace "1" with "1 per station" in 1.a., 2., 3.a., 3.b., and 3.c. to clarify applicability of instrumention on a station basis.

28. Page 3/4 3–82, Specification 4.3.3.10, Table 4.3–8 is revised to correct a spelling error in "CHANNEL".

29. Page 3/4 3–84, Specification 3.3.3.11, Table 3.3–13 is revised to replace "1" with "1 per station" in 1.a and 1.b., and to replace "1/train" with "1/train per station" in 2.a., and "2/train" with "2/train per station" in 2.b. to clarify the applicability of systems to both units.

30. Pages 3/4 3–77 to 3–84 have been renumbered to accommodate additional equipment for Unit 2 incorporated into pages 3/4 3–74 to 3–76.

31. Page 3/4 4–10, Specification 3.4.4, ACTION c. is revised to replace "With both PORV(s)" with "With more than one PORV" to clarify the action statement for a plant containing more than 2 PORVs.

32. Page 3/4 4–17, Specification 4.4.5.1, Table 4.4–1 has multiple revisions to clarify the information regarding Catawba as a plant with 4 steam generators.

33. Pages 3/4 4–22 and 4–23, Specification 3.4.6.2, Table 3.4–1 is revised to clarify the applicability of the valves to both units, and to correct typographical errors.

34. Page 3/4 4–40, a new Specification 3.4.11 is added to address Reactor Coolant System Vents.

35. Page 3/4 5–4, Specification 4.5.1.2 is revised to replace ". . . the water level is 93.2 [plus or minus] 2.7 inches above . . ." with ". . . the water level is 93.2 [plus or minus] 2.7 inches (Unit 1) and 93.1 [plus or minus] 2.7 inches (Unit 2) above . . ." to incorporate Unit 2 specifications.

36. Pages 3/4 5–6 and 5–7, Specification 4.5.2 is revised to replace "1NI" with "NI" to clarify the applicability of the valves to both units.

37. Page 3/4 6–7, Specification 3.6.1.2, Table 3.6–1 is revised to include a Unit 2 specific penetration and a footnote regarding its applicability to Unit 1.

38. Pages 3/4 6–14, 6–15, 7–13, 7–14, 7–15, 9–5, 9–6, 9–14, and 9–15, Specifications 4.6.1.8, 3.7.6, 4.7.6, 4.9.4.2, 4.9.11.1, and 4.9.11.2 and revised to replace the word "charcoal" with "carbon" to ensure the consistency of the nomenclature for adsorbers.

39. Page 3/4 6–17, Specification 4.6.1.9.4 is revised to replace "Containment Air Release and Addition System" with "Containment Air Release and Addition System valves" to correct a typographical omission.

40. Page 3/4 6–15, 7–14, 7–17, 9–6, and 9–15, Specifications 4.6.1.8, 4.7.6, 4.7.7, 4.9.4.2, and 4.9.11.2 are revised to delete "when tested in accordance with ANSI N510–1980" because this ANSI standard does not have test procedures for heat dissipators.

41. Page 3/4 7–1, Specification 3.7.1.1 is revised to replace "COLD SHUTDOWN within the following 30 hours" with "HOT SHUTDOWN within the following 6 hours" to make the ACTION statement consistent with the APPLICABILITY statement for this Specification and the Standard Technical Specifications.

42. Page 3/4 7–3, Specification 3.7.1.1, Table 3.7–2 is revised to replace "1SV" with "SV" to clarify the applicability of the values to both units.

43. Page 3/4 7–5, Specification 4.7.1.2.1 is revised to correct a typographical error by moving "and" from before paragraph 4) to before paragraph 5).

44. New Page 3/4 7–9, Specification 3/4.7.1.3 is added to implement a Limiting Condition for Operation and Surveillance Requirements for the Unit 2 Condensate Storage Tank. Pages 7–9 through 7–41 are renumbered to reflect this addition, and Table of Contents Page IX is corrected to include the new Specification. This Specification does not apply to Unit 1; therefore, for Unit 1 noticing purposes, this change is purely administrative.

45. Page 3/4 7–12 and 7–13, Specifications 3.7.5 and 3.7.6 are revised to indicate that the Specifications apply to both units.

46. Page 3/4 7–14, Specification 4.7.6e.3 is revised to clarify the relative pressure measurement requirement across the HEPA filter in the control room area ventilation system.

47. Page 3/4 7–27, Specification 4.7.10.1 is revised to correct a spelling error for "distribution".

48. Page 3/4 7–28, Specification 3.7.10.2 is revised to incorporate spray-sprinkler systems for Unit 2.

49. Pages 3/4 7–33 and 7–34, Specification 3.7.10.4, Table 3.7–3 has

multiple revisions to incorporate Unit 2 additions, and to correct a typographical error.

50. Pages 3/4 8–12, 8–13, 8–14, 8–16, and 8–17, Specifications 3.8.2.1, 4.8.2.1.1, 3.8.2.2, and 3.8.3.1 are revised to delete reference "1" from Bus and Battery Numbers to clarify the applicability to both units.

51. Pages 3/4 8–19 and 8–21 through 8–43, Specification 3.8.4 and Table 3.8–1 have been revised and new pages 3/4 8–44 through 8–66 have been added to establish separate tables for Units 1 and 2 and to correct typographical errors.

52. Pages 3/4 8–24 and 8–26, Specification 3.8.4, Table 3.8–1 are revised to delete containment penetration conductor overcurrent protective devices to match the as-built plant.

53. Pages 3/4 8–35 and 8–43, Specification 3.8.4, Table 3.8–1 are revised to identify additional containment penetration conductor overcurrent protective devices originally omitted from the table.

54. Page 3/4 8–40, Specification 3.8.4, Table 3.8–1 is revised to correct a typographical error.

55. Page 3/4 11–2, Specification 4.11.1.1.1, Table 4.11–1 is revised to correct a typographical error by removing "a." under 2.

56. Page 3/4 11–18, Specification 3/4.11.3 is revised to correct a typographical error in the heading of the Specification.

57. Page 5–3, Specification 5.1.2, Figure 5.1–2 is revised to indicate that the Low Population Zone is 3.8 miles instead of 5.0 miles to conform with the Final Safety Analysis Report.

58. Page 6–1, Specification 6.2.2 is revised to include standard wording for a two unit station.

59. Pages 6–3 and 6–4, Specifications 6.2.1 and 6.2.2, Figures 6.2–1 and 6.2–2 have been revised to incorporate the current structures for offsite and unit organizations.

60. Page 6–5, Specification 6.2.2, Table 6.2–1 is revised to incorporate wording for a two unit station with a common control room.

61. Page 6–17, Specification 6.9.1.7 is revised to clarify classification of shipped solid waste as it pertains to 10 CFR Part 61.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed 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.

As stated above, the Commission proposes to determine that the proposed changes do not involve a significant hazards consideration. In this regard, the Commission has provided guidance concerning the application of standards for determining whether or not a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards considerations. The examples include: (i) 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; and (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 proposed changes to the Technical Specifications are similar to these examples in that they are either administrative (i), or are more restrictive (ii). On this basis, the Commission proposes that these changes do not involve significant hazards considerations. The following is a description of how the proposed change items are similar to the examples of 48 FR 14870.

With the exception of item 34, all of the proposed changes in the Technical Specifications listed above are for eliminating typographical errors, correcting punctuation, adjusting nomenclature for consistency with usage at the plant, providing additional clarification, improving consistency within the specifications, making minor changes, and including Unit 2 Specifications as necessary to reflect operation of Units 1 and 2. Therefore, they are encompassed by example (i) of actions not likely to involve significant hazards considerations.

Proposed change 34 introduces an additional Technical Specification to address reactor coolant system vents. Requirements for reactor coolant system vents are found in NUREG–0737 as post-TMI requirements. This Specification details the Limiting Condition for Operation and Surveillance Requirements for the vents. This proposed change is encompassed by example (ii) of 48 FR 14870 in that it provides additional restrictions and controls not presently included in the Technical Specifications. On this basis, the Commission proposes to determine that the change does not involve a significant hazards consideration since it incorporates the addition of restrictions and controls that are not currently included in the Technical Specifications.

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 hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

By February 6, 1986, 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 interests may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the

petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no signficant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing 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 fashion would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of te 30-day notice period, provided that its final determination is that the amendment involves ne significant hazards consideration. 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, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW, Washington, DC, 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 B.J. Youngblood, Director, PWR Project Directorate #4, Division of PWR Licensing-A: petitoner'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, DC 20555, and to Mr. William L. Porter, Duke Power Company, P.O. Box 33189, Charlotte, North Carolina 28242, 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 presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted 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 applications for amendment dated March 15, 1985, August 7, 1985, October 30, 1985, November 7, 1985, December 17, 1985, December 20, 1985, and December 23, 1985, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Dated at Bethesda, Maryland, this 30th day of December 1985.

For the Nuclear Regulatory Commission.

B.J. Youngblood,

Director, PWR Project Directorate #4 Division of PWR Licensing-A .

[FR Doc. 86–200 Filed 1–3–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 119 to Facility Operating License No. DPR–57, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority for Georgia, City of Dalton, Georgia (the licensees), which revised the Technical Specifications (TSs) for operation of the Edwin J. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia. The amendment is effective as of the date of its issuance and shall be implemented within 30 days.

This amendment revises the TSs for Hatch Unit 1 to update the inservice inspection requirements pursuant to 10 CFR 50.55a(g)(4)(ii). These changes are needed, in part, to help support completion of the first ten-year inservice inspection interval during the Hatch Unit 1 maintenance/refueling outage scheduled to begin November 30, 1985. Other changes requested in the licensee's August 1, 1985, application are being addressed separately.

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.

Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on August 26, 1985, 50 FR 34560. No request for a hearing or petition for leave to intervene was filed following this notice.

Also, in connection with this action, the Commission prepared an Environmental Assessment and Finding of No Significant Impact which was published in the **Federal Register** on December 16, 1985 (50FR51315).

For further details with respect to this action, see (1) the application for amendment dated August 1, 1985, (2) Amendment No. 119 to License No. DPR–57, and (3) the Commission's

related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. 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.

Dated at Bethesda, Maryland, this 23rd day of December 1985.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate #2, Division of BWR Licensing.

[FR Doc. 86-201 Filed 1-3-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co. et al. Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), for operation of the Three Mile Island Nuclear Station, Unit No. 1 (TMI-1) located in Dauphin county, Pennsylvania.

The amendment would revise the provisions in the Technical Specifications relating to the steam generator tube plugging limitations, in accordance with the licensees' application for amendment dated November 6, 1985. Basically, the present Technical Specifications require repairing or removing from service a steam generator tube when a defect exceeds 40% of the tube wall thickness. The proposed amendment would maintain the 40% through will limit on the secondary side of the tube but replaces the limit on the primary side of the tube with a sliding scale which goes from 40% to 70% through wall depending on the size of the defect.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By February 6, 1986, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to George F. Trowbridge, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, DC 20036, attorney for the licensees.

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 presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of 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 dated November 6, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Government Publications Section, State Library of Pennsylvania, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 30th day of December 1985.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, PWR Project Directorate ±6, Division of PWR Licensing-B.

[FR Doc. 86-202 Filed 1-3-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 51-238]

N.S. Savannah; Consideration of Application for Renewal of Possession Only License

The United States Nuclear Regulatory Commission (the Commission or NRC) is considering renewal of License No. NS-1 issued jointly to the State of South Carolina Patriots Point Development Authority and the U.S. Maritime Administration for possession only of the nuclear reactor facility on the N.S. *Savannah* located at Mt. Pleasant, South Carolina, which has been made inoperable and secure by defueling and sealing all penetrations into the containment compartment.

The renewal would extend the expiration date of the Possession Only License No. NS-1 from November 8, 1985 until ten years after date of issuance, in accordance with the licensee's timely application for renewal dated August 20, 1985.

Prior to a decision to renew the license, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By February 6, 1986, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petition 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 interest, 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 renewal action 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.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, at 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for 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 Herbert N. Berkow: (petitioner's name and telephone number); (date petition was mailed); (N.S. *Savannah*); 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, DC 20555 and William F. Prioleau, State of South Carolina Patriots Point Development Authority, P.O. Box 986, Mount Pleasant, South Carolina 29464, 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 office 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 renewal dated August 20, 1985 which is available for public inspection at the Commission's Public Document Room 15, 1717 H Street, NW., Washington, DC 20555.

Dated at Bethesda, Maryland this 26th day of December 1985.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing-B.

[FR Doc. 86-203 Filed 1-3-86; 8:45 am]

BILLING CODE 7590-01-M

Availability of Final Generic Technical Position in High-Level Waste Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of the "Generic Technical Position on Waste Package Reliability Analysis for High-Level Nuclear Waste Repositories."

ADDRESS: This document is available for publicl inspection and copying at the U.S. Nuclear Regulatory Commission, Public Document Room, 1717 H Street, NW, Washington, DC 20555, telephone 202/634-3273.

FOR FURTHER INFORMATION CONTACT: Timothy C. Johnson, Section Leader, Engineering Branch, Division of Waste Management, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, Telephone 301/427–4088.

SUPPLEMENTARY INFORMATION: The Nuclear Waste Policy Act of 1982 (Public Law 97–425) and the Commission regulation 10 CFR Part 60 promote interaction between the Department of Energy (DOE) and NRC prior to submittal of a license application for a geologic repository. These interactions are to fully inform DOE about the level of information that must be provided in a license application to allow a licensing decision to be made by NRC.

The principal mechanism for providing guidance to the DOE is completion by the NRC staff of Site Characterization Analyses (SCA's) submitted according to the Nuclear Waste Policy Act and 10 CFR Part 60. Additional means have been developed to supplement the guidance provided in the SCA's. These include staff technical positions on both generic and site specific issues. Generic Technical Positions (GTP's) establish the staff's position on broad technical issues that would be applicable to any site. Site Technical Positions (STP's) establish the staff's position on a site specific technical issue. A number of GTP's will be developed by the staff to establish lists of generic issues or information requirements for sites being investigated by DOE.

On November 8, 1984, the Nuclear Regulatory Commission published for comment a draft version of the "Generic Technical Position on Waste Package Reliability" (49 FR 39763). Public comment on the draft version was received from four groups and individuals. A number of changes and clarifications have been made in the final Generic Technical Position as a result of comments received. Copies of comments may be examined in the U.S. Nuclear Regulatory Commission Public Document Room, 1717 H Street, NW, Washington, DC 20555.

This GTP provides guidance to DOE on what the staff considers to be an acceptable method of analysis for demonstrating reasonable assurance that the waste package designs proposed by DOE will meet the performance objectives and design criteria of 10 CFR Part 60. As part of a license application for a high-level nuclear waste repository the DOE is required to submit a Safety Analysis Report (SAR). The SAR must contain a performance assessment of the waste package. The intent of the GTP is to indicate the essential elements of such a waste package performance assessment. The GTP summarizes guidance which has been given to DOE through technical correspondence, documented technical meetings, and other mechanisms provided by the NRC/DOE Procedural Agreement (48 FR 38701, August 25, 1983).

Dated at Silver Springs, Maryland, this 20th day of December 1985.

For the Nuclear Regulatory Commission.

Hubert J. Miller,

Chief, Repository Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 86–204 Filed 1–3–86; 8:45 am]

BILLING CODE 7590-01-M)

OFFICE OF MANAGEMENT AND BUDGET

Management of Federal Information Resources

Correction

In FR Doc. 85–30330 beginning on page 52730 in the issue of Tuesday, December 24, 1985, make the following corrections:

1. On page 52731, in the first column, in the second paragraph, in the fourth line, "on" should read "or".

2. On page 52734, in the second column, in the first paragraph, in the fifth line, "other" should read "others"; and in the second paragraph, in the 17th and 18th lines, remove the following duplicate text: "OMB revised the appendix to reflect these comments."

3. On page 52735, in the third column, in paragraph 6j, in the third line, "budget" should read "budgeting".

4. On page 52736, in the first column, in paragraph 7c, in the eighth line, "the maximize" should read "and maximize"; and in paragraph 7g, in the fourth line, "to access" should read "of access".

5. On page 52737, in the first column, in the first line, "Meeting" should read "Meet".

6. On page 52739, in the third column, in paragraph 3e(3), in the second line, "or" should read "of".

7. On page 52742, in the second column, in paragraph 6b, in the second line, "Administration" should read "Administrator".

8. On page 52743:

a. In the second column, in paragraph 3a(2), in the 26th line, insert "be" between "shall" and "included".

b. In the third column, in paragraph 3c(2)(a), in the second line, insert "new" between "for" and "installations"; and in paragraph 3c(2)(3), in the fifth line, "have" should read "has".

9. On page 52744:

a. In the second column, in the sixth line from the bottom, the first word should read "audits".

b. In the third column, in the first paragraph, in the third line, "contests" should read "contents"; and in the eighth line from the bottom of the page, "consolidated" should read "consolidates".

10. On page 52745:

a. In the first column, in the ninth line from the bottom of the page, insert "the" between "with" and "NSDD".

b. In the second column, in the 17th line from the bottom of the page, "the" should read "and".

11. On page 52747, in the first column, in the seventh line from the bottom of the page, "therefore" should read "thereafter".

BILLING CODE 1505-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council; Notice of Renewal

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), it is hereby determined that the Renewal of the White House Science Council is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the Director, Office of Science and Technology Policy, by the Presidential Science and Technology Advisory Organization Act of 1976 and other applicable law. This determination follows consultation with the General Services Administration, pursuant to section 9(a)(2) of the Federal Advisory Committee Act and the GSA Interim Rule on Federal Advisory Committee Management (48 FR 19324, April 28, 1983).

1. Name of Group: White House Science Council.

2. Purpose: The purpose of the White House Science Council is to advise the Director, Office of Science and Technology Policy (OSTP), on science and technology issues of national concern. The Council shall concern itself with specific issues assigned by the Director, OSTP, and will keep him informed of changing perspectives in the science and technology communities.

3. Effective Date of Establishment and Duration: The renewal of the White House Science Council is effective upon filing of the charter with the Director, OSTP, and with the standing committees of Congress having legislative jurisdiction over the Office of Science and Technology Policy. The White House Science Council will terminate on December 31, 1987, unless sooner extended.

4. Membership: Members of the White House Science Council will be appointed by the Director, Office of Science and Technology Policy. That appointment shall be subject to review every 365 days unless earlier terminated. The Council shall consist of no more than 15 members. Additional technical experts will be utilized as needed to constitute panels and study groups.

5. Advisory Group Operation: The White House Science Council will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), GSA Interim Rule on Federal Advisory Committee Management (48 FR 19324), and other directives and instructions issued in implementation of the Act.

Jerry D. Jennings,

Executive Director.

December 30, 1985

[FR Doc. 86–169 Filed 1–3–86; 8:45 am]

BILLING CODE 3170-01-M

LIBRARY OF CONGRESS

Copyright Office

Retention of Fees for Additional Certificates of Registration When the Service Cannot Be Provided

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of new procedure.

SUMMARY: This notice sets forth a change in the Copyright Office procedure for handling fees received in conjunction with certain requests for additional certificates of registration. The issuance of additional certificates of registration is authorized by 17 U.S.C. 706 upon payment of fees specified by 17 U.S.C. 708. The change in procedure described herein is effective upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Winston Tabb, Chief, Information nad Reference Division, Copyright Office, Washington, DC 20559, Telephone: (202) 287–6800.

SUPPLEMENTARY INFORMATION: Heretofore, the Copyright Office has refunded any fee received in conjunction with the request for additional certificates of registration if the service could not be provided, usually because no such registration exists.

Upon publication of this notice, however, the Copyright Office will retain these fees to cover the administrative costs to the Office of processing the rquest, as authorized by 17 U.S.C. 708(a)(11). Members of the public will continue to receive correspondence from the Copyright Office explaining why the Office cannot provide the requested services.

Dated: December 23, 1985.

Ralph Oman,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 86–148 Filed 1–3–86; 8:45 am]

BILLING CODE 1401-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–23974; 70–7200]

The Southern Co.; Proposed Issuance and Sale of Common Stock

December 31, 1985.

The Southern Company ("Southern"), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

Southern proposes to issue and sell at competitive bidding up to 10,000,000 additional shares of its authorized but unissued common stock, per value $5 per share, in one or more transactions from time to time not later than March 31, 1987. The proposed issuance and sale is in addition to the shares authorized in File No. 70–6840. Southern may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy in HCAR No. 22623 (September 2, 1982). Southern also states that it may later request that all or part of the stock sales be excepted from the competitive bidding requirements of Rule 50 should circumstances develop which, in the opinion of management, make such exception in the best interest of Southern and its investors and consumers.

Southern proposes to use the net proceeds from the sale of this common stock, together with treasury funds and the proceeds from the sales of common stock through the operation of its Dividend Reinvestment and Stock Purchase Plan, Employee Savings Plan, and Employee Stock Ownership Plan, to make additional equity investments in the form of capital contributions to its operating subsidiaries and for other corporate purposes. The subsidiaries intend to use these funds to provide a portion of their cash requirements to carry on their electric utility businesses.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 27, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit, or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–205 Filed 1–3–86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–22731; File No. SR–NASD–85–34]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Reporting of Aggregate Short Positions in NASDAQ Securities

Pursuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1), notice is hereby given that on December 13, 1985, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Proposed new Article III, Section 41 of the NASD's Rules of Fair Practice will require NASD members to maintain a record of aggregate "short" positions in NASDAQ securities in all customer and proprietary firm accounts and to report such information to the NASD on a monthly basis. Reports shall be made as of the close of the settlement date falling on the 15th of each month, or, where the

15th is a non-settlement date, on the preceding settlement date. Reports shall be submitted as soon as possible but not later than noon on the second day after the reporting settlement date.

This proposal requires NASD members to submit data on short selling practices for a period of 60 days from the date of Commission approval. During the 60 day effective period, the NASD will submit a second rule filing requesting the Commission's permanent approval of the short sale reporting requirements.

II. Self-Regulatory Organizations Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV, below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C), below, of the most significant aspects of such statement.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

At its November 1985 meeting, the NASD's Board of Governors called for an extensive study of short sale activity in the over-the-counter market to serve as a basis for further policy decisions regarding the possible need for additional regulation of short sale practices. Current information regarding the extent of short sale activity on the part of NASD members and their customers is essential to such a study. Accordingly, the Board approved a proposed new rule, Article III, section 41 of the NASD's Rules of Fair Practice, which will require NASD members to maintain a record of aggregate "short" positions in NASDAQ securities in all customer and proprietary firm accounts and to reports such information to the NASD on a monthly basis. Members' reports of aggregate "short" positions will not be disseminated publicly, but will be utilized only for internal NASD purposes in connection with the NASD's short sale study.

This proposal requires NASD members' to submit data on a short selling practices for a period of 60 days. During the initial 60 day effective period, the NASD will submit a second rule filing requesting the Commission's permanent approval of the short sale reporting requirements.

The proposed new rule is consistent with the section 15A(b)(6) of the Securities Exchange Act of 1934, which requires the rules of a registered securities association to promote just and equitable principles of trade, prevent fraudulent and manipulative practices, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not anticipate that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

Within 30 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

C. The Commission finds good cause to accelerate the proposed rule change.

The Commission is accelerating effectiveness of the proposal because it concurs with the NASD and believes that the NASD should complete its study of short sale practices as soon as possible. The Commission believes that collecting and analyzing this data may be useful to the NASD and may help it determine whether any additional NASD rules or other actions are appropriate to regulae short selling. In addition, the Commission is accelerating approval of this proposal based on the NASD's representations that it can collect data for the study immediately. The NASD also informed its members of the need to collect short sales data as expeditiously as possible and has advised the Commission that its members will be able to supply that data to the NASD.

The Commission also noted that the NASD will submit a separate proposed rule change that would require the submission of short sales data to the NASD indefinitely and would take effect after the expiration of proposed rule change SR-NASD-85-34. The Commission believes that the second proposal will affort the public an additional opportunity for comment.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifty Street, NW. Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW. Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 27, 1986.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change reference above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 19, 1985.

John Wheeler,

Secretary.

[FR Doc. 86-206 Filed 1-3-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22744; File No. SR-PSDTC-85-13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Securities Depository Trust Company Amending Its Schedule of Fees and Charges

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 16, 1985, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Commission the proposed rule change

described below. The Commission is publishing this notice to solicit comments on the proposed rule change.

PSDTC stated that the purpose of the filing is to amend its schedule of fees and charges for safekeeping of municipal bonds in bearer form to make those fees more competitive with other depositories' fees. The changes to the schedule will be as follows (italics indicates language to be added; brackets indicate language to be deleted):

CUSTODY *OF BEARER SECURITIES*	(Based on cut-off on day prior to month-end) $1.95 per line item (issue per month) [$0.01 per CUSIP value on deposit]

Monthly Par Value Fee (Per CUSIP Number):

Par Value on Deposit	Fee Per $1000 of Par Value
$0–$0.5 billion	*$0.012*
$0.5 Billion–$1 Billion	*$0.009*
$1 Billion–$5 Billion	*$0.00625*
More Than $5 Billion	*$0.00525*

PSDTC states that the proposed amendments to the fee schedule for bearer municipal securities will substitute fees based on the par value of the securities on deposit for the present flat monthly charge. The proposed fee change will increase the monthly charges for deposits of less than $500 million of par value and reduce the charges for deposits with par values in excess of $500 million.

In its filing, PSDTC indicated that its current custody charges were originally based on a survey of its participants, who, at the time, stated that they would not be making large deposits of bearer securities. However, PSDTC states that recently some of its participants have indicated that they would be interested in making large deposits of bearer-form municipal securities in PSDTC if PSDTC's safekeeping fees were more in line with other depositories' fees. (Other depositories provide reduced custody fees for larger deposits of bearer securities.)

PSDTC states in its filing that the proposed rule change will encourage the use of PSDTC's facilities for the safekeeping of municipal securities in bearer form by making PSDTC's fees more competitive in accordance with Section 17A(b)(3)(F) of the Act. Furthermore, PSDTC states that the proposed rule change is consistent with the objectives of Section 17A(b)(3)(D) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges.

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the change if it appears to the Commission that it is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

Interested persons are invitied to submit written data, views and arguments concerning the proposal. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written commiunications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing will also be available for inspection and coyping at the principal office of PSDTC. All submissions should refer to the file number in the caption above and should be submitted by January 27, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 30, 1985.

John Wheeler,

Secretary.

[FR Doc. 86–207 Filed 1–3–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22745; File No. SR–PSDTC–85–12]

Self-Regulatory Organizations; Proposed Rule Change by Pacific Securities Depository Trust Company Relating to Procedures for Processing Complete and Partial Redemptions of Eligible Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 9, 1985, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange commission ("Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PSDTC is proposing to amend its Rules by adding a new Section 3 to PSDTC Rule 4. The proposed new section will codify PSDTC's procedures for processing complete and partial redemptions of PSDTC-eligible securities, and define the limitations on PSDTC's liability for missed calls and redemptions, as described in greater detail in Item II(A) below.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below/. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change will add Section 3 to PSDTC Rule 4, and codify PSDTC's procedures with respect to complete and partial redemptions of PSDTC-eligible securities.

If PSDTC holds securities which are subject to a partial redemption on the date the serial numbers called for

redemption are published, it will allocate securities represented by the called certificates to its participants and pledgees by a process of random selection, based on their respective positions in the security as of the close of business on the business day preceding the publication date. On the first business day (or an earlier day which may be designated by PSDTC) before the date fixed for redemption of the called securities, PSDTC will submit for redemption all certificates representing called securities which are then on deposit with it. Redemption proceeds will be credited to the appropriate accounts in accordance with PSDTC's procedures.

With respect to complete redemptions of PSDTC-eligible securities and maturities of debt securities, PSDTC will submit for redemption or payment, on the first business day (or an ealier day which may be designated by PSDTC) prior to the redemption or maturity date, all certificates representing the security which are then on deposit with it. Proceeds of the redemption or maturity will be distributed by PSDTC in accordance with its procedures.

Pursuant to proposed section 3(d) of PSDTC Rule 4, PSDTC may from time to time adopt special procedures for the redemption of eligible securities which will supersede the procedures set forth in the Rules.

Proposed Paragraph (e) of Rule 4, section 3, provides that PSDTC's liability will be limited to calls or redemptions published in a nationally recognized newspaper or service in or in such media as PSDTC may specify from time to time. Proposed Commentary .01 defines the sources which PSDTC has determined will constitute such recognized information sources, for purposes of establishing its liability under section 3(e); those sources are: the *Wall Street Journal*, Kenney Information Service, Financial Information Cards, or written notification from the issuer or its agent, sent by registered or certified mail, return receipt requested, and received by PSDTC.

The proposed rule change is intended to advise participants of PSDTC's procedures for processing full and partial redemptions of eligible securities and to define the limitations on PSDTC's liability for missed calls and redemptions. The proposed rule change is consistent with section 17A(b)(3)(F) of the Act, in that it is designed to promote the prompt and accurate clearance and settlement of securities transactions and to facilitate the safeguarding of securities and funds which are in the custody or control of PSDTC or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not have any impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Time Period for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 27, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 30, 1985.

[FR Doc. 86-208 Filed 1-3-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-0252]

Richardson Capital Corp.; License Surrender

Notice is hereby given that Richardson Capital Corporation, 12700 Park Central Drive, Dallas, Texas 75251, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Richardson Capital Corporation was licensed by the Small Business Administration on October 26, 1982. Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on December 18, 1985, and accordingly, all rights privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 24, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-123 Filed 1-3-86; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/10-0004]

Texas Capital Corp.; Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.601 of the Regulations governing small business investment companies (13 CFR 107.601 (1985)) for transfer of ownership and control of Texas Capital Corporation (TCC), 1341 W. Mockingbird Lane, Suite 1250 East, Dallas, Texas 75247, a Federal License under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.)*. The proposed transfer of ownership and control of TCC, which was licensed September 25, 1959, is subject to the prior written approval of SBA.

TCC is a subsidiary of Telecom Corporation. The transfer of control arises because of the acquisition of 21.1 percent of the outstanding common stock of Telecom by Mr. Thomas M. Gaubert, Box 189A Westmoreland, De Soto, Texas 75115. His ownership will represent a controlling interest in Telecom. As a result of the transfer, the officers and directors of TCC will be:

Name	Title	Indirect ownership (pct)
David L. Hager*	Chairman of the board, director	
Lawrence W. Schumann	President and director	1
Thomas M. Gaubert*	Director	21.1
David G. Franklin	Vice president	
Larry T. Marek	Vice president	
Tom L. Beecroft	Assistant vice president	

*New officers and directors.

Notice is given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed transfer of ownership and control 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 Dallas, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 24, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-124 Filed 1-3-86; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Company; 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 Section 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 January 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 9.615% 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: December 11, 1985.

John L. Werner,

Director, Office of Investment.

[FR Doc. 86-122 Filed 1-3-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Agreements Filed; During the Week Ending December 20, 1985

Answers may be filed within 21 days from the date of filing.

Date filed	Docket No.	Parties	Subject	Proposed effective date
12/18/85	43667	Members of International Air Transport Association	Passenger Agency Program	1/1/86
12/18/85	43671	Members of International Air Transport Association	North Atlantic Canada-Europe Fares	4/1/86
12/18/85	43674 R-1—R-25	Members of International Air Transport Association	Composite Passenger Resolutions	4/1/86
12/18/85	43676	Members of International Air Transport Association	Europe Middle East Fares	1/1/86
12/18/85	43677	Members of International Air Transport Association	Amending TC2 Cargo Rates	1/1/86
12/19/86	43680	Members of International Air Transport Association	GIT Fares from Japan to South East Asia	4/1/86
12/19/85	43681	Members of International Air Transport Association	TC2 Europe Passenger Tariff Coordinating Conference Geneva	1/1/86
12/19/85	43682 R-1—R-2	Members of International Air Transport Association	Rounding off of Brazilian Cruzeiro	1/1/86

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-144 Filed 1-3-86; 8:45 am]

BILLING CODE 4910-62-M

Agreements Filed During the Week Ending December 27, 1985

Answers may be filed within 21 days from the date of filing.

Date filed	Docket No.	Parties	Subject	Proposed effective date
12/27/85	43691	Members of International Air Transport Association.	South Africa to Europe Cargo Rates.	12/30/85
12/27/85	43692	Members of International Air Transport Association.	Add Nigeria to North Atlantic Cargo.	12/30/85
12/27/85	43693	Members of International Air Transport Association.	Cargo Rates Yugoslavia to U.S.S.R.	12/30/85

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-153 Filed 1-3-86; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended December 27, 1985

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Dec. 12, 1985	43688	Pan American World Airways, Inc., c/o David M. O'Connor, Suite 901, 1660 L Street, NW., Washington, DC, 20036. Application of Pan American World Airways, Inc., pursuant to Section 401 of the Act and Subpart Q of the Regulations requests an amendment to its certificate of public convenience and necessity for Route 136 to provide daily roundtrip Miami-Puerto Plata service via the Turks and Caicos, effective on or about February 15, 1986, and will add daily roundtrip New York-Puerto Plata service on April 27, 1986. Conforming Applications, Motions to Modify Scope and Answers may be filed by January 24, 1986.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 86-152 Filed 1-3-86; 8:45 am]
BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended December 20, 1985

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Dec. 20, 1985	43683	Ceskoslovenske Aerolinie, c/o Allan I Mendelsohn, Ward & Mendelsohn, 1100 - 17th Street NW., Suite 900, Washington, DC 20036. Application of Ceskoslovenske Aerolinie pursuant to Section 402 of the Act and Subpart Q of the Regulations request amendment and/or renewal or continuation of its Foreign Air Carrier Permit so as to permit it to continue its on-going operations in scheduled foreign air transporation between the United States of America and the Czechoslovak Socialist Republic. Answers may be filed by January 17, 1986.
Dec. 19, 1985	42061	Malaysian Airline System Berhad, c/o James L. Devall, Zuckert, Scoutt, Rasenberger & Johnson, 888 Seventeenth Street, NW., Washington, DC 20006. Amendment No. 1 to the Application of Malaysian Airline System Berhad requests a foreign air carrier permit to engage in scheduled foreign air transportation of persons, property and mail on the following route: Between a point or points in Malaysia and the terminal point Los Angeles, California, via the intermediate point Tokoyo, Japan, with local traffic rights betwen Los Angeles and Tokyo in both directions. Answers may be filled by January 16, 1985.

Phyllis T. Kaylor,
Chief, Documentary Services Division
[FR Doc. 86-143 Filed 1-3-86; 8:45 am]
BILLING CODE 4910-62-M

[Order 85-12-81; Docket 43307]

Love Field Amendment Proceeding

AGENCY: Department of Transportation.
ACTION: Notice of Order (85-12-81) Docket 43307.

SUMMARY: Section 29 of the International Air Transportation Competition Act of 1979 ("IATCA") restricts interstate service at Love Field, Texas. In response to a request for an informal enforcement investigation filed with the Department's Office of Aviation Enforcement and Proceedings, the Department solicited comments on the proper interpretation of section 29. Order 85-7-65 (July 26, 1985). A proposal by Continental Airlines to start service between Love Field and Houston, Texas, and the opposition of various persons to this service prompted the request for comments.

Based on its review of the comments and other relevant materials, including the Amendment's legislative history, the Department has decided that: (1) Continental's proposed service between Love Field and Houston, Texas, does not violate the Love Field Amendment; (2) the Amendment does not apply to flights by intrastate carriers or intrastate service by "air carriers"; (3) upon the request of passengers, Continental or its agents may sell "double tickets" to passengers continuing on a different aircraft and flight beyond an authorized destination from Love Field; (4) however, neither Continental nor its agents may list in any manner, including a computer reservation system, a flight from Love Field as a "connection" to a point beyond the Love Field authorized service area; (5) Delta, or any other airline, may list in its computer reservation system flights from Love Field by a certificated carrier using small aircraft in the same manner as commuter carrier flights; and (6) carriers may provide service between Love Field and other points within the state of Texas so long as they do not use this service to avoid the Love Field Amendment's restrictions on interstate air service.

FOR FURTHER INFORMATION CONTACT: Barry L. Molar, Office of Litigation (C-30, Room 4102), or Joseph A. Brooks, Office of Aviation Enforcement and Proceedings (C-70, Room 4116), U.S. Department of Transportation, 400

Seventh St. SW., Washington, DC 20590, (202) 426–4731, 426–7631.

SUPPLEMENTARY INFORMATION: The complete text of Order 85–12–81 is available for inspection from our Documentary Services Division (Room 4107) at the above address.

Dated: December 31, 1985.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–151 Filed 1–3–86; 8:45 am]

BILLING CODE 4910–62–M

[Docket 43657]

State of Arizona; 55 MPH Speed Limit Compliance Proceeding; Postponement of Prehearing Conference

Served December 30, 1985.

Pursuant to a request by the State of Arizona to which the FHWA/NHTSA Litigation Staff does not object the Prehearing Conference in this proceeding set for January 8, 1986 (50 FR 52401) is postponed to January 23, 1986 at 10:00 a.m. (local time), in Room 5332, Nassif Building, 400 7th Street, SW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, DC, December 30, 1985.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 86–142 Filed 1–3–86; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Advisory Circular 25.812–1; Floor Proximity Emergency Escape Path Marking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 25.812–1, Floor Proximity Emergency Escape Path Marking, which provides guidance for use in demonstrating compliance with the provisions of § 25.812(e) of the Federal Aviation Regulations (FAR) (14 CFR 25.812(e)), which sets forth the airworthiness standards for floor proximity emergency escape path markings. Section 121.310 of the FAR, (14 CFR 121.310), requires that transport airplanes type certificated after January 1, 1958, and operating under Part 121 (air carrier) of the FAR be equipped with a system meeting these requirements by November 26, 1986.

DATE: Advisory Circular 25.812–1 was issued by the Transport Airplane Certification Directorate in Seattle, Washington, on September 30, 1985.

How to obtain copies: A copy of AC 25.812–1 may be obtained by writing to the U.S. Department of Transportation, M–494.3, Subsequent Distribution Unit, Washington, DC, 20590.

Issued in Seattle, Washington, on December 20, 1985.

Leroy A. Keith,

Manager, Aircraft Certification Division, Northwest Mountain Region.

[FR Doc. 86–118 Filed 1–3–86; 8:45 am]

BILLING CODE 4910–13–M

Advisory Circulars; Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of Advisory Circulars; Part 23 Airplanes.

SUMMARY: The purpose of this notice is to advise the public of advisory circulars (ACs) issued by the Small Airplane Directorate since January 1985. These ACs, listed below, related to part 3 of the Civil Air Regulations (CAR) and/or Part 23 of the Federal Aviation Regulations (FAR). They were issued to inform the aviation public of an acceptable means of showing compliance to the applicable regulations, but the material is neither mandatory nor regulatory in nature.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Snitkoff, Manager, Policy and Guidance Section, ACE–111, Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Commercial Telephone (816) 374–6941, or FTS 758–6941.

SUPPLEMENTARY INFORMATION:

Background

These ACs were developed in response to the needs identified by the FAA Airframe Policy and Program Reeview Public Meeting held in Wichita, Kansas, on June 8–9, 1983; to previously issued Technical Assistance and Guidance TAG) Letters; to service histories; and to a recommendation from the National Transportation Safety Board (NTSB).

Comments

Interested parties were given the opportunity to review and comment on each AC during the proposal and development phases. Notices were published in the **Federal Register** to announce the availability of, and request written comments to, the draft AC. Each comment was reviewed and resolved. Appropriate comments were incorporated in the AC. Many of the recommended changes that were adopted corrected minor technical problems or clarified existing material.

Withdrawn

Two draft ACs are being withdrawn after the notices of availability appeared in the **Federal Register**. Draft AC 20–XX, interpretation of Failure for Static Test Programs **Federal Register** Docket No. 84–10285, Vol. 49, No. 76, 4/18/84, pg. 15306) is withdrawn as it was considered highly controversial. This item was discussed in the Part 23 regulatory review and adverse comments were received on this AC regarding the general guidance propsed. Clarification of this subject will be considered as part of the regulatory review program. Draft AC 23–XX, Material Correction Factors for Type Certification of Structure of Small Airplanes **Federal Register** Docket No. 84–2943, Vol. 49, No. 24, 2/3/84, pg. 4299) is withdrawn due to the lack of regulatory basis or service history to require a material correction factor to be applied to structural tests results. This item was discussed at the FAA Airframe Policy and Program Review Public Meeting held in Wichita, Kansas, on June 8–9, 1983.

Distribution

The published ACs are vailable upon request through the U.S. Department of Transportation, Subsequent Distribution Unit, M–494.3, Washington, DC 20594.

ADVISORY CIRCULARS PUBLISHED

Subject No.	Subject	Date Signed
AC 23.959–1	Unusable Fuel Test Procedures for Small Airplanes.	Jan. 14, 1985.
AC 23.1521–1	Approval of Automobile Gasoline (Autogas) in Small Airplanes in Lieu of Aviation Gasoline (Avgas).	Jan. 25, 1985.
AC 20–53A	Protection of Airplane Fuel Systems Against Fuel Vapor Ignition Due to Lightning.	Apr. 12, 1985.
AC 23.955–1	Substantiating Flow Rates and Pressures in Fuel Systems of Small Airplanes.	June 10, 1985.
AC 23.679–1	Control System Locks	July 25, 1985.
AC 23–3	Structural Substantiation of Secondary Structures.	Sept. 5, 1985.
AC 23.629–1A	Means of Compliance with Section 23.629, Flutter.	Oct. 23, 1985.

ADVISORY CIRCULARS WITHDRAWN

Subject No.	Subject
AC 20-XX	Interpretation of Failure for Static Structural Test Programs.
AC 23-XX	Material Correction Factors for Type Certification of Structure of Small Airplanes.

Barry D. Clements,

Manager, Aircraft Certification Division.

[FR Doc. 86-113 Filed 1-3-86; 8:45 am]

BILLING CODE 4910-13-M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held in Greenville, North Carolina and Guantanamo Bay Naval Base on January 11–12, 1986. The Commission will be briefed on activities at the Voice of America's transmitting site in Greenville and the U.S. Naval Base at Guantanamo.

If you have any questions about this meeting, please call Gloria Kalamets, (202) 485–2468.

Dated: December 30, 1985.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 86-137 Filed 1-3-86; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that the hearing scheduled for January 22, 1986 @ 8:30 a.m. at the Denver Regional Office for Station Committee on Educational Allowances, in the Adjudication Hearing room, Room 410 of the Denver Veterans Administration Regional Office, 44 Union Blvd., Denver, Colorado 80225, to conduct a hearing to determine whether Veterans Administration benefits for all eligible persons enrolled in the Management Trainee Course, offered by R & R Printing and Bookbinding, 836 N. Institute, Colorado Springs, CO, 80909, should be discontinued as provided in 38 CFR 21.4134, because a requirement of the law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: December 26, 1985.

A. H. Schneider,

Acting Director.

[FR. Doc. 86-120 Filed 1-3-86; 8:45 am]

BILLING CODE 8320-21-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 3
Monday, January 6, 1986

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

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, January 8, 1986.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Budget Discussion

The staff and the Commission will discuss issues related to the Commission budgets for fiscal years 1986 and 1987.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 86–259 Filed 1–2–86; 2:12 pm]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Thursday, January 9, 1986

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Methylene Chloride

The staff will brief the Commission on the staff recommendation of a voluntary program to reduce consumer exposure to methylene chloride in paint strippers and spray paints.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFOMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 86–260 Filed 1–2–86; 2:12 pm]

BILLING CODE 6355-01-M

3

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

TIME AND DATE: 9:00 a.m., January 15–16, 1986.

PLACE: Council Offices, 850 SW. Broadway, Suite 1100, Portland, Oregon.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Council Deliberation on Draft Power Plan.
2. Public Comment on the Compilation of Information on Salmon and Steelhead Losses in the Columbia River Basin.
3. Council Business.
4. Public Comment. The record on the draft plan closed October 25, 1985; therefore, no public comment can be taken on this subject at this meeting.

Note.—If the Council completes action on the Power Plan on January 8–9, or needs additional time, this meeting may be rescheduled. Please call the Council for the status of this meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Ruth Curtis (Power Plan issues only) or Ms. Bess Atkins (all other issues) at (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 86–134 Filed 1–2–86; 10:24 am]

BILLING CODE 0000-00-M

4

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

TIME AND DATE: 9:00 a.m., January 8–9, 1986.

PLACE: Council Offices, 850 SW. Broadway, Suite 1100, Portland, Oregon.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Council Deliberation on Draft Power Plan.
2. Update on the Council's Mainstem Survival Rulemaking.
3. Council Business.
4. Public Comment. The record on the draft plan closed October 25, 1985; therefore, no public comment can be taken on this subject at this meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Ruth Curtis (Power Plan issues only) or Ms. Bess Atkins (all other issues) at (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 86–167 Filed 1–2–86; 10:23 am]

BILLING CODE 0000-00-M

Federal Register

Monday
January 6, 1986

Part II

Environmental Protection Agency

40 CFR Parts 796, 797 and 799
Unsubstituted Phenylenediamines; Proposed Test Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 796, 797 and 799

[OPTS-42008B; FRL-2946-9]

Unsubstituted Phenylenediamines, Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) for *ortho*-phenylenediamine (*o*-pda; CAS No. 95-54-5), *meta*-phenylenediamine (*m*-pda; CAS No. 108-45-2), and *para*-phenylenediamine (*p*-pda; CAS No. 106-50-3). These three free bases and the sulfate salts of *m*- and *p*-pda constitute five of the 47 phenylenediamines (PDAs) designated by the Interagency Testing Committee (ITC) in its Sixth Report, published in the **Federal Register** of May 28, 1980 (45 FR 35897), for priority consideration for testing under section 4 of TSCA. This action reflects the comments submitted to EPA in response to the Advance Notice of Proposed Rulemaking (ANPR) on the PDAs published in the **Federal Register** of January 8, 1982 (47 FR 973). Testing is proposed for all three free bases for aquatic oxidation rate and toxicity to aquatic organisms. *m*-Pda is also being proposed for testing in the *Drosophila* Sex-Linked Recessive Lethal (SLRL) test. The Agency published its decision not to require testing of 34 PDAs in the **Federal Register** of January 30, 1985 (50 FR 4267). The remaining eight category members will be addressed in a separate **Federal Register** document.

DATES: Submit written comments on or before March 7, 1986. Make requests to submit oral comments by February 20, 1986. If requests are made to submit oral comments, EPA will hold a public meeting on this rule in Washington, D.C. For further information on arranging to speak at the meeting see Unit VI of this preamble.

ADDRESS: Submit written comments in triplicate identified by the document control number (OPTS-42008B) to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, DC 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065), In Washington, DC: (554-1404), Outside the U.S.A.: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: The Agency published in the **Federal Register** of Jan. 30, 1985 (50 FR 4267) a decision not to require testing of 34 of the 47 PDAs. The Agency is now issuing a proposed rule under TSCA section 4(a) to require testing of *o*-, *m*-, and *p*-pda for their chemical fate and environmental toxicity and *m*-pda for mutagenic effects and oncogenic effects if triggered by mutagenicity test results.

I. Introduction

The Agency published in the **Federal Register** on Jan. 8, 1982 (47 FR 973), an advance notice of proposed rulemaking (ANPR) for the phenylenediamine (PDA) category. The original ITC notice (45 FR 35897; May 28, 1980) proposed that 50 chemicals be considered for testing requirements. In the ANPR, the Agency identified 47 individual chemicals included within the ITC's category definition after duplicate entries were eliminated. Of the original 47 PDAs, available information on exposure potential and toxicity information for 13 high-production chemicals appeared sufficient to justify testing requirements under section 4(a)(1)(A) of TSCA. In response to the ANPR, comments were received from: E.I. DuPont de Nemours, Inc.; The Cosmetic, Toiletry and Fragrance Association (CTFA); Cosmair, Inc.; Clairol; Natural Resources Defense Council; Shell Oil Co.; International Isocyanate Institute, Inc.; Allied Corporation; American Psychological Association; Dow Chemical U.S.A.; and the Chemical Manufacturers Association. Subsequent to the publication of the ANPR, the Agency published a TSCA section 8(a) manufacturers' reporting rule (47 FR 26992; June 22, 1982), and a section 8(d) health and safety data reporting rule (47 FR 38780; Sept. 2, 1982), which included all of the PDA chemicals listed by the ITC. The Agency has received and reviewed data submitted in compliance with these rules. Toxicological data were submitted by Eastman Kodak; Olin Corporation; Allied Corp.; E.I. DuPont de Nemours, Inc.; Air Products; Dow Chemical, U.S.A.; Mobay Chemical Co.; General Electric; and Monsanto in response to the section 8(d) rule.

Upon review of the data submitted by industry in response to the section 8(a) and 8(d) rules, responses to the ANPR, and data available from public sources, the Agency has decided to divide the original ITC list into three subcategories for TSCA section 4 testing consideration: (1) Unsubstituted PDAs, (2) toluenediamines, and (3) "No-test" PDAs. The rationales for subdividing the category and for not proposing testing on subcategory 3 are included in the **Federal Register** Notice published Jan. 30, 1985 (50 FR 4267). Testing is being proposed in this notice only for those chemicals included in subcategory 1. Toluenediamines (subcategory 2) will be the subject of a separate **Federal Register** document. The present document will address only the data submitted by DuPont, CTFA, Cosmair, Clairol, Shell, and the American Psychological Association that specifically address the subcategory 1 chemicals. These comments are discussed in Units II B.2 and II C.1 and 2 of this preamble. Use and exposure to the PDAs in connection with the hair dye industry is not covered by TSCA and is therefore not considered in this document.

Under section 4(a) of TSCA, the Administrator shall by rule require testing of a chemical substance to develop appropriate test data if the Agency finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

In making section 4(a)(1)(A) findings, EPA considers both exposure and toxicity information to make the finding that the chemical may present an unreasonable risk. For the second finding under section 4(a)(1)(A), EPA examines toxicity and fate studies to determine whether existing information is adequate to reasonably determine or predict the effects of human exposure to or environmental release of the chemical. In making the third finding that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's approach to determining when these findings are appropriately made is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 FR 48528) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) findings are discussed in the July 18, 1980 and June 5, 1981 publications, and the section 4(a)(1)(B) findings are discussed in the June 5, 1981 publication.

II. Profile: Unsubstituted PDAS

A. Profile

1. *Manufacture and Use.* Three ring-unsubstituted PDAs, *o*-pda (CAS No. 95-54-5), *m*-pda (CAS No. 108-45-2), and *p*-pda (CAS No. 106-50-3) are being proposed for testing under section 4(a)(1)(A) of TSCA. As mentioned in Unit I above, the Agency divided the original ITC list into three subcategories. Since the Agency expects the salts of the unsubstituted PDAs to produce substantially the same toxicological effects as their respective free bases, it included these salts in subcategory 1. The salts that are known to have been produced and that were cited by the ITC include: *p*-pda·H_2SO_4 (CAS No. 1624-57-75) and *m*-pda·H_2SO_4 (CAS No. 54-17-08). Since the toxicological activity of these chemicals is expected to be equivalent to that of their free bases, the discussion on the toxicology and proposed testing of the unsubstituted PDAs does not distinguish between the free bases and their salts. Because the free bases and their salts are expected to have equivalent toxicological properties, manufacturers and processors of the salts are considered to be under the same TSCA section 4 testing obligations as the manufacturers and processors of the free bases.

As a group, the unsubstituted PDAs are solids with melting points ranging from 61 to 64 °C for *m*-pda to 145 to 147 °C for *p*-pda. Their boiling points range from 256 to 258 °C for *o*-pda to 282 to 284 °C for *m*-pda (Table 1 below). All three isomers are soluble in water, have low octanol/water partition coefficients, and tend to darken when exposed to light or air (Refs. 2 and 27).

Table 1.—Unsubstituted Phenylenediamines: Physical and Chemical Properties [a]

Compound (CAS No.)	Molecular weight	Melting point (°C)	Boiling point (°C)	Solubility in water (mg/L)	Specific gravity	Vapor density (air = 1)	Refractive index	Octanol/water partition coefficient (log P)
m-pda (108-45-2)	108.15	61/64	282/284	351,000 at 25 °C	1.07 (4 °C)	1.1389 (5 °C)	1.6339 (57.7 °C)	0.00
m-pda·H_2SO_4 (541-70-8)	206.22	[b] NA	NA	Easily soluble in hot water	NA	NA	NA	NA
o-pda (95-54-5)	108.15	102/103	256/258	41,500 at 35 °C; 7.3×10^{4} at 91 °	NA	NA		0.15
p-pda (106-50-3)	108.15	145/147	267	38,000 at 24 °C; 6.7×10^{6} at 107 °C.	NA	3.73	NA	−0.25
p-pda·H_2SO_4 (16245-77-5)	206.22	NA	NA	1 part/714 parts at 15 °C	NA	NA	NA	NA

[a] Source: Ref. 15.
[b] NA = not applicable, or not available.

E.I. DuPont de Nemours, Inc., is the largest manufacturer of all three isomers. DuPont reports that until recently all three were produced in the same "vats" by the batch method. Within the past year, all *p*-pda production has been moved to a separate plant. The major use patterns for the three isomers are quite different; however, some of the minor uses overlap (Ref. 18).

DuPont (Ref. 18) reports that 1981 production of *p*-pda was 5 to 10 million pounds. Ninety-one percent was used captively, 4 percent sold to U.S. companies, and 5 percent exported. DuPont produces all of its *p*-pda at the Pontchartrain Works at La Place, LA. In response to the ANPR (47 FR 937), DuPont surveyed its *p*-pda customers. Fifty-eight percent responded to the survey. Their response accounted for 138 percent of DuPont's 1981 sales (indicating stockpiling of *p*-pda). DuPont's customer usage, as a percent of total pounds covered in the response, was as follows: chemical conversion to dyes = 17.6 percent, conversion to other chemicals = 5.8 percent, use in industrial mixtures = 20.6 percent, and resale = 56.0 percent. Mathtech (Ref. 21) estimates approximately 8 million pounds of *p*-pda were consumed in the manufacture of aramid fibers and rubber and plastic antioxidants in 1982. *p*-Pda and its salts are also used in hair dyes, photographic dyes, and as antioxidants in cellulose ethers and alfalfa meal (Ref. 21). Mathtech (Ref. 21) reports *p*-pda sulfate has been manufactured by Jos. H. Lowenstein and Sons, Inc. at a level of 100,000 lbs/yr.

m-Pda is produced in the U.S. only by DuPont (Refs. 18 and 22). From 10 to 20 million pounds were produced in 1981 for use as an intermediate in the production of aramid fibers and as a dye intermediate (Refs. 18 and 21). DuPont reports 76 percent of *m*-pda was used captively, 12 percent produced for domestic sales, and 12 percent for export (Ref. 18). Forty-eight percent of DuPont's customers, representing 91 percent of total 1981 sales, indicate the following use pattern: chemical conversion to polymers = 17.6 percent, to dyes = 40.8 percent, to other = 8.3 percent; use in industrial mixtures = 23.2 percent; consumer use mixtures = 0.3 percent; resale = 0.8 percent; and unreported uses = 9.0 percent. Jos H. Lowenstein produces approximately 50,000 lbs of *m*-pda sulfate annually for use as an intermediate (Ref. 21). The U.S. Department of Commerce reported that 80,200 pounds of *m*-pda were imported in 1983 (Ref. 21).

o-Pda is produced by three companies (Ref. 22): DuPont, Chambers Works Plant, at Deepwater, N.J.; Toms River Chemical Corp. (a subsidiary of Ciba-Geigy Corp.); and Sherwin-Williams Co. From 1 to 10 million pounds were produced in 1981 (Refs. 18 and 21). The U.S. Department of Commerce reported that 22,500 pounds of *o*-pda were imported in 1983 (Ref. 21). DuPont reports that 74.4 percent of its 1981 production of *o*-pda was used captively as an intermediate for fungicide production (Refs. 18 and 21), 1.9 percent for U.S. merchant sales, 5.4 percent for export sales, and 18.4 percent for inventory.

Four of DuPont's six 1981 customers, accounting for 138 percent of DuPont's 1981 sales (indicating stockpiling) reported that the total *o*-pda poundage was used as follows: 11.5 percent for conversion to dyes, 58.5 percent for conversion to other products, 30.2 percent in mixtures (unspecified), and less than 0.1 percent for resale. Toms River uses *o*-pda captively to produce certain vat dyes, and Sherwin-William has used *o*-pda as an intermediate in the manufacture of the corrosion inhibitor benzotriazole (Ref. 21). Additional details of manufacture and use patterns appear in both DuPont's submission (Ref. 18) and Mathtech's support document (Ref. 21).

2. *Exposure and release.* DuPont (Ref. 18) reported that DuPont employees with potential exposure to the three diamines total fewer than 450 people. A common work force of 125 people is associated with the manufacture of *o*- and *m*-pda at the Chambers Works plant in Deepwater, NJ.

DuPont's response to the ANPR also states that the 59 customers responding to DuPont's survey reported that a total of 817 people are potentially exposed to one or more of the three isomers as a result of their use. Workplace air monitoring data indicated levels of 0.01–0.03 mg/m³ for the manufacturing phase. Users of *m*-and *p*-pda reported exposure levels from "nil" to 1.5 mg/m³. However, one user of *m*-pda provided an unsubstantiated estimate for shipping-handling exposure of 50 mg/m³. Both DuPont and its customers reported that protective clothing, goggles, and face masks are worn during the handling of all three isomers (Ref. 18). However, the Agency notes that worker hygiene procedures can vary widely throughout the industry and believes that some workers may be exposed to PDAs during the manufacture and use of these chemicals.

From the confidential business information submitted to EPA in response to the TSCA section 8(a) rule (47 FR 26992) and the section 4(a) ANPR (47 FR 973) on the PDAs, over several hundred thousand pounds of unsubstituted PDAs are estimated to enter sewage treatment plants (Ref. 18). EPA predicts that levels of *o*-pda and *m*-pda as high as 0.036 mg/L and 0.066 mg/L, respectively, may be reached in the receiving streams as a result of effluent discharge (Refs. 17 and 22). DuPont reports that the *p*-pda waste from the Pontchartrain Plant is incinerated (Ref. 18). The likelihood of *p*-pda entering ambient waters from its manufacture is low. However, EPA believes that *p*-pda may enter ambient waters as a result of its use at levels which approach those predicted for *o*-pda and *m*-pda.

B. Proposed Rule

On the basis of its evaluation, as described in this proposed rule, EPA is proposing mutagenicity testing requirements for *m*-pda with the capacity to trigger a mouse specific-locus assay and an oncogenicity test. The Agency is also proposing requirements for *o*-, *m*-, and *p*-pda for determining aquatic oxidation rate and aquatic toxicity to algae, invertebrates, and fish with the capacity to trigger chronic testing in aquatic organisms. Both groups of testing are proposed under the authority of TSCA section 4(a)(1)(A).

1. *Health effects findings.* EPA is basing its proposed health effects testing of *m*-pda on a finding that the manufacturing, processing, and use of *m*-pda may present an unreasonable risk of mutagenic effects because (1) as many as 1,000 workers involved in the manufacture, processing, and use of *m*-pda are potentially exposed dermally to *m*-pda in the workplace; (2) available data suggest that *m*-pda may pose a mutagenic hazard but are insufficient to characterize the hazard; and (3) testing is necessary to characterize the mutagenic potential of *m*-pda.

EPA finds there are insufficient animal or human data to reasonably determine or predict the gene mutation potential of *m*-pda. The finding of "may present an unreasonable risk" of gene mutation is based in part upon the positive Ames assay for *m*-pda (Ref. 11) and a report that 2,4-toluenediamine (2,4-tda), an analog, is positive in the *Drosophila* sex-linked recessive lethal (SLRL) assay (Ref. 19). While *p*-pda has been shown to be negative in the SLRL (Ref. 5), comparative studies of mutagenic activity in *Salmonella typhimurium* showed *m*-pda to be the most potent mutagen of 11 aromatic amines tested, including 2,4-diaminotoluene, 2,4-diaminoethylbenzene, 2,4-diamino isopropylbenzene, and 2,4-diamino-n-butylbenzene (Ref. 23); *m*-pda also was found to be a more potent mutagen than *o*-pda, *p*-pda or 16 other hair dye components (Ref. 11). While suggesting that it may be a mutagen, the existing data do not adequately characterize the gene mutation potential for *m*-pda. Therefore, EPA finds that testing *m*-pda is necessary and is proposing that it be tested in the SLRL assay. If the SLRL is positive, the Agency is proposing a mouse specific locus test for *m*-pda.

The Agency is not proposing the other health effects tests that the ITC recommended at this time. EPA is not requiring oncogenicity testing for *p*- and *o*-pda because they have been adequately characterized for this effect (Refs. 7, 10, and 24). If the SLRL assay is positive, *m*-pda is being proposed for oncogenicity testing. Weisburger (Ref. 20) and Weisburger et al. (Ref. 7) judged *m*-pda to be a negative oncogen in rats and mice in a 78-week study. Male and female mice were fed *m*-pda at 2,000 and 4,000 mg/kg in the diet, and male rats were fed 1,000 and 2,000 mg/kg. Twenty-five animals were used at each dose for each sex (Refs. 7 and 20). Holland *et al.* (Ref. 12) applied a total of 3 and 0.6 mg/week *m*-pda to male and female mice for 24 mo. The dose was equally distributed on three separate days per week and sample size included 80 C3 and 40 B6 strains of mice. An initial range-finding experiment to determine sensitivity to *m*-pda involved topical application to 5 animals, 5 days/week for 2 weeks. The high dose used in the chronic test was the maximum tolerated dose determined in the rangefinding test. Skin tumors did not develop in either strain over the 24 mo. study. Examination of the internal organs of the animals used in the range-finding test and at the termination of the 24 mo. experiment showed pale swollen livers and kidneys, and tumor incidences very similar to those observed for the acetone controls, respectively. Since EPA considers the 25 animals per group too few for evaluating oncogenic potential in a negative study, and only three applications per week also too few for evaluating a negative study, currently available oncogenicity data for *m*-pda cannot be considered adequate. If the SLRL assay on *m*-pda is positive, a dermal oncogenicity test will be required. *m*-pda is undergoing a 2-year chronic test by Japanese researchers (Ref. 31). However, neither test protocols nor results are available for this study at this time. Should data become available from the Japanese study that provide an adequate basis for evaluating *m*-pda's oncogenic potential, EPA will withdraw the oncogenicity testing requirement for this substance.

The scheme for triggering higher-tier mutagenicity and oncogenicity testing has been proposed for the cresols (48 FR 31812; July 11, 1983) and the C9 aromatic hydrocarbons (48 FR 23088; May 23, 1983). The rationale of the tier-testing scheme is set forth in the support documents for those rulemakings, which are included in the record for this proceeding. Although the testing scheme has been modified for the unsubstituted PDAs, the basis for the triggering to higher tier mutagenicity testing and an oncogenicity bioassay is the same. The Agency has received and evaluated

comments on these notices and has published the results of its review in the C9 aromatic hydrocarbons final rule (50 FR 20662; May 17, 1985).

Teratogenicity testing is not being proposed for *o*-, *m*-, or *p*-pda. EPA finds that both *m*-pda and *p*-pda have been adequately characterized as nonteratogenic (Refs. 9, 13, and 14). Although *o*-pda has not been tested, it is not being proposed for teratogenicity testing because there are no indications that *o*-pda may present a risk of causing teratogenic effects.

EPA is not proposing reproductive effects testing. As part of the Agency's effort to obtain the most complete data base for potential toxicological effects of the PDA category, public comment was solicited on the potential reproductive effects of PDAs. No data were received in response to the ITC report, the ANPR, or section 8(d) rule that generated concern for potential reproductive effects. The data from both the public literature and section 8(d) data are supplied in the docket [OPTS–42008B] for the unsubstituted phenylenediamines.

EPA is not proposing that the unsubstituted PDAs be tested for potential chronic effects on blood chemistry and neurotoxicity. The ITC based its recommendation on a study by Hanzlik (Ref. 28), which reported that unspecified doses of *m*-pda and *p*-pda caused convulsions in four mammalian species and neuromuscular effects in frogs. In addition, Kiese *et al.* (Ref. 33) reported that *m*-pda (1.5 gm) applied to the skin of dogs was absorbed rapidly into the blood. Within 1 hr after application, *m*-pda reached a blood level which was maintained throughout the 3-hr experiment. *m*-Pda was undetected in the blood three hours after it had been washed from the skin. When *m*-pda was injected intravenously (6 mg) into dogs, ferrihemoglobin concentration increased 2 hrs after the injection and reached its peak concentration of 30 percent of the blood pigment within 5 hours. The animals with *m*-pda applied to the skin produced ferrihemoglobin between 3 and 4 hours after application and also reached a peak concentration of ferrihemoglobin of nearly 30 percent within 5 hours (Ref. 33). EPA was also concerned that the potential formation of methemoglobin resulting from exposure to PDAs may produce chronic neurological effects (Ref. 29). DuPont has submitted data which show the absence of any cases of blood oxygen saturation of less than 90 percent in workers who had worked with PDAs for more than 10 years and which support a conclusion of no significant methemoglobin formation. DuPont also reports that clinical symptoms of neurotoxicity were not observed in the same workers (Ref. 30). It seems unlikely that chronic testing in the area of blood chemistry and neurological effects will result in a different risk management approach than careful control of exposures to levels at which methemoglobin formation does not occur. Consequently, additional chronic testing for PDA effects on the blood or nervous systems is not being proposed.

Epidemiology studies are not being proposed for the unsubstituted PDAs. The ANPR (47 FR 973) requested detailed exposure information on individual PDAs, including the following: numbers of workers at manufacturing, processing, and use sites actually involved with PDAs; use patterns; and potential exposure of workers, consumers, and the general public from TSCA-related sources. No data were received which identified persons who were exposed only to PDAs. Because persons potentially exposed to the unsubstituted PDAs are also potentially exposed to other chemicals, and because the population of potentially exposed workers is too small to permit a study of adequate power, epidemiological study requirements cannot be justified at this time.

2. *Environmental effects findings.* EPA finds that *m*-, *p*-, and *o*-pda may present an unreasonable risk of injury to the aquatic environment because (1) concentrations of unsubstituted PDAs in the aquatic environment could reach levels which may be harmful to aquatic organisms; (2) there are insufficient data to characterize potential acute or chronic toxicity to aquatic organisms; and (3) testing is necessary to characterize the toxicity of unsubstituted PDAs to the aquatic organisms.

a. *Environmental toxicity.* The finding of "may present an unreasonable risk" of aquatic toxicity is based in part upon *p*-pda testing in goldfish (*Carassius auratus*) and in Himedaka (*Oryzias latipes*). In goldfish the approximate lethal dose has been reported as 5.74 mg/L (Ref. 4), and the median tolerance limits in Himedaka are 25 and 20 mg/L for 24 and 48 hours, respectively (Ref. 25).

Toluenediamines (unspecified isomers) produced lethal effects in *Daphnia* at 2 to 5 mg/L (Ref. 26). The same study also demonstrated that a dose of 60 mg/L was lethal to ostracods in 8 days, but a dose of 30 mg/L was not lethal in 10 days; while a dose of 500 mg/L was lethal to guppies in 0.5 to 5 days, but a dose of 200 mg/L was not lethal to the fish. The data presented in the above-named studies represent either insufficient numbers of animals (Refs. 4 and 25) or insufficient detail (Ref. 26) from which to judge adequately the reliability of the data. EPA has received preliminary data from Dupont on the toxicity of the unsubstituted PDAs to fathead minnow and *Daphnia* (Ref. 16). These data indicate the three isomers differ in toxicity: *p*-pda being the most toxic to both species, *o*-pda being intermediately toxic, and *m*-pda, being the least toxic. Since these data are incomplete, the Agency is awaiting receipt of the final data before making a judgement on data adequacy. Additionally, the potential chronic effects of PDAs on aquatic organisms have not been characterized. There are no data on the effects of the PDAs on aquatic flora. Therefore, EPA finds that aquatic toxicity testing of all three unsubstituted PDAs is necessary to characterize adequately their potential toxicity to aquatic organisms.

b. *Environmental fate.* The finding of "may present an unreasonable risk" to aquatic organisms is also based in part upon the chemical properties of the unsubstituted PDAs. EPA is aware that the unsubstituted PDAs are unstable at room temperature and that they oxidize fairly rapidly under normal environmental conditions. Dupont (Ref. 18) reported that in a laboratory feeding study, only 75 percent of the originally introduced concentration of *o*-pda could be recovered from the feed after 24 hours and only 50 percent after 7 days, presumably because of air oxidation. Pitter (Ref. 3) found that activated sludge biodegraded *p*-, *m*-, and *o*-pda to 80, 60, and 33 percent, respectively, of their original concentrations within 120 hours (5 days). The monomethyl PDA, 2,4-toluenediamine, was biodegraded by activated sludge from petrochemical industrial waste water in 4 hours (Ref. 1). These data suggest that, although significant degradation does occur, the unsubstituted PDAs may remain in ambient waters long enough to be toxic to aquatic organisms. EPA predicts oxidation to be the route of removal from these waters. Since aquatic oxidation rate data are unavailable for the unsubstituted PDAs, EPA finds that they are insufficiently characterized for their fate in the environment. Hence, EPA finds that aquatic oxidation rate testing is necessary to characterize the environmental fate of *o*-, *m*-, and *p*-pda adequately. EPA is proposing that this testing be conducted according to the indirect photoreaction test standard proposed under 40 CFR 796.3765 which

appears in this issue of the **Federal Register.**

3. *Summary of proposed testing.* The ITC recommendations and EPA's proposed tests are summarized in Table 2 below.

TABLE 2.—TESTING OF UNSUBSTITUTED PDA'S

Test	ITC recommendation[1]	ANPR consideration	EPA proposal
Carcinogenicity	X	X	*m*-pda[4]
Mutagenicity	X	X	*m*-pda[4]
Teratogenicity	X	X	
Epidemiological studies	X	X	
Environmental fate and toxicity	X	X	*o*-,*m*-,*p*-pda[5]
Neurotoxicity [2]	X	X	
Chronic Toxicity [2,3]	X	X	
Reproductive Effects		X	

[1] The ITC recommended that the untested and inadequately tested category members be tested for these effects.
[2] The ITC included neurotoxic and chronic effects under the heading "Other Toxic Effects."
[3] Chronic toxicity includes potential effects of the isomers on blood chemistry, particularly the formation of methemoglobin.
[4] *m*-PDA WILL BE TESTED IN THE *Drosophila* sex-linked recessive lethal (SLRL) assay. Positive results in this test will require the mouse specific-locus test and carcinogenicity bioassay.
[5] All three isomers will be initially tested for aquatic oxidation rate and acute effects in algae, invertebrates, and fish. The results from these four tests will be evaluated to determine the need for additional chronic testing in aquatic animals.

C. Proposed Testing

1. *Health effects.* EPA believes that in order to characterize the mutagenic potential of *m*-pda adequately, this isomer should be tested in the *Drosophila* SLRL assay. The current EPA guidelines suggest that the test substance be administered in water. However, *m*-pda is potentially unstable in water. Therefore, EPA is proposing to require that the route of administration for the SLRL assay be through injection of *m*-pda into the *Drosophila* (see Unit II.I.3. below). If the SLRL assay is positive, two additional tests shall be done: the mouse specific locus test and an oncogenicity test.

2. *Environmental fate and effects.* The PDAs shall be tested for their potential chemical fate and effects in aquatic ecosystems using an indirect photoreaction study and a minimum of three aquatic toxicity tests for each PDA isomer. The indirect photoreaction study shall be carried out using the guideline proposed in 40 CFR Part 796.3765. This Guideline requires that the test substance be exposed in both pure water and synthetic natural water to natural sunlight for defined periods of time, based on a screening test. Because of the design of this test, the experiment must be conducted outdoors. The test will provide a half-life value ($t_{1/2}$) for indirect aquatic photoreaction for each isomer; the $t_{1/2}$ values will be part of the decision logic for determining the need for chronic aquatic testing, as described below.

The aquatic organism testing shall begin with an acute flow-through fish toxicity test in rainbow trout (*Salmo gairdneri*), a flow-through test in the water flea (*Daphnia magna*), and an alga (*Selenastrum capricornutum*) acute toxicity test. The flow-through tests are required because the PDAs are expected to be unstable in water. These systems will permit a more consistent exposure to the test substances. The Agency is proposing that additional chronic aquatic toxicity testing be conducted if concerns for chronic effects is triggered by the acute toxicity studies. These chronic test shall include a fish early life cycle test and an invertebrate life cycle test. Results obtained from the indirect photoreaction study will be entered into an isomer-specific regression equation describing predicted environmental concentration (PECs) as a function of time (Refs. 6 and 8). A set of $t_{1/2}$'s and the corresponding PEC's generated by EXAMS 2 modeling (Ref. 32) provided the basis for each regression equation (*o*-pda: $PEC_o = 0.3629 + 1.0468 \log t_{1/2}$: *m*-pda: $PEC_m = 0.6830 + 1.9702 \log t_{1/2}$: *p*pda: $PEC_p = 0.0085 + 0.0024 \log t_{1/2}$) where PEC is the predicted concentration in ppb and $t_{1/2}$ is the half-life for oxidation (i.e., indirected photoreaction) expressed in minutes (Refs. 6 and 8). These PEC's will be compared to the acute toxicity data to determine the need to develop additional acute or chronic data. Since the unsubstituted PDAs are not expected to bioconcentrate, the results from the indirect photoreaction study alone are sufficient to calculate the PEC.

The decision logic for determining the potential for chronic effects involves application of uncertainty factors to the PEC and comparison of the result to the data generated from the acute toxicity tests (figure 1). It is proposed that if the fish and aquatic invertebrate LC_{50} values are both equal to or greater than 1,000 X PEC for any PDA isomer, no additional aquatic toxicity testing need be conducted for that isomer. The criterion of 1,000 X is the uncertainty factor used to relate acute toxicity and environmental concentrations. It is a product of three uncertainty factors: (1) A factor for extrapolating from an insensitive to a sensitive species for acute toxicity, (2) a factor for extrapolating from acute to chronic toxicity, and (3) a factor for extrapolating from chronic laboratory toxicity, to field or *in situ* toxicity.

If the rainbow trout or *Daphnia* acute LC_{50} is 100–1,000 X PEC for a given PDA isomer, then additional acute aquatic vertebrate or invertebrate (as indicated) toxicity data must be developed for the isomer. At least two additional freshwater fish species or two additional invertebrate species must be tested to determine if there are more sensitive species than the *Daphnia* or rainbow trout. If the additional acute LC_{50} values also fall in the range 100–1,000 X PEC then no additional aquatic toxicity testing will be necessary. The rational for this decision is that if, after testing at least three species, the lowest LC_{50} is more than 100X the PEC, the likelihood of producing chronic effects in these or another species at concentrations at or below the PEC is small. The criterion of 100X is the product of two uncertainty factors: (1) A factor for extrapolating from acute to chronic toxicity and (2) a factor for extrapolating from chronic laboratory toxicity to field toxicity.

EPA is proposing that if the LC_{50} for any fish or aquatic invertebrate is less than or equal to 100 X PEC then data on chronic effects and sensitive life stages must be developed on one fish and/or one invertebrate species for which acceptable protocols have been published.

The unsubstituted PDAs are expected to enter freshwater environments; therefore, it is proposed that the fish and invertebrate species used for chronic testing will be the most sensitive vertebrate and invertebrate freshwater species tested to this point in the testing scheme. However, the state of technology for both acute an chronic testing of freshwater vertebrates and invertebrates is limited. The initial species selected for testing the unsubstituted pdas (rainbow trout and *Daphnia*) are species for which both acute and chronic protocols have been developed. Chronic toxicity protocols have also been developed for freshwater fish species *Pimephales promelas* and *Salvelinus fontinalis* and the freshwater invertebrate species *Gammarus pseudolimneaus.* EPA proposes to require chronic testing of rainbow trout and/or *Daphnia* if the trigger criteria are met unless a second round of acute toxicity testing is triggered and one of the species in that round is the most acutely sensitive species which triggers chronic testing.

If chronic testing is triggered, the Agency will conduct a program review after the chronic data have been received to evaluate the need for additional aquatic toxicity testing. This review may lead to the Agency's requiring additional acute and chronic aquatic toxicity testing in order to establish the data base necessary for water quality control actions.

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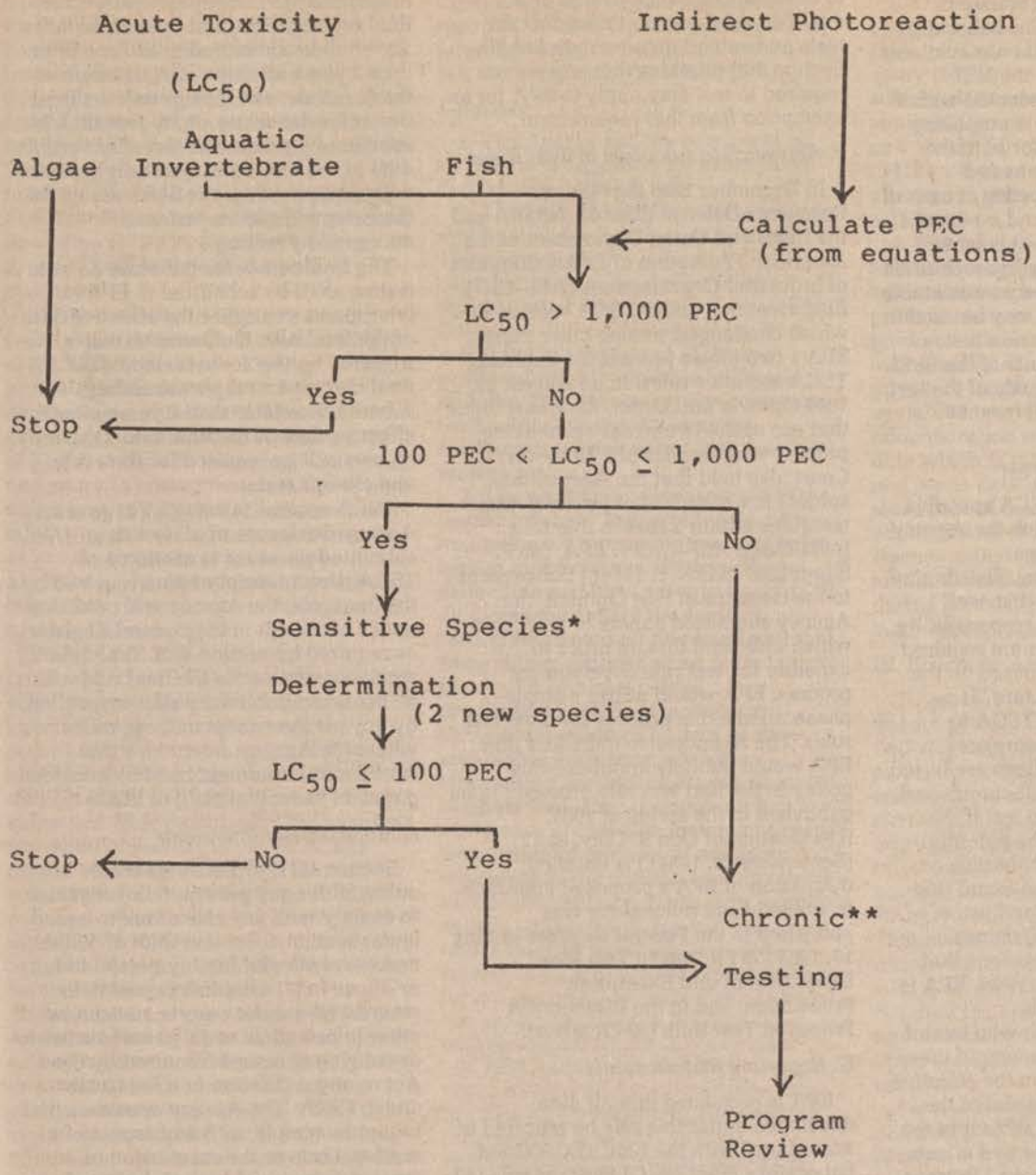
Figure 1: Environmental Effects Testing Scheme for Unsubstituted Phenylenediamines



* In this scheme, three fish and two aquatic invertebrate acutes could be conducted for each isomer without testing for chronic effects.

** Chronic testing shall be done in the most sensitive species for which a protocol has been published.

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D. Test Substance

The major end use for all three PDAs is a synthesis intermediates. However, a small percentage of each isomer is purified for other purposes. Laboratory grades of *o*-, *m*-, and *p*-pda are available at 98-percent purity, and the NCI bioassays have been conducted with 99-percent pure PDAs. EPA is proposing that the test substances for both the SLRL and the chemical fate and environmental toxicity testing consist of the free bases of *o*-, *m*-, and *p*-pda and that these substances be at least 98 percent pure. Because the hydrochloride or sulfate salts of *m*-pda are more stable than the free bases, they may be used in the oncogenicity test if such a test is triggered by positive results of the SLRL assay. In this case, the purity of the test substance must also be at least 98 percent.

E. Persons Required To Test

Section 4(b)(3)(B) of TSCA specifies that the activities for which the Agency makes section 4(a) findings (manufacturing, processing, distribution in commerce, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on the manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal. Because EPA has found that manufacture, processing, and use of unsubstituted phenylenediamines *o*-, *m*-, and *p*-pda give rise to exposures that may lead to unreasonable risks, EPA is proposing that persons who manufacture or process, or who intend to manufacture or process, any of these chemicals at any time from the effective date of this test rule to the end of the reimbursement period be subject to the rule for environmental fate and effects testing (see Unit II.C.2. above.) Persons manufacturing or processing or intending to manufacture or process *m*-pda will be subject to the health effects testing portion of this rule (see Unit II.C.1. above). The end of the reimbursement period ordinarily will be 5 years after the submission of the last final report required under the test rule. EPA expects that manufacturers will conduct testing and that processors will ordinarily be exempted from testing.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement.

F. Approach to Adoption of Test Rules

In December 1983 the Natural Resources Defense Council (NRDC) and the Industrial Union Department of the American Federation of Labor-Congress of Industrial Organizations (AFL–CIO) filed an action under TSCA section 20, which challenged, among other things, EPA's two-phase process for finalizing TSCA section 4 rules. In an August 23, 1984 Opinion and Order, the Court found that use of the two-phase rulemaking process was permissible. However, the Court also held that the Agency was subject to a standard of promulgating test rules within a reasonable time. [*NRDC and ALF–CIO* v. *EPA*, 595 F. Supp. 1255 (S.D.N.Y. 1984).] Subsequent to the issuance of that Opinion, the Agency submitted papers to the Court which indicated that, in order to expedite the test rule development process, EPA would utilize a single-phase rulemaking process for most test rules. The Agency also indicated that EPA would publicly announce this policy in the first test rule proposal to be published in the spring of 1985. (Declaration of Don R. Clay, at 12 (September 24, 1984).) A detailed discussion of EPA's proposed approach to single-phase rulemaking was published in the **Federal Register** of May 17, 1985 (50 FR 20652), Test Rule Development and Exemption Procedures, and in the Bisphenol A Proposed Test Rule (50 FR 20691).

G. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with the final TSCA Good Laboratory Practice (GLP) Standards (40 CFR Part 792).

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data.

The oxidation rate test is designed to take no longer than 3 to 4 weeks to complete. In order to permit adequate preparatory and analytical time, the Agency is proposing that the final report for the indirect photoreaction study be submitted no later than 8 months after the effective date of the final rule. Quarterly reports will be required for the oxidation rate test.

The final report for the SLRL assay shall be submitted to EPA no later than 1 year after the effective date of the final rule. If the SLRL assay is positive, the final report for the mouse specific locus test shall be submitted to EPA no later than 2 years after the effective date of the final rule, and if triggered, the final report for the oncogenicity test shall be submitted 5 years after the effective date of the final rule. Quarterly reports will be required for the SLRL assay, the mouse specific locus test, and oncogenicity testing.

The final report for the acute aquatic testing shall be submitted to EPA no later than 1 year after the effective date of the final rule. If chronic testing is triggered by the acute toxicity data, the final chronic test report shall be submitted no later than 2 years after the effective date of the final rule. Quarterly reports will be required for the acute and chronic tests.

TSCA section 14(b)(1)(A)(ii) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by the final rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d). Test data received pursuant to the final rule will be made available for public inspection by any person except in those cases where the Agency determines that confidential treatment must be accorded pursuant to section 14(b) of TSCA.

H. Enforcement Provisions

Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to (1) establish or maintain records; (2) submit reports, notices, or other information; or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA. The Agency considers that failure to comply with any aspect of a section 4 rule or the submission of invalid data would be a violation of section 15 of TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce. . . ." The Agency considers a testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection. Laboratory audits/inspections will be

periodically conducted in accordance with the authority and procedures outlined in TSCA section 11 by authorized representatives of the EPA for the purpose of determining compliance with this rule. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretation and evaluations thereof, and that the studies are being conducted according to TSCA Good Laboratory Practice Standards and the test standards.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to ensure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to to penalties which may be calculated as if they had never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 per day for each violation. Each day of operation in violation may constitute a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent or an exemption request and that continue manufacturing or processing after the deadlines for such submissions. Knowing or willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16 of TSCA. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies. In particular, this includes individual who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

I. Issues

1. The Agency solicits comments on its proposed deadlines for submitting data required by this rule.

2. The aquatic toxicity testing requires that freshwater fish species be used. The primary site for potential manufacturing-related release of unsubstituted PDAs is into the brackish Delaware River. Sites of release from use of the unsubstituted PDAs are predicted to be freshwater lakes and streams. The Agency solicits comments on the appropriateness of using freshwater species rather than brackfish water species.

3. The most toxic unsubstituted PDA isomer has been suggested by industry as a potential representative isomer for testing in the chronic aquatic effects tests if the results of the acute testing of all three isomers are the same. Acute testing results would be considered the same if they differed by no more than a factor of 5 among the three unsubstituted PDAs (the Agency considers fivefold difference as the acceptable difference between laboratories for a given study). Industry suggests that if the results from the acute tests are similar, testing of a single isomer should provide an adequate indication of the chronic aquatic effects of the unsubstituted PDAs. The Agency solicits comments on the use of a representative unsubstituted PDA isomer as an appropriate representative for environmental effects testing and on the appropriateness of the fivefold criterion to define similar toxicities.

4. EPA anticipates that the unsubstituted PDAs will partition into the aquatic environment. The decision criteria used to select the toxic concentrations of unsubstituted PDA isomers in acute tests which would trigger either additional acute toxicity testing or chronic testing or cause testing to cease involve balancing the PEC's against LC_{50}'s via various uncertainty factors. The Agency is proposing that LC_{50}'s which are greater than 1,000 x PEC require no additional testing. If the LC_{50} values are greater than 100 and less than or equal to 1000 x PEC, additional acute toxicity testing is conducted. If the LC_{50} values are less than or equal to 100 x PEC, testing for chronic effects is automatically triggered. The Agency solicits comments on both the uncertainty factors being used in this rule and the validity of their use in automatically triggering chronic testing in aquatic organisms.

5. Oncogenicity testing for *m*-pda is being proposed if the results of the *Drosophila* sex-linked recessive lethal assay (SLRL) are positive. The Agency solicits any comments as to the appropriateness of the *Drosophila* SLRL as a screen for oncogenicity testing of *m*-pda and the recommendations of any alternative screening tests for this substance.

6. If an oncogenicity study is triggered, EPA is proposing that the route of administration be dermal, since the primary route of exposure to *m*-pda is predicted to the dermal. However, the oncogenicity studies on both *o*- and *p*-pda were feeding studies and *m*-pda is unstable in air. Consequently, oral administration of *m*-pda may provide data which is more comparable to the *o*- and *p*-pda data and may also provide more control over the dose being administered to the animals. The Agency solicits comments on whether oral or dermal administration of *m*-pda during the oncogenicity test would be more appropriate.

III. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of test rules, EPA has adopted a two-stage approach. All candidates for test rules go through a Level I analysis that consists of evaluating each chemical, or chemical group, on four prinicpal market characteristics: (1) Price sensitivity of demand, (2) industry cost characteristics, (3) industry structure, and (4) market expectations. The results of the Level I analysis for unsubstituted phenylenediamines, along with a consideration of the cost of the required tests, indicated no significant adverse economic impact exists; therefore, Level II analysis was not needed.

For a more complete and thorough discussion of the methodology used to conduct the economic analysis of this test rule see *Economic Impact Analysis for Test Rule for Benzene-Based Phenylenediamines*. A copy of this document is available in the public record for this rulemaking, docket number [OPTS–42008B].

The total costs for health effects and environmental effects testing for *m*-pda are estimated to range from $596,781 to $1,690,443. The total estimated costs for *o*-pda and *p*-pda are estimated to range from $27,575 to $82,648 for each chemical. The estimated costs for *o*- and *p*-pda is based upon *Daphina* acute and chronic, algal acute, fish acute and chronic, and indirect photoreaction

testing. For *m*-pda the estimated cost reflects the cost for the *Drosophila* SLRL assay and the potentially triggered mouse specific locus test and oncogenicity testing, as well as the indirect photoreaction and aquatic toxicity testing (Ref. 23).

The annualized test costs (using a cost of capital of 25 percent over a period of 15 years) range from $7,100 to $21,400 each for *o*-pda and *p*-pda, and from $154,600 to $437,800 for *m*-pda. From their estimated production levels, the unit costs range from 0.09 to 0.27 cent per pound for *p*-pda, 0.77 to 2.2 cent per pound for *m*-pda, and 0.10 to 0.31 cent per pound for *o*-pda. In relation to mid-1984 posted list prices of $4.00, $2.07, and $3.25 per pound for *p*-pda, *m*-pda, and *o*-pda, respectively, these costs are equivalent to 0.02 percent to 0.07 percent for *p*-pda, 0.37 percent to 1.1 percent for *m*-pda, and 0.03 percent to 0.095 percent for *o*-pda.

The Level I economic analysis (Ref. 21) indicates that the potential for adverse economic effects due to the estimated test costs is low. This conclusion is based on the following observations: (1) The overall demand for these compounds appears relatively inelastic due to the lack of direct or comparable end product substitutes; (2) the market expectations for these chemicals are very favorable due to the high growth potential of various end products, e.g., the aramid fibers, Kevlar® and Nomex®, and the corrosion inhibitor, benzotriazole; (3) producers of unsubstituted phenylenediamines tend to serve different markets and therefore do not compete directly among themselves; and (4) the estimated unit test costs are very low.

IV. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, "Chemical Testing Industry: Profile of Toxicological Testing," can be obtained through the National Technical Information Service (NTIS), Springfield, Virginia (PB 82-140773).

On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing required in this proposed rule.

V. Guidelines and Study Plans

Test methods under new Parts 796, 797, and 798 were published in the **Federal Register** of September 27, 1985 (50 FR 39252).

On the basis of the findings given above for health effects testing (see Unit II.C. above), the Agency is proposing that *m*-pda be tested in the SLRL assay in accordance with the procedures given in the TSCA Test Guidelines "Sex Linked Recessive Lethal Test in *Drosophila melanogaster*" (which appears at 40 CFR 798.5275). The guideline specifies generally accepted minimal conditions for obtaining reliable data on effects that may cause genetic mutation in people expected to be exposed to *m*-pda. The Agency has not received any new data that would justify a major reappraisal of the guideline. The Agency reviews the guidelines once a year according to the process described in the **Federal Register** of September 22, 1982 (47 FR 41857) and has found no reason to indicate that this guideline needs to be modified significantly.

The Agency is also proposing that the positive results from the SLRL assay trigger additional mutagenicity testing of *m*-pda in the mouse specific locus test. A 2-year chronic oncogenicity study may also be triggered from the SLRL results. In the event that additional testing is required, the mouse specific locus test shall be conducted in accordance with the procedures which appear at 40 CFR 798.5200, and the chronic, dermal, oncogenicity study in accordance with the procedures which appear at 40 CFR 798.3320.

On the basis of the findings given above for environmental fate and effects testing (see Unit II.C. above), the Agency is proposing that a base set of acute aquatic toxicity testing of *o*-, *m*-, and *p*-pda shall be conducted on (1) the freshwater alga, *Selenastrum capricornutum*, using the TSCA Test Guideline entitled "Algal Acute Toxicity Test" which appears at 40 CFR 797.1050; (2) the freshwater invertebrate, *Daphnia magna*,, using the TSCA Test Guideline entitled "Daphnid Acute Toxicity Test" which appears at 40 CFR 797.1300; and (3) the freshwater vertebrate, *Salmo qairdneri* (rainbow trout), using the TSCA Test Guideline entitled "Fish Acute Toxicity Test" which appears at 40 CFR 797.1400.

The Agency is proposing that persistence of the unsubstituted PDAs in natural waters be tested in an indirect photoreaction test, using the TSCA Test Guideline included in the proposed rule and entitled "Indirect Photolysis Screening Test: Sunlight Photolysis in Waters Containing Dissolved Humic Substances" which appears at 40 CFR 796.3765 and is published with this document. The Indirect Photolysis Screening Test is being added to the TSCA Guidelines for use in testing the unsubstituted pdas. This quideline may also be used for other chemicals in the future, either as currently stated or in a modified form. EPA is proposing that the results from the photolysis test be entered into the isomer-specific regression equation of the predicted environmental concentration versus a range of half-life values for oxidation through indirect photolysis. The half-life values were generated by EXAMS 2 modeling. PEC's are calculated as follows: *o*-pda: $PEC_o = 0.3629 + 1.0468 \log t½$: *m*-pda: $PEC_m = 0.6830 + 1.9702 \log ½$: *p*-pda: $PEC_p = 0.0085 + 0.0024 \log t½$, where PEC is the predicted concentration in ppb and t½ is the half-life for indirect photolysis expressed in minutes. Each PEC will be used to determine the need for chronic testing of each isomer in aquatic organisms.

If the *Daphnia* LC is greater than 100 X PEC and less than or equal to 1,000 X PEC, additional freshwater invertebrate testing is proposed, using the Gammarid Acute Toxicity Text Guideline included in the proposed rule (which appears at 40 CFR 797.1310). The Gammarid test is being proposed for specific use in testing the unsubstituted pdas. This guideline may also be used by the Agency in its present form or in a modified version in the future. If the rainbow trout LC_{50} is greater than 100 X PEC and less than or equal to 1,000 X PEC, additional acute tests in a representative of the *Salmonidae* and another untested fish family are proposed using the TSCA guideline entitled "Fish Acute Toxicity Test" which appears at 40 CFR 797.1400.

The Agency also is proposing that if the LC_{50} value from any of the vertebrate or invertebrate acute tests is equal to or less than 100 X PEC (as discussed in Unit II.C.2. above), then chronic toxicity tests with the most sensitive, (i.e., that with the lowest LC_{50} value) vertebrate or invertebrate species shall be performed. Where the above criteria for chronic testing are met for any of the three isomers and for one aquatic invertebrate, chronic testing shall be conducted with *Daphnia* using the TSCA Test Guideline entitled "Daphnid Chronic Toxicity Test" which appears at 40 CFR 797.1330 if Daphnia is the more sensitive invertebrate species. If *Gammarus* is the more sensitive invertebrate species, testing shall be performed on *Gammarus* using the chronic toxicity testing method of

Sanders et al. (Ref. 34) The Agency believes this chronic toxicity test methodology specifies the minimal conditions for acceptable investigation of the chronic behavior of the unsubstituted PDAs in *Gammarus*. If chronic testing is triggered in fish, EPA is proposing the test species be fathead minnow if the fathead minnow is the most sensitive verterbrate species or rainbow trout or brook trout, if one of these species of fish demonstrates more sensitivity to the PDAs than the fathead minnow. The Agency is proposing that chronic testing be done using TSCA Test Guideline, which apears at 40 CFR 797.1600, entitled "Fish Early Life Stage Toxicity Test," for all three species.

The Agency is proposing that the above-referenced TSCA Environmental Effects Test Guidelines and other cited methods be considered the test standards for the purposes of the proposed tests for PDAs. The TSCA guidelines for aquatic toxicity testing specify generally accepted minimal conditions for determining aquatic plant and animal toxicities for substances like unsubstituted PDAs. The Agency's review of the guidelines, which occurs yearly according to the process described at 47 FR 41857 (September 22, 1982), has found no reason to suspect that these protocols need to be modified.

EPA intends to propose shortly in a separate **Federal Register** notice, certain revisions to the health and environmental effects and chemical fate TSCA Test Guidelines to provide more explicit guidance on the necessary minimum elements for each study. In addition, these revisions will avoid repetitive chemical-by-chemical changes to the guidelines in their adoption as test standards for chemical-specific test rules. EPA is proposing that these modifications be adopted in the test standards for PDAs.

VI. Public Meetings

If persons indicate to EPA that they wish to present comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting in Washington, D.C. This meeting will be scheduled after the deadline for submission of written comments, so that issues raised in the written comments can be discussed by EPA and the public commenters. Information on the exact time and place of the meeting will be available from the TSCA Assistance Office. Toll Free: (800–424–9065). In Washington, D.C.: (554–1404). Outside the U.S.A.: (Operator–202–554–1404).

Persons who wish to attend or present comments at the meeting should call the TSCA Assistance Office by February 20, 1986. While the meeting will be open to the public, active participation will be limited to those persons who have arranged to present comments and to designated EPA participants. Attendees should call the TSCA Assistance Office before making travel plans because the meeting will not be held if members of the public do not indicate they wish to make oral comments.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VII. Public Record

EPA has established a public record for this rulemaking [docket number OPTS–42008B]. This record includes the basic information considered by the Agency in developing this proposal and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received.

The Record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of proposed rule on unsubstituted phenylenediamines.

(b) Notice containing the ITC designation of the phenylenediamines category to the Priority List (45 FR 35897; May 28, 1980).

(c) Notices relating to EPA's health effects test guidelines and TSCA Good Laboratory Practice Standards (48 FR 53922; November 29, 1983).

(d) Notice of final rule on test rule development and exemption policy and procedures (49 FR 39774; October 10, 1984).

(e) Notice of interim final rule on test rule development and exemption procedures (50 FR 20652; May 17, 1985).

(f) Notice of final rule on data reimbursement policy and procedures (48 FR 31786; July 11, 1983).

(g) Advance Notice of Proposed Rulemaking for the phenylenediamines (47 FR 973; January 8, 1982).

(h) Notice of Agency decision not require to testing of certain phenylenediamines (50 FR 4267; January 30, 1985).

(i) Toxic Substances Control Act Test Guidelines (50 FR 39252; September 27, 1985).

(j) **Federal Register** [Reserved TSCA Guidelines Revision]

(2) Support Documents: consisting of:

(a) Economic analysis support document.

(b) Ethyltoluene and Trimethylbenzene C9 aromatic hydrocarbons technical support document.

(c) Cresols support documents.

(3) Communications before proposal consisting of:

(a) Written public and intra-agency or interagency memoranda and comments.

(b) Records of telephone conversations.

(c) Records or minutes of informal meetings.

(d) Reports—published and unpublished factual materials.

B. References

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(11) Ames, B.N., H.O. Kammen, E. Yamasaki. "Hair dyes are mutagenic: Identifications of a variety of mutagenic ingredients." *Proc. Nat. Acad. Sci. USA* 72:2423–2427. 1975.

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Confidential business information (CBI), while part of the record, is not available for public review. A public version of the record from which CBI has been deleted is available for inspection in the OPTS Reading Room, Rm. E–107, 401 M St., SW., Washington, DC., from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

VIII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. First, the actual annual cost of all the testing proposed for unsubstituted phenylenediamines is a maximum of $480,878 or less than $1,855,311 over the testing and reimbursement period. Second, because the cost of the required testing will be distributed over a large production volume, the rule will have only very minor effects on users' prices (less than 0.095 percent of *o*-pda, 0.07 percent of *p*-pda, and 1.1 percent for *m*-pda) for these chemicals even if all test costs were passed on. Finally, taking into account the nature of the market for this substance, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic effects of any type as a result of this rule.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments received from OMB are included in the Public Record for this rulemaking.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

1. There are not a significant number of small businesses manufacturing unsubstituted PDAs.

2. Small processors will not perform testing themselves, or participate in the organization of the testing efforts.

3. Small processors will experience only very minor costs if any in securing exemption from testing requirements.

4. Small processors are unlikely to be affected by reimbursement requirements, and any testing costs passed on to small processors through price increases will be small.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq*, and has assigned OMB control number 2070–0033. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA." The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous substances, Chemicals.

Dated: December 20, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that Chapter I of Title 40 of the Code of Federal Regulations be amended as follows:

PART 796—[AMENDED]

1. In Part 796:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By adding § 796.3765, to read as follows:

§ 796.3765 Indirect Photolysis Screening Test: sunlight photolysis in waters containing dissolved humic substances.

(a) *Introduction.* (1) Chemical compounds dissolved in natural waters are subject to two types of photoreaction. In the first case, the compound of interest absorbs sunlight directly and is transformed to products when unstable excited states of the molecule decompose. In the second case, reaction of dissolved compound is the result of chemical or electronic excitation transfer from light-absorbing humic species in the natural water. In contrast to direct photolysis, this photoreaction is governed initially by the spectroscopic properties of the natural water.

(2) In general, both indirect and direct processes can proceed simultaneously. Under favorable conditions the measurement of a photoreaction rate constant in sunlight (k_{pE}) in a natural water body will yield a net value that is the sum of two first-order reaction rate constants for the direct (k_{DE}) and indirect (k_{IE}) pathways which can be expressed by the relationship

Equation 1

$$k_{pE} = k_{DE} + k_{IE}.$$

This relationship is obtained when the reaction volume is optically thin so that a negligible fraction of the incident light is absorbed and is sufficiently dilute in test chemical; thus the direct and indirect photoreaction processes become first-order.

(3) In pure water only, direct photoreaction is possible, although hydrolysis, biotransformation, sorption, and volatilization also can decrease the concentration of a test chemical. By measuring k_{pE} in a natural water and k_{DE} in pure water, k_{IE} can be calculated.

(4) Two protocols have been written that measure k_{DE} in sunlight or predict k_{DE} in sunlight from laboratory measurements with monochromatic light [USEPA (1984) under paragraphs (f) (14) and (15) of this section; Mill et al. (1981) under paragraph (f)(9) of this section; Mill et al. (1982) under paragraph (f)(10) of this section; Mill et al. (1983) under paragraph (f)(11) of this section]. As a preface to the use of the present protocol, it is not necessary to know k_{DE}; it will be determined under conditions that definitively establish whether k_{IE} is significant with respect to k_{DE}.

(5) This protocol provides a cost effective test method for measuring k_{IE} for test chemicals in a natural water (synthetic humic water, SHW) derived from commercial humic material. It describes the preparation and standardization of SHW. To implement the method, a test chemical is exposed to sunlight in round tubes containing SHW and tubes containing pure water for defined periods of time based on a screening test.

(6) To correct for variations in solar irradiance during the reaction period, an actinometer is simultaneously insolated. From these data, an indirect photoreaction rate constant is calculated that is applicable to clear-sky, near-surface conditions in fresh water bodies.

(7) In contrast to k_{DE}, which, once measured, can be calculated for different seasons and latitudes, k_{IE} only applies to the season and latitude for which it is determined. This condition exists because the solar action spectrum for indirect photoreaction in humic-containing waters is not generally known and would be expected to change for different test chemicals. For this reason, k_{pE}, which contains k_{IE}, is likewise valid only for the experimental data and latitude.

(8) The value of k_{pE} represents an atypical quantity because k_{IE} will change somewhat from water body to water body as the amount and quality of dissolved aquatic humic substances change. Studies have shown, however, that for optically-matched natural waters, these differences are usually within a factor of two [Zepp et al. (1981) under paragraph (f)(17) of this section].

(9) This protocol consists of three separate phases that should be completed in the following order: in Phase 1, SHW is prepared and adjusted; in Phase 2, the test chemical is irradiated in SHW and pure water (PW) to obtain approximate sunlight photoreaction rate constants and to determine whether direct and indirect photoprocesses are important; in Phase 3, the test chemical is again irradiated in PW and SHW. To correct for photobleaching of SHW and also solar irradiance variations, tubes containing SHW and actinometer solutions are exposed simultaneously. From these data k_{pE} is calculated that is the sum of k_{IE} and k_{DE} (equation 1) [Winterle and Mill (1985) under paragraph (f)(12) of this section].

(b) *Phase 1—Preparation and standardization of synthetic natural water*—(1) *Approach.* (i) Recent studies have demonstrated that natural waters can promote the indirect (or sensitized) photoreaction of dissolved organic chemicals. This reactivity is imparted by dissolved organic material (DOM) in the form of humic substances. These materials absorb sunlight and produce reactive intermediates that include singlet oxygen ($^1O_2$) [Zepp et al. (1977) under paragraph (f)(20) of this section, Zepp et al. (1981) under paragraph (f)(17) of this section, Zepp et al. (1981) under paragraph (f)(18) of this section, Wolff et al. (1981) under paragraph (f)(16) of this section, Haag et al. (1984) under paragraph (f)(6) of this section, Haag et al. (1984) under paragraph (f)(7) of this section]; peroxy radicals ($RO_2\cdot$) [Mill et al. (1981) under paragraph (f)(9) of this section; Mill et al. (1983) under paragraph (f)(11) of this section]; hydroxyl radicals ($HO\cdot$) [Mill et al. (1981) under paragraph (f)(9) of this section, Draper and Crosby (1981, 1984) under paragraphs (f) (4) and (3) of this section respectively]; superoxide anion ($O_2\cdot$) and hydroperoxy radicals ($HO_2\cdot$). [Cooper and Zika (1983) under paragraph (f)(1) of this section, Draper and Crosby (1983) under paragraph (f)(2) of this section]; and triplet excited states of the humic substances [Zepp et al. (1981) under paragraph (f)(17) of this section, Zepp et al. (1985) under paragraph (f)(21) of this section]. Synthetic humic waters, prepared by extracting commercial humic or fulvic materials with water, photoreact similarly to natural waters when optically matched [Zepp et al. (1981) under paragraphs (f) (17) and (18) of this section].

(ii) The indirect photoreactivity of a chemical in a natural water will depend on its response to these reactive intermediates, and possibly others yet unknown, as well as the ability of the water to generate such species. This latter feature will vary from water-to-water in an unpredictable way, judged by the complexity of the situation.

(iii) The approach to standardizing a test for indirect photoreactivity is to use a synthetic humic water (SHW) prepared by water-extracting commercial humic material. This material is inexpensive, and available to any laboratory, in contrast to a specific

natural water. The SHW can be diluted to a dissolved organic carbon (DOC) content and uv-visible absorbance typical of most surface fresh waters.

(iv) In recent studies it has been found that the reactivity of SHW mixtures depends on pH, and also the history of sunlight exposure [Mill et al. (1983) under paragraph (f)(11) of this section]. The SHW solutions initially protobleach with a time-dependent rate constant. As such, an SHW test system has been designed that is buffered to maintain pH and is pre-aged in sunlight to produce, subsequently, a predictable bleaching behavior.

(v) The purpose of Phase 1 is to prepare, pre-age, and dilute SHW to a standard mixture under defined, reproducible conditions.

(2) *Procedure.* (i) Twenty grams of Aldrich humic acid is added to a clean 2-liter Pyrex Erlenmeyer flask. The flask is filled with 2 liters of 0.1 percent NaOH solution. A stir bar is added to the flask, the flask is capped, and the solution is stirred for 1 hour at room temperature. At the end of this time the dark brown supernatant is decanted and either filtered through coarse filter paper or centrifuged and then filtered through 0.4 μm microfilter. The pH is adjusted to 7.0 with dilute H_2SO_4 and filter sterilized through a 0.2 m filter into a rigorously cleaned 2-liter Erlenmeyer flask. This mixture contains roughly 60 ppm (DOC) and the absorbance (in a 1 cm path length cell) is approximately 1.7 at 313 nm and 0.7 at 370 nm.

(ii) Pre-aging is accomplished by exposing the concentrated solution in the 2-liter flask to direct sunlight for 4 days in early spring or late fall; 3 days in late spring, summer, or early fall. At this time the absorbance of the solution is measured at 370 nm, and a dilution factor is calculated to decrease the absorbance to 0.50 in a 1 cm path length cell. If necessary, the pH is re-adjusted to 7.0. Finally, the mixture is brought to exact dilution with a precalculated volume of reagent-grade water to give a final absorbance of 0.500 in a 1-cm path length cell at 370 nm. It is tightly capped and refrigerated.

(iii) This mixture is SHW stock solution. Before use it is diluted 10-fold with 0.010 M phosphate buffer to produce a pH 7.0 mixture with an absorbance of 5.00×10^{-2} at 370 nm, and a dissolved organic carbon of about 5 ppm. Such values are characteristic of many surface fresh waters.

(3) *Rationale.* The foregoing procedure is designed to produce a standard humic-containing solution that is pH controlled, and sufficiently aged that its photobleaching first-order rate constant is not time dependent. It has been demonstrated that after 7 days of winter sunlight exposure, SHW solutions photobleached with a nearly constant rate constant [Mill et al. (1983) under paragraph (f)(11) of this section].

(c) *Phase 2—Screening test*—(1) *Introduction and purpose.* (i) Phase 2 measurements provide approximate solar photolysis rate constants and half-lives of test chemicals in pure water (PW) and synthetic humic water (SHW). If the photoreaction rate in SHW is significantly larger that in PW (factor of >2X) then the test chemical is subject to indirect photoreaction and Phase 3 is necessary. Phase 2 data are needed for more accurate Phase 3 measurements, which require parallel solar irradiation of actinometer and test chemical solutions. The actinometer composition is adjusted according to the results of Phase 2 for each chemical, to equalize as much as possible photoreaction rate constants of chemical in SHW and actinometer.

(ii) In Phase 2, sunlight photoreaction rate constants are measured in round tubes containing SHW and then mathematically corrected to a flat water surface geometry. These rate constants are not corrected to clear-sky conditions.

(2) *Procedure.* (i) Solutions of test chemicals should be prepared using sterile, air-saturated, 0.010 M, pH 7.0 phosphate buffer and reagent-grade (or purer) chemicals.[1] Reaction mixtures should be prepared with chemicals at concentrations at less than one-half their solubility in pure water and at concentrations such that, at any wavelengths above 290 nm, the absorbance in a standard quartz sample cell with a 1-cm path length is less than 0.05. If the chemicals are too insoluble in water to permit reasonable handling or analytical procedures, 1-volume percent acetonitrile may be added to the buffer as a cosolvent.

(ii) This solution should be mixed 9.00:1.00 by volume with PW or SHW stock solution to provide working solutions. In the case of SHW, it gives a ten-fold dilution of SHW stock solution. Six-mL aliquots of each working solution should then be transferred to separate 12 x 100 mm quartz tubes with screw tops and tightly sealed with Mininert valves.[2] Twenty-four tubes are required for each chemical solution (12 samples and 12 dark controls), to give a total of 48 tubes.

(iii) The sample tubes are mounted in a photolysis rack with the tops facing geographically north and inclined 30° from the horizontal. The rack should be placed outdoors over a black background in a location free of shadows and excessive reflection.

(iv) Reaction progress should be measured with an analytical technique that provides a precision of at least ±5 percent. High pressure liquid chromatography (HPLC) or gas chromatograph (GC) have proven to be the most general and precise analytical techniques.

(v) Sample and control solution concentrations are calculated by averaging analytical measurements for each solution. Control solutions should be analyzed at least twice at zero time and at other times to determine whether any loss of chemical in controls or samples has occurred by some adventitious process during the experiment.

(vi) Whenever possible the following procedures should be completed in clear, warm, weather so that solutions will photolyze more quickly and not freeze.

(A) Starting at noon on day zero, expose to sunlight 24 sample tubes mounted on the rack described above. Tape 24 foil-wrapped controls to the bottom of the rack.

(B) Analyze two sample tubes and two unexposed controls in PW and SHW for chemical at 24 hours. Calculate the round tube photolysis rate constants $(k_p)_{SHW}$ and $(k_p)_W$ if the percent coversions are ≥20 percent but <80 percent. The rate constants $(k_p)_{SHW}$ and $(k_p)_W$ are calculated, respectively, from equations 2 and 3:

Equation 2

$$(k_p)_{SHW} = (1/t)/n)C_o/C_t)_{SHW} \text{ (in } d^{-1})$$

Equation 3

$$(k_p)_W = (1/t)/n)C_o/C_t)_W \text{ (in } d^{-1}),$$

Where the subscript identifies a reaction in synthetic humic water (SHW) or pure water (W); t is the photolysis time in calendar days; C_o is the initial molar concentration; and C_t is the molar concentration in the irradiated tube at t. In this case t=1 day.

(C) If less than 20 percent conversion occurs in SHW in 1 day, repeat the procedure for SHW and PW at 2 days, 4 days, 8 days, or 16 days, or until 20 percent conversion is reached. Do not extend the experiment past 16 days. If less than 20 percent photoreaction occurs in SHW at the end of 16 days the

[1] The water should be ASTM Type IIA, or an equivalent grade.

[2] Mininert Teflon sampling vials are available from Alltech Associates, Inc., 202 Campus Dr., Arlington Heights, IL 60004.

chemical is "photoinert". Phase 3 is not applicable.

(D) If more than 80 percent photoreaction occurs at the end of day 1 in SHW, repeat the experiment with eight each of the remaining foil-wrapped PW and SHW controls. Divide these sets into four sample tubes each, leaving four foil-wrapped controls taped to the bottom of the rack.

(*1*) Expose tubes of chemical in SHW and PW to sunlight starting at 0900 hours and remove one tube and one control at 1, 2, 4, and 8 hours. Analyze all tubes the next day.

(*2*) Estimate $(k_p)_{SHW}$ for the first tube in which photoreaction is ⩽20 percent but >80 percent. If more than 80 percent conversion occurs in the first SHW tube, report: "The half-life is less than one hour"; and end all testing. The chemical is "photolabile." *Phase 3 is not applicable.*

(*3*) The rate constants $(k_p)_{SHW}$ and $(k_p)_W$ are calculated from equations 2 and 3 under paragraph (c)(2)(vi)(B) of this section but the time of irradiation must be adjusted to reflect the fact that day-averaged rate constants are approximately one-third of rate constants averaged over only 8 daylight hours. For 1 hour of insolation enter t=0.125 day into equation 2 under paragraph (c)(2)(vi)(B) of this section. For reaction times of 2, 4, and 8 hours enter 0.25, 0.50, and 1.0 days, respectively. Proceed to Phase 3 testing.

(*4*) Once $(k_p)_{SHW}$ and $(k_p)_W$ are measured, determine the ratio R from equation 4:

Equation 4

$$R=(k_p)_{SHW}/(k_p)_W.$$

The coefficient R, defined by equation 4, is equal to $[(k_I+k_D)/k_D]$. If R is in the range 0 to 1, the photoreaction is inhibited by the synthetic humic water and Phase 3 does not apply. If R is in the range 1 to 2, the test chemical is marginally susceptible to indirect photolysis. In this case, Phase 3 studies are optional. If R is greater than 2, Phase 3 measurements are necessary to measure k_{pE} and to evaluate k_{IE}.

(vii) Since the rate of photolysis in tubes is faster than the rate in natural water bodies, values of near-surface photolysis rate constants in natural and pure water bodies, k_{pE} and k_{DE}, respectively, can be obtained from $(k_p)_{SHW}$ and $(k_p)_W$ from equations 5 and 6:

Equation 5

$$k_{pE}\approx 0.45(k_p)_{SHW}$$

Equation 6

$$k_{DE}\approx 0.45(k_p)_W.$$

The factor 0.045 is an approximate geometric correction for scattered light in tubes versus horizontal surfaces. A rough value of k_{IE}, the rate constant for indirect photolysis in natural waters of SHW, can be estimated from the difference between k_{pE} and k_{DE} using equation 7:

Equation 7

$k_{IE}=k_{pE}-k$
E).

(3) *Criteria for Phase 2.* (i) If no loss of chemical is found in dark control solutions compared with the analysis in tubes at zero time (within experimental error), any loss of chemical in sunlight is assumed to be due to photolysis, and the procedure provides a valid estimate of k_{pE} and k_{DE}. Any loss of chemical in the dark-control solutions may indicate the intervention of some other loss process such as hydrolysis, microbial degradation, or volatilization. In this case, more detailed experiments are needed to trace the problem and if possible eliminate or minimize the source of loss.

(ii) Rate constants determined by the Phase 2 protocol depend upon latitude, season, and weather conditions. Note that $(k_p)_{SHW}$ and k_D values apply to round tubes and k_{pE} and k_{DE} values apply to a natural water body. Because both $(K_p)_{SHW}$ and k_D are measured under the same conditions the ratio $[(k_p)_{SHW}/k_D]$ is a valid measure of the susceptibility of a chemical to indirect photolysis. However, since SHW is subject to photobleaching,

susceptibility of a chemical to indirect photolysis. However, since SHW is subject to photobleaching, $(k_p)_{SHW}$ will decrease with time because the indirect rate will diminish. Therefore, R>2 is considered to be a conservative limit because $(k_p)_{SHW}$ will become systematically smaller with time.

(4) *Rationale.* The Phase 2 protocol is a simple procedure for evaluating direct and indirect sunlight photolysis rate constants of a chemical at a specific time of year and latitude. It provides a rough rate constant for the chemical in SHW that is necessary for Phase 3 testing. By comparison with the direct photoreaction rate constant, it can be seen whether the chemical is subject to indirect photoreaction and whether Phase 3 tests are necessary.

(5) *Scope and limitations.* (i) Phase 2 testing separates test chemicals into three convenient categories: "photolabile," "photoinert," and those chemicals having sunlight half-lives in round tubes in the range of 1 hour to 50 days. Chemicals in the first two categories fall outside the practical limits of the test, and cannot be used in Phase 3. All other chemicals are suitable for Phase 3 testing.

(ii) The test procedure is simple and inexpensive, but does require that the chemical dissolve in water at sufficient concentrations to be measured by some analytical technique but not have appreciable absorbance in the range 290 to 825 nm. Phase 2 tests should be done during a clear-sky period to obtain the best results. Testing will be less accurate for chemicals with half-lives of less than 1 day because dramatic fluctuations in sunlight intensity can arise from transient weather conditions and the difficulty of assigning equivalent reaction times. Normal diurnal variations also affect the photolysis rate constant. Phase 3 tests should be started as soon as possible after the Phase 2 tests to ensure that the $(k_p)_{SHW}$ estimate remains valid.

(6) *Illustrative Example.* (i) Chemical A was dissolved in 0.010 M pH 7.0 buffer. The solution was filtered through a 2 um filter, air saturated, and analyzed. It contained 1.7×10^{-5} M A, five-fold less than its water solubility of 8.5×10^{-5} M at 25° C. A uv spectrum (1-cm path length) versus buffer blank showed no absorbance greater than 0.05 in the wavelength interval 290 to 825 nm, a condition required for the Phase 2 protocol. The 180 mL mixture was diluted by the addition of 20 mL of SHW stock solution.

(ii) The SHW solution of A was photolyzed in sealed quartz tubes (12×100 mm) in the fall season starting on October 1. At the end of 1 and 2 days, respectively, the concentration of A was found to be 1.13×10^{-5} M and 0.92×10^{-5} M compared to unchanged dark controls (1.53×10^{-5} M).

(iii) The tube photolysis rate constant of chemical A was calculated from equation 2 under paragraph (c)(2)(vi)(B) of this section. The first time point at day 1 was used because the fraction of A remaining was in the range 20 to 80 percent:

$$(k_p)_{SHW}=(1/1d)/n(1.53\times10^{-5}/1.13\times10^{+5})$$
$$(k_p)_{SHW}=0.30\ d^{-1}.$$

(iv) From this value, k_{pE} was found to be 0.14 d^{-1} using equation 5 under paragraph (c)(2)(vii) of this section:

$$(k_{pE})=0.45(0.30\ d^{-1})=0.14\ d^{-1}.$$

(v) From measurements in pure water, k_D for chemical A was found to be 0.085 d^{-1}. Because the ratio of $(k_p)_{SHW}/k_D$(= 3.5) is greater than 2, Phase 3 experiments were started.

(d) *Phase 3—Indirect photoreaction with actinometer: Calculation of k_{IE} and k_{pE}*—(1) *Introduction and purpose.* (i) The purpose of Phase 3 is to measure k_{IO},

the indirect photolysis rate constant in tubes, and then to calculate k_{pE} for the test chemical in a natural water. If the approximate $(k_p)_{SHW}$ determined in Phase 2 under paragraph (c) of this section is not significantly greater than k_D measured for the experiment date of Phase 2 under paragraph (c) of this section, then Phase 3 is unnecessary because the test chemical is not subject to indirect photoreaction.

(ii) In the case $(k_p)_{SHW}$ is significantly larger than k_D, Phase 3 is necessary. The rate constant $(k_p)_{SHW}$ is used to choose an actinometer composition that matches the actinometer rate to the test chemical rate. Test chemical solutions in SHW and in pure water buffer are then irradiated in sunlight in parallel with actinometer solutions, all in tubes.

(iii) The actinometer used is the p-nitroacetophenone-pyridine (PNAP/PYR) system developed by Dulin and Mill (1982) under paragraph (f)(5) of this section and is used in two EPA test guidelines [USEPA (1984) under paragraph (f) (14) and (15) of this section]. By varying the pyridine concentration, the PNAP photolysis half-life can be adjusted over a range of several hours to several weeks. The starting PNAP concentration is held constant.

(iv) Synthetic humic water (SHW) is subject to photobleaching that decreases its ability to promote indirect photolysis based on its ability to absorb sunlight. This effect will be significant when the test period exceeds a few days. To correct for photobleaching, tubes containing SHW are irradiated in addition to the other tubes above.

(v) At any time, the loss of test chemical is given by equation 8 assuming actinometric correction to constant light flux:

Equation 8

$$-(d[C]/dt)=k_I[C]+k_D[C].$$

(vi) The indirect photolysis rate constant, k_I, is actually time dependent because SHW photobleaches; the rate constant k_I, after pre-aging, obeys the formula:

Equation 9

$$k_I=K_{Io}\exp(-kt).$$

In which k_{Io} is the initial indirect photoreaction rate constant and k is the SHW photobleaching rate constant. After substituting equation 9 for k_I in equation 8 under paragraph (d)(1)(v) of this section and rearranging, one obtains

$$-(d[C]/[C])=k_{Io}[\exp(-kt)]dt+k_Ddt.$$

This expression is integrated to give equation 10:

Equation 10

$$/n(C_o/C)_{SHW}=(k_{Io}/k)[1-\exp(-kt)]+k_Dt.$$

The term (k_{Io}/k) can now be evaluated. Since in pure water, $/n(C_o/C)_W=k_Dt$, then subtracting this equation from equation 10 gives

Equation 11

$$/n(C_o/C)_{SHW}/n(C_o/C)_W=(k_{Io}/k)[1-\exp(-kt)].$$

The photobleaching fraction, $[1-\exp(-kt)]$, is equivalent to the expression $[1-(A_{370}/A^o_{370})]$, where A^o_{370} and A_{370} are the absorbances at 370 nm, and are proportional to humic sensitizer content at times zero and t. Therefore, (k_{Io}/k) is derived from the slope of a linear regression using $[/n(C_o/C)_{SHW}-/n(C_o/C)_W]$ as the dependent variable and $[1-(A_{370}/A^o_{370})_{SHW}]$ as the independent variable.

(vii) To evaluate k_{Io}, the parameter k has to be evaluated under standard sunlight conditions. Therefore, the photolysis rate constant for the PNAP/PYR actinometer (k_A) is used to evaluate k by linear regression on equation 12:

Equation 12

$$/n(A^o_{370}/A_{370})=(k/k_A)ln(C_o/C)_{PNAP}.$$

Where the slope is (k/k_A) and the value of k_A is calculated from the concentration of pyridine and the absorption of light by PNAP: $k_A=2.2(0.0169)\,[PYR]k_a$. Values of k_a are listed in the following Table 1:

TABLE 1.—DAY AVERAGED RATE CONSTANT (K_a) [1] FOR SUNLIGHT ABSORPTION BY PNAP AS A FUNCTION OF SEASON AND DECADIC LATITUDE [2]

Latitude	Season			
	Spring	Summer	Fall	Winter
20°N	515	551	409	327
30°N	483	551	333	232
40°N	431	532	245	139
50°N	362	496	154	64

[1] $k_a\Sigma\epsilon_{\lambda a}L_\lambda$ in the units of day $^{-1}$; [Mill et al. (1982) under paragraph (f)(10)] of this section].
[2] For use in equation 15 under paragraph (d)(2)(i) of this section.

The value of K_{Io} is then given by equation 13:

Equation 13

$$k_{Io}=(k_{Io}/k)(k/k_A)k_A.$$

(viii) To obtain I_D, determine the ratio (k_D/k_A) from a linear regression of $/n(C_o/C)_W$ versus $/n(C_o/C)_{PNAP}$ according to equation 13a:

Equation 13a

$$/n(C_o/C_W=(k_D/k_A)\,/n(C_o/C)_{PNAP}.$$

The slope is (k_D/k_A), and k_D is obtained by multiplication of this slope with the known value of k_A: i.e., $k_D=(k_D/k_A)k_A$.

(ix) Then, $(k_p)_{SHW}$ values in SHW are determined by summing k_D and k_{Io} as follows:

Equation 14

$$(k_p)_{SHW}=k_{Io}+k_D.$$

(x) Finally, equation 5 under paragraph (c)(2)(vii) of this section is modified so that k_{pE} is calculated from the precise relationship, equation 5a:

Equation 5a

$$k_{pE}=0.455(k_p)_{SHW}.$$

(2) *Procedure.* (i) Using the test chemical photoreaction rate constant in round tubes, $(k_p)_{SHW}$, determined in Phase 2 under paragraph (c) of this section, and the absorption rate constant, k_a, found in Table 1, under paragraph (d)(1)(vi) of this section, calculate the molar pyridine concentration required by the PNAP/PYR actinometer using equation 15:

Equation 15

$$[PYR]/M=26.9[(k_p)_{SHW}/k_a].$$

This pyridine concentration makes the actinometer rate constant match the test chemical rate constant.

(A) The variable k_a $(=\Sigma\epsilon_{\lambda a}L_\lambda)$ is equal to the day-averaged rate constant for sunlight absorption by PNAP [USEPA (1984) under paragraph (f)(14) of this section; Mill et al. (1982) under paragraph (f)(10) of this section; Zepp and Cline (1977) under paragraph (f)(19) of this section] which changes with season and latitude.

(B) The variable k_a is selected from Table 1 under paragraph (d)(1)(vi) of this section for the season nearest the mid-experiment date of Phase 2 studies and the decadic latitude nearest the experimental site.

(ii) Once [PYR] is determined, an actinometer solution is prepared by adding 1.00 mL of 1.0×10^{-2} M (0.165 gms/100 mL) PNAP stock solution (in CH_3CN solvent) and the required volume, V, of PYR to a 1 liter volumetric flask. The flask is then filled with distilled water to give 1 liter of solution. The volume V can be calculated from equation 16:

Equation 16

$$V/mL=[PYR]/0.0124.$$

The PNAP/PYR solutions should be wrapped with aluminum foil and kept out of bright light after preparation.

(iii) The following solutions should be prepared and individually added in 6.00 mL aliquots to 12/100-mm quartz sample tubes; 8 tubes should be filled with each solution:

(A) PNAP/PYR actinometer solution;

(B) Test chemical in pH 7.0, 0.010 M phosphate buffer;

(C) Test chemical in pH 7.0, 0.010 M phosphate buffer/SHW;

(D) pH 7.0, 0.010 M phosphate buffer/SHW. Four tubes of each set are wrapped in foil and used as controls.

(iv) The tubes are placed in the photolysis rack (Phase 2, Procedure under paragraph (c)(2) of this section) at 0900 hours on day zero, with the controls taped to the bottom of the rack. One tube of each composition is removed, along with their respective controls, according to a schedule found in the following Table 2, which categorizes sampling times on the basis of $(k_p)_{SHW}$ determined in Phase 1 under paragraph (b) of this section.

TABLE 2.— CATEGORY AND SAMPLING PROCEDURE FOR TEST AND ACTINOMETRY SOLUTIONS

Category	$k_p(d^{-1})$ SHW	Sampling procedure
A	$5.5 > k_p > 0.69$	Sample at 0, 1, 2, 4, and 8h.
B	$0.69 > k_p > 0.17$	Sample at 0, 1, 2, 4, and 8d.
C	$0.17 > k_p > 0.043$	Sample at 0, 4, 8, 16, and 32d.

(v) The tubes containing PNAP, test chemical, and their controls are analyzed for residual concentrations soon after the end of the experiment. PNAP is conveniently analyzed by HPLC, using a 30 cm C_{18} reverse phase column and a uv detector set at 280 nm. The mobile phase is 2 percent acetic acid, 50 percent acetonitrile and 48 percent water (2 mL/min flow rate). Tubes containing only SHW (solution D) should be analyzed by absorption spectroscopy at 370 nm after storage at 4°C in the dark. The absorbance range to be measured is 0.05 to 0.01 AU (1 cm).

(vi) If controls are well-behaved and show no significant loss of chemical or absorbance change, then k_t can be calculated. In tabular form (see Table 4 under paragraph (d)(6)(iii)(A) of this section) arrange the quantities $ln(C_o/C_t)_{SHW}$, $ln(C_o/C_t)_W$, $[1-(A_{370}/A°_{370})]$, $ln(A°_{370}/A_{370})$, and $ln(C_o/C_t)_W$, in order of increasing time. Acording to equation 11 under paragraph (d)(1)(vi) of this section in the form of equation 17, plot the quantities $[ln(C_o/C_t)_{SHW}-ln(C_o/C_t)_W]$ versus the indepdent variable $[1-(A_{370}/A°_{370})]$. Obtain the slope (S1) by least squaree linear regression. Under the assumptions of the protocol, $S1=(k_{Io}/k)$.

Equation 17

$$ln(C_o/C)_{SHW}-ln(C_o/C)_W=(k_{Io}/k)\,[1-(A_{370}/A°_{370})],$$

(vii) According to equation 12 under paragraph (d)(1)(vii) of this section, plot the quantities $ln(A°_{370}/A_{370})$ versus the independent variable) $ln(C_o/C_t)_{PNAP}$. Obtain the slope (S2) by least squares linear regression. Under the assumptions of the protocol, $S2=(k/k_A)$.

(viii) Then, using equation 13a under paragraph (d)(1)(viii) of this section, determine the slope (S3) by least squares linear regression. Under the assumptionsof the protocol, S3 is equal to (k_D/k_A).

(ix) From equation 18:

Equation 18

$$K_A=0.0372[PYR]k_a,$$

Calculate k_A using k_aa values found in Table 1 under paragraph (d)(1)(vi) of this section . The value of k_a chosen should correspond to the date closest to the mid-experiment date and latitude closest to that of the experimental site.

(x) The indirect photoreaction rate constant, k_{Io}, is determined using equation 19:

Equation 19

$$k_{Io}=(S1)(k_A)(S2),$$

By incorporating the quantities k_A, S1, and S2 determined as described above.

(xi) The rate constant k_D is calculated from equation 20:

Equation 20

$$k_D=(S3)(k_A),$$

using the quantities S3 and k_A determined as described above.

(xii) Then, $(k_p)_{SHW}$ is obtained by summing k_D and k_{Io} [equation 14 under paragraph (d)(1)(ix) of this section].

(xiii) Finally, k_{pE} is obtained by multiplying $(k_p)_{SHW}$ by the factor 0.455 [equation 5a under paragraph (d)(1)(x) of this section]. As determined, k_{pE} is the net environmental photoreaction rate constant. It applies to clear sky conditions and is valid for predicting surface photoreaction rates in an average humic containing freshwater body. It is strictly valid only for the experimental latitude and season.

(3) *Criteria for Phase 3.* As in Phase 2 under paragraph (c) of this section, Phase 3 tests are assumed valid if the dark controls are well behaved and show no significant loss of chemical. In such a case, loss of test chemical in irradiated samples is due to photoreaction.

(4) *Rationale.* Simultaneous irradiation of a test chemical and actinometer provide a means of evaluating sunlight intensities during the reaction period. Parallel irradiation of SHW solutions allows evaluation of the extent of photobleaching and loss of sensitizing ability of the natural water.

(5) *Scope and limitations of Phase 3 protocol.* Test chemicals that are classified as having half-lives in SHW in the range of 1 hour to 50 days in Phase 2 listing are suitable for use in Phase 3 testing. Such chemicals have photoreaction half-lives in a range accommodated by the PNAP/PYR actinometry in sunlight and also accommodate the persistence of SHW in sunlight.

(6) *Illustrative example.* (i) From Phase 2 testing under paragraph (c)(6)(iii) of this section, chemical A was found to have a photolysis rate constant, $(k_p)_{SHW}$' of 0.30 d^{-1} in fall in round tubes at latitude 33° N. Using Table 1 under paragraph (d)(1)(vi) of this section for 30° N, the nearest decadic latitude, a fall value of k_a equal to 333 d^{-1} is found for PNAP. Substitution of $(k_p)_{SHW}$ and k_a into equation 15 under paragraph (d)(2)(i) of this section gives $[PYR]=0.0242$ M. This is the concentration of pyridine that gives an actinometer rate constant of 0.30 d^{-1} in round tubes in fall at this latitude.

(ii) The actinometer solution was made up by adding a volume of pyridine (1.95 mL) calculated from equation 16 under paragraph (d)(2)(ii) of this section to a 1 liter volumetric flask containing 1.00 mL of 1.00×10^{-2} M PNAP in acetonitrile. The flask was filled to the mark with distilled water to give final concentrations of $[PYR]=0.0242$ M and $[PNAP]=1.00\times10^{-5}$ M. Ten tubes of each of the following solutions were placed in the photolysis rack at 1200 hours on day zero:

(A) Chemical A (1.53×10^{-5} M) in standard SHW (0.010 M, pH 7 phosphate buffer).

(B) Chemical A (1.53×10^{-5}), in 0.010 M. pH 7 phosphate buffer.

(C) SHW standard solution diluted with water 0.90 to 1.00 to match solution A.

(D) PNAP/PYR actinometer solution Ten additional foil-wrapped controls of each mixture were taped to the bottom of the rack.

(iii) The test chemical and been placed in category B, Table 2 under paragraph (d)(2)(iv) of this section, on the basis of its Phase 2 rate constant under paragraph (c) of this section. Accordingly, two tubes of each irradiated solution and two tubes of each blank solution were removed at 0, 1, 2, 4, and 8 days at 1200 hours. The aveaged analytical results obtained at the end of the experiments are shown in the following Table 3. Data for solutions A through D are given in colum 2 through 5, respectively. No significant chemical loss was found in the dark controls.

TABLE 3.—CHEMICAL ANALYTICAL RESULTS FOR ILLUSTRATIVE EXAMPLE, PHASE 3

Day	$10^4[C]^{SHW}$, M	$10^4[C]^{W}$, M	A^{SHW}_{370}	$10^4[PNAP]$, M
0	1.53	1.53	0.0500	1.00
1	1.03	1.40	0.0470	0.810
2	0.760	1.30	0.0440	0.690
4	0.300	1.01	0.0370	0.380
8	0.130	0.800	0.0320	0.220

(A) From these items the functions $ln(C_o/C)_{SNW}$, $ln(C_o/C)_W$, $[1-(A_{370}/A°_{370})_{SNW}]$, $ln(A°_{370}/A_{370})$, and $ln(C_o/C)_{PNAP}$ were calculated, as shown in the following Table 4 which was derived from Table 3 under paragraph (d)(6)(iii) of this section:

TABLE 4.—PHOTOREACTION FUNCTION FOR ILLUSTRATIVE EXAMPLES, PHASE 3, DERIVED FROM TABLE 3

Day	$ln(C_o/C)_{SHW}$	$ln(C_o/C)_W$	$1-(A_{370}/A°_{370})$	$ln(A°_{370}/A_{370})$	$ln(C_o/C)_{PNAP}$
0	0	0	0	0	0
1	0.396	0.0888	0.0600	0.0618	0.211
2	0.700	0.163	0.120	0.128	0.371
4	1.629	0.415	0.260	0.301	0.968
8	2.465	0.648	0.360	0.446	1.514

(B) Slope $S1=(k_{Io}/k)$ was calculated according to equation 17 under paragraph (d)(2)(vi) of this section and was found to be 4.96 by a least squares regression with a correlation coefficient equal to 0.9980. Figure 1 shows a plot of equation 17 under paragraph (d)(2)(vi) of this section and its best-fit line.

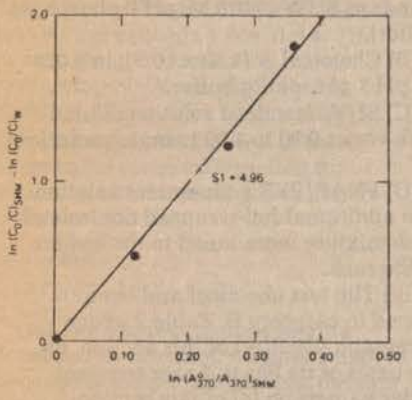

Figure 1.—Graphic determination of $S1=(k_{Io}/k)$ based on equation 17.

(C) Slope $S2=(k/k_a)$ was also derived from Table 4 under paragraph (d)(6)(iii)(A) of this section by a fit of $ln(A°_{370}/A_{370})_{SHW}$ and $ln(C_o/C)_{PNAP}$ to equation 12 under paragraph (d)(1)(vii) of this section. This plot is displayed in Figure 2; the slope S2 was found to be 0.295 and the correlation coefficient was equal to 0.9986.

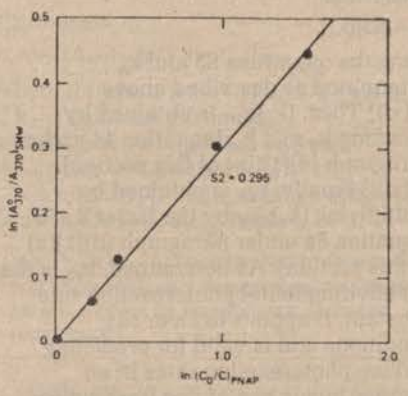

Figure 2.—Graphic determination of $S2=(k/k_A)$ based on equation 12.

(D) Using the data in columns 3 and 6 in Table 4 under paragraph (d)(6)(iii)(A) of this section, slope S3 was calculated by regression from equation 13a under paragraph (d)(1)(viii) of this section and was found to be 0.428 with correlation coefficient equal to 0.99997.

(E) Using equation 18 under paragraph (d)(2)(ix) of this section, k_A was found to be $= 0.300\ d^{-1}$.

(F) The values of S1, S2, and K_A were then combined in equation 19 under paragraph (d)(2)(x) of this section to give k_{Io} as follows:

$k_{Io}=(4.96)\ (0.300)\ (0.295)=0.439\ d^{-1}$.

(G) The rate constant k_D was calculated from the product of S3 and k_A as expressed in equation 20 under paragraph (d)(2)(xi) of this section as follows:

$k_D=(0.428)\ (0.300)=0.128\ d^{-1}$.

(H) The sum of k_D and k_{Io} was multiplied by 0.455 to obtain k_{pE}

$K_{pE}=(0.455)\ (0.439+0.128)d^{-1}$

Equation 21

$k_{pE}=0.258\ d^{-1}$

(I) Since k_{pE} is a first-order rate constant, the half-life, $t_{1/2E}$ is given by equation 22:

Equation 22

$t_{1/2E}=0.693/k_{pE}$.

Substituting the value of k_{pE} from equation 21 under paragraph (d)(6)(iii)(H) of this section in equation 22 yielded.

Equation 23

$t/2E=0.693/0.258\ d^{-1}=2.7$ d.

(e) *Data and Reporting*—(1) *Test Conditions*—(i) Specific Analytical and Recovery Procedures. (A) Provides a detailed description or reference for the analytical procedures used, including the calibration data and precision.

(B) If extraction methods were used to separate the solute from the aqueous solution, provide a description of the extraction method as well as the recovery data.

(ii) Other Test Conditions. (A) Report the site and latitude where the photolysis experiments were carried out.

(B) Report the dates of photolysis, weather conditions, times of exposure, and the duration of exposure.

(C) If acetonitrile was used to solubilize the test chemical, report the volume percent.

(D) If a significant loss of test chemical occurred in the control solutions for pure water and SHW, indicate the causes and how they were eliminated or minimized.

(2) *Test Data Report*—(i) Phase 2 Screening Test under paragraph (c) of this section. (A) Report the initial molar concentration of test chemical, C_o, in pure water and SHW for each replicate and the mean value.

(B) Report the molar concentration of test chemical, C_t, in pure water and SHW for each replicate and the mean value for each time point t.

(C) Report the molar concentration of test chemical for each replicate control sample and the mean value for each time point.

(D) Report the values of $(k_p)_{SHW}$ and $(k_p)_W$ for the time point t in which the fraction of test chemical photoreacted is in the range 20 to 80 percent.

(E) If small losses of test chemical were observed in SHW and pure water, report a first-order rate constant loss, $(k_p)_{loss}$. Calculate and report $(k_p)_{obs}$ for SHW and/or pure water. Calculate and

report the corrected first-order rate constant for SHW and/or pure water using the relationship

Equation 24

$k_p = (k_p)_{obs} - (k_p)_{loss}$.

(F) Report the value of R calculated from equation 4 under paragraph (c)(2)(vi)(D)(*4*) of this section.

(G) Report the values of k_{pE} and k_{DE} obtained from equations 5 and 6, respectively under paragraph (c)(2)(vii) of this section; report the corresponding half-life calculated from equation 22 under paragraph (d)(6)(iii)(I) of this section.

(ii) Phase 3—Indirect Photoreaction with Actinometer. (A) Report the initial molar concentration of test chemical, C_o, in pure water and in SHW for each replicate and the mean value.

(B) Report the initial absorbance A°_{370} of the SHW solution.

(C) Report the initial molar concentration of PNAP of each replicate and the mean value in the actinometer. Report the concentration of pyridine used in the actinometer which was obtained from equation 15 under paragraph (d)(2)(i) of this section.

(D) Report the time and date the photolysis experiments were started, the time and date the experiments were completed, and the elapsed photolysis time in days.

(E) For each time point t, report the separate values of the absorbance of the SHW solution, and the mean values.

(F) For each time point for the controls, report the separate values of the molar concentrations of test chemical in pure water and SHW, and the absorbance of the SHW solution, and the mean values.

(G) Tabulate and report the following data: t, $[C]^{SHW}$, $[C]^{W}$, A^{SHW}_{370}, [PNAP].

(H) From the data in (G), tabulate and report the following data: t, $ln(C_o/C)_{SHW}$, $ln(C_o/C)_{PNAP}$, $[1-(A_{370}/A^{\circ}_{370})_{SHW}]$, $ln(A^{\circ}_{370}/A_{370})$, $ln(C_o/C)_{PNAP}$.

(I) From the linear regression analysis of the appropriate data in step (H) under paragraph (e)(2)(i) in equation 17 under paragraph (d)(2)(vi) of this section, report the slope S1 and the correlation coefficient.

(J) From the linear regression analysis of the appropriate data in step (H) under paragraph (e)(2)(i) in equation 12 under paragraph (d)(1)(iii) of this section, report the slope S2 and the correlation coefficient.

(K) From the linear regression analysis of the appropriate data in step (H) in equation 13a under paragraph (d)(1)(viii) of this section, report the slope S3 and the correlation coefficient.

(L) If loss of chemical was observed during photolysis in pure water and SHW, then report the data $ln(C_o/C)_{corr}$, $ln(C_o/C)_{obs}$, $ln(C_o/C)_{loss}$ as described in step (E). Repeat steps (H), (I), (J), (K) where applicable and report S1, S2, S3 and the corresponding correlation coefficients.

(M) Report the value of the actinometer rate constant obtained from equation 18 under paragraph (d)(2)(ix) of this section.

(N) Report the value of k_{1o} obtained from equation 19 under paragraph (d)(2)(x) of this section.

(O) Report the value of K_D obtained from equation 20 under paragraph (d)(2)(xi) of this section.

(P) Report the value of $(k_{PE})_{SHW}$, obtained from equation 14 under paragraph (d)(1)(ix) of this section and the value of k_{PE} obtained from equation 5a under paragraph (d)(1)(x) of this section.

(Q) Report the half-life, $t1/_{2E}$, obtained from equation 22 under paragraph (d)(6)(iii)(I) of this section.

(f) *References.* For additional background information on this test guideline the following references should be consulted.

(1) Cooper W.J., Zika R.G. "Photochemical formation of hydrogen peroxide in surface and ground waters exposed to sunlight." *Science*, 220:711. 1983.

(2) Draper W.M., Crosby D.G. "The photochemical generation of hydrogen peroxide in natural waters." *Archives of Environmental Contamination and Toxicology*, 12:121. 1983.

(3) Draper , W.M. and Crosby D.G. "Solar photooxidation of pesticides in dilute hydrogen peroxide." *Journal of Agricultural and Food Chemistry*, 32:231. 1984.

(4) Draper W.M., Crosby D.G. "Hydrogen peroxide and hydroxyl radical: intermediates in indirect photolysis reactions in water." *Journal of Agricultural and Food Chemistry*, 29:699. 1981.

(5) Dulin D., Mill T. "Development and evaluation of sunlight actinometers." *Evironmental Science and Technology*, 16:815. 1982..

(6) Haag W.R., Hoigne J., Gassman E., Braun, A.M. "Singlet oxygen in surface waters—Part I: Furfuryl alcohol as a trapping agent." *Chemosphere*, 13:631. 1984.

(7) Haag W.R., Hoigne J., Gassman E., Braun A.M. "Singlet oxygen in surface waters—Part II: Quantum yields of its production by some natural humic materials as a function of wavelength." *Chemosphere*, 13:641. 1984.

(8) Mill T., Winterle J.S., Fisher A., Tse D., Mabey W.R., Drossman H., Liu A. J.E. Davenport. Toxic substances process data generation and protocol development. Work assignment 12, test standard development. "Section 3. Indirect photolysis." Draft final report. EPA Contract No. 68-03-2981. Environmental Research Laboratory, Office of Research and Development, EPA, Athens, GA, and Office of Toxic Substances, EPA, Washington, D.C., 1984.

(9) Mill T., Mabey W.R., Bomberger D.C., Chou T.W., Hendry D.G., Smith J.H. "Laboratory protocols for evaluating the fate of organic chemicals in air and water Chapter 3. Photolysis in water. Chapter 4. Oxidation in water." EPA 600/3-82-002. Environmental Research Laboratory, Office of Research and Development, EPA, Athens, GA, 1981.

(10) Mill T., Mabey W.R., Winterle J.S., Davenport J.E., Barich V.P., Dulin D.E., Tse D.S., Lee G. "Design and validation of screening and detailed methods for environmental processes. Appendix C. Lower-tier direct photolysis protocol." Draft final report. EPA Contract No. 68-01-6325. Office of Toxic Substances, EPA, Washington, D.C., 1982.

(11) Mill T., Davenport J.E., Winterle J.S., Mabey W.R., Drossman H., Tse D., Liu A. Toxic substances process data generation and protocol development. Work assignment 12. Appendix B. Upper-tier protocol for direct photolysis in water. Draft final report. EPA Contract No. 69-03-2981. Environmental Research Laboratory, Office of Research and Development, EPA, Athens, GA, and Office of Toxic Substances, EPA, Washington, D.C. July 1983.

(12) Winterle J.S., Mill T. Toxic substances process data generation and protocol development. Work assignment 18. "Indirect photoreaction protocol." Draft EPA special report. EPA Contract No. 68-03-2981. Environmental Research Laboratory, Office of Research and Development, EPA, Athens, GA and Office of Toxic Substances, EPA, Washington, D.C. 1985.

(13) Mill T., Hendry D.G., Richardson H. "Free radical oxidants in natural waters." *Science*, 207:886. 1980.

(14) U.S. Environmental Protection Agency, Office of Toxic Substances. "Chemical fate test guidelines. Test guideline (CG, CS-6000). Photolysis in aqueous solution." EPA-560/6-84-003. NTIS publication PB-84-233287. 1984.

(15) U.S. Environmental Protection Agency, Office of Toxic Substances. "Chemical fate test guidelines. Test guideline (CG, CS-6010). Laboratory determination of the direct photolysis reaction quantum yield in aqueous solution and sunlight photolysis." EPA-560/6-84-003. NTIS publication PB-84-233287. 1984.

(16) Wolff C.J.M., Halmans M.T.H., Van der Heijde H.B. "The formation of singlet oxygen in surface waters." *Chemosphere*, 10:59. 1981.

(17) Zepp R.G., Baughman G.L., Schlotzhauer P.F. "Comparison of photochemical behavior of various humic substances in water: I. Sunlight induced reactions of aquatic pollutants photosensitized by humic substances." *Chemosphere*, 10:109. 1981.

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(19) Zepp R.G., Cline D.M. "Rates of direct photolysis in aquatic environments." *Environmental Science and Technology*, 11: 359. 1977.

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(21) Zepp, R.G., Schlotzhauer P.F., Merritt S.R. "Photosensitized transformations involving electronic energy transfer in natural waters: role of humic substances." *Environmental Science and Technology*, 19:74. 1985.

PART 797—[AMENDED]

2. Part 797 is amended as follows:

a. The authority citation for Part 797 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By adding § 797.1310 to read as follows:

§ 797.1310 Gammarid Acute Toxicity Test.

(a) *Purpose.* This guideline is intended for use in developing data on the acute toxicity of chemical substances and mixtures subject to environmental effects test regulations under the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003 (15 U.S.C. 2601 *et. seq.*)). This guideline describes a test to develop data on the acute toxicity of chemicals to gammarids. The United States Environmental Protection Agency (EPA) will use data from this test in assessing the hazard of a chemical to aquatic organisms.

(b) *Definitions.* The definitions in Section 3 of the Toxic Substances Control Act (TSCA) and in Part 792—Good Laboratory Practice Standards of this chapter apply to this test guideline. The following definitions also apply to this guideline.

(1) "Death" means the lack of reaction of a test organism to gentle prodding.

(2) "Flow-through" means a continuous or an intermittent passage of test solution or dilution water through a test chamber or a holding or acclimation tank, with no recycling.

(3) "LC_{50}" means the experimentally derived concentration of test substance that is expected to kill 50 percent of a test population during continuous exposure over a specified period of time.

(4) "Loading" means the ratio of the biomass of gammarids (grams, wet weight) to the volume (liters) of test solution in either a test chamber or passing through it in a 24-hour period.

(5) "Solvent" means a substance (e.g., acetone) which is combined with the test substance to facilitate introduction of the test substance into the dilution water.

(6) "Static system" means a test chamber in which the test solution is not renewed during the period of the test.

(c) *Test procedures*—(1) *Summary of the test.* In preparation for the test, test chambers are filled with appropriate volumes of dilution water. If a flow-through test is performed, the flow of dilution water through each chamber is adjusted to the rate desired. In a static test, the test substance is introduced into each test chamber. In a flow-through test, the rate at which the test substance is added is adjusted to establish and maintain the desired concentration of test substance in each test chamber. The test is started by randomly introducing gammarids which have been acclimated to the test conditions into the test chambers. Gammarids in the test chambers are observed periodically during the test; the dead gammarids are removed and the findings recorded. Dissolved oxygen concentration, pH, temperature and the concentration of test substance in test chambers are measured at specified intervals. Data collected during the test are used to develop concentration-response curves and LC_{50} values for the test substance.

(2) [Reserved]

(3) *Range-finding test.* (i) A range-finding test should be conducted to establish test substance concentrations for the definitive test.

(ii) The gammarids shall be exposed to a series of widely spaced concentrations of the test chemical (e.g., 1, 10, 100 mg/1, etc.), usually under static conditions.

(iii) A minimum of five gammarids should be exposed to each concentration of test chemical for a period of 96 hours. The exposure period may be shortened if data suitable for determining concentrations in the definitive test can be obtained in less time. Nominal concentrations of the chemical may be acceptable.

(4) *Definitive test.* (i) The purpose of the definitive test is to determine the 24, 48, 72 and 96-hour LC_{50} values and the concentration-response curves.

(ii) A minimum of 20 gammarids per concentration shall be exposed to five or more concentrations of the chemical chosen in a geometric series in which the ratio is between 1.5 and 2.0 (e.g., 2, 4, 8, 16, 32, 64 mg/L). The range and number of concentrations to which the organisms are exposed shall be such that in 96 hours, there is at least one concentration resulting in mortality greater than 50 and less than 100 percent, and one concentration causing greater than zero and less than 50 percent mortality. An equal number of grammarids may be placed in two or more replicate test chambers. Solvents should be avoided, if possible. If solvents have to be used, a solvent control, as well as a dilution control, shall be tested at the highest solvent concentration employed in the treatments. The solvent should not be toxic or have an effect on the toxicity of the test chemical. The concentration of solvent should not exceed 0.1 ml/L.

(iii) Every test shall include a concurrent control using gammarids from the same population or culture container. The control group shall be exposed to the same dilution water, conditions and procedures, except that none of the chemical is added to the chamber.

(iv) The dissolved oxygen concentration, temperature and pH shall be measured at the beginning of the test and at 24, 48, 72 and 96 hours in at least one replicate each of the control and the highest, lowest and middle test concentrations.

(v) The test duration is 96 hours. The test is unacceptable if more than 10 percent of the control organisms die during the test.

(vi) In addition to death, any abnormal behavior or appearance shall also be reported.

(vii) Gammarids shall be randomly assigned to the test chambers. Test chambers shall be positioned within the testing area in a random manner or in a way in which appropriate statistical analyses can be used to determine whether there is any variation due to placement.

(viii) Gammarids shall be introduced into the test chambers after the test substance has been added.

(ix) Observations on compound solubility shall be recorded. The investigator should report the appearance of surface slicks, precipitates, or material adhering to the sides of the test chambers.

(5) [Reserved]

(6) *Analytical measurements*—(i) *Water quality analysis.* The hardness, acidity, alkalinity, pH, conductivity, TOC or COD, and particulate matter of the dilution water shall be measured at the beginning of each test.

(ii) *Collection of samples for measurement of test substance.* Samples to be analyzed for the test substance concentrations shall be taken midway between the top, bottom, and sides of the test chamber. These samples should not include any surface scum or material dislodged from the bottom or sides. Samples shall be analyzed immediately or handled and stored in a manner which minimizes loss of test substance through microbial degradation, photodegradation, chemical reaction, volatilization, or sorption.

(iii) *Measurement of test substance.* (A) For static tests, the concentration of dissolved test substance (that which passes through a 0.45 micron filter) shall be measured, at a minimum, in each test chamber at the beginning (zero-hour, before gammarids are added) and at the end of the test. During flow-through tests, the concentration of dissolved test substance shall be measured in each test chamber at least as often as at 0 and 96-hours and in at least one chamber whenever a malfunction of the test substance delivery system is observed.

(B) The analytical methods used to measure the amount of test substance in a sample shall be validated before beginning the test. This involves adding a known amount of the test substance to each of three water samples taken from a chamber containing dilution water and the same number of gammarids as are used in the test. The nominal concentrations of the test substance in these samples should span the concentration range to be used in the test. Validation of the analytical method should be performed on at least two separate days prior to starting the test.

(C) An analytical method is not acceptable if likely degradation products of the test substance give positive or negative interferences, unless it is shown that such degradation products are not present in the test chambers during the test.

(D) Among replicate test chambers, the measured concentrations shall not vary more than 20 percent. The measured concentration of the test substance in any chamber during the test shall not vary more than plus or minus 30 percent from the measured concentration in that chamber at zero time.

(E) The mean measured concentration of dissolved test substance shall be used to calculate all LC_{50}'s and to plot all concentration-response curves.

(d) *Test conditions*—(1) *Test species*—(i) *Selection.* (A) The amphipods, *Gammarus fasciatus, G. pseudolimnaeus,* and *G. Lacustris* are specified for this test.

(B) Gammarids can be cultured in the laboratory or collected from natural sources. If collected, they must be held in the laboratory for at least 14 days prior to testing.

(C) Gammarids used in a particular test shall be of similar age and/or size and from the same source or culture population.

(ii) *Acclimation.* If the holding water is not from the same source as the test dilution water, acclimation to the dilution water shall be done gradually over a 48-hour period. The gammarids then shall be held at least 7 days in the dilution water prior to testing. Any changes in water temperature shall not exceed 2°C per day. Gammarids should be held for a minimum of 7 days at the test temperature prior to testing.

(iii) *Care and handling.* Gammarids shall be cultured in dilution water under similar environmental conditions to those used in the test. Organisms shall be handled as little as possible. When handling is necessary it should be done as gently, carefully and quickly as possible. During culturing and acclimation, gammarids shall be observed carefully for signs of stress and mortality. Dead and abnormal individuals shall be discarded.

(iv) *Feeding.* The organisms shall not be fed during testing. During culturing, holding, and acclimation, a sufficient quantity of deciduous leaves, such as maple, aspen or birch, should be placed in the culture and holding containers to cover the bottom with several layers. These leaves should be aged for at least 30 days in a flow-through system before putting them in the aquaria. As these leaves are eaten, more aged leaves should be added. Pelleted fish food may also be added.

(2) *Facilities*—(i) *Apparatus.* (A) Facilities needed to perform this test include: (*1*) Containers for culturing, acclimating and testing gammarids; (*2*) containers for aging leaves under flow-through conditions; (*3*) a mechanism for controlling and maintaining the water temperature during the culturing, acclimation and test periods; (*4*) apparatus for straining particulate matter, removing gas bubbles, or aerating the dilution water, as necessary; and (*5*) an apparatus for providing a 16-hour light and 8-hour dark photoperiod with a 15- to 30-minute transition period.

(B) Facilities shall be well ventilated and free of fumes and disturbances that may affect the test organisms.

(C) Test chambers shall be covered loosely to reduce the loss of test solution or dilution water due to evaporation and to minimize the entry of dust or other particulates into the solutions.

(ii) *Construction materials.* Construction materials and equipment that may contact the stock solution, test solution, or dilution water shall not contain substances than can be leached or dissolved into aqueous solutions in quantities that can alter the test results. Materials and equipment that contact stock or test solutions should be chosen to minimize sorption of test chemicals. Glass, stainless steel, and perfluorocarbon plastic should be used whenever possible. Concrete, fiberglass, or plastic (e.g., PVC) may be used for holding tanks, acclimation tanks, and water supply systems, but they should be aged prior to use. Rubber, copper, brass, galvanized metal, and lead should not come in contact with the dilution water, stock solution, or test solution.

(iii) *Test substance delivery system.* In flow-through tests, diluters, metering pump systems or other suitable devices shall be used to deliver the test substance to the test chambers. The system used shall be calibrated before each test. The general operation of the test substance delivery system shall be checked twice daily during a test. The 24-hour flow shall be equal to at least five times the volume of the test chamber. During a test, the flow rates should not vary more than 10 percent from one test chamber to another.

(iv) *Test chambers.* Test chambers shall contain at least one liter of test solution. Test chambers made of stainless steel should be welded, not soldered. Test chambers made of glass should be glued using clear silicone adhesive. As little adhesive as possible should be left exposed in the interior of the chamber. A substrate, such as a bent piece of stainless steel screen, should be placed on the bottom of each test chamber to provide cover for the gammarids.

(v) *Cleaning of test system.* Test substance delivery systems and test chambers should be cleaned before each test. They should be washed with detergent and then rinsed sequentially with clean water, pesticide-free acetone, clean water, and 5-percent nitric acid, followed by two or more changes of dilution water.

(vi) *Dilution water.* (A) Clean surface or ground water, reconstituted water, or dechlorinated tap water is acceptable as dilution water if gammarids will survive in it for the duration of the culturing, acclimating, and testing periods without showing signs of stress. The quality of the dilution water should be constant enough that the month-to-month variation in hardness, acidity, alkalinity, connductivity, TOC or COD, and particulate matter is not more than 10 percent. The pH should be constant within 0.4 unit. In addition, the dilution water should meet the following specifications measured at least twice a year:

Substance	Maximum concentration
Particulate matter	20 mg/L.
Total organic carbon (TOC) or	2 mg/L.
chemical oxygen demand (COD)	5 mg/L.
Boron, fluoride	100 ug/L.
Un-ionized ammonia	1 ug/L.
Aluminum, arsenic, chromium, cobalt, copper, iron, lead, nickel, zinc	1 ug/L.
Residual chlorine	3 ug/L.
Cadmium, mercury, silver	100 ng/L.
Total organophosphorus pesticides	50 ng/L.
Total organochlorine pesticides plus polychlorinated biphenyls (PCBs) or	50 ng/L.
organic chlorine	25 ng/L.

(B) If the diluent water is from a ground or surface water source, conductivity and total organic carbon (TOC) or chemical oxygen demand (COD) shall be measured. Reconstituted water can be made by adding specific amounts or reagent-grade chemicals to deionized or distilled water. Glass distilled or carbon-filtered deionized

water with a conductivity less than 1 micromho/cm is acceptable as the diluent for making reconstituted water.

(C) The concentration of dissolved oxygen in the dilution water shall be between 90 and 100 percent saturation. If necessary, the dilution water can be aerated before the addition of the test substance. All reconstituted water should be aerated before use.

(3) *Test parameters.* Environmental parameters during the test shall be maintained as specified below:

(i) Water temperature of 18 ± 1 °C.

(ii) Dissolved oxygen concentration between 60 and 105 percent saturation.

(iii) The number of gammarids placed in a test chamber shall not be so great as to affect the results of the test. Ten gammarids per liter is the recommended level of loading for a static test. Loading requirements for the flow-through test will vary depending on the flow rate of dilution water. The loading should not cause the dissolved oxygen concentration to fall below the recommended levels.

(iv) Photoperiod of 16 hours light and 8 hours darkness.

(e) *Reporting.* (1) The sponsor shall submit to the EPA all data developed by the test that are suggestive or predictive of toxicity. In addition, the test report shall include, but not necessarily be limited to, the following information:

(i) Name and address of the facility performing the study and the dates on which the study was initiated and completed.

(ii) Objectives and procedures stated in the approved protocol, including any changes in the original protocol.

(iii) Statistical methods employed for analyzing the data.

(iv) The test substance identified by name, Chemical Abstracts (CAS) number or code number, source, lot or batch number, strength, purity, and composition or other appropriate characteristics.

(v) Stability of the test substance under the conditions of the test.

(vi) A description of the methods used, including:

(A) The source of the dilution water, its chemical characteristics (e.g., hardness, pH, etc.) and a description of any pretreatment.

(B) A description of the test substance delivery system, test chambers, the depth and volume of solution in the chamber, the way the test was begun (e.g., test substance addition), the loading, the lighting, and the flow rate.

(C) Frequency and methods of measurements and observations.

(vii) The scientific name, weight, length, source, and history of the organisms used, and the acclimation procedures and food used.

(viii) The concentrations tested, the number of gammarids and replicates per test concentration. The reported results should include:

(A) The results of dissolved oxygen, pH and temperature measurements.

(B) If solvents are used, the name and source of the solvent, the nominal concentration of the test substance in the stock solution, the highest solvent concentration in the test solution and a description of the solubility determinations in water and solvents.

(C) The measured concentration of the test substance in each test chamber just before the start of the test and at all subsequent sampling periods.

(D) The number of dead and live test organisms, the percentage of organisms that died, and the number that showed any abnormal effects in each test chamber at each observation period.

(E) The 48, 72 and 96-hour LC_{50}'s and their 95 percent confidence limits. When sufficient data have been generated, the 24-hour LC_{50} value also. These calculations should be made using the mean measured test substance concentrations.

(F) The observed no-effect concentration (the highest concentration tested at which there were no mortalities or abnormal behavioral or physiological effects), if any.

(G) Methods and data for all chemical analyses of water quality and test substance concentrations, including method validations and reagent blanks.

(ix) A description of all circumstances that may have affected the quality or integrity of the data.

(x) The name of the sponsor, study director, principal investigator, names of other scientists or professionals, and the names of all supervisory personnel involved in the study.

(xi) A description of the transformations, calculations, or operations performed on the data, a summary and analysis of the data, and a statement of the conclusions drawn from the analysis. Results of the analysis of data should include the calculated LC_{50} value, 95 percent confidence limits, slope of the transformed concentration response line, and the results of a goodness-of-fit test (e.g., chi-square test).

(xii) The signed and dated reports of each of the individual scientists or orther professionals involved in the study, including each person who, at the request or direction of the testing facility or sponsor, conducted an analysis or evaluation of data or specimens from the study after data generation was completed.

(xiii) The locations where all specimens, raw data, and the final report are stored.

(xiv) The statement prepared and signed by the quality assurance unit.

PART 799—[AMENDED]

3. Part 799 is amended as follows:

a. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By adding § 799.3300, to read as follows:

§ 799.3300 Unsubstituted phenylenediamines.

(a) *Identification of test substances.* (1) The unsubstituted phenylenediamines, *p*-phenylenediamine (*p*-pda, CAS No. 106-50-3), *m*-phenylenediamine (*m*- pda, CAS No. 108-45-2), and *o*-phenylendiamine (*o*- pda, CAS No. 95-54-5) shall be tested in accordance with this section.

(2) *p*-Pda, *m*-pda, and *o*-pda of at least 98.0 percent purity shall be used as the test substances. Either the hydrochloride or sulfate salt of *m*-pda shall be used as a test substance in the oncogenicity study if the free base proves to be unstable under the conditions of the feeding study. The salt(s) shall be of at least 98.0 percent purity.

(b) *Persons required to submit study plans, conduct tests, and submit data.* (1) All persons who manufacture or process *m*-pda and *m*-pda.H_2SO_4 after the effective date of the final rule (44 days after the publication date of the final rule in the **Federal Register**) to the end of the reimbursement period shall submit letters of intent to test, exemption applications, and study plans, and shall conduct tests and submit data as specified in paragraph (c) of this section and Part 790 of this chapter.

(2) All persons who manufacture or process unsubstituted phenylenediamines (*o*-pda, *m*-pda, *m*-pda.H_2SO_4, *p*-pda, and *p*-pda.H_2SO_4) after the effective date of the final rule (44 days after the publication date of the final rule in the **Federal Register**) to the end of the reimbursement period shall submit letters of intent to test, exemption applications, and study plans, and shall conduct tests and submit data as specified in paragraphs (d) and (e) of this section and Part 790 of this chapter on each unsubstituted phenylenediamine manufactured or processed by that person.

(c) *Health effects testing*—(1) *Mutagenicity testing*—(i) *Required testing.* (A) The sex-linked recessive

lethal (SLRL) assay shall be conducted, by injection, in *Drosophila melanogaster* on *m*-pda in accordance with § 798.5275 of this chapter.

(B) If the SLRL assay conducted pursuant to paragraph (c)(1)(i)(A) of this section is positive, the mouse specific locus test shall be conducted for *m*-pda by gavage in accordance with § 798.5200 of this chapter.

(ii) *Reporting requirements.* (A) The final results and final report for the SLRL assay shall be submitted to the EPA no later than 1 year after the effective date of this section.

(B) The final results and final report for the mouse specific-locus test shall be received by EPA not later than 2 years after the effective date of this section.

(C) Interim reports for the SLRL assay and mouse specific locus study are required quarterly.

(D) Study plans for the SLRL must be submitted within 45 days of the effective date of this section. For the mouse specific locus study, study plans shall be submitted within 45 days of the submission of the final report for the SLRL assay.

(2) *Oncogenicity*—(i) *Required testing.* A 2-year dermal oncogenicity bioassay shall be conducted with *m*-pda in accordance with § 798.3320 of this chapter if mutagenic effects are observed in the test conducted pursuant to paragraph (c)(1)(i)(A) of this section: the sex-linked recessive lethal gene mutation assay in *Drosophila melanogaster.*

(ii) *Reporting Requirements.* (A) The final results and final report for the oncogenicity bioassay shall be submitted to the EPA no later than 5 years after the effective date of this section.

(B) Interim reports for the oncogenicity bioassay are required quarterly.

(C) Study plans for the oncogenicity test shall be submitted within 45 days of the submission of the final report for the SLRL assay.

(d) *Chemical fate testing*—(1) *Indirect photoreaction testing*—(i) *Required testing.* Indirect photoreaction studies shall be conducted on *p*-pda, *m*-pda, and *o*-pda to determine the half-life in water of each of the three unsubstituted PDAs in accordance with § 796.3765 of this chapter.

(ii) *Reporting requirements.* (A) The study plans for indirect photoreaction studies shall be submitted to EPA 45 days prior to the onset of testing.

(B) The final report shall be due no later than 8 months after the effective date of the final rule.

(C) The final report shall include a calculation of the predicted environmental concentration (PEC), 100 × PEC, and 1,000 × PEC for each isomer. PEC shall be calculated by using results from the indirect photoreaction studies and solving the following equations for the appropriate isomer: *o*-pda: $PEC_o = 0.3629 + 1.0468 \log t½$; *m*-pda: $PEC^m = 0.6830 + 1.9702 \log t½$; *p*-pda: $PEC_p = 0.0085 + 0.0024 \log t½$ where PEC is the predicted concentration in ppb and t½ is the half-life for oxidation (i.e., indirect photolysis) expressed in minutres. PEC, 100 × PEC, and 1,000 × PEC shall be used in the decision logic described in paragraph (e) of this section.

(e) *Environmental effects testing*—(1) *Acute toxicity testing*—(i) *Required testing.* (A) Flowthrough fish acute toxicity tests (LC_{50}) in the rainbow trout (*Salmo gairdneri*) shall be conducted with *o*-, *m*-, and *p*-pda in accordance with § 797.1400 of this chapter.

(B) Acute flowthorugh studies using the water flea (*Daphnia magna*) shall be conducted with *o*-, *m*-, and *p*-pda in accordance with § 797.1300 of this chapter.

(C) If the LC_{50} for any study conducted pursuant to paragraphs (e)(1)(i) (A) and (B) of this section is less than or equal to 100 × PEC, chronic toxicity testing shall be conducted pursuant to paragraph (e)(2) of this section.

(D) If the LC_{50} from the tests conducted pursuant to paragraphs (e)(1)(i) (A) or (B) of this section is greater than 100 × PEC and less than or equal to 1000 × PEC (as calculated pursuant to paragrpah (d)(1)(ii)(B) of this section) for any isomer in either fish or invertebrates, two additional freshwater fish in accordance with § 797.1400 of this chapter or the freshwater invertebrate, *Gammarus,* in accordance with § 797.1310 of this chapter (as appropriate) shall be tested in acute toxicity tests with that isomer. If any resulting LD_{50} is less than or equal to 100 × PEC for any isomer, chronic toxicity testing shall be conducted for that isomer pursuant to paragraph (e)(2) of this section.

(E) No further testing of an individual isomer in vertebrate or invertebrate species is necessary if the following conditions are met:

(*1*) The LC_{50} is greater than 1,000 × PEC for tests conducted pursuant to both paragraphs (e)(1)(i) (A) and (B) of this section, or

(*2*) All LC_{50} values determined from testing conducted pursuant to paragraph (e)(1)(i)(D) of this section are greater than 100 × PEC.

(F) Acute studies using the alga, *Selenastrum capricornutum,* shall be conducted with *o, m*-, and *p*- pda in accordance with § 797.1050 of this chapter.

(ii) *Reporting requirements.* (A) The Study plans for acute toxicity testing shall be submitted to the EPA 45 days prior to the onset of testing.

(B) The final report for acute toxicity testing shall be submitted to the EPA no later than 18 months after the effective date of this rule.

(C) Interim reports for the acute toxicity testing are required quarterly.

(2) *Chronic toxicity testing*—(i) *Required testing.* (A) A fish early life cycle flowthrough test shall be conducted in the most sensitive species of *Pimephales promelas, Salmo gairdneri,* or *Salvelinus fontinalis* with each isomer demonstrating an LC_{50} determined by testing of fish pursuant to paragraph (e)(1)(i) (A) or (D) of this section to be equal to or less than 100 × PEC. Testing shall be in accordance with § 797.1600 of this chapter.

(B) An invertebrate chronic flowthrough toxicity test shall be conducted in the more sensitive species of *Daphnia magna* or *Gammarus pseudolimneaus* for each isomer demonstrating an LC_{50} equal to or less than 100 × PEC as determined by testing of invertebrates pursuant to paragraph (e)(1)(i) (B) or (D) of this section and in accordance with § 797.1330 of this chapter or in accordance with the method described by Sanders et al. *Environmental Toxicology and Chemistry.* 4:149–154, 1985, for *Gammarus* which is incorporated by reference. The method is available from the Office of Federal Register Information Center, 11th and L St., Washington, DC, and the OPTS Reading Room (docket number OPTS–42008B, Environmental Protection Agency, 401 M St., SW., Washington, DC). This incorporation by reference was approved by the Director of the Federal Register on [date]. The method is incorporated as it exists on the effective date of this rule; a notice of any change will be published in the **Federal Register.**

(ii) *Reporting requirements.* (A) Study plans for any chronic testing shall be submitted to EPA 45 days prior to the onset of testing.

(B) The tests shall be completed and the final results shall be submitted to the EPA no later than 2 years after the effective date of this notice.

(C) Quarterly reports shall be submitted.

(D) The final report shall include, but not necessarily be limited to, the information specified in accordance with § 797.1310(e) of this chapter with the following modifications:

(*1*) The requirement under § 797.1310(e)(1)(viii) of this chapter is modified to require reporting of the concentrations tested, to include a minimum of five concentrations of the chemical chosen in a geometric series in which the ratio is between 1.5 and 2.0 (e.g., 2, 4, 8, 16, 32 and 64 mg/L), the number of gammarids and replicates per test concentration.

(*2*) The requirement under § 797.1310(e)(1)(viii)(E) of this chapter is modified to require the 0, 30, 60, and 90 day LC_{50} values and their 95 percent confidence limits, percent survival, and mean body length at each interval.

(*3*) The requirement under § 797.1310(e)(1)(xi) of this chapter shall be modified to include the analysis of results with analysis of variance and the least significant difference mean comparison test.

(Information collection requirements have been approved by the Office of Management and Budget under Control Number 2070–0033)

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January 6, 1986

Part III

Environmental Protection Agency

40 CFR Part 271

State Hazardous Waste Program Requirements; Proposed Rule and Request for Comments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL 2860-9]

State Hazardous Waste Program Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule and Request for Comments.

SUMMARY: This proposal is the first of a set of companion rules to EPA's final rule, published July 15, 1985 (50 FR 28702), which codified in regulations those requirements specified by the Hazardous and Solid Waste Amendments of 1984 (HSWA) which took effect immediately or shortly after enactment. The final rule amends EPA's hazardous waste regulations to incorporate the statutory language of the HSWA into EPA's existing regulatory framework. This notice proposes changes to the existing regulations to assist in the implementation of the new statutory provisions pertaining to the authorization of State hazardous waste programs.

DATE: EPA will accept written comments on the proposed rule and preamble that are received on or before February 5, 1986.

ADDRESSES: Comments should be directed to Docket Clerk, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. Communications should identify the regulatory docket number as follows: "State Authorization Codification Rule."

The official docket for this proposed rulemaking is located in Room S-212A, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline, toll-free (800) 424-9346 or in Washington, DC at (202) 382-3000, or Frank McAlister, State Programs Branch, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. Telephone: (202) 382-2210.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Authority
II. Background
  A. Final authorization requirements
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I. Authority

These proposed regulations, if adopted, would be issued under authority of sections 1006, 2002(a), and 3006, of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6905, 6912(a), and 6926.

II. Background

On November 8, 1984, the President signed into law the Hazardous and Solid Waste Amendments of 1984 (HSWA). This new statute makes many changes to EPA's existing hazardous waste management program. On July 15, 1985, EPA published a final rule that amended EPA's hazardous waste regulations to reflect those statutory provisions that have immediate or short-term effects on the regulated community and States (50 FR 28702-28755). That rule is referred to hereafter as the "final codification rule."

The preamble to the final codification rule provides in detail the background and purpose of EPA's efforts to incorporate into the existing Subtitle C regulations a set of requirements from the 1984 RCRA Amendments (HSWA). Briefly, the final rule simply adds the statutory language to the existing Subtitle C regulations, with a preamble that provides our legal interpretations of that language.

This rule, by contrast, proposes changes to the Subtitle C regulations that are more than mere transpositions of the statutory provisions which take effect immediately or shortly after enactment. This proposal and accompanying preamble deal with State authorization issues that are logical outgrowths of the new Amendments, rather than matters mandated for immediate implementation by the statute. This rule is the first of a few companion rules to the final codification rule.

III. Discussion

This section discusses the changes EPA proposes to make to the State authorization portion of the Subtitle C regulations. It also raises for public comment several issues on how we should implement the new Amendments. The preamble describes how we propose either to change the final codification rule or to create a new regulation to facilitate implementation of the new provision. In some instances we do not propose any regulatory change, but instead we request public comment on whether particular changes to our regulations would be desirable.

The preamble to the final codification rule discusses EPA's legal interpretation of the HSWA provisions concerning State programs and explains certain changes EPA has made to the Part 271 regulations concerning State authorization. This notice proposes other changes to the Part 271 regulations. Four areas are covered: (1) The requirements States must meet to obtain and retain final authorization, (2) the deadlines by which States must revise their programs to reflect changes in the Federal program, (3) the expiration date for interim authorization under section 3006(g) of RCRA, as amended by HSWA, and (4) application procedures for section 3006(g) interim authorization.

The preamble to the final rule should be read first to understand the context of today's proposal (see 50 FR 28728 to 28733). As mentioned there, we use the term "1984 interim authorization" or "HSWA interim authorization" to refer to the new type of interim authorization under section 3006(g). The term "1976 interim authorization" refers to Phase I and II interim authorization under RCRA as enacted in 1976. Nevertheless, the basic distinction between interim authorization and final authorization will continue to apply to HSWA provisions. Interim authorization is a temporary authorization which is granted if EPA determines that the State program is "substantially equivalent" to the Federal program. On the other hand, final authorization is granted permanently to a State by EPA if the Agency finds that the State program: (1) Is "equivalent" to the Federal program, (2) is consistent with the Federal program and other State programs, and (3) provides for adequate enforcement.

A. Final Authorization Requirements

The Agency reviewed the State authorization requirements in Part 271 to see what regulatory changes were necessary to supplement those in the final codification rule. We concluded only a few changes were necessary in the requirements that States must meet in order to qualify for final authorization that States must meet in order to qualify

for final authorization. These proposed changes are discussed below.

In the final rule, we added a new § 271.1(j) to identify the HSWA provisions that are effective in authorized States. As part of that new paragraph, we set forth a table in § 271.1(j)(2) for listing HSWA rules as they are promulgated. We are proposing to add a statement to the latter provision to the effect that the promulgation date listed in the table may differ from the effective date. We are also considering adding a table that would identify the HSWA statutory provisions that take effect independent of rulemaking action. Such a table would more clearly delineate the HSWA provisions that implement the Federal program than § 271.1(j)(1) currently does. We invite comment on the usefulness of a table of this nature.

The Agency decided not to amend the program description or Attorney General's statement requirements in §§ 271.6 and 271.7. The State is already required to submit a description of the program it administers; this description would necessarily reflect changes to the program because of HSWA. The Attorney General's statement remains a critical element of any application and will need to address changes to the State program necessitated by HSWA.

We also did not change the requirements for the Memorandum of Agreement in § 271.8. Clearly, such agreements will have to be expanded to cover implementation of HSWA; § 271.8(a) already provides the authority for such agreements for the administration and enforcement of the regulatory program. Expanded agreements will be most necessary in the permitting area.

Only a few changes are needed to the requirements in §§ 271.9–271.14 because, generally speaking, these regulations imposed a continuing obligation for the State program to remain equivalent to EPA's program. For example, existing §§ 271.12(j) and 271.13(a) already require State programs to include State analogues to all Part 264 and 266 requirements and to require facilities with the State equivalent of interim status to comply with standards at least as stringent as Part 265. Similarly, § 271.14 already requires State permitting requirements to be equivalent to those which are amended today. EPA anticipates that, with few exceptions, States will need to adopt analogues to changes that are made to Parts 260–268 and Part 124. EPA plans in the final rule to add language to Part 271 that clarifies that States must adopt analogues to all requirements in Parts 260–268 and Part 124 and all self-implementing statutory provisions unless otherwise provided in Part 271.

In addition to the changes mentioned above that will be made in the final rule, in today's notice we are proposing two changes to §§ 271.9–271.14. First, we plan to amend § 271.13(a) to incorporate termination of interim status pursuant to § 270.73(c)–(f). Section 271.13(a) would be modified to conform to the HSWA requirements concerning automatic termination of interim status if Part B permit applications are not submitted within specific time frames. State law would also have to provide for automatic termination of the State analogue to Federal interim status upon a facility's failure to submit a Part B application. Second, we are proposing to change § 271.9 to provide that if a State has a delisting mechanism, it may not delist wastes in a manner contrary to § 260.22. Section 260.22 is a combination of both HSWA and non-HSWA requirements; because the requirements are difficult to separate, we are proposing that a State with a delisting mechanism must comply with all of § 260.22. We wish to emphasize, however, that the rule would not require States to establish a delisting mechanism. Rather, our only intent is to assure that States which do have delisting mechanisms act consistently with § 260.22.

We did not amend § 271.16 concerning State authorization enforcement requirements, although elsewhere in this notice we are soliciting comments on possible amendments to this section of the regulations. EPA's new enforcement authorities under section 3008 are not currently a State authorization requirement. While EPA intends to use its new authority in authorized States, the 1984 Amendments do not automatically confer that authority on the States. States may voluntarily amend their statutes to acquire authority equivalent to all of section 3008, or may be required to do so in the future if EPA amends § 271.16.

States and the regulated community should note, however, that the new, mandatory inspection requirements in section 3007(e) apply automatically in authorized States. Section 3007(e) requires both EPA and authorized States to inspect all permitted and interim status facilities at least once every two years, starting no later than November 8, 1985. Regulatory amendments to Part 271 are not necessary to implement section 3007(e) in authorized States.

B. Applications and Program Revisions: Deadlines and Requirements

1. Current Requirements

Section 271.21(e) specifies which regulations a State must adopt to receive final authorization and contains deadlines by which States with final authorization must modify their programs to adopt new Federal requirements. As we have interpreted the current § 271.21(e), any State applying after November 8, 1985 for final authorization for the pre-HSWA program must have authority for those HSWA statutory provisions which took effect on November 8, 1984. Any State applying for final authorization after July 15, 1986 must also have authority for the final codification rule. In fact, since the final codification rule was intended only to codify the statutory requirement as regulatory requirements, any State which applies for authorization for the amendments which took effect on November 8, 1984, should also be able to simultaneously apply for authorization for the final codification rules. However, a State program applying for final authorization before those dates need not have the authority described above.

Any State with final authorization is currently required to modify its program by November 8, 1985 to reflect the HSWA provisions which took effect on November 8, 1984 if only regulatory changes are necessary to change the State program, and by November 8, 1986 if statutory changes are needed to amend the State's legal authority. Similarly, such States must modify their programs to reflect the final codification rule by July 15, 1986 or July 15, 1987 depending on whether regulatory or statutory changes are necessary. Extensions of up to six months for these deadlines are available in certain circumstances (see § 271.21(e)(3)). Within 30 days of the completion of any State program modification, the State must submit its revision application to EPA for approval.

In the final codification rule, we amended § 271.21(e) to provide that States may satisfy the deadlines in that provision by seeking either final authorization under section 3006(b) or interim authorization under section 3006(g). This notice proposes to further clarify § 271.21(e) and suggests a new approach to the deadlines for making program revisions. Also, the provision has been substantially reorganized and rewritten because of the number of changes involved. If adopted, the States would have more time to make modifications to their programs than

allowed under the existing § 271.21(e). We believe that the States will need this additional time to modify their programs since EPA anticipates as many as sixty Federal program changes over the next five years that will necessitate subsequent State program revisions.

The following list is a tentative schedule of the Federal RCRA program changes under HSWA. This list is intended only for illustrative purposes and may not be all-inclusive. The Agency has reasonable confidence in the schedule presented below for 1986 and 1987. However, the schedule for 1988 and beyond is necessarily incomplete since we expect that the Agency will take new initiatives that we cannot anticipate at this time. For example, it is likely that we will be listing additional hazardous wastes, revising facility standards, revising procedural rules, and otherwise improving the Federal regulatory program in the years to come. However, we feel that this list, even though perhaps incomplete, will be useful to illustrate the magnitude and approximate schedule of changes to the Federal program that will subsequently have to be picked up by authorized States.

Illustrative List of Federal Requirements Necessitating State Program Revisions

November 8, 1984

—Delisting procedures
—Prohibition of disposal in salt domes, salt beds and underground mines and caves
—Prohibition of waste oil as dust suppressant
—Double liners for new or expanding landfills and surface impoundments
—Ground water monitoring
—Prohibition of burning fuels containing hazardous waste in certain cement kilns
—Corrective action
—Review of land disposal permits every five years
—Loss of interim status
—Interim status facilities receiving waste after July 26, 1982

January 1985

—Dioxin listing and management standards

February 1985

—Fuel labeling

April 1985

—Paint filter test

May 1985

—Prohibition of liquids in landfills
—Expansions during interim status—waste piles
—Expansions during interim status—landfills and surface impoundments

August 1985

—Small quantity generator manifest requirements
—Exposure assessments to accompany landfill and surface impoundment permit applications

September 1985

—Waste minimization certification

November 1985

—Prohibition on non-hazardous liquids in landfills
—Closure of interim status land disposal facilities that have not certified

February 1986

—Prohibition on biodegradable and compressible adsorbents
—Notification and recordkeeping requirements on producers, burners, blenders, distributors and marketers or waste-derived fuel

March 1986

—Small quantity generator and §§ 3002–3005 requirements

May 1986

—Hazardous waste export standards

June 1986

—Underground hazardous waste tank standards
—Decision on listing other halogenated dioxins

November 1986

—Regulations for hazardous waste used as fuel (standards for burners, blenders, and distributors)
—Regulations for transporters of fuels produced by blending
—Land disposal prohibitions on dioxins and F001–F005 solvents
—Double liners and leachate collection systems
—Location standards for new land disposal facilities
—Deadline for surface impoundment retrofit exemption applications
—Organic toxicity characteristic
—Final decisions on whether to list used automotive oil
—Standards for generators and for transport of used car oil

March 1987

—Containerized liquids in landfills
—Decision on listing of 17 specified wastes
—EP toxicity test revisions

May 1987

—Leak detection

July 1987

—Land Disposal ban on "California" wastes
—Domestic sewage restriction standards

November 1987

—Final determination on applications for surface impoundment retrofit exemptions

June 1988

—Air emissions

August 1988

—Prohibition on California wastes, dioxins, and solvents in Class I wells
—Land disposal prohibition of ⅓ of listed wastes

September 1988

—Location Standards

November 1988

—Prohibition on land disposal of soils contaminated with California wastes, dioxins, solvents and ⅓ of listed wastes
—Double liners for existing surface impoundments
—Modify underground hazardsous waste tank standards to be consistent with other hazardous substances tank standards

June 1989

—Prohibition on land disposal of ⅔ of listed wastes

May 1990

—Prohibition on land disposal of remaining ⅓ of listed wastes

2. Requirements for Initial Applications

Section 225 of HSWA amended section 3006(b) of RCRA to provide more specificity with regard to the requirements that apply to a State submitting an application for final authorization. We believe that § 271.21(e) should be changed to take full advantage of this legislation. Section 271.21(e)(1)(i) presently requires State applications to address Federal self-implementing statutory provisions that were in effect, and regulations that were promulgated, 12 months prior to the submission of the State's application. We are proposing to change this requirement to allow State applications to be reviewed based on regulations "in effect" instead of "promulgated." The law explicitly allows for a review based on "the Federal program in effect one year prior to submission." This proposal would provide States with more time to make changes to their programs prior to applying for authorization since many Federal regulations take effect six months after promulgation. Unless and until this proposal is adopted, however, States must satisfy the deadline in the current § 271.21(e)(1). Note that this proposed language is placed under § 271.3(f) instead of under § 271.21.

We also plan to amend § 271.3(f) to clarify that States may be authorized for requirements taking effect less than 12 months before a State submits its official application. "May" would be substituted for "shall" in the first sentence.

3. States With Final Authorization: Clustering

As discussed in the final codification rule, any requirement or prohibition of HSWA takes effect automatically in authorized States. Congress chose that approach to assure that there would be no delay in imposing the more stringent environmental requirements of HSWA.

The combined effect of HSWA and § 271.21(e), however, creates serious implementation problems.

Section 271.21(e) currently requires States with final authorization to modify their programs to adopt new Federal requirements within a one or two year time frame (one year if only regulatory changes are needed and two years if statutory changes are necessary). Between regulations implementing HSWA and statutory provisions that take effect, States would be required to initiate revisions of their regulations and/or statutes several times a year. Conducting numerous rulemakings, including the potential for holding public hearings, will constitute a serious administrative burden. These rulemaking activities are particularly burdensome where State law requires legislative review of regulations. Representatives of the Association of State and Territorial Solid Waste Management Officials have indicated that many State legislatures are not receptive to addressing hazardous waste matters in such a fragmented way.

Today's proposal would "cluster" the Federal program changes that occur after June 1984. Under this "clustering" scheme, the one year/two year "clock" in § 271.21(e)(2) would no longer begin on the promulgation date of every regulation or the effective date of self-implementing statutory provisions without prior implementing regulations. Rather, there would be an annual clustering of all the Federal requirements promulgated or taking effect in the previous twelve month period. The cluster would encompass all RCRA requirements, including those implementing HSWA (although HSWA provisions, with the exception of section 3006(f), would not be included in the 1984–1987 annual clusters as discussed in the next section of the preamble). The "clock" for making revisions would start simultaneously for all requirements in the cluster. The same day each year would be used.

For reasons described below, the Agency is proposing that July 1 be the beginning date for annual clusters. Using this date, the first cluster would cover the period from July 1, 1984 to June 30, 1985. No State would have to complete program modifications for any Federal regulations promulgated during this period until July 1, 1986 (or July 1, 1987, for those specific areas for which the State needs to make statutory changes). These modifications would then be submitted to EPA for approval 30 days thereafter, as required by § 271.21(e)(4).

Subsequent clusters would encompass all Federal regulations promulgated during each year from July 1 to June 30. States are encouraged to apply for and receive authorization for these requirements prior to cluster deadlines whenever possible. They need not wait until the expiration of each annual clock to submit an application for program revision.

The July 1 date was selected to facilitate submission of proposed legislative or regulatory amendments to State legislatures. While State rulemaking processes may be initiated at any time, legislative schedules are usually more constrained. Many State legislatures start meeting in January of each year (or alternate years). State agencies often have deadlines requiring them to submit their proposed legislation several months before January. Setting the annual date in July should allow the States adequate time to prepare proposed amendments and whatever analyses may be required and to submit regulations for legislative review where necessary.

One drawback with the clustering approach is that it could delay the time by which a State would have to adopt regulations by up to a year compared to the present deadlines. While we are still anxious for those requirements to take effect in authorized States, we also believe that more flexibility in the deadlines is appropriate to allow the States to choose workable schedules for adopting the various RCRA requirements. Further, most of the RCRA regulations in the coming years will be implementing HSWA and, therefore, will take effect in all authorized States. Thus, we concluded the logistical problems should outweigh the potential delays.

4. States With Final Authorization: Special HSWA Cluster

EPA expects that between November 8, 1984 and May, 1990, there could be as many as sixty HSWA requirements or prohibitions that will take effect. As discussed in the preceding section of the preamble on clustering, it would be a serious administration burden, if not impossible, for States to address such a large number of program modifications in a piecemeal fashion. The clustering approach seeks to alleviate the administrative burdens while encouraging State assumption of program responsibilities as soon as practical.

However, for the HSWA requirements and prohibitions, a second, and probably more serious, problem is created by the fact that the HSWA provisions take effect automatically in authorized States. Thus it is very likely that the responsibility for implementing the RCRA program—and particularly for issuing permits—will bounce back and forth between the States and EPA. For example, the following scenario is possible: (1) As of October 1984, the State was authorized to issue RCRA permits for surface impoundments. (2) On November 9, 1984, the State was no longer able to issue a RCRA permit because it was not authorized to carry out the new HSWA requirements. (3) In 1985, the State is authorized for the HSWA provisions regarding surface impoundments and can issue RCRA permits again. (4) In 1986, EPA issues new regulations under HSWA affecting surface impoundments, and because the 1986 regulations take effect in authorized States, the State once again is not authorized to issue RCRA permits for surface impoundments. In sum, because of the number of regulations implementing HSWA that EPA expects to promulgate and the various statutory provisions that will go into effect, it is very unlikely that a State will be able to maintain its fully authorized status continuously.

We considered whether there was anything EPA could do to minimize these possible adverse impacts. Since Congress itself decided that HSWA requirements should take effect automatically in authorized States, EPA has no authority to allow States to continue to administer their less stringent State rules as RCRA requirements. However, we realized that by changing the deadlines in § 271.21(e), we could ease the pressure on the States considerably.

Therefore, we are proposing a one-time multi-year HSWA cluster to encompass the HSWA provisions that are promulgated or take effect between the date of enactment (November 8, 1984) and June 30, 1987. States would be required to adopt these HSWA provisions by July 1, 1988 if only State regulatory changes are needed, or July 1, 1989 for any specific HSWA provisions that necessitate State statutory changes (see proposed § 271.21(e)(2)(iii)). We chose the June 1987 date because we expect the bulk of the HSWA changes to the Federal program prior to that date (approximately 40 changes). Further, we selected the June 30 date since it coincides with the end date for the proposed annual "cluster" discussed in the previous section of the preamble.

One exception would be made to the proposal to amend § 271.21(e) for HSWA provisions. As discussed in detail in the final codification rule, § 271.17 was amended to require State programs to provide for public availability of information. Although this requirement stems from HSWA,

unlike other HSWA requirements it does not take immediate effect in authorized States. Because authorized State programs need to be revised before this requirement will be effective, a delay until 1987 for this provision is unwarranted. Thus, in the preamble to the final rule we indicated that the applicable deadline for program modification was the time frame specified in § 271.21(e). Under § 271.21(e)(2)(ii), as we propose to amend it, State modifications for § 271.17(j) would be required by July 1, 1986 (or July 1, 1987 if a statutory change is required). State program revisions for the public availability of information provision would thus be accomplished in accordance with the schedule for the first "cluster" of non-HSWA requirements as discussed in the preceding section.

By establishing this one-time multi-year HSWA cluster, States will not be forced to change their program every time a new HSWA requirement is promulgated or takes effect during this cluster period. However, States are still free to apply for interim or final authorization for some of all HSWA requirements before 1988 (or 1989, if a statutory change is required) and EPA encourages States to seek authorization as soon as they can qualify. For example, a State can selectively seek authorization for those program elements that it can expeditiously qualify for while postponing program revisions in rapidly changing program areas. Thus, a State can avoid the cycle of changing its regulations to meet a § 271.21(e) deadline only to find that, soon after, it will lose authorization because of a new set of requirements in that area. However, in any case the State must modify its program by July 1, 1988 (or 1989) at the latest to pick up all the HSWA changes that occurred on or before June 30, 1987. As mentioned earlier, the State may satisfy this requirement by seeking either interim or final authorization for these HSWA provisions (see § 271.21(e)(2)).

Since the HSWA requirements will be in effect in authorized States, the real issue is how quickly should the States be required to assume responsibility for the HSWA requirements. It must be recognized that even if a State was authorized very quickly, parts of the program will still bounce back and forth between the State and EPA as the HSWA provisions unfold. Prior to 1990, there is no foreseeable end point by which the State could be assured it was authorized for "the full RCRA program." In view of that, and the problems described previously, we prefer not to subject States to EPA deadlines which aggravate implementation problems.

It is important to note, however, that by postponing the State revision requirements of § 271.21(e) for HSWA until 1988, it is not EPA's intent to discourage States from pursuing authorization. To the contrary, EPA will look toward a variety of means to foster State assumption of the HSWA provisions. For example, EPA is pursuing amendments to "streamline" the procedures for approval of State program revisions (proposed on June 10, 1985 at 50 FR 24363). The final "streamlining" rule should foster State assumption of HSWA authorization by easing administrative processing burdens. EPA will also award State grant bonuses as an additional incentive for State adoption of (and authorization for) HSWA provisions. Further, the annual State grant work program could serve as a useful vehicle for States to plan for and schedule the pursuit of HSWA authorization.

We believe that the concept of the HSWA cluster is consistent with the purpose of § 271.21(e). That provision was promulgated with a strict deadline for State program revisions because new Federal requirements did not take effect in authorized States until they were adopted as State law. This is no longer the case with regard to HSWA requirements; EPA is directed to implement and enforce HSWA requirements in an authorized State until the State receives authority to do so.

We considered several alternative ways to treat the State program modification deadlines for the HSWA provisions. For example, we considered using an end date of November 8, 1986 for the HSWA cluster since more than one-half of the anticipated HSWA changes are scheduled to occur by that date. However, since the Agency expects nine HSWA changes to occur on November 8, 1986, coupled with the magnitude of HSWA changes prior to that date, the Agency felt that it would be unreasonable to require States to modify their programs by November of 1987.

While States have demonstrated that State regulatory modifications can be made within a year, the magnitude of HSWA provisions that occur in the first two years of HSWA will represent a significant change in their hazardous waste programs. In addition, a November end date could hamper State efforts to approach their legislatures with regulatory and statutory amendments, as discussed elsewhere in this notice. Furthermore, we decided that selecting the November date would be administratively confusing when taken together with the "clustering" deadlines discussed elsewhere in today's notice. This would result in State programs being required to adopt, in order, the cumulative Federal HSWA changes for a two year period (November 1984 to November 1986), then the changes for an eight month period (November 1986 to July 1987), followed by annual groupings of HSWA and RCRA changes. Meanwhile, the States would also be simultaneously modifying their programs to pick up annual groupings of non-HSWA changes that initially span different time periods (July to June each year) and would be due on different dates.

Another option that the Agency considered was a very long-term HSWA cluster from November 8, 1984 until June 30, 1990, encompassing all HSWA self-implementing statutory provisions. This approach would allow the greatest amount of State flexibility in seeking program authorization, but it would not require an expeditious assumption of authorization.

We considered another variation of establishing the State modification deadlines to create two multi-year HSWA clusters. We could require State program modifications for the HSWA provisions occurring between November 1984 and July 1988 to be made by July 1989, while the provisions occurring between July 1988 and July 1990 would need to be picked up by July 1991. However, today's proposal was preferred since it requires States to pick up the Federal program changes more quickly.

We solicit public comment on the benefits of today's proposed HSWA cluster as well as the other options described in this preamble. In particular, comments are requested from the States on their ability to make the necessary legislative and regulatory changes pursuant to today's proposed HSWA cluster. We would also like for States to indicate whether they anticipate the need for statutory changes for any of the HSWA provisions (see the illustrative list of HSWA provisions earlier in this preamble). Further, the Agency is open to any other approaches that the public may suggest, and we urge interested parties to provide alternatives for EPA's consideration. Based on the public comments EPA will decide whether to revise § 271.21(e)(2)(ii) in the manner proposed today.

If a State believes that the deadlines contained in today's rule would be difficult to maintan, thus jeopardizing its authorization, the Agency would be

especially interested to receive specific comments expalining why it could not meet such a schedule. The comments should elaborate on specific reasons which would prevent the States from meeting the deadlines. It should be recognized that for the approximately twenty HSWA requirements that are expected to occur after June, 1987, the State would have to modify its program in accordance with the annual cluster schedule. While the Agency wants to promote expeditious State assumption of the complete RCRA program, we want to avoid having the responsibilities of an entire authorized State program return to EPA simply because the State could not meet the program modification deadlines. Therefore, we feel it is very important to receive State input on today's proposal so that we can establish a process for approving State program modifications in a manner that would be least disruptive to program implementation.

We do not believe today's proposed actions would lead to a clear-cut division of labor or authority for implementation of HSWA. Many States will probably seek authority for some portions of the HSWA program, eliminating the need for EPA permitting in those areas. Where the State does not seek legal authority to issue RCRA permits by itself, the State will still be actively involved in permitting through cooperative agreements with EPA. Because of the permitting implications and the need to identify what requirements are enforceable in each State, the Regions and States will need to work together closely to identify the best strategy for each State.

To summarize the effect of the combined clustering proposals, no State with final authorization would have to modify its program until July 1, 1988 for any HSWA requirements promulgated or taking effect between November 8, 1984 and June 30, 1987, with the exception of § 271.17(c). A State could voluntarily seek interim or final authorization before then for one or more HSWA requirements, and EPA encourages States to apply for authorization as soon as they can qualify. For non-HSWA related requirements and § 271.17(c), States would have to modify their programs by July 1, 1986 to reflect all changes between July 1, 1984 and June 30, 1985, and annually thereafter. After 1987, States would have to modify their programs annually for the clustered Federal RCRA and HSWA program changes.

Neither proposed change affects States initially applying for final authorization. Because of section 3006(b) of RCRA, as amended by Section 225 of HSWA, we retained the 12-month deadline governing applications for final authorization. There is no legal authority for extending the deadline beyond that in section 3006(b).

5. Self-Implementing Statutory Amendments

We are proposing one other change to § 271.21(e). As originally promulgated, § 271.21(e) required States to revise their program within one year of the date of promulgation of a modification to Parts 270, 271, or 261–266 (or within two years if a State statutory change was necessary). When EPA was in the process of amending § 271.21(e) in the Spring of 1984, we became aware that RCRA reauthorization might impose requirements directly by statute—i.e., without the need for EPA first to revise Parts 270 or 261–266. Thus, trying to anticipate the effect of HSWA, we provided in § 271.21(e)(1)(i) that applications for final authorization must include the Federal self-implementing amendments that were in effect twelve months before the State's official application was submitted, as well as the RCRA regulations that were promulgated twelve months before the application. Similarly, we amended §§ 271.21 (e)(1)(iii), (e)(2), and (e)(3) to require that States already having final authorization must revise their programs within one or two years of the "promulgation date of regulations" or "the effective date of self-implementing statutory amendments."

The purpose of these amendments was twofold—first, to assure that States would have twelve months notice before they would be required to adopt any new Federal requirement, and second, to make clear that statutory amendments that could be implemented without rulemaking, as well as changes to regulations, could necessitate revisions to State programs.

At the time we amended § 271.21(e), we had not decided to publish rules incorporating the self-implementing amendments into the RCRA regulations. As a result, there may be confusion about whether the "clock" in § 271.21(e) starts from a self-implementing amendment or from a rule codifying or implementing the amendment. As discussed above and in the preamble to the final rule, we believe the earlier date controls. That is, if a HSWA requirement takes effect before EPA has published any implementing regulations, the "clock" starts on that date. If, however, EPA promulgates a regulation incorporating a statutory provision before the provision takes effect, the "clock" starts from the date of the regulation, not from the effective date of the statutory provision.

This result is consistent with the intent of § 271.21(e): the effective date of the statutory provision is not relevant in the latter instance since promulgation of a rule incorporating statutory provisions (as well as enactment of the HSWA) provides the State with at least twelve months notice of the need to revise State programs.

To clarify § 271.21(e), we are proposing to make the wording more precise. We plan to amend paragraph (e) to state that the "clock" starts from the date of promulgation of a regulation or from the effective date of a HSWA requirement if no implementing regulations have previously been promulgated. In connection with that change and the other changes discussed previously in this preamble, we are proposing to reorganize § 271.21(e) into the following three sections: (1) § 271.3(f) for the requirements that pertain to States seeking final authorization, (2) § 271.21(e) for State program modification requirements that pertain to States that have already received final authorization, and (3) § 271.21(f) for State program modification requirements that pertain to States seeking final authorization. We believe the reorganization is an improvement because it more clearly defines the relationship between regulatory and statutory amendments and expresses EPA's intent that the "clock" start once it becomes clear what the new Federal requirements are.

C. Expiration of HSWA Interim Authorization

Section 3006(c)(2) requires EPA to establish by rule a deadline for the expiration of HSWA interim authorization. A State will need to obtain final authorization by that date for those requirements for which it holds HSWA interim authorization. State program authorization may be withdrawn by EPA if the State fails to revise its program to obtain final authorization. See § 271.22.

We are proposing that HSWA interim authorization expire July 1, 1991. This date was selected since it is the due date for State program modifications for the last scheduled HSWA self-implementing provision. (See the cluster discussion above.) This will allow those States which seek interim authorization in the next few years for the early enactment provisions to be able to benefit from interim authorization for several years. However, by July 1, 1991, those States will need to revise their

programs to meet the "equivalency" test for final authorization.

In addition to requiring States to obtain final authorization by 1991 for the HSWA program existing in 1990, the proposed 1991 expiration date for interim authorization means that HSWA interim authorization would not be available for any HSWA regulations promulgated after that date. However, at this time no HSWA provisions are scheduled to take effect after 1990 (although it is possible that the Agency will need to promulgate regulations after that date). We believe it is much simpler and efficient if all interim authorizations expire on a set date rather than for HSWA interim authorization to continue in perpetuity.

We consider another option that would allow States to obain interim authorization for any HSWA program requirement regardless of the date of promulgation. Such interim authorization would expire "x" months after each Federal regulation is promulgated implementing HSWA. (If we adopt the clustering concept discussed in the previous section, the expiration date under this option would be "x" months from the annual publication date of the cluster.) However, this approach would mean that State programs would be an amalgam of equivalent and substantially equivalent requirements for the indefinite future. States would have to prepare, and EPA would have to review, additional program applications for authorization. For these reasons we are not proposing to allow interim authorization beyond June 30, 1991. We encourage public comment on the proposed approach discussed in this section.

D. Application Procedures for HSWA Interim Authorization

A final issue is what procedures will govern applications for HSWA interim authorization. Under existing § 271.21(b), a finally authorized State which seeks to obtain final authorization for regulations implementing HSWA would submit an application for a program revision. The § 271.21(b) procedures for program revisions are more abbreviated than those for initial submission of an authorization application, requiring submission of whatever documentation EPA determines to be necessary. (For example, a modified program description or memorandum of agreement may not always be required.) Moreover, State public hearings prior to submission of the State's application are not required. We intend to use those same procedures for applications for 1984 interim authorization to carry out the new amendments, as we see no reason for adopting different ones. We do not believe it is possible to adopt lesser State application requirements than § 271.21(b) and still evaluate the adequacy of a State's application. Nor is there reason for establishing more rigorous application requirements for interim authorization. Thus, we are proposing to amend § 271.24 to specify that the § 271.21(b) procedures will govern the applications.

In light of the magnitude of anticipated changes in State hazardous waste programs necessitated by the new statutory and regulatory requirements stemming from HSWA and other changes EPA will be making to the RCRA programs, we foresee reviewing numerous program revisions for the indefinite future. In addition, we have published a proposal that would streamline the approval process for State program revisions (§ 271.21(b); see 50 FR 24362).

E. Administrative Compliance Order and Penalty Authorities

Current EPA regulations for final authorization of State hazardous waste programs require the State to have certain authorities to impose remedies for violation of State program requirements. (See 40 CFR 271.16.) These authorities include the ability to:

—Restrain any person by order or by suit in State court from engaging in unauthorized activity that is endangering or causing damage to human health or the environment;
—Sue to enjoin any threatened or continuing violation of any program requirement;
—Assess or sue to recover in court civil penalties; and
—Seek criminal remedies.

The current regulations do not require States to have the authority to issue administrative compliance orders or the authority to administratively assess penalties. (Administrative compliance orders are orders issued by the State agency but which are enforceable in court.)

EPA believes that issuing administrative compliance orders and assessing administrative civil penalties are effective means of bringing violators into compliance and deterring future violations. Administrative actions are generally faster and demand fewer resources than judicial actions. Administrative compliance orders are more effective than warning letters because orders are enforceable and warning letters are not. Therefore, EPA is considering proposing rules that would add to 40 CFR Part 271 the requirement for States to have the authority to issue administrative compliance orders and to administratively assess penalties. The requirement would apply to States seeking to obtain and retain authorization as provided by section 3006 of RCRA.

EPA is taking this opportunity to solicit comments on the concept of requiring States to have administrative compliance order and/or penalty authorities. Two options which could be considered are:

—Require States to have authority only for administrative compliance orders.
—Require States to have both administrative compliance order and penalty assessment authorities.

Another option is to waive the requirement that a State have administrative order and penalty authority if the State can demonstrate to EPA's satisfaction that it has an effective enforcement program without administrative enforcement authority. There are already several EPA enforcement policies that attempt to define what an effective State enforcement program is. In addition, each Region negotiates agreements with authorized States concerning enforcement capability. The Regional Administrator could decide whether to grant a waiver by comparing the State's performance against the various policies and State-EPA agreements. Another option would be for EPA to promulgate regulations establishing the criteria for an effective enforcement program, using the current agency policies as a starting point.

A final option would be to increase EPA's enforcement presence in authorized States by requiring States to refer violations to EPA whenever the State believes it will be unable to take enforcement actions in a timely or effective fashion. While EPA's present policy is to pursue enforcement action in authorized States where the State has not pursued enforcement in a timely or effective action, EPA gives the State the first opportunity to pursue enforcement. States are not required by rule to notify EPA when State enforcement actions are unlikely to proceed in a timely or appropriate manner. This option would place additional pressure on the State to refer violations to EPA before much time has elapsed.

In inviting comment on this concept, EPA specifically seeks comment on the following questions: Is there evidence to link the effectiveness of State programs with the availability of administrative

compliance order and penalty authorities? Where States currently have administrative authorities, are they more or less cumbersome and effective than judicial action? What are the resource requirements (for technical and legal case development) and timing considerations for judicial civil actions as opposed to administrative actions? To what extent would administrative authorities improve State program performance and the compliance rates of the regulated community? What difficulties would States that do not have one or both authorities encounter in trying to obtain either type of authority? Where States currently do not have these authorities, how long would it take them to obtain them? Some States have administrative order authority but have internal procedures that are as cumbersome and resource intensive as judicial action (e.g., the Attorney General must present the case before an administrative board); should EPA only specify that States have these authorities or should the Agency also require that specific procedures be followed within certain time frames? What criteria would be appropriate to define when cases should be referred to EPA for action?

IV. Regulatory Analysis

A. Regulatory Impact Analysis

Under Executive Order 12291 (46 FR 12193, February 19, 1981), EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. Today's regulation is not major because it will not result in an annual effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. There will be no adverse impact on the ability of the U.S.-Based enterprises to compete with foreign-based enterprises in domestic or export markets. The regulation merely modifies the procedures and deadlines for approving State RCRA program authorization applications and revisions. This proposed rulemaking has been submitted to the Office of Management and Budget for Executive Order 12291 review.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant impact on a substantial number of small entities so as to require a regulatory flexibility analysis. No regulatory flexibility analysis is required where the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The amendments proposed here merely modify the procedures and deadlines for approving State hazardous waste program authorization applications and revisions and do not affect the compliance burdens of the regulated community. Therefore, pursuant to 5 U.S.C. 601(b), I certify that this regulation, if issued in final form, will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 *et seq.*, EPA must estimate the paperwork burden created by any information collection request contained in a proposed or final rule. Because there are no information collection activities created by this rulemaking, the requirements of the Paperwork Reduction Act do not apply.

Information collection requirements contained elsewhere in 40 CFR Part 271 have been approved by the Office of Mangement and Budget (OMB) under the provisions of the Paperwork Reduction Act and have been assigned OMB control number 2000–0387.

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.

Dated: December 22, 1985.

Lee Thomas,

Administrator.

It is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGAMS

1. The authority citation for Part 271 continues to read as follows:

Authority: Secs. 1006, 2002(a), and 3006, Solid Waste Disposal act, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6905, 6912(a), and 6926).

2. Section 271.1 is amended by revising paragraph (j)(2) and the note to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j)(2) All regulations specified in Table 1. (Table 1 reflects the promulgation date of the reglations; that date may differ from the effective date of the regulation.)

Note:—See §§ 264.1(f)(3), 265.1(c)(4)(ii), 271.3(b)(2), 271.21(e)(2) and 271.121(c)(3) for applicability.

* * * * *

3. Section 271.3 is amended by redesignating paragraphs (a)–(d) as (b)–(e) and by adding new paragraphs (a) and (f) as follows:

§ 271.3 Availability of final authorization.

(a) Where a State program meets the requirements of section 3006 of RCRA and this supbart it may receive authorization for any provision of its program corresponding to a Federal provision in effect on the date of the State's authorization.

* * * * *

(f) Official State applications for final authorization may be reviewed on the basis of Federal self-implementing statutory provisions that were in effect 12 months prior to the State's submission of its official application (if no implementing regulations have previously been promulgated) and the regulations in 40 CFR Parts 124, 260–266, 270 and 271 that were in effect 12 months prior to the State's submission of its official application. To meet this requirement the State may demonstrate that its program qualifies for final authorization pursuant to this subpart or interim authorization under § 271.24.

4. Section 271.9 is revised to read as follows:

§ 271.9 Requirements for identification and listing of hazardous wastes.

(a) The State program must control all the hazardous wastes controlled under 40 CFR Part 261 and must adopt a list of hazardous wastes and set of characteristics for identifying hazardous wastes equivalent to those under 40 CFR Part 261.

(b) The State is not required to have a delisting mechanism. If a State does have a delisting mechanism, then the State regulations for delisting decisions must be equivalent to § 260.22.

5. Section 271.13 is amended by revising paragraph (a) to read as follows:

§ 271.13 Requirements with respect to permits and permit applications.

(a) State law must require permits for owners and operators of all hazardous waste management facilities required to obtain a permit under 40 CFR Part 270 and prohibit the operation of any hazardous waste management facility without such a permit, except that States may, if adequate legal authority

exists, authorize owners and operators of any facility which would qualify for interim status under the Federal program to remain in operation until a final decision is made on the permit application, or until interim status terminates pursuant to 40 CFR § 270.73(c)–(f). When State law authorizes such continued operation it shall require compliance by owners and operators of such facilities with standards at least as stringent as EPA's interim status standards at 40 CFR Part 265.

* * * * *

6. In Section 271.17 Paragraph (c) is revised to read as follows:

§ 271.17 Sharing of information.

* * * * *

(c)(1) The State program must provide for the public availability of information obtained by the State regarding facilities and sites for the treatment, storage, and disposal of hazardous waste. Such information must be made available to the public in substantially the same manner, and to the same degree, as would be the case if the Administrator was carrying out the provisions of Subtitle C of RCRA in the State.

(2) A State must revise its program to comply with this section in accordance with § 271.21(e)(2)(ii). Interim authorization under § 271.24 is not available to demonstrate compliance with this section.

7. § 271.21 is amended by revising paragraph (e) and adding paragraph (f) to read as follows:

§ 271.21 Procedures for revision of State programs.

* * * * *

(e)(1) As the Federal program changes, authorized State programs must be revised to remain in compliance with this subpart.

(2) Federal program changes are defined for purposes of this section as promulgated amendments to 40 CFR Parts 124, 270, or 260–266 and any self-implementing statutory provisions (i.e., those taking effect without prior implementing regulations) which are listed as State program requirements in this subpart. States must modify their programs to reflect Federal program changes and must subsequently submit the modifications to EPA for approval.

(i) For Federal program changes occurring before July 1, 1984, the State program must be modified within one year of the date of the Federal program change.

(ii) Except as provided in paragraph (e)(2)(iii) of this section, for Federal program changes occurring on or after July 1, 1984, the State program must be modified by July 1 of each year to reflect all changes to the Federal program occurring during the 12 months preceding the previous July 1. (For example, States must modify their programs by July 1, 1986 to reflect all changes from July 1, 1984 to June 30, 1985.)

(iii) For Federal program changes identified in § 271.1(j) that occur between November 8, 1984 and July 30, 1987 (inclusive), the State program must be modified by July 1, 1988.

(iv) States may have an additional year to modify their programs for those changes to the Federal program identified in paragraphs (e)(2)(i), (ii), and (iii) of this section which necessitate a State statutory amendment.

(3) The deadlines in paragraphs (e)(2)(i)–(iv) may be extended by the Regional Administrator upon an adequate demonstration by a State that it has made a good faith effort to meet these deadlines and that its legislative or rulemaking procedures render the State unable to do so. No such extension shall exceed six months.

(4) Within 30 days of the completion of the State program modification the State must submit to EPA the documentation described in paragraph (b) of this section to revise its program.

(f) A State must modify its program to comply with any Federal program changes which occur during the period beginning one year prior to submission of the official application and ending on the day that final authorization is received. Such State program modifications must be completed and submitted by the deadlines specified in paragraph (e) of this section or by the date of final authorization, whichever is later.

8. Section 271.24 is revised to read as follows:

§ 271.24 Interim Authorization under section 3006(g) of RCRA.

(a) Any State which is applying for or has been granted final authorization pursuant to section 3006(b) of RCRA may submit to the Administrator evidence that its program contains (or has been amended to include) any requirement which is substantially equivalent to a requirement identified in § 271.1(j) of this chapter. Such a State may request interim authorization under section 3006(g) of RCRA to carry out the State requirement in lieu of the Administrator carrying out the Federal requirement.

(b) The applications shall be governed by the procedures for program revisions in § 271.21(b) of this chapter.

(c) Interim authorization pursuant to this section expires on July 1, 1991.

§ 271.121 [Amended]

9. Section 271.121 is amended by redesignating the first paragraph immediately following the note to paragraph (h) as paragraph (i).

[FR Doc. 86–46 Filed 1–3–86; 8:45 am]
BILLING CODE 6560–50–M

Federal Register

Monday
January 6, 1986

Part IV

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Standardized Per Capita Rates of Payments for Health Maintenance Organizations and Competitive Medical Plans for 1986; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[OACT-009-N]

Medicare Program; Standardized Per Capita Rates of Payments for Health Maintenance Organizations and Competitive Medical Plans for 1986

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

ACTION: Notice.

SUMMARY: This notice sets forth the standardized per capita rates of payments and demographic cost factors that will be applied in calculating payment rates for health maintenance organizations and competitive medical plans for contract periods beginning in calendar year 1986. It also explains the methodology that is used in calculating the adjusted average per capita cost.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Clifton Maze, (301) 594–2827.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1876 of the Social Security Act (the Act), as amended by section 114 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), authorizes Medicare reimbursement for health care services to eligible health maintenance organizations (HMOs) and competitive medical plans (CMPs) on a prospective basis for those entities that have a risk contract. Implementing regulations were issued in a new 42 CFR Part 417 in the **Federal Register** of January 10, 1985 (50 FR 1314).

Section 1876(a)(1)(A) of the Act requires the Secretary to determine annually a per capita rate of payment for each class of individuals who are enrolled with HMOs or CMPs with risk contracts. The per capita rate of payment for each class of individuals is equal to 95 percent of the adjusted average per capita cost (AAPCC) for that class of individuals. The rates of payment currently in effect were issued in the addendum to the January 10, 1985 final rule. As required by 42 CFR 417.584(b)(2) of our regulations, we have notified HMOs and CMPs that have risk contracts with us of the standardized per capita rates of payments that will be applicable to contract periods beginning in calendar year 1986. This notice is intended to make these rates more widely available.

We have received a number of inquiries concerning the calculation of the AAPCC. In particular, we have been questioned about the statistical and demographic data that are used. Geographic specific Medicare statistics and estimates of an area's Medicare population demographics are used in calculating each area's AAPCC. The methodology that we use in the calculations is explained in sections II–IV of this notice. Copies of the statistical and demographic data used in calculating the AAPCC for a particular area may be obtained for a charge by submitting a request under the Freedom of Information Act (5 U.S.C. 552) to the following address: Ross Cirrincione, Chief, Freedom of Information Branch, Health Care Financing Administration, Room 619, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

The charge for this data is based primarily on the number of counties for which data are being requested and the number of different States in which the counties are located. The minimum charge is approximately $70.

For further information concerning the calculation of demographic cost factors, contact: Ravi Jain, (301) 594–1022.

II. AAPCC Methodology for the Implementation of Prospective Risk Contracts for HMOs and CMPs

The Medicare program pays monthly per capita payments in advance to an HMO or CMP with a risk contract for each Medicare eligible individual enrolled with the organization under the risk contract. In order to determine the appropriate payments, each enrollee is assigned to a demographic class based on age, sex, Medicare entitlement status, institutionalization, and Medicaid status. The annual rate of the payment for each enrollee is set at 95 percent of the AAPCC for the demographic class to which that enrollee is assigned.

The AAPCC applicable to a demographic class is a prospective estimate of the average per capita amount that would be payable by Medicare in the contract year for a group of similarly classified Medicare eligibles in a certain geographic area if services were to be furnished by other than an eligible organization in the same or a similar geographic area. Thus, the AAPCC is a prospective estimate of Medicare cost levels by demographic category, in the fee-for-service (that is, noneligible organization) sector of the geographic area.

A set of AAPCC values is calculated at the county level for all Medicare insureds except those having end-stage renal disease (ESRD), in which case the calculation is performed at the State level because of the relatively small size of this segment of the population. The calculation of AAPCC values that are applicable to a future calendar year is developed in four conceptually basic steps:

1. Medicare national average calendar year per capita costs are projected for the future year under consideration.

2. Geographic adjustment factors that reflect the historical relationships between the county's and the nation's per capita costs are used to convert the national average per capita costs to the county level.

3. Expected Medicare per capita costs for the county are adjusted (by removing both reimbursement and enrollment attributable to Medicare beneficiaries in eligible organizations under contract with HCFA) to a fee-for-service basis.

4. The fee-for-service Medicare cost per capita is disaggregated into its demographically defined component parts to produce a set of county AAPCC values. These steps are discussed in greater detail below.

Step 1.—The national average per capita costs to the Medicare program are projected for the future calendar year under consideration. These numbers are known as the United States per capita costs (USPCCs) and are the estimated average incurred benefit costs per Medicare enrollee, loaded for carrier and intermediary expenses.

For each of Part A (Hospital Insurance) and Part B (Supplementary Medical Insurance) of Medicare, the USPCCs are developed separately for the aged, the disabled, and those beneficiaries having end-stage renal disease (ESRD). The estimates that are used as the basis for the USPCCs are recent Medicare cost estimates prepared by the actuaries in the Office of the Actuary within HCFA.

Carrier and intermediary expense loadings are calculated separately for Part A and Part B as the ratio of cash administrative expenses to cash benefits. The administrative expense amounts are obtained from reports of HCFA's Division of Contractor Financial Management. The cash benefits amounts are obtained from reports of the U.S. Treasury's Division of Financial Management. Monthly USPCCs are calculated for the future calendar year as:

$$\frac{1}{12} \times \frac{\text{(annual incurred benefit outlays)}}{\text{(projected enrollment}} \times \text{)[1.0+loading factor)}$$

where

$$\text{loading factor} = \frac{\text{(cash administrative expenses)}}{\text{(cash benefit outlays)}}$$

Step 2.—After the USPCCs have been determined, national costs to the Medicare program are adjusted to a county level. For each of Parts A and B, the historical relationship between the county per capita cost and the national per capita cost is established separately for the aged, the disabled, and the ESRD beneficiaries, and is used to make the adjustment. These per capita costs are developed from the entire Medicare enrollment and the aggregate amount of claims paid. No sample population is involved.

Calculations of county and national per capita costs are based on reimbursement *and* enrollment data tabulated in Medicare's statistical system along with reimbursement data provided by HCFA's Group Health Plans Operations Staff (GHPOS). The reimbursement data provided by GHPOS represents payments excluded from Medicare's statistical system that were made to health care prepayment plans (HCPPs) and HMOs dealing directly with HCFA.

The statistical system data is tabulated by county of the beneficiary's residence as well as by coverage (Part A or Part B) and Medicare eligibility status (aged, disabled, or ESRD). The GHPOS reimbursement data is listed only by coverage and by the prepaid plan to which it was paid. Consequently, one of two approximation methods is used to allocate the GHPOS reimbursement amounts by county of residence and by Medicare eligibility status.

Since service areas and enrollment mixes are not uniform among the prepaid plans, the allocations are performed separately for each plan. The allocation is made on the basis of the distribution of the plan's Medicare membership by county of residence. If the membership by county is not available, the overall Medicare enrollment by county is used as the basis for allocation. Once a GHPOS reimbursement allocation is made to the county, the amount is added to the statistical system's reimbursement amount for that county, giving the total reimbursement for the county.

County per capita costs for each of the five most recent available years are then calculated as follows:

$$\frac{\text{(statistical system reimbursement + GHPOS reimbursement)}}{\text{(statistical system enrollment)}}$$

National per capita costs for each of the five years involved are similarly calculated using reimbursement and enrollment data applicable to the entire nation.

If CPCC, and NPCC, respectively represent the county and national per capita costs in year i, then the geographic index for year i is:

$GI_i = CPCC_i / NPCC_i$.

The adjustment factor to be applied to the USPCC is the unweighted average of the geographic indices for the five years. This factor is known as the "geographic adjustment" (GA):

$GA = (GI_1 + GI_2 + \ldots + GI_5)/5.$

Application of this factor to the contract year USPCC is used to adjust the projected national per capita cost to the county level:

Projected County Per Capita Cost = GA × USPCC.

For that portion of the population having end-stage renal disease, the relationship between the State per capita cost and the national per capita cost is used to make the geographic adjustment. State data rather than county data are used because of the relatively small size of this segment of the population.

Step 3.—At this point, six per capita cost figures have been calculated for the county. For each of Parts A and B, there is a separate cost for each of the aged, disabled, and renal disease populations. These costs are averages for the entire county (or State for the renal disease beneficiaries) and therefore include the reimbursement and enrollment totals of prepaid health plans. The third step is to remove, from the county (or State) per capita cost, the incurred cost and enrollment of any eligible organization that serves the county and is under contract with HCFA. This is accomplished by subtracting the combined projected total of the organization's incurred costs and enrollments from the entire county's (or State's) Medicare cost and enrollment. The per capita cost is then recalculated.

Step 4.—In the final step, the recalculated county per capita cost is converted into rates that vary according to certain demographic variables: age, sex, Medicaid status, and institutional status. (For purposes of this methodology, an institutionalized individual is a Medicare beneficiary who has been a resident for at least 30 days of a nursing home, sanatorium, rest home, convalescent home, long-term care hospital, or domiciliary home, and a Medicaid individual is a Medicare beneficiary who has been determined by the Medicaid agency of the State in which he or she resides to be eligible for Medicaid.) For each of the aged and disabled, there are thirty cells for each of Parts A and B, corresponding to different combinations of these variables (see Table 1). The factor shown in each cell is the ratio of the cost for a Medicare beneficiary having that particular demographic-cell characteristic to the average per capita cost. These relative cost factors are referred to as demographic factors, and were developed from the last three years (1974–76) of the Current Medicare Survey, incorporating roughly 20,000 Medicare beneficiary-years of observations.

Although, the relative estimated cost effects of institutional and Medicaid eligibility status have not changed since collection of the Current Medicare Survey data, the relative effects of age and sex are updated periodically based on Medicare cost experience. Therefore, the updated demographic cost factors for 1986 are shown in Table I below. Through the use of these demographic factors, the county per capita cost is converted into rates. A detailed methodology for this step is discussed below. However, no demographic adjustment is made to the state per capita cost for those beneficiaries having end-stage renal disease.

For the county, there will be thirty rates for each of Parts A and B, for the aged and disabled populations separately. For each Medicare eligible enrolled under the risk contract, Medicare will pay the organization 95 percent of the rate corresponding to the demographic class to which the beneficiary is assigned.

III. Conversion of County Per Capita Costs Into Rates

The AAPCC methodology adjusts for age, sex, Medicaid status, and institutional status of the Medicare beneficiaries in a given county.[1] Table 1 shows the demographic cells used in this adjustment. The adjustment process hinges on the demographic factors (DF_i for each demographic cell i) developed from the Current Medicare Survey. Each factor relates the Medicare cost for a person in that demographic cell to the cost for the average Medicare beneficiary (factor=1.00). Because of rounding and shifts in the demographic distribution of the Medicare population, it is possible that the average demographic factor for the entire Medicare population would not be exactly 1.00, although it should be close to that value. Demographic distributions for a given county could lead to an average demographic factor other than 1.00. The extent of institutionalization can be extremely volatile, especially for a small county. Medicaid entitlement can vary dramatically by State. Even age-sex differences can have an impact. This problem of county demographic variations is addressed by adjusting the county fee-for-service per capita costs (PCC_{fs}) to the theoretical level, K, that would result if the county demographic distribution were such as to give an average demographic factor of 1.00. This is accomplished simply by dividing PCC_{fs} by the average demographic factor for the county calculated by using the actual fee-for-service county population ($_{fs}P_i$ for each demographic cell i):

$$K = PCCV_{fs} \times \frac{(_{fs}P_1 + \ldots + {}_{fs}P_{30})}{(_{fs}P_1 * DF_1 + \ldots + {}_{fs}P_{30} * DF_{30})}$$

This calculation (and, in fact, the entire AAPCC calculation) must be done separately for each of aged Part A, aged Part B, disabled Part A, and disabled Part B beneficiaries.

Demographic adjustments are not made for Medicare beneficiaries with end-stage renal disease because we cannot determine the significance of demographics in determining the cost for people having this rare and extremely costly condition. After the county fee-for-service per capita cost has been standardized for demographic variables, yielding a value for K as defined above, it is possible to estimate the amount that those in a given demographic cell would have cost Medicare had they not been enrolled in a prepaid health plan, simply by multiplying K by DF_i for each cell i. This procedure allows 95 percent of the AAPCC to be prepared as a set of rates, $R_i = .95 * K * DF_i$, varying according to the demographic cells shown in Tables 1.

IV. Determination of Monthly Per Capita Rates of Payment for Contract Periods Beginning in 1986

Table 2 sets forth the standardized per capita rates of payment by county. These standardized per capita rates of payment represent 95 percent of the standardized county per capita cost. As mentioned above, these rates must be multiplied by the updated demographic cost factors shown in Table 1 to give the actual per capita rates of payment for each county. The following is an example of how the actual per capita rates of payment will be calculated for a particular county.

Sample Calculation of the Per Capita Rates of Payment for Autauga County, Alabama

For each county, there will be thirty rates of payment for each of aged Part A, disabled Part A, aged Part B, and disabled Part B. These rates vary according to the demographic cells shown in Table 1.

The rates for Autauga County, Alabama are presented below in table form. The thirty rates for each part are calculated by multiplying the county standardized per capita rates obtained from Table 2 by the corresponding demographic factors in Table 1. For example, Table 2 shows that the aged Part A standardized per capita rate is $116.42. Table 1 shows that the aged Part A demographic factors for male noninstitutionalized Medicaid enrollees range from 1.30 (ages 65–69) to 2.35 (ages 85 and over).

Age group	Demographic cost factor	Standardized per capita rate	95 percent of AAPCC rates
85 and over	2.35	$116.42	$273.59
80 to 84	2.35	116.42	273.59
75 to 79	2.05	116.42	238.66
70 to 74	1.65	116.42	192.09
65 to 69	1.30	116.42	151.35

Multiplying each of these factors by the standardized per capita rate gives the corresponding per capita rates of payment shown in the sample table set forth below.

As a further example, the disabled Part B noninstitutionalized non-Medicaid rate ($55.70) for a female age 57 can be calculated by multiplying the demographic factor for her age group (1.10) by the appropriate standardized per capita rate ($50.64).

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[1] This adjustment does not apply to those beneficiaries suffering from end-stage renal disease.

SAMPLE CALCULATION OF PER CAPITA RATES OF PAYMENT FOR CALENDAR YEAR 1986 FOR AUTAUGA COUNTY

STATE: ALABAMA COUNTY NAME	AGED		DISABLED	
	PART A	PART B	PART A	PART B
AUTAUGA..... (From Table 2)	$116.42	$46.24	$122.68	$50.64

AGE GROUP	MALE			FEMALE		
	INSTITUTIONALIZED	NONINSTITUTIONALIZED		INSTITUTIONALIZED	NONINSTITUTIONALIZED	
		MEDICAID	NON-MEDICAID		MEDICAID	NON-MEDICAID
AGED			PART A			
85 & OVER	273.59	273.59	139.70	232.84	221.20	128.06
80-84	273.59	273.59	139.70	232.84	192.09	116.42
75-79	273.59	238.66	128.06	232.84	162.99	98.96
70-74	273.59	192.09	98.96	221.20	133.88	81.49
65-69	227.02	151.35	81.49	192.09	104.78	69.85
DISABLED						
60-64	61.34	202.42	104.28	79.74	177.89	147.22
55-59	98.14	177.89	92.01	122.68	177.89	122.68
45-54	141.08	159.48	85.88	177.89	177.89	116.55
35-44	153.35	128.81	73.61	196.29	165.62	85.88
UNDER 35	184.02	116.55	67.47	208.56	147.22	61.34
AGED			PART B			
85 & OVER	87.86	73.98	50.86	76.30	55.49	43.93
80-84	87.86	73.98	50.86	76.30	55.49	43.93
75-79	87.86	73.98	50.86	76.30	55.49	43.93
70-74	87.86	67.05	46.24	76.30	55.49	39.30
65-69	78.61	55.49	39.30	69.36	48.55	32.37
DISABLED						
60-64	45.58	70.90	45.58	55.70	73.43	58.24
55-59	55.70	65.83	37.98	70.90	70.90	55.70
45-54	68.36	63.30	32.92	91.15	68.36	53.17
35-44	70.90	53.17	25.32	91.15	55.70	40.51
UNDER 35	75.96	48.11	20.26	91.15	48.11	32.92

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Table 3 sets forth the actual per capita rates of payment by State for Medicare enrollees who have been medically determined to have ESRD. No demographic adjustment is made to these rates; that is, they are *not* multiplied by the demographic cost factors in Table 1.

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TABLE 1

Demographic Cost Factors For 1986

AGE GROUP	MALE			FEMALE		
	INSTITUTIONALIZED	NONINSTITUTIONALIZED		INSTITUTIONALIZED	NONINSTITUTIONALIZED	
		MEDICAID	NON-MEDICAID		MEDICAID	NON-MEDICAID
PART A - HOSPITAL INSURANCE						
AGED						
85 & OVER	2.35	2.35	1.20	2.00	1.90	1.10
80-84	2.35	2.35	1.20	2.00	1.65	1.00
75-79	2.35	2.05	1.10	2.00	1.40	.85
70-74	2.35	1.65	.85	1.90	1.15	.70
65-69	1.95	1.30	.70	1.65	.90	.60
DISABLED						
60-64	.50	1.65	.85	.65	1.45	1.20
55-59	.80	1.45	.75	1.00	1.45	1.00
45-54	1.15	1.30	.70	1.45	1.45	.95
35-44	1.25	1.05	.60	1.60	1.35	.70
UNDER 35	1.50	.95	.55	1.70	1.20	.50
PART B - SUPPLEMENTAL MEDICAL INSURANCE						
AGED						
85 & OVER	1.90	1.60	1.10	1.65	1.20	.95
80-84	1.90	1.60	1.10	1.65	1.20	.95
75-79	1.90	1.60	1.10	1.65	1.20	.95
70-74	1.90	1.45	1.00	1.65	1.20	.85
65-69	1.70	1.20	.85	1.50	1.05	.70
DISABLED						
60-64	.90	1.40	.90	1.10	1.45	1.15
55-59	1.10	1.30	.75	1.40	1.40	1.10
45-54	1.35	1.25	.65	1.80	1.35	1.05
35-44	1.40	1.05	.50	1.80	1.10	.80
UNDER 35	1.50	.95	.40	1.80	.95	.65

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: ALABAMA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
AUTAUGA	$116.42	$46.24	$122.68	$50.64
BARBOUR	$99.01	$42.39	$102.02	$46.73
BLOUNT	$121.85	$53.37	$140.47	$62.11
BUTLER	$92.95	$38.17	$105.02	$44.14
CHAMBERS	$94.42	$45.54	$116.41	$63.14
CHILTON	$105.17	$45.83	$120.08	$57.24
CLARKE	$99.14	$43.71	$100.66	$44.88
CLEBURNE	$104.02	$43.06	$142.11	$61.37
COLBERT	$119.40	$42.56	$150.06	$56.03
COOSA	$86.50	$44.62	$95.40	$53.17
CRENSHAW	$99.80	$41.00	$86.08	$36.66
DALE	$94.97	$42.97	$115.24	$51.02
DE KALB	$79.09	$36.75	$104.38	$46.53
ESCAMBIA	$112.18	$51.95	$141.76	$65.28
FAYETTE	$81.48	$38.54	$108.13	$58.42
GENEVA	$96.39	$44.93	$90.42	$42.76
HALE	$74.70	$34.11	$105.38	$46.06
HOUSTON	$109.08	$50.00	$135.46	$59.90
JEFFERSON	$146.41	$63.26	$174.66	$71.75
LAUDERDALE	$99.22	$41.07	$124.67	$55.72
LEE	$81.08	$41.39	$102.15	$49.55
LOWNDES	$80.54	$45.38	$64.20	$38.87
MADISON	$106.77	$51.62	$114.81	$57.61
MARION	$105.69	$45.07	$130.26	$55.21
MOBILE	$136.40	$55.11	$149.04	$60.27
MONTGOMERY	$121.83	$49.96	$115.77	$47.81
PERRY	$75.57	$35.72	$85.28	$41.49
PIKE	$89.31	$38.86	$117.51	$49.42
RUSSELL	$126.51	$46.83	$170.07	$61.98
SHELBY	$143.29	$65.91	$179.11	$82.00
TALLADEGA	$109.16	$55.13	$112.59	$61.09
TUSCALOOSA	$103.95	$45.78	$110.68	$48.68
WASHINGTON	$114.95	$51.54	$114.46	$48.95
WINSTON	$103.42	$42.80	$161.02	$62.87
STATE: ALASKA				
ALEUTIAN	$104.24	$40.13	$122.78	$84.44
ANGOON	$126.17	$30.02	$133.29	$71.92
BETHEL	$57.86	$18.76	$53.39	$12.89
BRISTOL BAY	$75.49	$32.84	$40.34	$17.82
FAIRBANKS	$210.59	$95.53	$194.92	$104.20
JUNEAU	$178.68	$64.57	$142.90	$72.53
KETCHIKAN	$129.90	$72.84	$138.10	$84.02
KODIAK	$175.28	$84.32	$179.40	$89.75
MATANUSKA	$139.92	$60.92	$103.61	$58.97
OUTER KETCHIKAN	$121.19	$33.59	$196.07	$102.07
SEWARD	$192.87	$83.17	$241.24	$71.67
SKAGWAY-YAKUTAT	$222.12	$64.35	$120.10	$65.82
UPPER YUKON	$151.14	$50.53	$158.37	$79.46

STATE: ALABAMA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
BALDWIN	$104.08	$48.48	$115.94	$57.52
BIBB	$95.82	$51.23	$108.59	$54.22
BULLOCK	$70.24	$29.89	$86.54	$31.03
CALHOUN	$111.80	$49.30	$121.87	$57.02
CHEROKEE	$94.93	$45.80	$137.85	$67.78
CHOCTAW	$96.67	$49.32	$129.00	$57.79
CLAY	$70.79	$33.36	$90.04	$46.39
COFFEE	$99.50	$43.57	$120.72	$51.75
CONECUH	$103.17	$48.03	$110.22	$56.26
COVINGTON	$118.03	$50.49	$152.33	$63.59
CULLMAN	$111.91	$45.96	$144.13	$59.96
DALLAS	$92.95	$43.57	$116.57	$53.70
ELMORE	$117.37	$46.57	$136.54	$56.60
ETOWAH	$115.00	$44.06	$131.04	$52.36
FRANKLIN	$107.19	$43.22	$142.91	$57.78
GREENE	$63.40	$29.91	$69.11	$30.77
HENRY	$96.34	$42.98	$116.00	$52.53
JACKSON	$80.83	$39.88	$90.02	$49.39
LAMAR	$93.47	$33.81	$123.34	$47.28
LAWRENCE	$107.87	$48.48	$143.85	$61.44
LIMESTONE	$84.15	$37.90	$94.61	$44.50
MACON	$69.95	$33.66	$62.83	$31.45
MARENGO	$102.41	$39.90	$113.73	$41.47
MARSHALL	$77.16	$37.39	$107.22	$51.50
MONROE	$105.66	$40.68	$98.11	$49.18
MORGAN	$119.61	$45.70	$135.32	$54.70
PICKENS	$95.58	$41.01	$112.15	$44.17
RANDOLPH	$95.68	$38.53	$110.19	$49.49
ST CLAIR	$123.36	$51.32	$144.26	$64.84
SUMTER	$96.42	$47.22	$131.87	$54.43
TALLAPOOSA	$88.14	$41.59	$116.54	$56.63
WALKER	$152.34	$64.68	$166.40	$71.06
WILCOX	$66.82	$31.89	$73.62	$31.29
STATE: ALASKA				
ANCHORAGE	$198.31	$100.29	$177.05	$95.98
BARROW-NORTH SLOPE	$87.85	$46.26	$92.94	$93.96
BRISTOL BAY BOROUGH	$170.87	$90.02	$212.38	$107.51
CORDOVA-MC CARTHY	$163.87	$65.66	$210.90	$112.34
HAINES	$109.55	$39.17	$184.76	$99.96
KENAI-COOK INLET	$143.90	$65.46	$150.35	$70.89
KOBUK	$62.98	$27.61	$159.32	$88.14
KUSKOKWIN	$68.50	$34.72	$192.15	$86.73
NOME	$115.27	$32.96	$94.77	$33.30
PRINCE OF WALES	$130.70	$42.10	$180.14	$94.11
SITKA	$144.60	$57.57	$250.90	$90.50
SOUTHEAST FAIRBANKS	$152.72	$65.32	$157.38	$71.43
VALDZ-CHITNA-WHITIER	$121.86	$50.30	$239.80	$75.66

TABLE 2

STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: ALASKA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
WADE HAMPTON	$51.62	$11.58	$91.84	$19.62
YUKON-KOYUKUK	$167.64	$57.92	$298.35	$111.98
STATE: ARIZONA				
APACHE	$59.32	$23.57	$43.74	$21.78
COCONINO	$85.36	$49.70	$104.21	$57.17
GRAHAM	$111.39	$61.52	$124.08	$62.98
MARICOPA	$133.42	$81.29	$167.97	$103.34
NAVAJO	$84.79	$43.03	$81.51	$43.45
PINAL	$109.09	$62.31	$116.87	$75.49
YAVAPAI	$89.43	$55.16	$95.97	$64.40
STATE: ARKANSAS				
ARKANSAS	$108.99	$62.83	$98.59	$62.81
BAXTER	$91.73	$48.91	$106.23	$57.43
BOONE	$77.82	$43.30	$64.31	$48.36
CALHOUN	$81.49	$51.41	$111.25	$71.34
CHICOT	$100.59	$46.99	$77.62	$44.96
CLAY	$104.16	$49.16	$92.31	$53.09
CLEVELAND	$77.52	$50.10	$61.38	$42.29
CONWAY	$99.97	$59.24	$92.93	$62.42
CRAWFORD	$103.20	$52.09	$95.98	$57.12
CROSS	$97.29	$45.37	$99.65	$53.92
DESHA	$90.28	$48.88	$105.60	$57.79
FAULKNER	$96.25	$53.33	$87.08	$55.52
FULTON	$81.59	$42.07	$68.89	$46.88
GRANT	$83.32	$52.19	$67.43	$45.04
HEMPSTEAD	$87.45	$46.17	$87.88	$53.75
HOWARD	$86.27	$48.25	$78.17	$46.01
IZARD	$72.08	$40.87	$80.19	$46.99
JEFFERSON	$66.10	$48.40	$76.75	$54.43
LAFAYETTE	$73.30	$38.56	$80.38	$59.63
LEE	$83.86	$42.83	$95.51	$66.13
LITTLE RIVER	$89.96	$48.23	$91.66	$62.28
LONOKE	$99.98	$62.39	$90.77	$59.16
MARION	$101.70	$47.97	$110.67	$61.36
MISSISSIPPI	$116.77	$56.49	$113.39	$58.02
MONTGOMERY	$78.46	$54.94	$62.20	$51.49
NEWTON	$58.22	$36.53	$65.72	$46.37
PERRY	$105.91	$61.76	$62.02	$52.76
PIKE	$82.57	$48.05	$79.76	$56.72
POLK	$81.70	$45.98	$68.53	$55.62
PRAIRIE	$113.54	$66.51	$83.86	$60.90
RANDOLPH	$95.47	$48.22	$74.74	$48.61
SALINE	$112.40	$65.19	$102.65	$69.46
SEARCY	$60.64	$37.96	$60.21	$41.06
SEVIER	$88.82	$47.10	$97.11	$57.80
STONE	$106.66	$51.05	$91.77	$57.18
VAN BUREN	$76.99	$49.53	$61.41	$47.47

STATE: ALASKA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
WRANGELL-PETERSBURG	$134.67	$68.28	$233.47	$47.02
STATEWIDE	$163.23	$77.42	$164.91	$83.90
STATE: ARIZONA				
COCHISE	$106.08	$59.79	$106.33	$68.18
GILA	$120.65	$66.72	$124.20	$71.28
GREENLEE	$102.85	$55.02	$102.35	$52.61
MOHAVE	$123.12	$67.97	$134.57	$87.10
PIMA	$130.24	$73.27	$137.90	$87.93
SANTA CRUZ	$90.10	$48.88	$97.52	$48.67
YUMA	$107.28	$63.66	$123.52	$78.96
STATE: ARKANSAS				
ASHLEY	$90.15	$44.39	$102.81	$51.88
BENTON	$102.91	$52.32	$106.48	$58.68
BRADLEY	$79.49	$46.44	$61.67	$40.73
CARROLL	$81.01	$41.18	$72.66	$51.42
CLARK	$100.99	$54.85	$74.06	$55.80
CLEBURNE	$73.21	$46.98	$87.48	$62.41
COLUMBIA	$81.35	$37.43	$83.51	$38.51
CRAIGHEAD	$88.51	$58.31	$104.61	$70.87
CRITTENDEN	$103.29	$50.80	$122.41	$59.48
DALLAS	$87.70	$52.48	$81.68	$53.41
DREW	$80.00	$44.74	$87.86	$49.09
FRANKLIN	$83.86	$53.22	$75.04	$57.26
GARLAND	$106.97	$68.04	$104.65	$74.21
GREENE	$82.18	$46.57	$86.72	$67.27
HOT SPRING	$107.30	$59.28	$86.33	$61.68
INDEPENDENCE	$99.62	$50.44	$86.78	$57.77
JACKSON	$152.10	$87.83	$144.36	$91.37
JOHNSON	$106.37	$59.44	$74.94	$56.56
LAWRENCE	$91.36	$56.10	$84.97	$52.98
LINCOLN	$65.51	$49.37	$85.17	$55.35
LOGAN	$84.96	$51.35	$83.19	$53.75
MADISON	$84.99	$37.56	$81.04	$51.60
MILLER	$95.87	$52.80	$112.41	$67.78
MONROE	$89.80	$52.84	$81.38	$49.96
NEVADA	$83.18	$48.21	$69.05	$45.57
OUACHITA	$78.42	$51.60	$74.33	$51.05
PHILLIPS	$91.37	$43.92	$108.63	$54.17
POINSETT	$96.73	$56.01	$115.96	$74.41
POPE	$101.13	$51.82	$90.33	$57.95
PULASKI	$122.55	$71.43	$112.76	$73.53
ST FRANCIS	$91.96	$44.70	$118.12	$53.80
SCOTT	$81.88	$49.75	$78.41	$61.92
SEBASTIAN	$111.13	$60.33	$117.00	$69.84
SHARP	$77.82	$47.04	$58.44	$43.75
UNION	$97.09	$49.22	$95.15	$52.67
WASHINGTON	$105.95	$49.20	$83.41	$51.45

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: ARKANSAS COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
WHITE	$92.42	$59.26	$90.90	$64.44
YELL	$86.25	$50.90	$82.42	$56.74
STATE: CALIFORNIA				
ALAMEDA	$154.83	$93.03	$157.66	$111.80
AMADOR	$112.05	$76.83	$97.33	$91.93
CALAVERAS	$108.36	$73.13	$109.18	$96.59
CONTRA COSTA	$143.85	$105.05	$153.74	$113.59
ELDORADO	$95.68	$74.63	$107.99	$84.95
GLENN	$118.21	$74.06	$109.02	$85.21
IMPERIAL	$121.54	$98.14	$110.52	$97.19
KERN	$131.35	$87.60	$126.31	$101.20
LAKE	$138.45	$88.57	$131.51	$100.37
LOS ANGELES	$192.26	$118.17	$198.42	$133.99
MARIN	$134.31	$94.19	$177.00	$116.84
MENDOCINO	$118.50	$70.50	$120.79	$90.47
MODOC	$130.36	$73.30	$120.60	$73.66
MONTEREY	$94.35	$72.00	$116.85	$89.22
NEVADA	$100.80	$66.33	$108.78	$79.50
PLACER	$104.55	$78.17	$94.30	$82.00
RIVERSIDE	$140.01	$92.61	$143.27	$104.10
SAN BENITO	$97.95	$68.57	$103.92	$80.03
SAN DIEGO	$128.68	$98.65	$163.17	$128.08
SAN JOAQUIN	$105.42	$79.02	$107.29	$97.79
SAN MATEO	$156.89	$90.79	$177.08	$110.20
SANTA CLARA	$123.24	$84.64	$148.74	$99.75
SHASTA	$117.38	$80.61	$101.53	$89.98
SISKIYOU	$105.99	$67.86	$95.75	$77.58
SONOMA	$120.36	$81.18	$117.24	$92.77
SUTTER	$109.02	$82.07	$116.28	$103.75
TRINITY	$102.10	$69.64	$95.94	$83.21
TUOLUMNE	$124.27	$75.73	$119.93	$91.82
YOLO	$98.84	$77.41	$120.18	$97.59
STATE: COLORADO				
ADAMS	$144.22	$69.40	$160.58	$87.10
ARAPAHOE	$140.79	$67.31	$167.09	$95.05
BACA	$127.20	$49.95	$131.48	$49.71
BOULDER	$102.62	$53.27	$128.01	$73.60
CHEYENNE	$141.53	$50.14	$228.21	$90.13
CONEJOS	$107.55	$50.14	$81.10	$45.89
CROWLEY	$76.70	$42.58	$86.08	$53.05
DELTA	$73.80	$44.12	$79.93	$54.83
DOLORES	$121.19	$53.23	$120.21	$67.64
EAGLE	$132.29	$54.46	$181.72	$97.89
EL PASO	$134.53	$63.20	$134.91	$77.31
GARFIELD	$154.37	$59.63	$185.03	$81.22
GRAND	$153.87	$66.24	$135.48	$78.42
HINSDALE	$127.13	$62.08	$182.03	$90.93

STATE: ARKANSAS COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
WOODRUFF	$105.37	$65.32	$86.14	$60.41
STATE: CALIFORNIA				
ALPINE	$137.78	$75.86	$78.43	$71.87
BUTTE	$115.64	$77.77	$108.90	$93.80
COLUSA	$159.45	$84.58	$146.84	$107.03
DEL NORTE	$128.82	$67.94	$114.25	$73.36
FRESNO	$83.87	$69.79	$82.06	$72.98
HUMBOLDT	$114.25	$79.57	$109.35	$90.70
INYO	$158.85	$79.74	$165.79	$104.55
KINGS	$83.51	$65.11	$86.15	$81.38
LASSEN	$122.37	$74.08	$137.35	$95.18
MADERA	$89.04	$72.60	$75.32	$73.41
MARIPOSA	$98.91	$73.09	$120.20	$96.50
MERCED	$108.30	$82.85	$105.27	$92.72
MONO	$140.95	$70.41	$82.89	$68.60
NAPA	$138.70	$94.27	$157.90	$120.39
ORANGE	$180.39	$116.22	$206.27	$142.42
PLUMAS	$128.37	$76.16	$139.74	$100.22
SACRAMENTO	$113.59	$85.58	$123.63	$96.36
SAN BERNARDINO	$136.18	$87.59	$140.69	$103.32
SAN FRANCISCO	$179.15	$96.51	$177.50	$103.60
SAN LUIS OBISPO	$118.62	$86.32	$125.24	$103.32
SANTA BARBARA	$133.00	$87.59	$119.63	$96.33
SANTA CRUZ	$98.34	$73.24	$118.39	$100.40
SIERRA	$134.40	$83.99	$82.62	$78.80
SOLANO	$119.35	$93.34	$123.81	$98.26
STANISLAUS	$111.99	$79.10	$113.24	$93.97
TEHAMA	$104.16	$70.63	$95.87	$80.45
TULARE	$87.25	$68.92	$82.29	$75.08
VENTURA	$137.03	$95.51	$150.82	$125.18
YUBA	$112.88	$85.08	$104.51	$97.37
STATE: COLORADO				
ALAMOSA	$93.81	$47.65	$69.53	$48.37
ARCHULETA	$103.80	$46.44	$147.92	$58.79
BENT	$150.48	$70.14	$43.79	$27.77
CHAFFEE	$109.38	$47.90	$125.08	$55.51
CLEAR CREEK	$154.98	$68.32	$139.50	$86.41
COSTILLA	$78.91	$40.86	$82.39	$40.39
CUSTER	$83.84	$59.97	$177.21	$104.46
DENVER	$158.64	$71.79	$169.08	$88.00
DOUGLAS	$123.68	$61.05	$153.46	$82.38
ELBERT	$120.03	$52.71	$116.78	$53.03
FREMONT	$87.14	$55.17	$105.84	$70.48
GILPIN	$153.37	$65.92	$204.08	$109.64
GUNNISON	$81.88	$47.56	$64.42	$33.18
HUERFANO	$104.26	$59.25	$87.62	$46.80

TABLE 2

STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: COLORADO COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
JACKSON	$93.25	$45.86	$163.08	$50.74
KIOWA	$144.23	$50.67	$105.42	$30.30
LAKE	$194.60	$69.00	$181.87	$62.82
LARIMER	$84.45	$53.34	$101.86	$68.21
LINCOLN	$114.95	$50.75	$97.20	$57.50
MESA	$100.12	$64.56	$104.30	$71.06
MOFFAT	$104.33	$49.34	$140.28	$75.36
MONTROSE	$83.86	$47.17	$92.54	$60.18
OTERO	$88.10	$45.98	$80.31	$47.28
PARK	$101.69	$51.19	$127.89	$77.03
PITKIN	$165.01	$69.91	$259.34	$88.26
PUEBLO	$115.02	$59.69	$132.80	$81.49
RIO GRANDE	$105.75	$46.06	$119.99	$61.93
SAGUACHE	$101.83	$48.46	$49.34	$34.51
SAN MIGUEL	$85.40	$46.69	$122.01	$64.66
SUMMIT	$119.82	$55.90	$142.97	$74.14
WASHINGTON	$114.42	$47.55	$179.30	$93.08
YUMA	$96.20	$35.82	$116.20	$49.36
STATE: CONNECTICUT				
FAIRFIELD	$145.27	$71.13	$183.12	$96.88
LITCHFIELD	$126.36	$58.67	$161.08	$97.66
NEW HAVEN	$133.35	$64.69	$154.42	$90.63
TOLLAND	$136.59	$60.72	$185.47	$97.42
STATE: DELAWARE				
KENT	$110.20	$57.08	$122.83	$74.73
SUSSEX	$122.34	$56.87	$132.31	$72.15
STATE: DIST. OF COL.				
DISTRICT OF COLUMBIA	$198.57	$92.22	$222.00	$93.80
STATE: FLORIDA				
ALACHUA	$121.98	$65.33	$108.87	$61.66
BAY	$120.12	$72.41	$127.85	$84.72
BREVARD	$113.51	$72.71	$129.99	$90.81
CALHOUN	$89.49	$51.68	$95.54	$47.25
CITRUS	$106.35	$56.20	$103.42	$66.29
COLLIER	$93.71	$69.72	$127.09	$86.61
DADE	$207.13	$131.19	$234.53	$149.11
DIXIE	$122.50	$60.52	$66.12	$47.06
ESCAMBIA	$148.84	$72.74	$160.33	$85.34
FRANKLIN	$116.63	$59.77	$120.23	$59.30
GILCHRIST	$128.23	$67.91	$97.29	$70.95
GULF	$110.58	$72.70	$99.75	$62.47
HARDEE	$123.61	$64.23	$88.41	$49.34
HERNANDO	$97.40	$59.11	$96.50	$70.82
HILLSBOROUGH	$122.51	$73.91	$133.31	$85.89
INDIAN RIVER	$121.39	$77.58	$150.74	$101.76
JEFFERSON	$130.59	$66.85	$156.86	$83.82
KIT CARSON	$140.37	$52.07	$131.33	$52.91
LA PLATA	$129.19	$52.95	$172.30	$75.74
LAS ANIMAS	$106.68	$56.95	$97.55	$52.49
LOGAN	$110.58	$51.41	$138.38	$59.02
MINERAL	$127.13	$62.08	$186.36	$111.91
MONTEZUMA	$114.25	$52.63	$117.95	$64.96
MORGAN	$89.13	$43.02	$118.47	$51.55
OURAY	$105.28	$49.52	$105.78	$64.46
PHILLIPS	$111.25	$53.70	$104.18	$60.35
PROWERS	$111.79	$45.36	$103.32	$39.32
RIO BLANCO	$114.26	$51.02	$115.33	$60.72
ROUTT	$114.73	$56.93	$141.76	$55.69
SAN JUAN	$139.02	$44.67	$167.25	$86.86
SEDGWICK	$101.40	$48.16	$109.41	$67.08
TELLER	$123.01	$63.35	$222.56	$98.97
WELD	$107.24	$54.78	$125.73	$71.98
STATE: CONNECTICUT				
HARTFORD	$137.13	$66.34	$159.26	$100.93
MIDDLESEX	$118.29	$61.56	$134.24	$88.91
NEW LONDON	$113.41	$54.27	$143.12	$90.23
WINDHAM	$132.19	$58.67	$154.50	$82.41
STATE: DELAWARE				
NEW CASTLE	$139.50	$66.30	$154.42	$84.50
STATE: DIST. OF COL.				
STATE: FLORIDA				
BAKER	$125.51	$71.42	$173.26	$94.58
BRADFORD	$135.05	$62.25	$147.57	$70.96
BROWARD	$166.05	$109.27	$213.06	$140.57
CHARLOTTE	$160.00	$84.04	$171.37	$103.55
CLAY	$127.76	$77.87	$140.84	$94.97
COLUMBIA	$141.08	$66.27	$133.49	$74.80
DE SOTO	$117.27	$64.97	$131.52	$71.44
DUVAL	$152.48	$82.92	$178.99	$103.36
FLAGLER	$165.47	$68.80	$174.68	$79.91
GADSDEN	$78.58	$47.46	$97.68	$59.04
GLADES	$161.70	$76.16	$193.79	$96.92
HAMILTON	$119.93	$55.25	$115.36	$57.47
HENDRY	$132.51	$64.43	$146.33	$79.12
HIGHLANDS	$107.27	$58.76	$119.28	$67.98
HOLMES	$115.86	$53.48	$130.38	$72.39
JACKSON	$95.75	$47.93	$104.00	$55.78

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: FLORIDA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
JEFFERSON	$63.38	$35.57	$83.12	$44.70
LAKE	$99.23	$63.44	$116.16	$72.26
LEON	$96.77	$57.10	$130.17	$70.27
LIBERTY	$108.01	$56.18	$78.82	$54.47
MANATEE	$118.25	$63.77	$135.92	$79.52
MARTIN	$102.99	$66.33	$117.40	$82.82
NASSAU	$156.08	$72.87	$171.64	$88.42
OKEECHOBEE	$175.19	$77.30	$159.38	$85.85
OSCEOLA	$155.67	$73.10	$176.03	$88.10
PASCO	$110.20	$65.40	$112.87	$75.58
POLK	$94.13	$56.95	$111.19	$66.29
ST JOHNS	$142.93	$78.34	$168.48	$88.82
SANTA ROSA	$171.26	$85.47	$178.63	$100.00
SEMINOLE	$125.23	$67.19	$143.37	$81.51
SUWANNEE	$109.91	$59.35	$99.32	$57.31
UNION	$173.19	$77.24	$156.70	$71.11
WAKULLA	$86.98	$53.22	$99.62	$57.86
WASHINGTON	$124.85	$61.89	$122.27	$70.76
STATE: GEORGIA				
APPLING	$91.72	$55.99	$113.07	$65.72
BACON	$89.72	$51.85	$119.37	$64.05
BALDWIN	$91.19	$43.33	$100.18	$45.58
BARROW	$94.74	$47.04	$119.71	$60.58
BEN HILL	$83.25	$44.81	$100.45	$52.00
BIBB	$86.37	$51.03	$102.62	$64.63
BRANTLEY	$102.95	$58.03	$90.83	$53.75
BRYAN	$118.50	$60.76	$100.41	$62.00
BURKE	$100.72	$47.79	$87.14	$46.21
CALHOUN	$71.21	$37.12	$86.59	$39.50
CANDLER	$81.30	$48.58	$85.69	$52.61
CATOOSA	$126.77	$51.06	$136.95	$64.58
CHATHAM	$115.94	$63.60	$158.77	$87.88
CHATTOOGA	$70.43	$37.45	$105.00	$57.56
CLARKE	$87.81	$46.23	$105.47	$57.58
CLAYTON	$135.83	$74.26	$179.78	$108.39
COBB	$125.36	$66.40	$164.72	$95.04
COLQUITT	$93.59	$50.74	$102.30	$59.35
COOK	$72.52	$45.90	$61.60	$56.08
CRAWFORD	$82.07	$43.15	$83.54	$67.38
DADE	$105.14	$44.74	$129.20	$52.40
DECATUR	$73.83	$40.49	$87.91	$54.35
DODGE	$101.62	$54.11	$96.96	$55.06
DOUGHERTY	$80.65	$41.84	$101.94	$57.64
EARLY	$85.15	$48.71	$100.02	$55.95
EFFINGHAM	$101.72	$55.27	$140.16	$77.21
EMANUEL	$90.52	$49.81	$93.80	$60.48
FANNIN	$102.52	$43.51	$136.64	$62.27
FLOYD	$79.54	$44.21	$99.69	$58.38

STATE: FLORIDA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
LAFAYETTE	$113.20	$62.57	$91.06	$68.07
LEE	$121.40	$70.80	$125.99	$78.15
LEVY	$113.02	$59.19	$94.66	$63.86
MADISON	$83.53	$45.09	$87.42	$50.72
MARION	$97.73	$55.58	$96.70	$62.66
MONROE	$160.30	$80.41	$163.93	$90.51
OKALOOSA	$152.33	$70.72	$152.40	$80.21
ORANGE	$140.14	$73.17	$157.26	$88.95
PALM BEACH	$117.39	$87.57	$145.74	$106.19
PINELLAS	$133.00	$70.02	$157.12	$86.28
PUTNAM	$113.76	$60.61	$118.92	$72.77
ST LUCIE	$111.16	$69.67	$125.40	$81.54
SARASOTA	$112.01	$71.65	$142.82	$88.58
SUMTER	$111.98	$61.99	$91.99	$66.10
TAYLOR	$107.88	$66.59	$95.76	$72.14
VOLUSIA	$123.61	$63.19	$150.37	$81.16
WALTON	$145.58	$63.83	$136.49	$67.05
STATE: GEORGIA				
ATKINSON	$117.23	$59.55	$102.41	$50.58
BAKER	$100.86	$50.85	$112.43	$62.06
BANKS	$99.24	$47.09	$154.12	$65.79
BARTOW	$81.27	$39.81	$104.16	$59.48
BERRIEN	$128.58	$62.17	$139.04	$67.42
BLECKLEY	$108.34	$43.28	$107.70	$45.24
BROOKS	$75.71	$43.03	$80.17	$51.28
BULLOCH	$87.96	$55.19	$94.36	$62.00
BUTTS	$104.38	$49.39	$144.88	$71.11
CAMDEN	$132.79	$68.97	$138.17	$94.14
CARROLL	$121.59	$52.22	$147.30	$69.53
CHARLTON	$109.37	$55.92	$112.75	$59.17
CHATTAHOOCHEE	$117.64	$57.48	$64.34	$49.18
CHEROKEE	$122.29	$56.80	$129.44	$69.77
CLAY	$71.35	$37.89	$92.71	$57.50
CLINCH	$115.80	$59.46	$101.47	$56.29
COFFEE	$100.42	$50.92	$101.44	$52.64
COLUMBIA	$133.32	$66.34	$108.28	$73.35
COWETA	$122.99	$53.87	$165.55	$80.57
CRISP	$85.09	$44.61	$102.69	$52.46
DAWSON	$103.13	$48.35	$106.58	$60.54
DE KALB	$112.85	$62.12	$138.45	$77.37
DOOLY	$91.50	$49.64	$120.01	$65.06
DOUGLAS	$151.29	$75.06	$197.00	$109.32
ECHOLS	$142.37	$66.09	$81.28	$46.42
ELBERT	$84.49	$36.68	$107.07	$52.76
EVANS	$116.67	$52.22	$145.65	$73.85
FAYETTE	$103.91	$57.69	$147.10	$85.68
FORSYTH	$97.09	$52.53	$140.45	$73.61

TABLE 2

STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: GEORGIA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
FRANKLIN	$81.04	$42.40	$92.63	$49.91
GILMER	$115.80	$48.93	$129.77	$55.58
GLYNN	$107.62	$59.97	$123.32	$74.18
GRADY	$85.90	$43.67	$93.69	$52.08
GWINNETT	$129.87	$56.27	$167.36	$86.15
HALL	$93.34	$46.38	$132.42	$65.48
HARALSON	$122.00	$54.19	$133.69	$67.70
HART	$78.66	$38.87	$95.99	$50.95
HENRY	$118.46	$60.49	$139.33	$81.71
IRWIN	$62.40	$42.50	$59.33	$44.22
JASPER	$88.01	$44.85	$108.57	$54.58
JEFFERSON	$87.28	$44.37	$86.52	$47.07
JOHNSON	$78.18	$41.56	$81.70	$51.69
LAMAR	$76.69	$35.78	$81.41	$42.02
LAURENS	$72.47	$42.47	$78.27	$51.55
LIBERTY	$95.54	$52.60	$87.98	$56.16
LONG	$107.68	$56.65	$84.15	$58.70
LUMPKIN	$88.21	$43.60	$111.85	$64.37
MC INTOSH	$103.99	$62.77	$106.66	$66.79
MADISON	$83.44	$42.69	$92.13	$55.88
MERIWETHER	$73.69	$43.03	$89.64	$65.41
MITCHELL	$70.88	$41.34	$73.39	$48.23
MONTGOMERY	$114.98	$61.27	$132.02	$76.23
MURRAY	$98.91	$46.97	$128.92	$65.71
NEWTON	$106.80	$48.17	$111.83	$59.23
OGLETHORPE	$85.25	$43.20	$75.80	$43.15
PEACH	$94.83	$46.62	$108.74	$53.56
PIERCE	$91.19	$52.41	$81.74	$48.94
POLK	$92.59	$46.53	$102.25	$57.61
PUTNAM	$131.79	$49.96	$143.12	$81.02
RABUN	$114.55	$50.00	$149.60	$64.63
RICHMOND	$116.20	$63.44	$96.95	$63.58
SCHLEY	$90.63	$40.14	$119.20	$52.63
SEMINOLE	$97.34	$48.15	$131.53	$65.33
STEPHENS	$76.16	$39.24	$86.44	$46.22
SUMTER	$72.39	$34.20	$101.66	$49.56
TALIAFERRO	$77.90	$40.28	$115.76	$51.08
TAYLOR	$74.35	$39.82	$78.68	$46.57
TERRELL	$77.51	$36.28	$97.45	$43.89
TIFT	$64.36	$47.28	$80.32	$57.72
TOWNS	$83.09	$35.07	$66.83	$38.70
TROUP	$98.59	$50.27	$111.51	$62.91
TWIGGS	$83.49	$40.92	$57.89	$31.50
UPSON	$70.70	$34.40	$79.43	$42.96
WALTON	$116.47	$47.97	$114.14	$56.40
WARREN	$81.63	$47.03	$108.60	$61.77
WAYNE	$115.19	$57.53	$117.85	$61.73
WHEELER	$100.60	$54.78	$127.23	$65.70
WHITFIELD	$98.11	$46.62	$124.19	$66.68

STATE: GEORGIA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
FULTON	$117.89	$63.82	$132.38	$76.15
GLASCOCK	$85.96	$46.32	$81.79	$53.38
GORDON	$90.42	$44.56	$98.22	$58.58
GREENE	$74.62	$37.40	$72.40	$36.70
HABERSHAM	$82.30	$44.99	$107.45	$57.88
HANCOCK	$80.73	$39.14	$89.59	$41.82
HARRIS	$82.10	$41.50	$108.59	$53.70
HEARD	$117.18	$50.31	$147.44	$62.04
HOUSTON	$106.54	$52.74	$115.22	$61.18
JACKSON	$101.77	$47.71	$128.41	$63.57
JEFF DAVIS	$110.22	$55.04	$118.83	$60.53
JENKINS	$92.54	$43.12	$93.66	$47.51
JONES	$62.03	$37.57	$90.58	$53.82
LANIER	$121.23	$59.69	$139.63	$74.74
LEE	$80.48	$43.04	$114.61	$57.09
LINCOLN	$93.05	$46.00	$104.05	$66.26
LOWNDES	$92.59	$55.04	$89.54	$54.49
MC DUFFIE	$104.84	$51.65	$121.55	$67.20
MACON	$89.27	$43.08	$105.17	$52.98
MARION	$88.30	$50.99	$96.84	$55.70
MILLER	$69.84	$37.89	$69.42	$37.85
MONROE	$74.28	$39.04	$88.75	$56.88
MORGAN	$80.68	$38.35	$96.35	$47.65
MUSCOGEE	$97.86	$55.38	$110.25	$68.96
OCONEE	$81.04	$46.14	$81.28	$52.46
PAULDING	$140.66	$68.22	$181.88	$95.01
PICKENS	$110.69	$50.74	$96.07	$53.08
PIKE	$77.77	$37.21	$89.43	$49.37
PULASKI	$87.80	$41.10	$93.63	$49.16
QUITMAN	$89.33	$40.30	$140.68	$57.46
RANDOLPH	$61.26	$33.57	$76.13	$36.58
ROCKDALE	$113.57	$56.87	$135.46	$70.87
SCREVEN	$90.74	$48.80	$108.05	$53.29
SPALDING	$80.92	$42.54	$101.76	$57.37
STEWART	$95.97	$42.47	$119.02	$49.58
TALBOT	$69.55	$34.46	$52.10	$49.25
TATTNALL	$106.13	$54.50	$107.82	$61.36
TELFAIR	$88.33	$46.23	$91.33	$50.36
THOMAS	$74.69	$43.33	$76.11	$52.93
TOOMBS	$97.49	$56.02	$105.23	$65.33
TREUTLEN	$79.45	$47.47	$80.18	$54.35
TURNER	$73.44	$44.91	$77.25	$47.86
UNION	$89.56	$45.02	$102.64	$66.07
WALKER	$111.65	$45.29	$133.39	$64.27
WARE	$81.91	$51.53	$101.52	$63.05
WASHINGTON	$75.40	$37.29	$79.29	$39.82
WEBSTER	$98.26	$41.22	$109.86	$43.69
WHITE	$76.12	$40.26	$116.72	$63.61
WILCOX	$81.29	$39.58	$96.75	$46.01

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: GEORGIA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
WILKES	$78.25	$40.13	$90.59	$45.46
WORTH	$78.83	$43.13	$79.56	$42.73
STATE: HAWAII				
HAWAII	$76.91	$56.83	$88.64	$71.55
KALAWAO	$71.64	$70.83	$59.77	$44.94
MAUI	$92.20	$80.90	$97.04	$69.58
STATE: IDAHO				
ADA	$102.74	$50.47	$115.09	$66.89
BANNOCK	$116.49	$53.26	$126.28	$69.79
BENEWAH	$103.99	$46.74	$92.68	$51.27
BLAINE	$117.55	$51.38	$186.48	$76.18
BONNER	$110.08	$47.57	$110.24	$56.71
BOUNDARY	$106.62	$44.01	$139.37	$63.85
CAMAS	$92.20	$39.03	$102.46	$62.35
CARIBOU	$98.50	$45.15	$97.55	$53.08
CLARK	$126.18	$48.28	$115.16	$64.05
CUSTER	$114.06	$42.50	$110.64	$49.23
FRANKLIN	$80.79	$44.63	$93.09	$60.83
GEM	$84.38	$38.38	$85.79	$55.10
IDAHO	$85.04	$42.48	$79.43	$38.56
JEROME	$98.47	$49.38	$90.54	$57.58
LATAH	$74.87	$42.50	$77.53	$48.14
LEWIS	$88.14	$47.54	$62.30	$45.02
MADISON	$100.58	$45.33	$89.84	$49.84
NEZ PERCE	$110.21	$57.51	$138.00	$75.30
OWYHEE	$107.43	$49.40	$134.01	$46.06
POWER	$112.69	$48.12	$44.45	$38.16
TETON	$104.31	$44.17	$197.05	$58.71
VALLEY	$108.49	$44.98	$134.61	$63.27
STATE: ILLINOIS				
ADAMS	$124.12	$45.00	$128.75	$53.96
BOND	$114.42	$37.49	$166.81	$61.30
BROWN	$108.89	$34.64	$158.50	$55.23
CALHOUN	$160.62	$47.01	$143.94	$46.51
CASS	$139.87	$48.82	$166.99	$64.71
CHRISTIAN	$167.66	$64.26	$210.98	$88.55
CLAY	$90.49	$33.39	$80.08	$38.56
COLES	$94.50	$43.38	$113.92	$55.31
CRAWFORD	$112.98	$42.84	$139.61	$67.17
DE KALB	$117.61	$46.57	$157.16	$64.48
DOUGLAS	$122.87	$46.04	$115.15	$49.11
EDGAR	$82.97	$36.73	$100.54	$55.49
EFFINGHAM	$105.73	$39.00	$117.97	$47.09
FORD	$123.49	$48.95	$150.95	$63.96
FULTON	$152.80	$53.70	$191.05	$77.34
GREENE	$114.79	$39.47	$104.66	$44.00

STATE: GEORGIA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
WILKINSON	$92.64	$45.41	$114.34	$57.50
STATE: HAWAII				
HONOLULU	$122.06	$78.57	$127.82	$88.31
KAUAI	$107.50	$53.60	$126.52	$69.70
STATE: IDAHO				
ADAMS	$113.54	$43.86	$91.52	$62.71
BEAR LAKE	$86.72	$41.32	$240.62	$116.61
BINGHAM	$97.85	$41.61	$105.97	$58.88
BOISE	$94.68	$41.18	$50.95	$51.24
BONNEVILLE	$103.95	$49.69	$93.42	$54.59
BUTTE	$100.98	$38.51	$87.95	$51.49
CANYON	$114.78	$48.30	$106.71	$55.65
CASSIA	$91.72	$42.50	$116.68	$58.33
CLEARWATER	$99.33	$47.23	$110.92	$49.44
ELMORE	$115.29	$57.11	$73.76	$46.14
FREMONT	$102.97	$45.99	$145.81	$68.86
GOODING	$96.09	$47.89	$74.56	$42.19
JEFFERSON	$107.92	$46.94	$130.36	$63.32
KOOTENAI	$94.51	$52.56	$104.24	$66.86
LEMHI	$105.73	$43.72	$113.61	$63.26
LINCOLN	$107.51	$47.45	$117.51	$63.10
MINIDOKA	$106.74	$49.37	$134.89	$69.73
ONEIDA	$115.77	$45.54	$96.10	$67.75
PAYETTE	$90.92	$41.27	$91.60	$49.70
SHOSHONE	$108.20	$45.75	$147.12	$68.56
TWIN FALLS	$98.66	$49.88	$103.00	$55.26
WASHINGTON	$85.76	$37.13	$78.21	$44.47
STATE: ILLINOIS				
ALEXANDER	$117.75	$42.98	$101.16	$47.35
BOONE	$107.92	$46.98	$153.18	$70.43
BUREAU	$130.93	$44.59	$151.54	$58.58
CARROLL	$98.04	$39.90	$117.85	$51.22
CHAMPAIGN	$140.79	$55.95	$150.62	$73.04
CLARK	$75.79	$38.93	$107.47	$58.90
CLINTON	$137.84	$48.67	$129.00	$56.06
COOK	$216.19	$70.37	$244.42	$85.81
CUMBERLAND	$94.45	$35.12	$110.08	$50.09
DE WITT	$139.09	$49.30	$171.47	$65.99
DU PAGE	$168.04	$64.35	$232.43	$93.65
EDWARDS	$96.12	$35.17	$114.30	$44.17
FAYETTE	$96.92	$38.85	$104.95	$49.03
FRANKLIN	$122.24	$50.80	$103.51	$50.63
GALLATIN	$134.39	$47.04	$110.61	$52.74
GRUNDY	$136.46	$57.38	$188.82	$76.03

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: ILLINOIS COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
HAMILTON	$139.58	$40.63	$135.75	$50.70
HARDIN	$144.68	$45.97	$133.29	$49.81
HENRY	$110.18	$41.59	$146.83	$62.01
JACKSON	$108.26	$44.11	$97.37	$53.67
JEFFERSON	$143.30	$48.86	$138.19	$59.04
JO DAVIESS	$123.05	$44.99	$100.91	$42.99
KANE	$143.37	$58.50	$209.29	$90.45
KENDALL	$123.63	$50.07	$165.33	$77.56
LAKE	$163.16	$60.26	$173.86	$77.66
LAWRENCE	$109.26	$36.27	$120.94	$50.13
LIVINGSTON	$131.87	$48.90	$165.70	$63.45
MC DONOUGH	$121.71	$39.96	$116.95	$50.11
MC LEAN	$123.71	$49.37	$146.85	$67.33
MACOUPIN	$146.04	$47.61	$173.01	$63.99
MARION	$128.85	$48.91	$134.61	$62.31
MASON	$165.96	$54.34	$147.78	$62.51
MENARD	$150.96	$51.09	$133.05	$56.77
MONROE	$114.53	$40.02	$139.54	$59.06
MORGAN	$123.76	$43.65	$107.77	$48.48
OGLE	$99.18	$41.99	$118.19	$62.94
PERRY	$127.39	$46.65	$126.71	$50.13
PIKE	$122.19	$44.42	$105.51	$52.67
PULASKI	$104.55	$39.94	$86.16	$34.43
RANDOLPH	$116.86	$39.75	$133.79	$61.51
ROCK ISLAND	$142.38	$48.50	$178.02	$74.51
SALINE	$119.33	$43.78	$108.69	$50.83
SCHUYLER	$126.62	$33.05	$125.35	$45.30
SHELBY	$120.06	$40.55	$101.77	$43.31
STEPHENSON	$103.79	$43.44	$133.03	$61.35
UNION	$100.49	$40.14	$69.92	$41.97
WABASH	$114.61	$36.58	$112.70	$37.99
WASHINGTON	$111.95	$41.43	$147.14	$63.29
WHITE	$101.01	$43.60	$117.41	$52.74
WILL	$152.10	$61.07	$188.91	$86.39
WINNEBAGO	$108.92	$50.76	$140.68	$74.19
STATE: INDIANA				
ADAMS	$105.62	$39.20	$147.24	$57.82
BARTHOLOMEW	$124.21	$45.25	$138.80	$61.80
BLACKFORD	$127.08	$40.41	$160.15	$56.90
BROWN	$104.80	$39.16	$200.73	$70.96
CASS	$116.94	$45.35	$131.30	$50.06
CLAY	$93.90	$40.99	$105.48	$53.05
CRAWFORD	$97.22	$29.00	$69.68	$29.11
DEARBORN	$144.71	$44.42	$135.38	$48.79
DE KALB	$95.67	$39.69	$113.40	$51.36
DUBOIS	$124.06	$40.56	$139.57	$55.72
FAYETTE	$130.17	$46.49	$158.13	$58.81
FOUNTAIN	$111.94	$40.58	$126.10	$56.48

STATE: ILLINOIS COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
HANCOCK	$119.71	$42.66	$130.45	$45.15
HENDERSON	$130.41	$44.13	$186.61	$59.92
IROQUOIS	$134.24	$54.86	$165.64	$75.73
JASPER	$113.13	$38.78	$129.46	$44.94
JERSEY	$142.75	$47.06	$183.65	$60.68
JOHNSON	$116.06	$41.40	$98.14	$42.65
KANKAKEE	$162.92	$61.41	$178.48	$82.26
KNOX	$139.23	$49.91	$140.39	$69.66
LA SALLE	$140.20	$48.43	$160.29	$68.21
LEE	$116.89	$44.62	$108.16	$46.15
LOGAN	$122.92	$46.04	$123.99	$52.63
MC HENRY	$145.64	$53.19	$193.09	$78.79
MACON	$119.07	$45.69	$140.26	$66.32
MADISON	$172.79	$55.34	$237.24	$81.33
MARSHALL	$136.12	$50.70	$136.39	$55.36
MASSAC	$128.72	$42.20	$131.45	$51.30
MERCER	$136.79	$47.07	$159.43	$61.40
MONTGOMERY	$128.22	$43.33	$149.75	$60.84
MOULTRIE	$100.94	$36.40	$98.72	$51.19
PEORIA	$143.15	$55.58	$177.97	$76.59
PIATT	$126.14	$46.93	$102.97	$44.05
POPE	$128.24	$40.27	$90.61	$35.73
PUTNAM	$162.20	$56.72	$128.36	$68.22
RICHLAND	$109.55	$37.86	$106.26	$48.25
ST CLAIR	$135.60	$49.54	$168.09	$66.54
SANGAMON	$171.89	$59.19	$201.45	$80.63
SCOTT	$113.55	$44.38	$175.12	$57.88
STARK	$103.95	$44.42	$126.53	$54.76
TAZEWELL	$129.57	$53.18	$163.04	$73.28
VERMILION	$121.72	$48.17	$120.67	$53.22
WARREN	$118.63	$42.79	$128.18	$53.64
WAYNE	$103.55	$39.00	$119.46	$51.16
WHITESIDE	$97.10	$38.69	$116.70	$59.20
WILLIAMSON	$128.51	$57.04	$116.55	$53.34
WOODFORD	$115.62	$46.57	$146.27	$66.14
STATE: INDIANA				
ALLEN	$113.60	$49.92	$131.54	$61.82
BENTON	$143.67	$47.46	$186.56	$60.85
BOONE	$131.45	$46.61	$185.34	$81.03
CARROLL	$121.63	$46.83	$113.49	$52.12
CLARK	$138.63	$51.26	$160.75	$63.63
CLINTON	$99.93	$38.24	$120.23	$52.43
DAVIESS	$115.33	$37.75	$106.26	$42.62
DECATUR	$148.54	$45.23	$173.45	$66.10
DELAWARE	$134.82	$48.56	$152.95	$59.51
ELKHART	$90.19	$41.86	$128.64	$63.15
FLOYD	$121.14	$41.50	$140.89	$56.50
FRANKLIN	$107.53	$37.72	$100.03	$42.61

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: INDIANA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
FULTON	$120.91	$47.38	$108.50	$51.13
GRANT	$100.43	$45.76	$105.77	$59.26
HAMILTON	$151.79	$51.01	$167.71	$67.53
HARRISON	$104.47	$30.16	$123.52	$42.23
HENRY	$133.29	$50.76	$115.42	$51.72
HUNTINGTON	$104.04	$36.26	$117.53	$46.69
JASPER	$146.97	$49.86	$163.32	$64.57
JEFFERSON	$110.85	$41.62	$92.67	$54.82
JOHNSON	$126.64	$44.14	$180.57	$69.06
KOSCIUSKO	$100.54	$41.91	$140.95	$64.63
LAKE	$176.91	$56.64	$224.72	$78.77
LAWRENCE	$154.39	$48.53	$162.90	$60.22
MARION	$157.55	$57.46	$181.07	$75.27
MARTIN	$124.79	$40.66	$107.54	$41.49
MONROE	$109.56	$45.70	$134.34	$60.91
MORGAN	$140.80	$52.77	$147.23	$66.16
NOBLE	$108.54	$38.21	$116.33	$48.75
ORANGE	$122.30	$39.69	$129.11	$50.16
PARKE	$96.02	$42.46	$126.02	$61.89
PIKE	$140.59	$49.55	$145.30	$62.23
POSEY	$122.45	$46.19	$121.22	$52.45
PUTNAM	$129.46	$42.65	$121.91	$48.96
RIPLEY	$112.40	$37.99	$118.18	$48.07
ST JOSEPH	$106.93	$44.15	$142.27	$61.98
SHELBY	$137.36	$49.33	$150.61	$69.78
STARKE	$119.98	$45.93	$132.81	$51.47
SULLIVAN	$108.19	$45.21	$101.96	$45.22
TIPPECANOE	$126.85	$49.03	$152.40	$68.70
UNION	$92.73	$41.72	$133.40	$51.17
VERMILLION	$101.68	$45.98	$125.17	$68.89
WABASH	$92.79	$42.56	$118.32	$57.01
WARRICK	$130.80	$53.65	$178.70	$78.77
WAYNE	$92.83	$39.46	$101.78	$50.18
WHITE	$135.49	$46.79	$175.38	$75.24
STATE: IOWA				
ADAIR	$108.73	$36.35	$142.45	$58.21
ALLAMAKEE	$94.13	$40.61	$99.06	$48.77
AUDUBON	$94.70	$32.09	$126.51	$56.86
BLACK HAWK	$114.69	$45.96	$138.34	$62.32
BREMER	$91.77	$36.00	$116.72	$55.68
BUENA VISTA	$85.28	$37.85	$108.97	$45.52
CALHOUN	$101.13	$40.18	$106.14	$41.00
CASS	$119.98	$37.22	$152.57	$43.86
CERRO GORDO	$106.59	$42.80	$129.45	$62.38
CHICKASAW	$116.65	$51.39	$128.78	$77.65
CLAY	$85.78	$41.17	$116.84	$53.31
CLINTON	$136.09	$43.16	$173.52	$69.86
DALLAS	$140.10	$48.36	$120.71	$55.61

STATE: INDIANA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
GIBSON	$127.14	$49.93	$157.03	$56.08
GREENE	$108.44	$41.20	$120.64	$47.73
HANCOCK	$118.32	$47.54	$133.03	$60.71
HENDRICKS	$134.21	$47.54	$168.20	$74.07
HOWARD	$144.25	$55.99	$165.72	$72.62
JACKSON	$118.10	$36.65	$125.37	$50.91
JAY	$130.76	$40.83	$135.19	$52.41
JENNINGS	$121.66	$40.71	$86.11	$26.04
KNOX	$131.30	$43.82	$141.25	$54.60
LAGRANGE	$111.02	$44.66	$127.46	$54.00
LA PORTE	$121.05	$52.62	$156.83	$71.83
MADISON	$155.15	$52.29	$174.28	$66.81
MARSHALL	$92.24	$41.81	$100.53	$52.60
MIAMI	$125.15	$55.28	$130.81	$65.87
MONTGOMERY	$101.89	$43.95	$125.94	$61.60
NEWTON	$134.57	$46.14	$189.57	$62.58
OHIO	$115.33	$40.67	$133.18	$51.10
OWEN	$98.97	$35.57	$114.86	$54.45
PERRY	$110.93	$33.55	$105.71	$40.16
PORTER	$147.21	$62.72	$198.38	$91.56
PULASKI	$115.81	$40.17	$126.78	$50.37
RANDOLPH	$124.86	$42.46	$149.64	$55.86
RUSH	$126.97	$40.09	$143.47	$56.21
SCOTT	$130.60	$43.25	$121.02	$52.93
SPENCER	$119.51	$42.09	$127.61	$52.89
STEUBEN	$94.85	$42.70	$126.76	$58.65
SWITZERLAND	$124.55	$41.49	$128.84	$53.46
TIPTON	$189.93	$46.04	$194.89	$57.64
VANDERBURGH	$130.91	$51.61	$159.99	$69.88
VIGO	$98.92	$48.95	$139.00	$73.69
WARREN	$126.89	$43.11	$119.13	$50.96
WASHINGTON	$113.18	$31.46	$139.98	$47.45
WELLS	$119.34	$41.76	$118.49	$49.58
WHITLEY	$109.81	$40.48	$164.36	$65.48
STATE: IOWA				
ADAMS	$110.09	$42.92	$86.89	$48.81
APPANOOSE	$127.37	$34.94	$158.50	$49.91
BENTON	$97.69	$38.77	$121.71	$45.86
BOONE	$125.62	$44.55	$130.47	$52.42
BUCHANAN	$106.50	$40.07	$124.65	$62.08
BUTLER	$102.38	$40.43	$137.84	$52.40
CARROLL	$111.71	$37.43	$117.60	$43.87
CEDAR	$94.27	$34.70	$144.11	$45.09
CHEROKEE	$107.95	$38.24	$108.69	$50.65
CLARKE	$133.80	$38.78	$96.89	$37.65
CLAYTON	$102.50	$36.10	$107.52	$50.84
CRAWFORD	$119.98	$38.79	$133.25	$54.91
DAVIS	$124.37	$38.11	$128.96	$52.72

TABLE 2

STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: IOWA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
DECATUR	$115.35	$37.36	$100.51	$43.57
DES MOINES	$102.67	$38.79	$123.04	$46.22
DUBUQUE	$133.79	$45.71	$163.04	$64.78
FAYETTE	$111.99	$43.28	$127.91	$53.90
FRANKLIN	$103.28	$39.14	$113.58	$51.43
GREENE	$102.95	$37.36	$112.43	$53.25
GUTHRIE	$115.08	$38.03	$105.54	$43.77
HANCOCK	$90.03	$37.68	$96.23	$59.88
HARRISON	$145.07	$44.18	$162.51	$53.93
HOWARD	$92.84	$42.54	$83.72	$70.13
IDA	$101.88	$34.66	$105.02	$44.40
JACKSON	$142.84	$43.55	$134.34	$58.25
JEFFERSON	$95.09	$33.86	$97.53	$42.97
JONES	$110.13	$37.66	$133.84	$47.15
KOSSUTH	$99.03	$43.01	$100.75	$45.28
LINN	$112.94	$44.97	$177.67	$70.95
LUCAS	$152.73	$47.23	$179.60	$61.30
MADISON	$137.02	$45.03	$107.68	$46.55
MARION	$120.88	$40.69	$126.37	$47.66
MILLS	$142.33	$51.92	$90.84	$43.74
MONONA	$121.51	$40.83	$129.63	$55.28
MONTGOMERY	$132.06	$58.69	$161.68	$69.09
O BRIEN	$91.40	$36.38	$106.99	$44.42
PAGE	$109.38	$42.65	$151.19	$63.25
PLYMOUTH	$98.71	$37.80	$85.83	$43.62
POLK	$161.17	$57.97	$198.55	$79.18
POWESHIEK	$110.69	$42.03	$145.84	$57.91
SAC	$96.60	$38.75	$92.80	$42.87
SHELBY	$126.86	$39.42	$176.15	$66.43
STORY	$104.11	$44.64	$158.11	$67.89
TAYLOR	$107.27	$37.21	$119.91	$46.21
VAN BUREN	$108.21	$31.92	$98.64	$34.30
WARREN	$124.83	$45.67	$137.96	$61.01
WAYNE	$139.45	$39.16	$104.28	$40.41
WINNEBAGO	$88.84	$39.40	$89.76	$41.96
WOODBURY	$148.47	$45.66	$212.74	$62.89
WRIGHT	$90.75	$37.43	$148.83	$72.62
STATE: KANSAS				
ALLEN	$126.94	$45.49	$149.96	$60.31
ATCHISON	$124.32	$49.60	$124.48	$54.69
BARTON	$131.55	$54.17	$152.58	$66.15
BROWN	$142.86	$50.84	$149.96	$59.26
CHASE	$124.97	$42.43	$71.10	$50.61
CHEROKEE	$133.50	$46.13	$163.63	$63.70
CLARK	$134.05	$57.73	$179.29	$80.79
CLOUD	$103.75	$45.52	$139.59	$67.77
COMANCHE	$110.18	$42.80	$118.15	$48.06
CRAWFORD	$109.04	$48.24	$110.22	$54.55

STATE: IOWA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
DELAWARE	$107.49	$39.12	$116.40	$44.38
DICKINSON	$97.13	$45.33	$93.89	$52.50
EMMET	$98.78	$47.47	$100.68	$52.88
FLOYD	$86.12	$41.80	$115.70	$61.20
FREMONT	$141.45	$43.29	$174.02	$50.62
GRUNDY	$103.03	$41.59	$104.50	$49.09
HAMILTON	$117.58	$47.07	$144.84	$54.32
HARDIN	$111.30	$41.70	$99.89	$44.23
HENRY	$86.20	$35.28	$112.07	$41.19
HUMBOLDT	$108.87	$40.69	$149.33	$68.20
IOWA	$94.13	$33.55	$97.64	$36.49
JASPER	$126.94	$43.88	$157.52	$58.40
JOHNSON	$93.96	$35.57	$186.56	$64.06
KEOKUK	$103.14	$37.41	$135.37	$53.75
LEE	$119.74	$39.10	$154.54	$56.04
LOUISA	$93.80	$35.94	$74.45	$40.20
LYON	$98.38	$35.72	$63.11	$38.25
MAHASKA	$98.00	$33.74	$74.49	$35.74
MARSHALL	$86.22	$41.25	$123.13	$59.42
MITCHELL	$75.13	$40.28	$89.47	$61.24
MONROE	$135.09	$41.06	$184.78	$69.16
MUSCATINE	$101.86	$36.24	$121.02	$53.54
OSCEOLA	$80.75	$32.24	$71.77	$27.87
PALO ALTO	$115.64	$44.67	$85.13	$39.59
POCAHONTAS	$93.46	$38.63	$105.85	$48.97
POTTAWATTAMIE	$164.62	$56.09	$194.30	$77.41
RINGGOLD	$117.21	$36.82	$85.13	$28.02
SCOTT	$132.12	$46.34	$161.86	$60.03
SIOUX	$98.11	$37.56	$96.22	$45.47
TAMA	$102.49	$42.20	$129.94	$57.63
UNION	$115.91	$41.87	$124.80	$57.84
WAPELLO	$127.01	$43.26	$134.85	$57.25
WASHINGTON	$88.28	$30.65	$104.28	$41.68
WEBSTER	$106.68	$42.57	$136.44	$55.40
WINNESHIEK	$101.24	$42.18	$129.36	$49.98
WORTH	$96.13	$39.53	$103.84	$47.78
STATE: KANSAS				
ANDERSON	$112.98	$44.23	$137.96	$53.40
BARBER	$168.90	$58.89	$201.28	$76.49
BOURBON	$111.49	$47.65	$146.33	$64.54
BUTLER	$155.92	$62.84	$219.25	$99.53
CHAUTAUQUA	$145.23	$50.20	$191.55	$66.07
CHEYENNE	$102.26	$40.86	$59.86	$31.56
CLAY	$99.42	$38.52	$131.62	$44.92
COFFEY	$144.17	$44.05	$118.66	$44.87
COWLEY	$118.08	$60.12	$105.96	$56.80
DECATUR	$106.87	$51.59	$146.79	$72.45

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: KANSAS COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
DICKINSON	$116.75	$48.37	$118.96	$51.65
DOUGLAS	$108.62	$51.84	$150.77	$69.34
ELK	$115.17	$50.74	$137.19	$65.60
ELLSWORTH	$108.18	$42.34	$111.17	$45.09
FORD	$121.74	$55.11	$117.05	$55.10
GEARY	$126.76	$53.07	$107.90	$55.99
GRAHAM	$156.77	$69.92	$123.18	$64.18
GRAY	$108.27	$53.82	$203.93	$86.26
GREENWOOD	$151.77	$60.39	$176.64	$69.06
HARPER	$182.80	$72.27	$275.66	$116.50
HASKELL	$178.71	$68.66	$174.69	$71.05
JACKSON	$120.07	$48.82	$167.24	$77.23
JEWELL	$81.89	$36.70	$83.60	$57.75
KEARNY	$196.36	$65.42	$203.29	$109.70
KIOWA	$159.30	$52.57	$180.44	$65.49
LANE	$157.47	$60.76	$110.53	$51.35
LINCOLN	$92.64	$40.44	$144.78	$90.82
LOGAN	$147.34	$59.95	$238.51	$87.94
MC PHERSON	$105.39	$45.44	$134.22	$73.01
MARSHALL	$116.50	$44.14	$83.07	$41.57
MIAMI	$126.10	$52.07	$163.15	$83.24
MONTGOMERY	$118.29	$52.19	$132.64	$63.01
MORTON	$179.79	$61.90	$291.09	$97.69
NEOSHO	$127.87	$48.15	$164.37	$67.77
NORTON	$125.06	$49.91	$98.01	$46.00
OSBORNE	$116.75	$52.72	$136.78	$61.25
PAWNEE	$136.69	$51.07	$190.12	$75.63
POTTAWATOMIE	$125.43	$51.68	$113.15	$55.03
RAWLINS	$156.94	$58.05	$118.10	$66.20
REPUBLIC	$74.39	$34.29	$68.32	$40.36
RILEY	$124.20	$50.03	$157.04	$67.54
RUSH	$131.97	$61.42	$125.86	$66.66
SALINE	$93.15	$45.14	$123.41	$62.70
SEDGWICK	$165.96	$65.27	$201.19	$84.30
SHAWNEE	$142.08	$62.73	$127.67	$63.38
SHERMAN	$162.31	$59.15	$194.47	$81.29
STAFFORD	$163.85	$61.82	$265.81	$108.45
STEVENS	$112.77	$45.37	$152.44	$88.00
THOMAS	$165.94	$60.34	$187.76	$75.10
WABAUNSEE	$110.11	$44.45	$131.35	$58.18
WASHINGTON	$121.95	$43.68	$122.74	$48.03
WILSON	$134.41	$49.02	$147.66	$75.20
WYANDOTTE	$178.27	$59.55	$221.36	$81.17
STATE: KENTUCKY				
ADAIR	$113.88	$35.45	$109.11	$39.40
ANDERSON	$103.11	$31.23	$95.00	$44.48
BARREN	$81.48	$28.86	$97.89	$41.42
BELL	$108.34	$49.83	$82.79	$38.16
BOONE	$147.75	$45.76	$137.90	$51.33

TABLE 2

STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: KENTUCKY COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
BOURBON	$108.69	$36.63	$137.35	$60.82
BOYLE	$88.62	$35.04	$102.79	$41.80
BREATHITT	$76.81	$35.37	$57.14	$25.17
BULLITT	$126.35	$41.00	$134.12	$58.71
CALDWELL	$109.07	$38.22	$88.59	$41.54
CAMPBELL	$112.75	$39.89	$130.11	$47.75
CARROLL	$109.10	$34.26	$104.04	$38.41
CASEY	$85.93	$29.87	$70.92	$33.01
CLARK	$89.43	$34.20	$98.15	$42.39
CLINTON	$107.46	$38.94	$116.11	$48.79
CUMBERLAND	$92.30	$36.36	$118.21	$49.36
EDMONSON	$103.01	$38.72	$104.55	$41.47
ESTILL	$74.15	$30.27	$50.74	$22.63
FLEMING	$108.53	$36.06	$113.12	$44.30
FRANKLIN	$104.51	$33.57	$78.20	$35.07
GALLATIN	$136.24	$38.95	$90.22	$37.29
GRANT	$120.42	$40.15	$114.81	$44.90
GRAYSON	$107.87	$32.14	$108.59	$38.66
GREENUP	$127.57	$40.10	$121.90	$51.80
HARDIN	$97.53	$38.00	$82.31	$39.56
HARRISON	$97.58	$27.98	$142.67	$38.70
HENDERSON	$109.79	$41.12	$115.07	$50.39
HICKMAN	$117.91	$34.74	$109.02	$39.20
JACKSON	$84.79	$38.41	$61.02	$29.70
JESSAMINE	$79.81	$37.32	$89.24	$41.72
KENTON	$134.18	$45.72	$167.65	$59.30
KNOX	$95.95	$37.46	$84.53	$34.60
LAUREL	$82.71	$33.54	$79.74	$34.48
LEE	$78.53	$33.13	$59.99	$29.91
LETCHER	$105.91	$60.42	$81.21	$50.17
LINCOLN	$89.48	$32.30	$66.17	$32.46
LOGAN	$106.39	$40.11	$95.38	$43.95
MC CRACKEN	$129.51	$43.27	$143.44	$57.57
MC LEAN	$101.21	$40.42	$98.18	$44.21
MAGOFFIN	$97.00	$39.46	$56.44	$31.24
MARSHALL	$98.66	$35.90	$134.24	$51.73
MASON	$113.87	$32.04	$121.78	$45.46
MENIFEE	$69.78	$31.00	$36.30	$15.35
METCALFE	$85.14	$34.92	$85.24	$34.47
MONTGOMERY	$98.84	$34.10	$100.71	$43.59
MUHLENBERG	$105.38	$33.17	$88.84	$40.65
NICHOLAS	$91.43	$31.27	$139.66	$49.13
OLDHAM	$97.61	$35.07	$92.46	$41.23
OWSLEY	$65.96	$27.59	$58.29	$22.32
PERRY	$118.23	$55.97	$77.02	$37.97
POWELL	$87.27	$35.26	$67.30	$33.82
ROBERTSON	$102.26	$28.83	$146.46	$30.78
ROWAN	$74.04	$33.96	$66.59	$40.30
SCOTT	$86.45	$31.30	$71.10	$32.00

STATE: KENTUCKY COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
BOYD	$107.66	$37.25	$104.65	$44.92
BRACKEN	$107.60	$31.39	$106.29	$39.13
BRECKINRIDGE	$88.92	$27.74	$115.61	$41.54
BUTLER	$108.10	$43.33	$99.40	$44.62
CALLOWAY	$116.71	$42.08	$141.89	$61.83
CARLISLE	$124.82	$42.60	$124.68	$53.18
CARTER	$78.76	$33.01	$57.52	$25.58
CHRISTIAN	$102.15	$40.73	$85.09	$58.82
CLAY	$95.00	$35.38	$53.14	$26.25
CRITTENDEN	$131.06	$34.05	$134.11	$35.80
DAVIESS	$118.22	$44.81	$134.82	$58.44
ELLIOTT	$69.37	$33.45	$58.01	$28.25
FAYETTE	$87.83	$40.78	$96.33	$48.38
FLOYD	$123.31	$58.61	$84.13	$57.20
FULTON	$89.59	$33.06	$101.88	$36.70
GARRARD	$95.93	$33.76	$64.07	$27.13
GRAVES	$114.53	$40.75	$110.91	$51.84
GREEN	$88.01	$27.07	$106.59	$43.49
HANCOCK	$110.75	$36.32	$94.66	$38.68
HARLAN	$95.55	$52.96	$76.97	$42.39
HART	$93.52	$30.76	$94.57	$38.47
HENRY	$98.39	$32.57	$92.88	$35.57
HOPKINS	$130.68	$54.48	$138.64	$63.69
JEFFERSON	$131.41	$47.91	$151.90	$63.39
JOHNSON	$98.69	$45.76	$66.00	$45.29
KNOTT	$82.25	$47.76	$61.84	$46.01
LARUE	$96.51	$34.42	$98.55	$43.10
LAWRENCE	$112.88	$40.18	$76.61	$41.09
LESLIE	$91.40	$41.68	$66.32	$30.68
LEWIS	$95.01	$33.56	$87.11	$39.42
LIVINGSTON	$119.83	$33.77	$145.20	$54.24
LYON	$115.03	$40.90	$112.32	$43.12
MC CREARY	$89.45	$44.52	$85.98	$43.61
MADISON	$96.17	$34.12	$71.11	$32.34
MARION	$95.39	$32.41	$98.58	$36.92
MARTIN	$104.89	$48.25	$62.71	$44.02
MEADE	$119.40	$40.48	$155.82	$52.05
MERCER	$105.55	$35.45	$100.99	$43.52
MONROE	$92.31	$30.50	$123.40	$42.18
MORGAN	$81.20	$29.10	$75.56	$35.12
NELSON	$89.11	$35.32	$88.41	$35.02
OHIO	$109.29	$36.08	$122.85	$48.29
OWEN	$105.21	$30.59	$110.65	$45.84
PENDLETON	$102.33	$31.54	$83.00	$34.94
PIKE	$104.68	$53.74	$68.75	$43.35
PULASKI	$77.00	$31.94	$69.88	$34.17
ROCKCASTLE	$110.29	$33.79	$74.60	$30.98
RUSSELL	$97.82	$31.38	$85.35	$38.29
SHELBY	$92.84	$32.23	$95.00	$42.78

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: KENTUCKY COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
SIMPSON	$106.17	$39.58	$96.48	$39.22
TAYLOR	$97.14	$30.95	$98.10	$38.02
TRIGG	$101.66	$37.48	$127.98	$50.96
UNION	$116.78	$41.00	$143.87	$59.57
WASHINGTON	$88.26	$29.19	$79.41	$28.54
WEBSTER	$124.55	$46.09	$112.38	$65.76
WOLFE	$75.64	$28.92	$65.95	$23.89
STATE: LOUISIANA				
ACADIA	$92.97	$37.74	$69.16	$31.48
ASCENSION	$119.82	$49.83	$105.16	$47.99
AVOYELLES	$79.15	$33.34	$64.89	$30.62
BIENVILLE	$78.46	$33.02	$72.30	$35.68
CADDO	$96.84	$41.28	$89.90	$40.07
CALDWELL	$151.98	$44.03	$139.26	$49.24
CATAHOULA	$100.52	$34.73	$85.49	$29.45
CONCORDIA	$82.70	$30.64	$94.99	$39.22
EAST BATON ROUGE	$116.28	$52.92	$102.95	$48.43
EAST FELICIANA	$99.10	$35.58	$86.97	$32.58
FRANKLIN	$72.15	$31.63	$100.19	$39.91
IBERIA	$97.45	$37.84	$79.94	$34.00
JACKSON	$91.76	$38.14	$84.73	$47.34
JEFFERSON DAVIS	$87.93	$37.20	$75.98	$35.53
LAFOURCHE	$108.82	$41.20	$97.97	$41.27
LINCOLN	$80.70	$36.51	$78.34	$38.84
MADISON	$56.55	$30.20	$60.34	$30.34
NATCHITOCHES	$75.75	$35.97	$85.26	$43.09
OUACHITA	$93.65	$41.24	$98.24	$47.20
POINTE COUPEE	$94.21	$40.72	$68.01	$36.95
RED RIVER	$66.99	$35.60	$89.78	$41.48
SABINE	$93.53	$37.53	$77.70	$35.77
ST CHARLES	$148.13	$50.08	$139.64	$54.22
ST JAMES	$91.72	$34.49	$88.14	$34.86
ST LANDRY	$97.78	$39.27	$87.31	$37.04
ST MARY	$124.75	$42.68	$115.81	$50.35
TANGIPAHOA	$107.95	$43.47	$96.98	$40.84
TERREBONNE	$90.33	$40.59	$100.20	$51.02
VERMILION	$117.12	$41.12	$96.08	$40.75
WASHINGTON	$133.34	$44.60	$125.12	$48.12
WEST BATON ROUGE	$101.98	$44.91	$86.51	$35.31
WEST FELICIANA	$83.26	$35.83	$90.51	$35.54
STATE: MAINE				
ANDROSCOGGIN	$115.56	$52.10	$125.47	$71.81
CUMBERLAND	$135.53	$54.85	$141.05	$68.30
HANCOCK	$131.73	$48.84	$146.41	$66.16
KNOX	$100.49	$46.04	$91.49	$46.73
OXFORD	$126.97	$51.13	$132.11	$61.29
PISCATAQUIS	$113.55	$42.85	$107.49	$51.43

STATE: KENTUCKY COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
SPENCER	$93.45	$40.86	$90.98	$40.34
TODD	$79.17	$32.84	$90.54	$40.18
TRIMBLE	$92.69	$31.56	$82.07	$35.95
WARREN	$117.91	$42.44	$129.98	$63.06
WAYNE	$81.39	$36.08	$76.91	$40.43
WHITLEY	$91.99	$39.22	$82.33	$37.66
WOODFORD	$102.55	$31.48	$113.33	$42.95
STATE: LOUISIANA				
ALLEN	$107.64	$40.21	$85.62	$38.31
ASSUMPTION	$91.06	$40.71	$70.89	$36.58
BEAUREGARD	$110.98	$41.78	$104.97	$44.79
BOSSIER	$100.96	$37.68	$114.26	$47.49
CALCASIEU	$115.61	$49.31	$113.43	$55.89
CAMERON	$139.76	$56.49	$129.52	$53.28
CLAIBORNE	$65.41	$27.11	$90.82	$34.82
DE SOTO	$79.95	$33.12	$70.66	$31.52
EAST CARROLL	$46.49	$24.34	$54.09	$26.40
EVANGELINE	$116.12	$36.86	$117.03	$40.74
GRANT	$94.32	$38.38	$62.84	$31.76
IBERVILLE	$111.78	$43.55	$83.17	$37.43
JEFFERSON	$162.25	$59.80	$152.33	$68.15
LAFAYETTE	$107.95	$41.70	$95.23	$44.83
LA SALLE	$146.73	$48.37	$157.41	$63.98
LIVINGSTON	$129.26	$53.71	$121.39	$55.48
MOREHOUSE	$68.42	$27.84	$74.97	$33.08
ORLEANS	$148.27	$49.95	$131.04	$48.26
PLAQUEMINES	$168.48	$60.41	$125.55	$51.66
RAPIDES	$97.38	$38.85	$77.71	$42.18
RICHLAND	$61.05	$26.87	$77.38	$34.15
ST BERNARD	$199.75	$61.11	$176.34	$72.63
ST HELENA	$101.56	$39.33	$67.63	$29.96
ST JOHN BAPTIST	$107.70	$37.68	$109.05	$45.87
ST MARTIN	$84.89	$34.95	$64.76	$31.49
ST TAMMANY	$148.13	$55.88	$134.47	$58.26
TENSAS	$59.76	$27.48	$92.74	$37.30
UNION	$83.42	$31.42	$54.71	$26.69
VERNON	$139.60	$41.87	$118.89	$38.71
WEBSTER	$104.56	$34.31	$100.28	$37.61
WEST CARROLL	$70.21	$27.94	$70.54	$37.33
WINN	$136.33	$42.81	$127.58	$45.45
STATE: MAINE				
AROOSTOOK	$129.23	$48.26	$131.46	$60.11
FRANKLIN	$109.58	$46.31	$122.37	$59.73
KENNEBEC	$116.81	$47.21	$120.81	$57.38
LINCOLN	$108.06	$42.87	$146.59	$65.35
PENOBSCOT	$126.47	$48.94	$138.14	$71.51
SAGADAHOC	$106.55	$48.32	$117.83	$58.86

TABLE 2

STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: MAINE COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
SOMERSET	$131.24	$47.29	$138.34	$57.49
WASHINGTON	$118.22	$41.13	$136.96	$59.66
STATE: MARYLAND				
ALLEGANY	$153.66	$52.86	$167.70	$62.64
BALTIMORE	$168.99	$68.56	$206.10	$94.47
CALVERT	$172.80	$77.62	$181.07	$98.55
CARROLL	$120.11	$54.33	$142.56	$77.07
CHARLES	$188.07	$88.00	$194.82	$114.37
FREDERICK	$97.05	$45.79	$139.99	$68.40
HARFORD	$186.40	$73.82	$180.17	$81.89
KENT	$135.51	$54.59	$164.47	$72.69
PRINCE GEORGES	$208.53	$105.53	$252.10	$136.40
ST MARYS	$140.71	$62.54	$140.28	$71.08
TALBOT	$108.64	$47.70	$127.54	$56.54
WICOMICO	$104.77	$52.18	$132.15	$69.37
STATE: MASSACHUSETTS				
BARNSTABLE	$121.71	$59.43	$146.02	$79.00
BRISTOL	$113.98	$56.76	$124.06	$70.83
ESSEX	$155.34	$72.69	$171.83	$91.97
HAMPDEN	$128.83	$63.94	$137.88	$80.61
MIDDLESEX	$176.94	$78.39	$181.80	$94.84
NORFOLK	$176.42	$80.42	$177.53	$91.87
SUFFOLK	$195.33	$89.02	$180.76	$107.48
STATE: MICHIGAN				
ALCONA	$114.67	$53.54	$143.54	$74.60
ALLEGAN	$122.25	$51.34	$143.30	$74.14
ANTRIM	$118.94	$54.93	$152.36	$77.12
BARAGA	$108.22	$42.22	$134.79	$60.95
BAY	$150.38	$65.19	$172.89	$91.12
BERRIEN	$112.97	$50.55	$131.99	$67.66
CALHOUN	$155.56	$61.73	$152.29	$77.69
CHARLEVOIX	$126.84	$56.77	$140.86	$74.65
CHIPPEWA	$127.52	$50.56	$99.97	$48.38
CLINTON	$139.09	$57.33	$162.74	$79.26
DELTA	$105.79	$47.37	$90.16	$51.01
EATON	$148.76	$57.14	$181.00	$90.50
GENESEE	$192.05	$95.96	$194.23	$111.20
GOGEBIC	$95.33	$38.23	$93.26	$48.61
GRATIOT	$110.23	$50.21	$120.15	$69.31
HOUGHTON	$104.10	$41.94	$85.43	$48.19
INGHAM	$146.82	$61.69	$163.31	$85.33
IOSCO	$128.68	$62.48	$137.36	$79.50
ISABELLA	$128.66	$61.81	$115.78	$75.50
KALAMAZOO	$146.38	$61.68	$180.09	$94.60
KENT	$107.89	$49.73	$125.78	$69.57
LAKE	$103.18	$52.41	$111.78	$66.00
WALDO	$120.70	$44.66	$121.69	$52.09
YORK	$123.69	$52.42	$134.70	$66.48
STATE: MARYLAND				
ANNE ARUNDEL	$159.71	$74.01	$193.41	$100.83
BALTIMORE CITY	$193.07	$71.47	$207.88	$87.78
CAROLINE	$102.10	$44.93	$104.12	$51.70
CECIL	$146.81	$57.22	$167.88	$72.85
DORCHESTER	$125.91	$57.47	$161.73	$77.52
GARRETT	$114.33	$40.04	$114.52	$48.11
HOWARD	$174.24	$73.54	$178.42	$89.37
MONTGOMERY	$136.21	$90.95	$175.79	$116.05
QUEEN ANNES	$123.68	$51.05	$124.22	$59.11
SOMERSET	$113.92	$48.04	$115.46	$54.21
WASHINGTON	$97.14	$43.07	$122.96	$60.96
WORCESTER	$100.54	$48.60	$113.13	$63.27
STATE: MASSACHUSETTS				
BERKSHIRE	$151.40	$60.63	$154.54	$75.39
DUKES	$209.09	$82.57	$267.33	$96.96
FRANKLIN	$126.53	$53.84	$144.11	$66.44
HAMPSHIRE	$121.75	$55.28	$125.01	$64.60
NANTUCKET	$159.30	$59.75	$102.95	$47.37
PLYMOUTH	$142.67	$66.85	$140.29	$77.33
WORCESTER	$167.04	$70.04	$169.99	$87.33
STATE: MICHIGAN				
ALGER	$106.80	$41.21	$86.57	$46.02
ALPENA	$125.85	$51.12	$158.12	$66.97
ARENAC	$148.31	$68.88	$134.44	$70.11
BARRY	$130.84	$56.46	$133.35	$69.41
BENZIE	$130.45	$54.31	$148.84	$77.50
BRANCH	$111.80	$46.57	$108.28	$70.30
CASS	$133.41	$53.14	$153.45	$68.43
CHEBOYGAN	$141.88	$62.47	$139.08	$75.44
CLARE	$136.17	$65.63	$123.39	$75.04
CRAWFORD	$141.61	$56.34	$144.04	$88.41
DICKINSON	$102.71	$41.41	$90.17	$44.88
EMMET	$130.32	$56.86	$160.90	$72.85
GLADWIN	$166.81	$80.90	$154.97	$100.26
GRAND TRAVERSE	$120.60	$56.02	$138.80	$87.90
HILLSDALE	$124.38	$52.52	$114.82	$55.36
HURON	$143.42	$58.40	$140.75	$72.04
IONIA	$139.92	$56.39	$158.54	$69.82
IRON	$125.40	$51.49	$106.11	$53.99
JACKSON	$124.59	$59.17	$155.94	$78.20
KALKASKA	$146.13	$57.08	$139.04	$80.23
KEWEENAW	$98.58	$43.79	$73.75	$50.70
LAPEER	$172.92	$77.41	$124.98	$93.97

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: MICHIGAN COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
LEELANAU	$127.72	$50.74	$182.77	$79.06
LIVINGSTON	$151.37	$75.13	$163.85	$84.19
MACKINAC	$126.43	$54.77	$99.19	$53.51
MANISTEE	$143.62	$47.63	$149.81	$65.91
MASON	$105.15	$49.37	$106.86	$63.05
MENOMINEE	$94.80	$34.78	$83.22	$41.97
MISSAUKEE	$138.60	$49.18	$142.13	$64.25
MONTCALM	$129.07	$54.72	$153.15	$73.18
MUSKEGON	$142.28	$67.78	$141.37	$84.42
OAKLAND	$183.86	$106.87	$203.53	$131.46
OGEMAW	$133.01	$65.51	$153.41	$93.85
OSCEOLA	$125.60	$48.90	$103.79	$56.64
OTSEGO	$122.50	$60.90	$105.05	$67.55
PRESQUE ISLE	$144.51	$56.29	$136.20	$61.64
SAGINAW	$154.22	$62.58	$174.27	$81.66
ST JOSEPH	$129.00	$50.58	$154.27	$72.11
SCHOOLCRAFT	$111.99	$51.28	$82.13	$58.07
TUSCOLA	$140.01	$58.71	$155.79	$84.03
WASHTENAW	$177.93	$74.26	$207.01	$117.02
WEXFORD	$134.47	$46.93	$151.95	$62.97
STATE: MINNESOTA				
AITKIN	$101.26	$38.74	$81.81	$39.35
BECKER	$108.73	$41.60	$117.97	$53.60
BENTON	$92.43	$38.49	$98.73	$54.16
BLUE EARTH	$76.31	$43.59	$66.13	$51.76
CARLTON	$106.59	$38.02	$110.76	$45.77
CASS	$95.11	$39.46	$111.14	$45.97
CHISAGO	$113.11	$40.30	$151.92	$67.10
CLEARWATER	$94.61	$34.53	$96.65	$42.40
COTTONWOOD	$107.32	$42.35	$120.61	$47.61
DAKOTA	$138.35	$54.18	$168.27	$71.78
DOUGLAS	$89.05	$37.75	$111.42	$46.02
FILLMORE	$77.98	$55.69	$109.46	$97.33
GOODHUE	$81.14	$55.15	$100.49	$68.61
HENNEPIN	$149.36	$60.80	$194.89	$85.78
HUBBARD	$114.78	$43.65	$106.25	$49.13
ITASCA	$106.38	$39.92	$130.81	$53.00
KANABEC	$114.02	$41.30	$123.85	$56.34
KITTSON	$119.94	$46.90	$109.85	$49.45
LAC QUI PARLE	$93.31	$36.72	$105.09	$48.45
LAKE OF WOODS	$91.69	$29.99	$210.23	$42.21
LINCOLN	$101.33	$37.53	$100.14	$38.73
MC LEOD	$107.65	$39.61	$92.66	$50.24
MARSHALL	$131.80	$48.31	$121.63	$47.87
MEEKER	$104.08	$36.86	$122.72	$42.71
MORRISON	$96.51	$38.65	$117.04	$53.23
MURRAY	$97.95	$34.57	$90.66	$40.67
NOBLES	$89.26	$39.22	$91.10	$49.26

STATE: MICHIGAN COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
LENAWEE	$139.71	$53.80	$166.40	$73.42
LUCE	$118.96	$51.25	$117.53	$72.36
MACOMB	$186.65	$105.01	$198.96	$128.83
MARQUETTE	$134.91	$59.67	$125.76	$76.53
MECOSTA	$124.47	$60.97	$114.37	$73.17
MIDLAND	$125.54	$57.65	$173.82	$86.24
MONROE	$163.20	$76.84	$182.06	$95.30
MONTMORENCY	$124.53	$65.23	$130.07	$74.58
NEWAYGO	$117.20	$55.76	$130.28	$75.08
OCEANA	$129.52	$56.95	$108.14	$66.09
ONTONAGON	$145.77	$51.17	$157.26	$67.78
OSCODA	$121.93	$55.93	$122.82	$89.78
OTTAWA	$100.48	$48.36	$133.36	$76.98
ROSCOMMON	$140.61	$63.59	$147.20	$82.79
ST CLAIR	$133.36	$66.87	$165.14	$88.07
SANILAC	$160.12	$61.39	$154.77	$70.98
SHIAWASSEE	$141.72	$61.64	$170.08	$80.18
VAN BUREN	$136.76	$56.59	$148.22	$71.20
WAYNE	$203.56	$100.29	$229.17	$122.15
STATE: MINNESOTA				
ANOKA	$138.12	$58.61	$178.58	$79.71
BELTRAMI	$92.13	$37.32	$101.66	$53.47
BIG STONE	$118.80	$38.23	$126.44	$48.92
BROWN	$88.43	$35.73	$122.45	$64.94
CARVER	$117.68	$47.68	$122.68	$63.33
CHIPPEWA	$75.65	$32.83	$74.76	$29.46
CLAY	$125.26	$45.90	$171.41	$66.53
COOK	$137.16	$54.29	$106.27	$55.14
CROW WING	$115.09	$46.24	$103.85	$55.37
DODGE	$74.48	$72.56	$57.98	$65.82
FARIBAULT	$83.08	$48.04	$84.76	$48.43
FREEBORN	$71.78	$42.78	$89.49	$68.29
GRANT	$112.97	$43.33	$88.18	$46.82
HOUSTON	$80.06	$44.73	$109.84	$61.37
ISANTI	$118.76	$41.17	$124.40	$51.60
JACKSON	$115.11	$46.09	$85.17	$41.46
KANDIYOHI	$75.72	$35.65	$86.27	$43.43
KOOCHICHING	$133.47	$49.22	$128.22	$52.39
LAKE	$89.05	$39.42	$133.08	$69.93
LE SUEUR	$93.96	$44.71	$95.63	$53.51
LYON	$98.25	$38.54	$115.22	$48.14
MAHNOMEN	$100.55	$35.52	$109.35	$41.67
MARTIN	$82.51	$46.05	$93.17	$47.46
MILLE LACS	$121.98	$43.78	$131.39	$62.90
MOWER	$88.69	$57.80	$106.73	$81.52
NICOLLET	$80.49	$41.11	$107.12	$59.01
NORMAN	$91.66	$37.56	$88.59	$39.47

TABLE 2

STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: MINNESOTA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
OLMSTED	$79.07	$96.78	$114.03	$138.76
PENNINGTON	$105.93	$48.62	$116.42	$45.95
PIPESTONE	$89.11	$37.57	$70.47	$53.83
POPE	$92.33	$37.92	$83.92	$48.05
RED LAKE	$137.62	$49.82	$142.54	$60.83
RENVILLE	$92.00	$34.04	$130.48	$51.68
ROCK	$85.49	$35.96	$63.91	$43.11
ST LOUIS	$116.94	$45.63	$130.73	$54.03
SHERBURNE	$103.14	$43.46	$140.82	$73.99
STEARNS	$108.80	$44.38	$100.52	$50.84
STEVENS	$112.79	$46.73	$104.83	$45.85
TODD	$106.36	$39.84	$115.84	$43.74
WABASHA	$89.05	$65.33	$100.74	$85.31
WASECA	$77.26	$47.34	$81.61	$61.97
WATONWAN	$82.02	$39.22	$110.45	$59.82
WINONA	$90.93	$55.97	$95.32	$64.26
YELLOW MEDICINE	$101.93	$35.30	$106.77	$48.81
STATE: MISSISSIPPI				
ADAMS	$98.02	$39.83	$98.09	$36.85
AMITE	$91.65	$36.47	$88.40	$38.64
BENTON	$89.64	$41.82	$86.48	$51.00
CALHOUN	$103.48	$41.54	$94.75	$38.85
CHICKASAW	$93.83	$40.40	$103.62	$44.98
CLAIBORNE	$78.61	$38.10	$46.59	$25.73
CLAY	$66.11	$28.84	$77.89	$36.27
COPIAH	$86.97	$39.10	$74.56	$37.00
DESOTO	$127.09	$48.85	$146.96	$64.38
FRANKLIN	$91.23	$38.42	$86.59	$42.07
GREENE	$122.71	$53.46	$102.97	$50.88
HANCOCK	$133.73	$53.68	$134.69	$62.04
HINDS	$93.89	$45.67	$96.10	$53.09
HUMPHREYS	$94.12	$42.99	$76.01	$35.66
ITAWAMBA	$82.06	$37.78	$89.51	$48.73
JASPER	$83.73	$45.94	$67.23	$41.30
JEFFERSON DAVIS	$94.15	$43.67	$81.68	$49.33
KEMPER	$86.23	$34.32	$68.07	$29.59
LAMAR	$118.41	$52.06	$106.62	$51.06
LAWRENCE	$135.44	$54.80	$111.86	$53.13
LEE	$99.36	$46.83	$98.73	$52.09
LINCOLN	$88.74	$41.79	$80.23	$41.81
MADISON	$76.52	$37.21	$72.62	$43.14
MARSHALL	$94.79	$41.38	$111.61	$48.00
MONTGOMERY	$92.07	$42.56	$80.05	$40.46
NEWTON	$100.94	$43.19	$108.16	$50.92
OKTIBBEHA	$69.20	$34.34	$65.09	$38.65
PEARL RIVER	$141.12	$52.72	$119.31	$51.31
PIKE	$90.16	$41.96	$82.04	$38.10
PRENTISS	$110.94	$39.55	$121.96	$43.56

STATE: MINNESOTA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
OTTER TAIL	$105.82	$42.20	$88.71	$42.11
PINE	$108.79	$37.19	$127.21	$52.08
POLK	$113.22	$44.25	$125.01	$51.24
RAMSEY	$157.90	$59.68	$210.76	$87.03
REDWOOD	$89.07	$35.91	$72.04	$35.86
RICE	$99.82	$48.08	$100.44	$57.44
ROSEAU	$114.97	$43.25	$109.69	$46.49
SCOTT	$115.19	$45.57	$127.60	$59.11
SIBLEY	$102.38	$37.18	$110.03	$47.98
STEELE	$79.68	$52.25	$106.40	$67.38
SWIFT	$93.45	$34.74	$129.53	$42.42
TRAVERSE	$109.92	$43.18	$81.14	$37.65
WADENA	$100.31	$36.18	$133.61	$57.84
WASHINGTON	$125.03	$49.70	$190.44	$83.06
WILKIN	$113.30	$38.39	$84.30	$45.33
WRIGHT	$109.63	$43.29	$134.52	$63.56
STATE: MISSISSIPPI				
ALCORN	$113.91	$47.08	$116.17	$54.05
ATTALA	$79.71	$31.76	$72.72	$37.11
BOLIVAR	$80.82	$37.04	$89.16	$40.80
CARROLL	$85.71	$42.50	$80.67	$42.62
CHOCTAW	$76.59	$36.81	$59.32	$34.24
CLARKE	$117.56	$44.93	$125.08	$57.18
COAHOMA	$88.69	$38.64	$80.54	$39.92
COVINGTON	$139.84	$49.54	$101.29	$44.50
FORREST	$123.11	$53.63	$119.10	$57.66
GEORGE	$148.63	$52.69	$131.78	$53.73
GRENADA	$111.65	$42.82	$141.06	$54.61
HARRISON	$144.65	$55.58	$135.36	$59.58
HOLMES	$87.18	$35.96	$73.16	$37.52
ISSAQUENA	$72.36	$31.85	$125.08	$45.99
JACKSON	$157.33	$55.59	$145.18	$61.00
JEFFERSON	$110.98	$45.60	$82.93	$38.86
JONES	$101.23	$45.07	$87.88	$46.06
LAFAYETTE	$90.39	$37.16	$94.44	$40.30
LAUDERDALE	$114.57	$47.77	$122.72	$58.92
LEAKE	$78.07	$34.68	$82.88	$43.74
LEFLORE	$91.03	$47.15	$88.47	$42.81
LOWNDES	$89.66	$36.55	$95.00	$38.82
MARION	$120.10	$47.30	$109.02	$50.36
MONROE	$78.96	$38.04	$73.99	$40.68
NESHOBA	$88.38	$43.02	$110.60	$54.11
NOXUBEE	$90.54	$36.54	$78.57	$33.80
PANOLA	$99.30	$40.39	$97.89	$40.86
PERRY	$133.67	$53.39	$90.06	$46.54
PONTOTOC	$95.36	$41.58	$83.60	$45.14
QUITMAN	$95.66	$38.09	$97.62	$40.49

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: MISSISSIPPI COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
RANKIN	$75.33	$41.19	$87.19	$50.99
SHARKEY	$77.75	$39.04	$57.42	$27.47
SMITH	$98.42	$48.48	$94.94	$46.79
SUNFLOWER	$88.74	$40.56	$77.07	$37.00
TATE	$119.81	$46.58	$133.08	$60.78
TISHOMINGO	$103.17	$42.43	$113.83	$53.81
UNION	$82.73	$35.70	$84.19	$44.98
WARREN	$81.68	$41.81	$88.71	$47.46
WAYNE	$113.59	$44.64	$88.43	$43.31
WILKINSON	$77.36	$35.34	$64.75	$28.42
YALOBUSHA	$83.58	$36.76	$84.79	$44.53
STATE: MISSOURI				
ADAIR	$158.38	$50.12	$188.18	$60.96
ATCHISON	$130.66	$40.49	$115.53	$35.27
BARRY	$101.14	$37.78	$107.03	$50.83
BATES	$138.26	$49.46	$129.35	$50.17
BOLLINGER	$100.86	$37.73	$104.38	$49.34
BUCHANAN	$133.63	$44.23	$144.82	$57.08
CALDWELL	$104.74	$33.14	$148.92	$57.28
CAMDEN	$139.01	$48.91	$117.14	$60.86
CARROLL	$133.68	$44.17	$125.78	$57.00
CASS	$146.06	$51.76	$158.71	$69.27
CHARITON	$124.49	$44.45	$97.17	$40.89
CLARK	$143.41	$46.07	$113.27	$42.04
CLINTON	$133.38	$41.35	$149.46	$51.79
COOPER	$143.95	$46.18	$128.40	$54.41
DADE	$103.13	$35.91	$135.03	$50.87
DAVIESS	$99.98	$32.43	$93.74	$41.90
DENT	$128.07	$40.54	$109.64	$48.18
DUNKLIN	$106.69	$43.03	$112.90	$52.10
GASCONADE	$118.34	$35.97	$127.48	$43.59
GREENE	$108.03	$45.74	$130.12	$62.77
HARRISON	$129.21	$38.18	$93.62	$43.08
HICKORY	$117.85	$43.93	$96.34	$40.87
HOWARD	$131.23	$43.96	$137.53	$43.86
IRON	$124.39	$37.66	$120.30	$38.17
JASPER	$118.92	$43.25	$123.88	$55.05
JOHNSON	$135.80	$44.64	$136.94	$65.05
LACLEDE	$87.13	$34.12	$89.43	$42.31
LAWRENCE	$106.64	$37.68	$136.87	$60.93
LINCOLN	$148.81	$45.49	$202.67	$60.67
LIVINGSTON	$99.64	$30.41	$107.12	$43.43
MACON	$126.80	$43.63	$154.59	$60.54
MARIES	$138.30	$40.45	$150.06	$43.02
MERCER	$103.91	$32.26	$123.51	$37.98
MISSISSIPPI	$89.80	$38.95	$79.55	$37.73
MONROE	$115.75	$38.75	$157.71	$53.00
MORGAN	$92.31	$35.58	$123.98	$51.97

STATE: MISSISSIPPI COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
SCOTT	$73.85	$36.93	$83.41	$44.91
SIMPSON	$112.86	$42.82	$95.14	$41.42
STONE	$128.78	$48.12	$88.45	$47.02
TALLAHATCHIE	$79.45	$40.45	$67.29	$45.22
TIPPAH	$106.94	$44.18	$99.68	$52.54
TUNICA	$81.06	$37.56	$73.60	$34.35
WALTHALL	$93.16	$40.92	$91.82	$39.69
WASHINGTON	$88.65	$37.24	$89.64	$42.54
WEBSTER	$91.02	$40.02	$101.66	$50.72
WINSTON	$64.29	$31.59	$61.88	$33.97
YAZOO	$83.93	$36.79	$90.39	$38.52
STATE: MISSOURI				
ANDREW	$121.38	$35.47	$144.79	$47.32
AUDRAIN	$139.46	$46.83	$189.97	$66.32
BARTON	$113.88	$36.73	$85.01	$31.08
BENTON	$108.08	$39.82	$115.15	$50.62
BOONE	$146.01	$54.94	$171.39	$72.29
BUTLER	$140.30	$53.42	$121.23	$54.31
CALLAWAY	$112.90	$40.75	$137.20	$59.02
CAPE GIRARDEAU	$114.76	$42.53	$114.46	$50.80
CARTER	$109.97	$44.43	$107.43	$54.72
CEDAR	$88.22	$34.85	$97.05	$46.24
CHRISTIAN	$99.16	$42.83	$117.19	$54.21
CLAY	$168.11	$62.13	$191.79	$80.05
COLE	$133.07	$46.64	$164.03	$59.78
CRAWFORD	$120.28	$39.67	$111.97	$46.17
DALLAS	$91.26	$39.17	$95.30	$45.51
DE KALB	$137.96	$39.33	$169.74	$53.78
DOUGLAS	$90.87	$37.21	$86.49	$37.25
FRANKLIN	$150.28	$46.12	$159.58	$57.56
GENTRY	$132.48	$38.05	$57.99	$27.18
GRUNDY	$119.51	$35.04	$107.47	$41.78
HENRY	$119.69	$39.19	$99.70	$45.66
HOLT	$126.42	$37.61	$139.61	$45.42
HOWELL	$87.35	$34.39	$77.35	$37.23
JACKSON	$182.48	$65.61	$198.59	$82.20
JEFFERSON	$171.65	$54.60	$200.83	$73.17
KNOX	$138.25	$42.08	$108.05	$39.19
LAFAYETTE	$123.00	$45.06	$144.66	$58.90
LEWIS	$122.53	$39.24	$176.37	$54.07
LINN	$121.08	$40.45	$122.59	$47.71
MC DONALD	$100.67	$36.65	$102.27	$40.84
MADISON	$144.86	$46.40	$132.32	$51.96
MARION	$129.75	$37.93	$116.04	$38.88
MILLER	$133.03	$40.68	$115.42	$42.76
MONITEAU	$125.97	$39.94	$109.50	$43.88
MONTGOMERY	$130.12	$40.84	$122.18	$53.89
NEW MADRID	$85.73	$39.34	$81.08	$35.90

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: MISSOURI COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
NEWTON	$97.62	$37.59	$88.63	$44.03
OREGON	$76.78	$33.78	$72.76	$34.71
OZARK	$96.35	$41.05	$80.58	$36.03
PERRY	$125.14	$45.63	$128.90	$50.59
PHELPS	$114.90	$38.09	$112.41	$43.60
PLATTE	$160.82	$56.91	$152.52	$65.50
PULASKI	$120.34	$38.29	$107.51	$45.92
RALLS	$124.82	$40.12	$162.94	$63.65
RAY	$136.00	$48.30	$159.90	$69.36
RIPLEY	$106.54	$39.08	$108.89	$46.45
ST CLAIR	$130.43	$42.29	$124.44	$42.66
ST LOUIS	$165.51	$57.35	$214.43	$77.60
STE GENEVIEVE	$147.87	$44.72	$143.97	$52.36
SCHUYLER	$151.44	$44.53	$111.30	$60.71
SCOTT	$110.09	$42.33	$102.70	$46.97
SHELBY	$96.40	$34.47	$103.34	$34.97
STONE	$100.46	$42.96	$121.19	$60.28
TANEY	$114.68	$44.36	$110.14	$51.73
VERNON	$109.75	$42.13	$130.58	$50.49
WASHINGTON	$137.36	$42.74	$119.76	$43.00
WEBSTER	$91.21	$38.92	$94.67	$48.39
WRIGHT	$98.90	$38.09	$81.56	$39.37
STATE: MONTANA				
BEAVERHEAD	$110.02	$52.96	$82.13	$48.04
BLAINE	$124.67	$51.56	$111.66	$45.21
CARBON	$97.79	$52.01	$96.83	$53.17
CASCADE	$138.60	$57.49	$141.02	$72.25
CUSTER	$112.51	$43.71	$118.78	$57.14
DAWSON	$124.96	$48.93	$57.05	$39.88
FALLON	$107.81	$44.94	$205.51	$52.53
FLATHEAD	$87.79	$46.57	$97.44	$64.60
GARFIELD	$120.53	$43.14	$99.70	$41.44
GOLDEN VALLEY	$106.65	$53.45	$119.77	$64.61
HILL	$146.06	$55.22	$117.38	$61.39
JUDITH BASIN	$137.11	$56.23	$156.35	$72.47
LEWIS AND CLARK	$119.67	$64.16	$101.14	$64.16
LINCOLN	$90.92	$43.90	$88.68	$50.81
MADISON	$91.19	$45.03	$158.57	$60.75
MINERAL	$124.55	$62.64	$115.90	$72.38
MUSSELSHELL	$112.24	$59.05	$110.52	$65.48
PETROLEUM	$92.64	$37.55	$112.29	$62.76
PONDERA	$133.83	$45.31	$133.33	$65.27
POWELL	$130.33	$52.37	$104.30	$73.81
RAVALLI	$79.74	$44.60	$109.54	$70.87
ROOSEVELT	$134.10	$47.72	$182.72	$75.87
SANDERS	$121.65	$46.82	$134.56	$65.93
SILVER BOW	$159.13	$69.63	$169.23	$88.19
SWEET GRASS	$84.20	$38.24	$98.96	$35.66

STATE: MISSOURI COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
NODAWAY	$139.72	$37.82	$130.81	$38.84
OSAGE	$125.96	$40.16	$165.93	$50.50
PEMISCOT	$95.45	$40.12	$96.98	$44.34
PETTIS	$99.04	$36.85	$110.97	$46.19
PIKE	$145.56	$40.75	$115.56	$37.09
POLK	$99.18	$39.97	$92.90	$39.51
PUTNAM	$128.63	$35.91	$115.62	$36.28
RANDOLPH	$147.71	$48.10	$115.54	$45.49
REYNOLDS	$137.49	$40.24	$122.87	$45.01
ST CHARLES	$162.91	$53.91	$197.20	$68.90
ST FRANCOIS	$141.73	$40.39	$133.30	$50.27
ST LOUIS CITY	$166.49	$51.59	$187.17	$63.46
SALINE	$121.81	$38.96	$114.37	$42.22
SCOTLAND	$143.73	$39.32	$93.00	$34.27
SHANNON	$94.02	$33.77	$83.69	$59.15
STODDARD	$93.08	$39.38	$98.22	$46.03
SULLIVAN	$139.69	$41.77	$136.61	$48.67
TEXAS	$93.78	$32.52	$80.17	$42.80
WARREN	$143.19	$44.02	$172.85	$60.89
WAYNE	$115.44	$45.85	$106.62	$47.38
WORTH	$97.12	$24.54	$123.69	$52.56
STATE: MONTANA				
BIG HORN	$103.64	$45.67	$145.86	$53.43
BROADWATER	$133.49	$57.09	$91.27	$41.63
CARTER	$76.24	$37.20	$111.08	$55.73
CHOUTEAU	$136.69	$58.24	$143.05	$54.36
DANIELS	$92.02	$37.40	$117.76	$45.92
DEER LODGE	$133.90	$60.86	$110.27	$67.15
FERGUS	$89.83	$47.06	$71.22	$47.20
GALLATIN	$68.74	$54.36	$87.12	$75.85
GLACIER	$133.16	$52.00	$129.42	$54.47
GRANITE	$130.03	$61.72	$127.82	$68.54
JEFFERSON	$88.68	$54.30	$88.61	$60.16
LAKE	$104.11	$47.16	$95.99	$58.89
LIBERTY	$103.49	$40.56	$49.81	$25.12
MC CONE	$124.83	$46.52	$122.46	$49.50
MEAGHER	$128.07	$62.01	$39.90	$49.23
MISSOULA	$98.28	$55.45	$117.79	$71.60
PARK	$95.15	$46.93	$99.64	$52.76
PHILLIPS	$117.30	$42.01	$160.86	$48.02
POWDER RIVER	$78.36	$40.88	$121.12	$68.39
PRAIRIE	$106.94	$35.32	$102.03	$30.73
RICHLAND	$149.41	$55.11	$136.49	$57.99
ROSEBUD	$106.09	$40.74	$90.69	$51.15
SHERIDAN	$84.96	$31.90	$97.58	$34.48
STILLWATER	$97.65	$41.07	$90.14	$40.28
TETON	$112.94	$50.52	$144.76	$60.26

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: MONTANA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
TOOLE	$142.34	$45.28	$162.53	$53.45
VALLEY	$154.54	$50.76	$185.39	$64.98
WIBAUX	$133.55	$51.43	$153.05	$74.22
STATE: NEBRASKA				
ADAMS	$94.09	$38.98	$123.92	$66.72
ARTHUR	$145.05	$34.79	$192.19	$96.20
BLAINE	$116.26	$35.80	$166.09	$75.34
BOX BUTTE	$96.48	$36.32	$164.94	$67.71
BROWN	$95.21	$37.60	$137.50	$52.60
BURT	$111.44	$38.06	$164.99	$61.89
CASS	$141.62	$44.50	$155.54	$63.69
CHASE	$110.68	$40.41	$76.83	$39.68
CHEYENNE	$109.15	$44.82	$84.44	$47.80
COLFAX	$104.93	$35.21	$138.56	$53.34
CUSTER	$95.23	$35.03	$78.74	$35.59
DAWES	$115.49	$41.68	$125.97	$58.38
DEUEL	$106.43	$42.79	$70.98	$32.73
DODGE	$110.13	$46.44	$150.91	$76.83
DUNDY	$113.26	$40.71	$98.75	$37.34
FRANKLIN	$80.55	$34.42	$60.12	$30.09
FURNAS	$92.54	$39.40	$71.39	$42.70
GARDEN	$72.36	$30.69	$119.84	$63.50
GOSPER	$80.96	$42.07	$85.37	$71.28
GREELEY	$90.04	$37.90	$111.02	$51.01
HAMILTON	$83.10	$41.15	$98.38	$56.26
HAYES	$135.50	$53.26	$147.14	$76.79
HOLT	$117.04	$39.29	$122.75	$51.50
HOWARD	$93.14	$42.36	$83.21	$48.95
JOHNSON	$79.62	$33.35	$79.93	$29.13
KEITH	$113.46	$38.80	$115.89	$52.87
KIMBALL	$110.11	$43.57	$108.81	$66.57
LANCASTER	$109.99	$47.90	$125.48	$61.27
LOGAN	$92.74	$32.18	$179.37	$82.01
MC PHERSON	$85.45	$36.86	$159.84	$75.03
MERRICK	$95.29	$38.87	$133.94	$61.49
NANCE	$116.13	$41.78	$133.82	$74.38
NUCKOLLS	$86.18	$35.11	$85.18	$34.90
PAWNEE	$100.31	$38.36	$77.43	$44.61
PHELPS	$98.53	$51.81	$103.01	$55.47
PLATTE	$105.93	$36.80	$103.80	$73.07
REDWILLOW	$104.41	$42.53	$88.25	$40.31
ROCK	$106.67	$39.43	$106.53	$48.96
SARPY	$180.89	$56.15	$223.73	$94.33
SCOTTS BLUFF	$96.87	$39.02	$115.23	$54.74
SHERIDAN	$85.04	$32.56	$96.16	$37.97
SIOUX	$120.40	$43.75	$146.43	$68.52
THAYER	$72.81	$33.32	$81.24	$63.68
THURSTON	$118.96	$37.52	$158.62	$71.33
TREASURE	$122.23	$61.63	$122.50	$71.92
WHEATLAND	$100.21	$51.83	$126.87	$81.63
YELLOWSTONE	$100.77	$53.07	$117.07	$69.40
STATE: NEBRASKA				
ANTELOPE	$117.78	$44.25	$143.16	$59.66
BANNER	$87.24	$37.23	$116.98	$55.58
BOONE	$101.53	$35.72	$124.28	$56.54
BOYD	$117.29	$34.34	$67.62	$26.51
BUFFALO	$96.87	$39.56	$104.84	$56.29
BUTLER	$92.95	$32.23	$90.97	$43.69
CEDAR	$91.40	$35.34	$129.78	$56.50
CHERRY	$92.04	$36.55	$103.59	$45.73
CLAY	$92.79	$36.98	$118.62	$66.40
CUMING	$86.99	$34.13	$130.43	$65.72
DAKOTA	$154.60	$42.75	$181.59	$67.40
DAWSON	$90.05	$39.24	$83.80	$41.42
DIXON	$96.78	$32.05	$152.33	$69.33
DOUGLAS	$180.86	$60.47	$222.37	$95.16
FILLMORE	$76.95	$37.02	$69.41	$37.30
FRONTIER	$94.64	$43.42	$119.35	$72.40
GAGE	$88.91	$34.91	$66.41	$34.68
GARFIELD	$82.23	$35.49	$89.39	$37.52
GRANT	$111.33	$36.87	$158.27	$64.13
HALL	$101.98	$42.99	$89.68	$48.42
HARLAN	$88.01	$41.17	$43.28	$38.23
HITCHCOCK	$103.25	$39.23	$92.56	$55.17
HOOKER	$78.07	$37.68	$101.21	$37.60
JEFFERSON	$88.03	$38.85	$90.60	$49.53
KEARNEY	$69.95	$35.80	$58.89	$40.21
KEYA PAHA	$120.86	$37.62	$153.75	$74.29
KNOX	$102.76	$40.17	$115.79	$49.66
LINCOLN	$98.73	$38.65	$84.62	$47.32
LOUP	$150.40	$51.96	$141.61	$70.46
MADISON	$88.52	$36.05	$141.61	$57.13
MORRILL	$93.83	$34.53	$82.81	$54.92
NEMAHA	$120.89	$44.64	$120.38	$53.66
OTOE	$105.46	$36.29	$135.36	$47.92
PERKINS	$93.41	$40.61	$178.40	$84.22
PIERCE	$82.13	$33.75	$119.07	$51.80
POLK	$124.05	$43.60	$136.51	$57.20
RICHARDSON	$100.21	$38.16	$123.61	$51.64
SALINE	$86.31	$35.98	$121.18	$59.44
SAUNDERS	$103.00	$39.92	$127.82	$55.53
SEWARD	$85.14	$34.22	$120.08	$50.84
SHERMAN	$110.28	$42.01	$72.87	$47.56
STANTON	$85.64	$33.05	$211.05	$51.48
THOMAS	$93.21	$40.14	$215.25	$116.33
VALLEY	$72.01	$31.50	$46.57	$32.40

TABLE 2

STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: NEBRASKA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
WASHINGTON	$110.29	$36.18	$157.65	$62.25
WEBSTER	$70.99	$32.10	$97.63	$37.08
YORK	$84.80	$36.60	$140.94	$65.01
STATE: NEVADA				
CHURCHILL	$150.17	$75.21	$150.02	$91.55
DOUGLAS	$114.29	$67.26	$137.42	$96.99
ESMERALDA	$190.40	$83.58	$224.56	$127.43
HUMBOLDT	$146.97	$63.46	$96.59	$57.50
LINCOLN	$170.56	$72.10	$198.82	$91.34
MINERAL	$152.65	$76.04	$134.68	$75.46
CARSON CITY	$131.59	$69.99	$138.57	$89.68
STOREY	$169.20	$83.12	$237.21	$137.08
WHITE PINE	$116.11	$48.12	$131.01	$63.36
STATE: NEW HAMPSHIRE				
BELKNAP	$100.56	$45.39	$79.76	$43.59
CHESHIRE	$130.25	$53.69	$155.14	$69.84
GRAFTON	$130.70	$50.31	$123.21	$58.93
MERRIMACK	$110.26	$48.93	$130.45	$66.91
STRAFFORD	$103.77	$51.74	$105.57	$61.55
STATE: NEW JERSEY				
ATLANTIC	$124.54	$71.60	$144.70	$86.80
BURLINGTON	$133.19	$70.79	$149.30	$87.36
CAPE MAY	$122.24	$60.50	$118.15	$70.17
ESSEX	$167.48	$81.28	$187.94	$100.77
HUDSON	$160.45	$74.27	$164.86	$89.07
MERCER	$158.03	$72.43	$157.09	$86.80
MONMOUTH	$128.26	$65.24	$156.30	$97.14
OCEAN	$105.07	$60.70	$125.77	$78.55
SALEM	$125.39	$63.91	$133.75	$82.92
SUSSEX	$121.97	$69.72	$162.27	$129.83
WARREN	$128.38	$68.45	$151.19	$93.29
STATE: NEW MEXICO				
BERNALILLO	$125.60	$74.69	$118.76	$89.95
CHAVES	$90.02	$56.24	$89.57	$64.25
CURRY	$111.20	$50.26	$98.69	$50.65
DONA ANA	$120.26	$72.51	$111.30	$74.83
GRANT	$92.03	$44.38	$92.07	$49.36
HARDING	$104.70	$49.48	$224.51	$65.49
LEA	$122.82	$62.36	$134.22	$72.41
LOS ALAMOS	$147.14	$83.03	$245.47	$103.55
MC KINLEY	$85.48	$36.66	$61.41	$33.83
OTERO	$119.23	$63.06	$90.86	$53.34
RIO ARRIBA	$126.17	$67.10	$87.96	$65.29
SANDOVAL	$101.99	$61.26	$132.69	$74.82
SAN MIGUEL	$91.97	$49.08	$62.60	$42.83

STATE: NEBRASKA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
WAYNE	$89.77	$32.41	$80.98	$42.57
WHEELER	$88.32	$36.66	$164.73	$76.57
STATE: NEVADA				
CLARK	$195.12	$97.66	$232.45	$128.83
ELKO	$95.40	$47.47	$177.96	$66.86
EUREKA	$119.14	$59.00	$214.94	$128.39
LANDER	$110.56	$53.11	$116.98	$77.56
LYON	$139.07	$67.41	$145.25	$84.90
NYE	$173.80	$79.04	$190.59	$108.08
PERSHING	$127.46	$74.46	$115.39	$75.23
WASHOE	$170.54	$82.26	$212.17	$112.08
STATE: NEW HAMPSHIRE				
CARROLL	$113.45	$47.64	$124.60	$68.52
COOS	$141.50	$46.59	$144.00	$55.56
HILLSBORO	$130.89	$51.16	$157.17	$79.01
ROCKINGHAM	$119.42	$54.44	$145.11	$73.77
SULLIVAN	$135.74	$55.24	$118.99	$64.37
STATE: NEW JERSEY				
BERGEN	$126.37	$73.58	$171.50	$102.93
CAMDEN	$159.14	$77.17	$179.67	$95.30
CUMBERLAND	$130.73	$68.42	$133.63	$76.98
GLOUCESTER	$140.94	$69.77	$160.98	$91.59
HUNTERDON	$134.85	$61.22	$132.33	$88.38
MIDDLESEX	$154.14	$70.06	$170.12	$107.57
MORRIS	$135.49	$73.50	$180.01	$117.71
PASSAIC	$131.50	$72.22	$161.89	$113.22
SOMERSET	$125.80	$61.94	$140.10	$82.96
UNION	$151.17	$72.40	$163.11	$89.86
STATE: NEW MEXICO				
CATRON	$102.84	$40.98	$76.56	$35.89
COLFAX	$118.94	$54.98	$101.10	$56.72
DE BACA	$77.44	$39.80	$86.73	$54.70
EDDY	$112.51	$59.46	$126.21	$70.56
GUADALUPE	$117.32	$46.85	$57.70	$31.75
HIDALGO	$107.44	$59.12	$71.34	$41.38
LINCOLN	$112.95	$54.71	$65.22	$45.43
LUNA	$87.27	$45.25	$97.17	$58.45
MORA	$70.61	$40.73	$91.15	$57.86
QUAY	$109.90	$51.97	$100.23	$50.79
ROOSEVELT	$95.74	$49.58	$99.28	$55.31
SAN JUAN	$91.64	$46.80	$82.37	$48.04
SANTA FE	$118.44	$65.85	$114.08	$66.88

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: NEW MEXICO COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
SIERRA	$95.33	$51.85	$78.44	$43.81
TAOS	$112.33	$51.57	$81.29	$45.73
UNION	$98.94	$46.25	$65.94	$51.51
STATE: NEW YORK				
ALBANY	$129.99	$65.97	$122.70	$73.98
BRONX	$190.29	$98.28	$189.16	$95.81
CATTARAUGUS	$97.51	$49.83	$77.31	$51.09
CHAUTAUQUA	$97.65	$49.57	$102.02	$60.65
CHENANGO	$95.00	$40.31	$96.78	$55.28
COLUMBIA	$91.50	$48.26	$98.01	$55.79
DELAWARE	$124.81	$46.47	$108.77	$50.90
ERIE	$103.84	$50.19	$109.48	$57.20
FRANKLIN	$95.53	$52.35	$80.03	$56.91
GENESEE	$100.65	$45.24	$81.53	$46.34
HAMILTON	$114.58	$54.97	$110.46	$52.48
JEFFERSON	$114.61	$48.60	$123.78	$65.14
LEWIS	$129.03	$50.83	$123.35	$61.24
MADISON	$92.52	$44.13	$89.39	$52.31
MONTGOMERY	$110.14	$44.86	$108.39	$60.70
NEW YORK	$182.55	$108.25	$196.39	$104.03
ONEIDA	$103.24	$49.63	$100.61	$59.00
ONTARIO	$105.86	$49.59	$91.14	$57.04
ORLEANS	$98.26	$49.54	$101.54	$55.75
OTSEGO	$132.29	$37.44	$137.67	$51.83
QUEENS	$151.64	$83.92	$160.14	$94.74
RICHMOND	$177.61	$84.85	$173.05	$94.82
ST LAWRENCE	$97.38	$53.07	$93.82	$60.92
SCHENECTADY	$142.13	$60.89	$137.35	$83.93
SCHUYLER	$129.14	$58.84	$116.42	$71.02
STEUBEN	$118.42	$55.25	$97.65	$62.72
SULLIVAN	$180.67	$67.97	$164.55	$69.74
TOMPKINS	$98.52	$50.01	$102.68	$58.47
WARREN	$116.67	$63.42	$126.36	$76.29
WAYNE	$109.55	$49.93	$85.73	$52.44
WYOMING	$92.33	$46.15	$74.01	$47.29
STATE: N. CAROLINA				
ALAMANCE	$100.54	$44.13	$140.61	$61.74
ALLEGHANY	$93.42	$35.77	$76.91	$38.15
ASHE	$99.64	$36.07	$97.21	$43.70
BEAUFORT	$105.40	$38.05	$117.55	$48.74
BLADEN	$111.29	$43.87	$103.93	$50.23
BUNCOMBE	$84.50	$46.70	$96.71	$59.53
CABARRUS	$107.21	$46.51	$123.94	$58.41
CAMDEN	$102.37	$47.89	$108.57	$41.75
CASWELL	$87.78	$39.87	$127.67	$56.54
CHATHAM	$128.19	$47.93	$153.82	$60.56
CHOWAN	$95.18	$46.69	$98.45	$48.03

STATE: NEW MEXICO COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
SOCORRO	$108.29	$59.45	$103.55	$58.09
TORRANCE	$98.24	$52.43	$66.17	$48.22
VALENCIA	$116.91	$63.22	$97.22	$72.85
STATE: NEW YORK				
ALLEGANY	$112.85	$53.59	$115.66	$65.26
BROOME	$122.56	$61.26	$120.68	$73.89
CAYUGA	$95.84	$49.51	$96.01	$59.03
CHEMUNG	$134.27	$70.27	$124.76	$86.67
CLINTON	$109.89	$67.34	$112.64	$80.80
CORTLAND	$108.83	$46.62	$103.19	$59.33
DUTCHESS	$108.88	$61.29	$87.39	$64.54
ESSEX	$118.23	$63.27	$104.50	$61.87
FULTON	$106.55	$55.58	$97.25	$61.85
GREENE	$103.43	$47.40	$116.86	$55.05
HERKIMER	$100.77	$40.57	$89.74	$43.52
KINGS	$167.05	$89.56	$161.10	$89.00
LIVINGSTON	$110.40	$46.87	$84.66	$48.98
MONROE	$124.38	$56.00	$127.58	$73.07
NASSAU	$148.71	$85.76	$165.98	$99.51
NIAGARA	$110.61	$53.75	$117.52	$67.46
ONONDAGA	$107.73	$55.60	$110.87	$71.75
ORANGE	$127.97	$62.79	$123.53	$78.49
OSWEGO	$91.14	$42.82	$95.70	$56.00
PUTNAM	$143.35	$73.91	$151.79	$89.13
RENSSELAER	$139.45	$67.88	$141.20	$83.59
ROCKLAND	$139.43	$90.21	$116.22	$100.30
SARATOGA	$121.80	$60.48	$116.69	$82.00
SCHOHARIE	$101.17	$39.90	$92.93	$51.58
SENECA	$103.51	$51.17	$104.23	$58.31
SUFFOLK	$116.74	$69.86	$115.29	$81.85
TIOGA	$123.08	$54.45	$131.84	$68.88
ULSTER	$110.00	$55.42	$111.20	$66.69
WASHINGTON	$133.40	$56.99	$130.28	$73.80
WESTCHESTER	$150.48	$84.86	$183.39	$102.35
YATES	$105.57	$46.74	$75.08	$50.80
STATE: N. CAROLINA				
ALEXANDER	$125.55	$45.23	$140.70	$60.23
ANSON	$97.68	$47.87	$116.31	$62.39
AVERY	$138.87	$45.72	$142.73	$55.88
BERTIE	$130.71	$43.57	$122.20	$53.31
BRUNSWICK	$139.72	$45.38	$147.27	$55.34
BURKE	$98.65	$41.67	$103.56	$43.53
CALDWELL	$124.86	$51.64	$130.43	$60.87
CARTERET	$111.13	$46.57	$121.00	$58.20
CATAWBA	$108.41	$42.56	$142.01	$61.15
CHEROKEE	$116.74	$42.87	$147.23	$64.22
CLAY	$91.86	$38.60	$107.85	$55.37

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: N. CAROLINA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
CLEVELAND	$91.93	$35.51	$109.82	$47.84
CRAVEN	$112.55	$59.70	$124.73	$69.45
CURRITUCK	$122.47	$53.54	$110.38	$55.86
DAVIDSON	$95.80	$43.24	$121.42	$60.03
DUPLIN	$111.00	$44.20	$100.07	$46.04
EDGECOMBE	$111.23	$43.93	$126.65	$54.65
FRANKLIN	$120.12	$41.31	$135.07	$52.79
GATES	$115.75	$50.13	$125.54	$55.82
GRANVILLE	$115.61	$38.73	$87.74	$35.77
GUILFORD	$106.65	$53.95	$144.02	$71.91
HARNETT	$125.46	$47.95	$133.02	$55.74
HENDERSON	$87.29	$42.89	$110.73	$62.20
HOKE	$83.64	$42.63	$93.42	$44.34
IREDELL	$107.75	$42.63	$137.81	$60.39
JOHNSTON	$115.21	$49.85	$135.17	$65.49
LEE	$116.27	$48.33	$164.59	$67.85
LINCOLN	$117.70	$41.89	$132.28	$56.70
MACON	$107.11	$38.88	$118.76	$52.67
MARTIN	$124.87	$43.40	$118.73	$43.47
MITCHELL	$120.87	$42.32	$119.88	$56.66
MOORE	$88.92	$45.89	$129.66	$55.78
NEW HANOVER	$102.19	$42.98	$134.83	$56.93
ONSLOW	$122.61	$56.46	$141.58	$64.04
PAMLICO	$92.80	$49.87	$97.55	$56.37
PENDER	$101.56	$36.57	$107.60	$45.44
PERSON	$101.20	$39.02	$116.80	$50.24
POLK	$86.85	$39.40	$112.15	$50.96
RICHMOND	$118.24	$44.06	$119.56	$51.08
ROCKINGHAM	$106.84	$47.10	$146.68	$64.17
RUTHERFORD	$92.58	$38.98	$101.18	$51.72
SCOTLAND	$91.40	$41.82	$100.79	$48.21
STOKES	$123.41	$49.31	$156.43	$69.57
SWAIN	$104.04	$41.86	$111.42	$49.48
TYRRELL	$111.44	$46.86	$105.32	$47.48
VANCE	$79.29	$36.13	$97.99	$48.66
WARREN	$99.53	$39.46	$101.02	$43.32
WATAUGA	$117.32	$42.57	$118.76	$51.73
WILKES	$83.11	$38.23	$100.18	$48.60
YADKIN	$101.41	$42.58	$112.89	$54.27
STATE: N. DAKOTA				
ADAMS	$100.40	$42.87	$125.23	$45.64
BENSON	$153.59	$51.72	$93.87	$41.40
BOTTINEAU	$149.74	$51.61	$179.28	$56.79
BURKE	$136.25	$53.51	$172.42	$51.83
CASS	$138.79	$50.54	$182.25	$72.28
DICKEY	$131.43	$48.30	$206.54	$68.68
DUNN	$137.91	$49.10	$130.49	$51.59
EMMONS	$132.09	$54.50	$137.47	$76.49

STATE: N. CAROLINA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
COLUMBUS	$135.39	$49.89	$144.54	$56.72
CUMBERLAND	$94.13	$48.07	$96.19	$54.57
DARE	$98.43	$47.92	$119.72	$59.74
DAVIE	$113.87	$46.10	$117.68	$57.56
DURHAM	$129.91	$51.71	$154.16	$68.00
FORSYTH	$93.32	$48.21	$123.78	$68.68
GASTON	$94.02	$40.72	$114.37	$57.14
GRAHAM	$88.93	$36.26	$90.93	$38.66
GREENE	$110.98	$52.13	$128.59	$67.31
HALIFAX	$97.67	$39.69	$117.11	$49.40
HAYWOOD	$100.61	$41.49	$100.43	$50.80
HERTFORD	$119.57	$46.70	$145.13	$56.95
HYDE	$92.13	$34.37	$75.57	$28.72
JACKSON	$93.67	$39.22	$102.86	$48.35
JONES	$123.21	$63.93	$124.82	$69.11
LENOIR	$116.31	$44.96	$113.85	$44.02
MC DOWELL	$79.01	$39.42	$91.44	$51.40
MADISON	$71.18	$38.85	$96.35	$54.32
MECKLENBURG	$108.84	$50.80	$141.50	$67.05
MONTGOMERY	$95.81	$40.52	$114.05	$46.72
NASH	$123.39	$49.29	$134.96	$61.98
NORTHAMPTON	$97.80	$39.39	$100.84	$46.20
ORANGE	$134.01	$53.94	$157.83	$69.22
PASQUOTANK	$90.78	$44.65	$100.09	$50.98
PERQUIMANS	$90.27	$42.41	$89.35	$49.71
PITT	$100.77	$46.56	$115.61	$57.61
RANDOLPH	$83.92	$43.05	$115.19	$60.25
ROBESON	$81.32	$41.94	$90.80	$47.22
ROWAN	$85.13	$40.01	$105.47	$54.98
SAMPSON	$116.69	$52.27	$122.57	$56.29
STANLY	$94.29	$40.85	$98.44	$49.90
SURRY	$92.93	$45.52	$106.47	$57.26
TRANSYLVANIA	$78.36	$42.29	$78.02	$45.73
UNION	$98.89	$42.00	$113.88	$58.16
WAKE	$133.06	$55.39	$162.05	$74.35
WASHINGTON	$120.91	$43.06	$99.72	$38.81
WAYNE	$91.98	$37.08	$98.59	$37.80
WILSON	$100.57	$55.58	$137.40	$71.83
YANCEY	$92.76	$37.91	$92.17	$53.07
STATE: N. DAKOTA				
BARNES	$129.79	$40.95	$141.29	$51.31
BILLINGS	$125.41	$43.89	$146.39	$59.18
BOWMAN	$124.33	$42.16	$145.53	$64.99
BURLEIGH	$132.13	$61.12	$146.56	$76.00
CAVALIER	$126.50	$44.98	$159.61	$62.38
DIVIDE	$141.94	$50.42	$127.51	$54.84
EDDY	$139.12	$50.20	$178.18	$67.14
FOSTER	$113.67	$48.41	$147.77	$60.00

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: N. DAKOTA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
GOLDEN VALLEY	$181.98	$62.90	$110.83	$37.63
GRANT	$159.52	$80.77	$89.44	$55.13
HETTINGER	$130.46	$58.91	$196.11	$86.60
LA MOURE	$125.43	$44.02	$189.76	$77.96
MC HENRY	$157.06	$56.24	$119.90	$45.26
MC KENZIE	$123.53	$53.61	$142.10	$62.87
MERCER	$144.85	$55.95	$218.21	$84.91
MOUNTRAIL	$126.03	$43.00	$244.74	$91.27
OLIVER	$139.91	$54.54	$165.96	$78.38
PIERCE	$142.62	$50.80	$113.98	$55.15
RANSOM	$112.23	$38.94	$109.44	$60.02
RICHLAND	$120.61	$38.32	$127.47	$49.43
SARGENT	$139.28	$49.26	$187.28	$68.65
SIOUX	$145.19	$61.17	$379.95	$101.19
STARK	$134.68	$53.19	$171.66	$68.17
STUTSMAN	$107.08	$46.63	$109.08	$44.38
TRAILL	$119.41	$38.80	$173.54	$48.93
WARD	$154.89	$57.62	$159.40	$74.11
WILLIAMS	$149.03	$55.55	$160.89	$71.02
STATE: OHIO				
ADAMS	$107.68	$39.48	$103.59	$45.59
ASHLAND	$103.06	$45.13	$132.38	$62.24
ATHENS	$111.98	$49.07	$102.41	$63.41
BELMONT	$166.86	$49.83	$162.99	$63.24
BUTLER	$133.22	$51.59	$167.74	$71.54
CHAMPAIGN	$115.07	$49.40	$121.56	$62.08
CLERMONT	$141.57	$54.39	$149.61	$67.96
COLUMBIANA	$127.17	$51.05	$149.14	$70.91
CRAWFORD	$120.43	$44.89	$150.78	$56.77
DARKE	$90.45	$38.62	$103.17	$53.26
DELAWARE	$111.94	$46.38	$129.73	$64.56
FAIRFIELD	$105.24	$44.03	$104.67	$55.59
FRANKLIN	$126.64	$59.34	$143.46	$76.74
GALLIA	$117.70	$49.97	$76.37	$50.94
GREENE	$108.56	$50.12	$152.16	$73.98
HAMILTON	$147.67	$58.28	$179.77	$77.33
HARDIN	$114.37	$40.43	$114.38	$53.17
HENRY	$118.92	$44.05	$144.70	$68.88
HOCKING	$102.36	$47.70	$105.01	$63.62
HURON	$137.12	$50.68	$159.68	$67.35
JEFFERSON	$194.99	$56.61	$223.10	$74.10
LAKE	$137.77	$63.34	$173.40	$84.48
LICKING	$90.61	$45.32	$111.96	$62.52
LORAIN	$150.99	$62.82	$181.53	$83.75
MADISON	$136.41	$58.46	$157.69	$78.64
MARION	$127.89	$57.82	$156.63	$79.06
MEIGS	$117.89	$44.26	$111.25	$52.67
MIAMI	$112.68	$46.84	$142.64	$67.34

STATE; N. DAKOTA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
GRAND FORKS	$118.35	$47.77	$135.56	$60.56
GRIGGS	$117.84	$42.88	$229.72	$66.27
KIDDER	$116.15	$50.57	$284.11	$147.31
LOGAN	$144.96	$52.62	$93.12	$47.08
MC INTOSH	$125.85	$48.92	$171.77	$78.23
MC LEAN	$145.33	$58.11	$130.71	$85.82
MORTON	$148.09	$61.77	$175.27	$80.45
NELSON	$129.72	$42.49	$160.80	$50.86
PEMBINA	$129.66	$49.32	$157.41	$70.63
RAMSEY	$130.24	$51.34	$151.73	$60.22
RENVILLE	$140.37	$52.83	$149.51	$77.68
ROLETTE	$183.52	$55.09	$129.28	$41.77
SHERIDAN	$139.64	$50.21	$186.98	$86.06
SLOPE	$121.27	$43.15	$168.05	$71.73
STEELE	$127.60	$47.06	$186.37	$85.30
TOWNER	$137.54	$50.26	$198.29	$81.99
WALSH	$126.81	$47.61	$92.98	$37.21
WELLS	$138.47	$53.85	$126.90	$64.13
STATE: OHIO				
ALLEN	$117.33	$40.65	$148.41	$57.20
ASHTABULA	$125.45	$54.63	$134.43	$68.11
AUGLAIZE	$126.68	$42.63	$155.87	$70.58
BROWN	$104.48	$37.62	$127.36	$54.15
CARROLL	$112.55	$50.31	$136.41	$73.87
CLARK	$126.87	$51.15	$153.39	$71.52
CLINTON	$111.66	$42.74	$122.83	$59.13
COSHOCTON	$101.94	$37.16	$123.98	$56.18
CUYAHOGA	$178.08	$70.77	$200.87	$86.06
DEFIANCE	$119.23	$50.41	$174.10	$70.44
ERIE	$165.05	$63.50	$217.60	$89.58
FAYETTE	$78.18	$36.16	$93.71	$45.21
FULTON	$139.62	$47.70	$166.91	$61.69
GEAUGA	$153.10	$63.51	$177.94	$87.95
GUERNSEY	$121.69	$47.20	$109.16	$70.04
HANCOCK	$102.20	$37.69	$125.57	$53.51
HARRISON	$138.52	$46.59	$108.68	$55.98
HIGHLAND	$109.68	$42.12	$103.48	$50.06
HOLMES	$57.27	$28.26	$68.94	$38.97
JACKSON	$95.79	$38.33	$83.07	$42.91
KNOX	$98.39	$41.15	$79.99	$52.05
LAWRENCE	$104.45	$42.92	$99.43	$50.73
LOGAN	$128.00	$51.85	$131.27	$66.12
LUCAS	$195.80	$71.22	$233.57	$99.28
MAHONING	$163.50	$66.70	$178.16	$87.70
MEDINA	$121.49	$53.43	$157.32	$72.46
MERCER	$134.96	$43.24	$152.85	$60.64
MONROE	$108.86	$39.98	$124.78	$47.93

TABLE

STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: OHIO COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
MONTGOMERY	$152.32	$59.95	$170.94	$80.56
MORROW	$112.37	$40.40	$118.35	$58.81
NOBLE	$105.18	$37.80	$109.39	$44.81
PAULDING	$146.29	$46.74	$147.68	$59.54
PICKAWAY	$95.67	$46.83	$72.55	$50.21
PORTAGE	$147.01	$52.89	$185.93	$70.66
PUTNAM	$121.73	$46.02	$135.92	$68.03
ROSS	$98.08	$40.30	$83.58	$40.06
SCIOTO	$120.87	$50.45	$126.16	$65.72
SHELBY	$103.54	$42.29	$140.05	$64.21
SUMMIT	$147.66	$62.31	$173.68	$85.97
TUSCARAWAS	$92.05	$40.00	$106.34	$55.69
VAN WERT	$118.14	$43.54	$124.30	$58.93
WARREN	$120.37	$51.56	$154.15	$76.22
WAYNE	$89.06	$39.79	$95.80	$55.71
WOOD	$141.54	$55.65	$194.02	$74.12
STATE: OKLAHOMA				
ADAIR	$101.08	$43.98	$88.31	$44.42
ATOKA	$96.96	$43.00	$118.68	$52.54
BECKHAM	$106.15	$38.48	$101.08	$41.67
BRYAN	$102.82	$48.29	$111.80	$61.37
CANADIAN	$127.57	$50.20	$158.24	$74.20
CHEROKEE	$108.51	$50.13	$111.33	$54.87
CIMARRON	$108.29	$42.62	$125.89	$52.95
COAL	$106.63	$39.29	$96.50	$40.67
COTTON	$94.43	$36.41	$101.11	$47.64
CREEK	$137.58	$50.69	$181.63	$66.10
DELAWARE	$103.99	$40.80	$104.02	$46.20
ELLIS	$131.69	$46.64	$167.44	$49.67
GARVIN	$102.98	$39.44	$107.22	$45.70
GRANT	$131.22	$45.44	$147.58	$61.74
HARMON	$108.53	$41.45	$101.39	$44.45
HASKELL	$88.89	$46.67	$99.26	$54.77
JACKSON	$127.08	$45.78	$118.55	$46.69
JOHNSTON	$95.14	$42.93	$100.22	$52.42
KINGFISHER	$137.54	$46.73	$133.57	$52.62
LATIMER	$97.47	$43.05	$80.10	$40.36
LINCOLN	$101.47	$39.96	$115.13	$46.84
LOVE	$120.52	$52.98	$111.19	$46.51
MC CURTAIN	$93.87	$47.06	$91.71	$49.41
MAJOR	$99.70	$35.43	$118.42	$43.46
MAYES	$130.63	$46.74	$111.94	$49.16
MUSKOGEE	$110.51	$43.79	$106.29	$47.04
NOWATA	$98.33	$39.07	$90.34	$36.88
OKLAHOMA	$137.57	$60.01	$152.27	$69.65
OSAGE	$134.64	$43.97	$135.92	$52.00
PAWNEE	$153.96	$54.54	$163.06	$66.18
PITTSBURG	$102.21	$46.34	$112.54	$52.90

STATE: OHIO COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
MORGAN	$94.59	$39.11	$105.75	$46.82
MUSKINGUM	$103.86	$39.18	$117.52	$56.82
OTTAWA	$157.76	$58.83	$156.99	$74.48
PERRY	$101.96	$40.88	$100.34	$48.28
PIKE	$86.87	$43.53	$79.04	$47.08
PREBLE	$106.74	$42.51	$129.73	$56.38
RICHLAND	$107.69	$45.65	$130.67	$60.03
SANDUSKY	$155.23	$55.28	$178.97	$77.86
SENECA	$126.17	$49.87	$125.73	$65.12
STARK	$124.21	$55.84	$141.74	$74.81
TRUMBULL	$158.13	$64.78	$178.25	$83.16
UNION	$126.71	$50.21	$168.13	$73.82
VINTON	$94.91	$37.70	$68.76	$36.36
WASHINGTON	$130.65	$44.82	$136.69	$59.15
WILLIAMS	$117.52	$47.60	$149.83	$61.24
WYANDOT	$104.74	$45.33	$140.55	$66.84
STATE: OKLAHOMA				
ALFALFA	$139.02	$42.17	$150.10	$46.99
BEAVER	$101.35	$44.18	$116.56	$51.83
BLAINE	$111.91	$39.39	$129.58	$46.00
CADDO	$112.28	$45.10	$102.95	$41.85
CARTER	$96.41	$44.01	$98.39	$43.44
CHOCTAW	$102.84	$46.18	$114.18	$50.76
CLEVELAND	$119.31	$52.15	$145.94	$62.65
COMANCHE	$121.39	$45.21	$123.73	$52.44
CRAIG	$104.46	$37.49	$116.33	$43.08
CUSTER	$122.37	$47.45	$144.24	$62.18
DEWEY	$126.81	$39.98	$124.67	$35.62
GARFIELD	$124.37	$41.45	$134.58	$47.19
GRADY	$107.34	$47.41	$114.30	$55.72
GREER	$134.69	$48.06	$114.68	$45.22
HARPER	$105.03	$38.81	$75.54	$31.91
HUGHES	$124.64	$45.11	$117.40	$45.20
JEFFERSON	$95.47	$43.69	$84.20	$41.01
KAY	$105.62	$43.13	$114.41	$46.38
KIOWA	$110.57	$42.83	$123.42	$56.65
LE FLORE	$91.90	$48.79	$82.94	$51.59
LOGAN	$124.30	$48.73	$120.69	$54.38
MC CLAIN	$107.69	$45.22	$119.36	$52.98
MC INTOSH	$105.05	$49.16	$97.06	$52.79
MARSHALL	$110.89	$49.58	$97.50	$45.59
MURRAY	$100.75	$41.50	$113.59	$44.19
NOBLE	$100.28	$35.71	$95.27	$37.37
OKFUSKEE	$115.57	$43.66	$138.49	$52.34
OKMULGEE	$123.30	$53.33	$118.73	$54.27
OTTAWA	$129.74	$42.68	$127.66	$52.36
PAYNE	$107.75	$40.76	$116.37	$41.43
PONTOTOC	$99.86	$45.65	$103.54	$50.32

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: OKLAHOMA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
POTTAWATOMIE	$81.43	$40.17	$89.10	$47.14
ROGER MILLS	$111.02	$42.18	$142.59	$54.02
SEMINOLE	$103.83	$42.95	$95.40	$44.41
STEPHENS	$119.52	$45.25	$130.54	$49.24
TILLMAN	$125.99	$44.74	$115.04	$44.10
WAGONER	$140.45	$47.80	$137.26	$59.66
WASHITA	$121.06	$43.76	$134.10	$53.43
WOODWARD	$122.74	$40.95	$129.34	$49.29
STATE: OREGON				
BAKER	$129.61	$51.46	$122.13	$56.53
CLACKAMAS	$130.15	$65.64	$174.47	$96.84
COLUMBIA	$141.98	$55.36	$151.03	$76.77
CROOK	$106.00	$47.00	$125.48	$57.09
DESCHUTES	$111.32	$55.29	$129.13	$73.04
GILLIAM	$123.67	$47.85	$57.92	$29.27
HARNEY	$154.74	$51.28	$146.30	$53.69
JACKSON	$113.37	$54.65	$119.78	$67.47
JOSEPHINE	$92.38	$44.77	$91.92	$55.50
LAKE	$130.11	$54.15	$117.21	$56.21
LINCOLN	$142.00	$53.70	$143.71	$67.95
MALHEUR	$94.51	$43.12	$85.77	$48.55
MORROW	$151.08	$54.36	$124.59	$61.31
POLK	$111.10	$55.14	$109.47	$64.23
TILLAMOOK	$169.17	$59.37	$171.77	$72.57
UNION	$122.60	$51.86	$141.11	$76.72
WASCO	$135.26	$50.84	$149.59	$71.72
WHEELER	$142.16	$47.30	$228.69	$50.95
STATE: PENNSYLVANIA				
ADAMS	$79.75	$42.04	$104.19	$57.95
ARMSTRONG	$118.12	$51.06	$121.51	$57.65
BEDFORD	$99.52	$41.35	$99.93	$51.60
BLAIR	$125.13	$47.69	$128.30	$60.13
BUCKS	$149.82	$78.96	$209.04	$115.57
CAMBRIA	$172.63	$65.60	$158.76	$69.12
CARBON	$127.08	$62.58	$129.10	$86.17
CHESTER	$149.29	$67.92	$172.15	$82.49
CLEARFIELD	$127.75	$54.53	$125.02	$62.34
COLUMBIA	$114.25	$52.18	$124.16	$71.03
CUMBERLAND	$94.87	$54.36	$119.31	$77.74
DELAWARE	$167.00	$80.08	$214.62	$103.85
ERIE	$140.94	$54.79	$151.83	$71.98
FOREST	$160.78	$57.21	$132.58	$59.50
FULTON	$102.89	$45.56	$67.40	$39.83
HUNTINGDON	$113.20	$51.38	$118.02	$60.57
JEFFERSON	$105.06	$50.64	$119.28	$67.03
LACKAWANNA	$152.21	$67.73	$142.81	$84.11
LAWRENCE	$128.07	$52.69	$125.12	$64.05

STATE: OKLAHOMA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
PUSHMATAHA	$92.75	$42.68	$82.09	$50.07
ROGERS	$120.65	$51.14	$111.54	$55.07
SEQUOYAH	$97.41	$45.81	$93.76	$53.61
TEXAS	$122.60	$49.36	$122.08	$49.96
TULSA	$150.05	$62.09	$181.56	$77.12
WASHINGTON	$96.51	$41.02	$131.31	$54.39
WOODS	$126.88	$41.33	$154.63	$54.14
STATE: OREGON				
BENTON	$105.24	$56.10	$123.95	$84.73
CLATSOP	$163.41	$54.95	$171.97	$65.63
COOS	$116.57	$66.56	$113.36	$74.77
CURRY	$128.21	$62.02	$133.60	$71.07
DOUGLAS	$135.27	$57.05	$129.76	$68.95
GRANT	$113.21	$44.17	$161.04	$66.51
HOOD RIVER	$120.03	$45.27	$108.66	$56.05
JEFFERSON	$113.06	$50.66	$117.69	$56.03
KLAMATH	$94.78	$51.44	$115.97	$73.03
LANE	$91.48	$59.55	$116.04	$80.29
LINN	$101.96	$53.38	$105.84	$63.02
MARION	$95.20	$52.73	$89.63	$58.96
MULTNOMAH	$176.11	$67.13	$208.18	$90.12
SHERMAN	$154.32	$52.36	$130.72	$51.24
UMATILLA	$123.15	$51.24	$130.54	$78.30
WALLOWA	$159.03	$58.14	$175.60	$72.15
WASHINGTON	$150.42	$65.42	$192.42	$96.45
YAMHILL	$113.68	$53.71	$107.88	$59.09
STATE: PENNSYLVANIA				
ALLEGHENY	$185.19	$66.07	$198.59	$81.97
BEAVER	$145.29	$57.15	$157.89	$75.39
BERKS	$110.64	$54.68	$125.21	$72.25
BRADFORD	$131.76	$50.90	$123.99	$62.86
BUTLER	$136.52	$57.31	$140.98	$63.76
CAMERON	$124.93	$54.04	$135.75	$65.66
CENTRE	$120.84	$48.24	$116.04	$61.12
CLARION	$135.94	$52.89	$127.05	$62.70
CLINTON	$137.68	$62.91	$155.56	$82.05
CRAWFORD	$127.56	$52.36	$151.46	$69.55
DAUPHIN	$121.13	$61.05	$137.12	$90.14
ELK	$131.34	$58.03	$134.45	$83.41
FAYETTE	$132.15	$60.83	$125.23	$59.71
FRANKLIN	$83.16	$41.06	$85.59	$50.66
GREENE	$140.82	$61.56	$106.99	$56.48
INDIANA	$143.38	$57.63	$116.50	$56.89
JUNIATA	$98.18	$49.84	$111.38	$63.59
LANCASTER	$94.92	$43.84	$138.84	$68.27
LEBANON	$95.09	$45.83	$100.18	$57.87

TABLE 2

STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: PENNSYLVANIA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
LEHIGH	$123.87	$70.57	$156.14	$98.78
LYCOMING	$131.36	$62.53	$139.32	$74.88
MERCER	$130.85	$60.43	$138.56	$68.23
MONROE	$108.59	$64.42	$120.95	$75.65
MONTOUR	$94.77	$73.92	$90.11	$128.31
NORTHUMBERLAND	$103.12	$51.15	$96.75	$61.29
PHILADELPHIA	$207.48	$99.46	$219.92	$106.95
POTTER	$116.88	$53.67	$118.52	$56.87
SNYDER	$90.94	$47.72	$69.38	$44.69
SULLIVAN	$128.85	$54.80	$123.20	$67.94
TIOGA	$116.79	$51.19	$119.36	$62.59
VENANGO	$158.41	$56.98	$144.06	$53.42
WASHINGTON	$162.63	$59.78	$159.05	$63.75
WESTMORELAND	$152.42	$60.70	$159.07	$77.16
YORK	$95.51	$47.66	$107.94	$63.79
STATE: PUERTO RICO				
ADJUNTAS	$29.80	$28.96	$15.53	$23.08
AGUADILLA	$19.65	$19.36	$12.68	$18.43
AIBONITO	$24.24	$29.05	$11.27	$20.20
ARECIBO	$16.24	$24.02	$12.76	$19.70
BARCELONETA	$16.42	$21.61	$13.89	$20.67
BAYAMON	$34.10	$36.50	$19.99	$30.04
CAGUAS	$24.56	$31.47	$15.82	$26.15
CANOVANAS	$29.35	$31.84	$11.47	$18.76
CATANO	$32.97	$33.55	$16.74	$26.35
CEIBA	$26.82	$23.02	$23.17	$22.95
CIDRA	$18.27	$26.27	$10.07	$17.23
COMERIO	$20.73	$31.43	$12.77	$22.71
CULEBRA	$22.99	$26.66	$21.85	$20.01
FAJARDO	$30.54	$27.06	$19.81	$22.04
GUANICA	$31.45	$28.09	$21.99	$21.53
GUAYANILLA	$29.53	$26.99	$15.20	$15.38
GURABO	$26.43	$31.92	$17.94	$29.23
HORMIGUEROS	$28.22	$24.83	$19.87	$45.29
ISABELA	$17.04	$20.98	$11.21	$15.13
JUANA DIAZ	$28.26	$24.58	$16.36	$18.25
LAJAS	$27.00	$21.66	$18.47	$27.39
LAS MARIAS	$19.64	$17.46	$8.84	$12.39
LOIZA	$20.53	$22.19	$15.17	$18.27
MANATI	$19.84	$27.47	$14.12	$21.12
MAUNABO	$22.92	$24.27	$9.02	$13.29
MOCA	$16.81	$22.52	$7.60	$16.07
NAGUABO	$24.98	$26.25	$17.66	$18.55
OROCOVIS	$21.36	$35.24	$10.37	$21.19
PENUELAS	$32.80	$28.80	$17.23	$25.37
QUEBRADILLAS	$19.43	$22.68	$11.96	$19.57
RIO GRANDE	$28.85	$28.61	$22.08	$25.33
SALINAS	$34.90	$26.39	$19.48	$22.87

STATE: PENNSYLVANIA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
LUZERNE	$138.32	$59.57	$123.16	$76.07
MC KEAN	$115.56	$48.44	$112.23	$59.03
MIFFLIN	$111.49	$55.11	$107.54	$59.05
MONTGOMERY	$146.02	$77.30	$192.58	$106.98
NORTHAMPTON	$127.55	$65.53	$150.43	$87.44
PERRY	$115.70	$56.48	$111.83	$76.89
PIKE	$115.61	$55.14	$113.82	$61.18
SCHUYLKILL	$127.15	$56.12	$118.58	$67.01
SOMERSET	$121.90	$55.37	$133.58	$64.22
SUSQUEHANNA	$109.22	$53.95	$109.14	$62.27
UNION	$78.99	$43.25	$87.73	$54.98
WARREN	$111.94	$54.63	$134.77	$92.12
WAYNE	$120.52	$58.80	$108.84	$64.74
WYOMING	$149.85	$59.24	$164.82	$81.78
STATE: PUERTO RICO				
AGUADA	$15.96	$21.76	$11.56	$14.76
AGUAS BUENAS	$18.38	$26.35	$9.85	$27.09
ANASCO	$22.98	$23.91	$17.25	$30.36
ARROYO	$30.46	$26.04	$22.59	$25.52
BARRANQUITAS	$19.53	$27.73	$8.88	$22.62
CABO ROJO	$21.92	$20.89	$14.04	$21.44
CAMUY	$18.49	$22.21	$10.50	$15.87
CAROLINA	$35.66	$33.28	$21.18	$25.88
CAYEY	$25.83	$30.77	$9.57	$17.15
CIALES	$22.78	$31.38	$10.77	$17.55
COAMO	$23.70	$28.81	$19.88	$27.06
COROZAL	$24.36	$34.81	$10.58	$20.34
DORADO	$27.93	$27.76	$14.39	$26.39
FLORIDA	$19.33	$25.70	$4.49	$14.46
GUAYAMA	$36.57	$29.89	$26.15	$36.72
GUAYNABO	$31.44	$37.76	$21.11	$33.23
HATILLO	$13.92	$20.18	$13.15	$15.84
HUMACAO	$36.07	$31.82	$23.40	$23.35
JAYUYA	$22.00	$21.96	$10.95	$17.42
JUNCOS	$24.56	$30.47	$13.07	$21.42
LARES	$20.82	$23.03	$12.90	$14.95
LAS PIEDRAS	$31.26	$30.41	$19.37	$22.84
LUQUILLO	$28.49	$27.61	$17.74	$23.22
MARICAO	$21.29	$18.86	$6.75	$11.50
MAYAGUEZ	$26.39	$25.14	$16.48	$23.75
MOROVIS	$18.29	$33.05	$8.76	$14.52
NARANJITO	$16.62	$31.21	$5.96	$15.68
PATILLAS	$28.52	$25.66	$19.72	$19.31
PONCE	$32.71	$27.37	$22.97	$27.30
RINCON	$22.09	$21.83	$15.42	$32.66
SABANA GRANDE	$28.43	$22.92	$20.42	$20.03
SAN GERMAN	$29.57	$23.39	$17.24	$16.10

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: PUERTO RICO COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
SAN JUAN	$37.65	$40.28	$26.42	$30.57
SAN SEBASTIAN	$19.42	$22.03	$12.73	$12.88
TOA ALTA	$26.83	$35.83	$13.80	$20.66
TRUJILLO ALTO	$32.17	$32.65	$19.40	$25.09
VEGA ALTA	$26.72	$30.67	$16.06	$23.44
VIEQUES	$29.74	$27.19	$21.79	$19.37
YABUCOA	$24.35	$25.06	$18.59	$19.38
STATE: RHODE ISLAND				
BRISTOL	$127.22	$56.44	$124.80	$61.88
NEWPORT	$140.08	$67.42	$116.71	$64.57
WASHINGTON	$121.98	$64.08	$122.36	$70.25
STATE: S. CAROLINA				
ABBEVILLE	$74.65	$28.52	$82.59	$40.78
ALLENDALE	$84.79	$35.35	$92.16	$34.57
BAMBERG	$98.77	$46.32	$101.00	$49.67
BEAUFORT	$127.53	$49.33	$124.05	$60.36
CALHOUN	$67.11	$37.33	$78.85	$35.16
CHEROKEE	$79.76	$35.61	$87.16	$41.25
CHESTERFIELD	$102.36	$38.46	$94.44	$41.37
COLLETON	$124.04	$45.07	$127.62	$48.93
DILLON	$122.24	$45.80	$117.85	$46.17
EDGEFIELD	$90.28	$39.04	$91.19	$43.30
FLORENCE	$99.25	$42.00	$110.19	$47.62
GREENVILLE	$92.42	$38.46	$101.57	$50.92
HAMPTON	$104.10	$39.95	$98.96	$43.20
JASPER	$137.43	$50.74	$143.04	$57.01
LANCASTER	$82.38	$36.48	$93.00	$44.08
LEE	$91.00	$33.08	$66.97	$28.42
MC CORMICK	$70.82	$32.32	$68.56	$34.48
MARLBORO	$95.48	$37.09	$109.33	$40.71
OCONEE	$91.93	$38.25	$99.73	$47.08
PICKENS	$93.76	$36.78	$111.65	$45.86
SALUDA	$73.67	$31.19	$89.35	$38.01
SUMTER	$82.81	$35.60	$84.46	$39.49
WILLIAMSBURG	$95.08	$37.38	$99.14	$37.97
STATE: S. DAKOTA				
AURORA	$136.43	$37.48	$114.25	$28.35
BENNETT	$112.28	$44.66	$155.00	$64.33
BROOKINGS	$90.18	$36.30	$84.34	$44.41
BRULE	$149.77	$44.10	$103.28	$35.69
BUTTE	$86.79	$37.15	$49.20	$30.02
CHARLES MIX	$99.66	$32.97	$83.93	$28.67
CLAY	$127.34	$45.47	$96.26	$43.53
CORSON	$119.73	$44.34	$182.55	$50.29
DAVISON	$148.86	$37.85	$126.05	$42.57
DEUEL	$106.26	$32.98	$114.96	$38.25

STATE: PUERTO RICO COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
SAN LORENZO	$21.02	$26.73	$18.35	$26.13
SANTA ISABEL	$31.36	$29.39	$15.57	$21.10
TOA BAJA	$28.41	$30.14	$15.55	$24.91
UTUADO	$22.08	$21.40	$15.80	$18.77
VEGA BAJA	$24.50	$31.87	$13.50	$26.54
VILLALBA	$21.79	$24.05	$15.02	$19.15
YAUCO	$28.25	$30.90	$21.13	$22.44
STATE: RHODE ISLAND				
KENT	$126.29	$70.83	$133.52	$78.02
PROVIDENCE	$136.01	$69.93	$136.53	$77.58
STATE: S. CAROLINA				
AIKEN	$112.25	$53.44	$102.93	$62.20
ANDERSON	$77.27	$42.26	$90.93	$50.14
BARNWELL	$93.91	$44.69	$92.88	$50.95
BERKELEY	$109.70	$45.27	$102.66	$47.75
CHARLESTON	$123.14	$50.28	$113.62	$48.28
CHESTER	$99.42	$35.86	$109.74	$42.67
CLARENDON	$88.10	$34.28	$90.12	$41.14
DARLINGTON	$103.65	$40.61	$115.33	$46.54
DORCHESTER	$101.69	$40.54	$97.89	$48.63
FAIRFIELD	$101.98	$39.61	$93.32	$40.13
GEORGETOWN	$105.09	$37.06	$116.97	$41.92
GREENWOOD	$85.74	$33.77	$108.55	$46.89
HORRY	$112.59	$42.62	$113.19	$44.92
KERSHAW	$97.31	$42.53	$101.40	$47.60
LAURENS	$79.95	$30.09	$80.57	$28.93
LEXINGTON	$124.41	$48.55	$128.50	$58.40
MARION	$120.40	$44.62	$126.25	$45.30
NEWBERRY	$94.32	$32.94	$85.71	$38.47
ORANGEBURG	$72.70	$39.52	$75.51	$42.01
RICHLAND	$104.63	$47.65	$105.08	$52.58
SPARTANBURG	$98.45	$42.55	$106.47	$54.36
UNION	$93.45	$32.65	$108.13	$46.67
YORK	$83.35	$36.44	$96.59	$48.80
STATE: S. DAKOTA				
BEADLE	$113.40	$43.85	$99.07	$46.43
BON HOMME	$108.40	$35.21	$114.46	$45.97
BROWN	$138.21	$45.55	$138.44	$58.56
BUFFALO	$192.84	$52.68	$121.65	$49.84
CAMPBELL	$100.48	$42.11	$118.24	$40.27
CLARK	$105.09	$40.25	$62.96	$35.50
CODINGTON	$101.01	$36.47	$87.17	$38.48
CUSTER	$104.52	$40.89	$95.09	$40.86
DAY	$138.04	$46.88	$151.40	$50.94
DEWEY	$117.38	$42.20	$73.66	$33.64

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: S. DAKOTA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
DOUGLAS	$90.55	$30.70	$133.39	$57.10
FALL RIVER	$70.14	$30.75	$64.75	$29.33
GRANT	$100.27	$36.57	$165.04	$89.41
HAAKON	$101.61	$44.70	$125.72	$55.44
HAND	$120.05	$39.75	$88.97	$39.48
HARDING	$108.40	$42.13	$112.19	$48.59
HUTCHINSON	$79.28	$28.89	$108.09	$45.58
JACKSON	$83.67	$37.57	$124.10	$56.71
JONES	$111.96	$40.05	$126.56	$55.05
LAKE	$105.59	$37.50	$120.11	$56.28
LINCOLN	$104.38	$36.49	$133.69	$58.63
MC COOK	$95.22	$33.01	$76.57	$30.93
MARSHALL	$153.04	$43.32	$116.23	$47.94
MELLETTE	$86.96	$42.83	$113.23	$49.32
MINNEHAHA	$110.76	$40.64	$122.55	$53.13
PENNINGTON	$99.48	$49.71	$87.69	$50.01
POTTER	$169.68	$55.76	$200.48	$62.27
SANBORN	$133.63	$39.95	$94.99	$48.22
SPINK	$143.55	$47.49	$101.59	$35.35
SULLY	$140.67	$42.52	$117.59	$48.31
TRIPP	$130.22	$40.64	$111.66	$41.32
UNION	$112.04	$38.32	$152.05	$51.37
WASHABAUGH	$94.81	$36.94	$119.22	$54.99
ZIEBACH	$99.05	$33.93	$105.10	$46.71
STATE: TENNESSEE				
ANDERSON	$95.34	$40.74	$96.81	$56.85
BENTON	$110.57	$41.23	$117.21	$57.56
BLOUNT	$97.33	$42.20	$113.13	$57.59
CAMPBELL	$103.25	$52.43	$85.64	$50.05
CARROLL	$105.58	$38.54	$123.74	$52.12
CHEATHAM	$122.82	$49.08	$111.41	$52.38
CLAIBORNE	$75.27	$37.63	$82.17	$48.75
COCKE	$81.74	$33.38	$92.07	$46.74
CROCKETT	$75.78	$40.50	$86.22	$47.01
DAVIDSON	$141.33	$54.96	$155.21	$67.05
DE KALB	$124.73	$43.09	$145.65	$56.55
DYER	$91.01	$47.84	$104.92	$54.86
FENTRESS	$114.27	$50.40	$124.40	$58.24
GIBSON	$112.83	$40.30	$124.27	$52.83
GRAINGER	$86.54	$37.99	$78.94	$41.69
GRUNDY	$105.30	$47.58	$91.66	$45.24
HAMILTON	$126.50	$50.87	$140.96	$64.95
HARDEMAN	$89.69	$34.78	$128.15	$48.96
HAWKINS	$103.09	$38.25	$113.84	$48.78
HENDERSON	$68.15	$31.55	$84.78	$42.36
HICKMAN	$123.35	$48.77	$104.85	$52.21
HUMPHREYS	$136.09	$50.83	$127.22	$54.41
JEFFERSON	$88.16	$36.28	$113.58	$52.96

STATE: S. DAKOTA COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
EDMUNDS	$140.21	$45.99	$135.73	$60.95
FAULK	$157.63	$47.52	$173.85	$61.27
GREGORY	$113.34	$32.90	$103.14	$34.63
HAMLIN	$93.18	$25.33	$128.43	$48.80
HANSON	$112.14	$30.45	$172.69	$61.55
HUGHES	$121.85	$44.00	$128.76	$54.08
HYDE	$106.18	$38.52	$173.74	$80.89
JERAULD	$119.12	$37.83	$190.94	$54.23
KINGSBURY	$98.40	$37.32	$103.57	$49.65
LAWRENCE	$90.75	$41.73	$92.63	$37.00
LYMAN	$143.36	$41.75	$165.31	$51.86
MC PHERSON	$119.24	$42.76	$155.22	$63.18
MEADE	$85.97	$42.78	$82.24	$43.39
MINER	$112.60	$37.87	$123.68	$52.84
MOODY	$87.07	$33.58	$111.74	$43.95
PERKINS	$106.58	$43.04	$160.65	$59.17
ROBERTS	$117.66	$38.10	$102.54	$42.67
SHANNON	$86.43	$29.01	$58.10	$25.63
STANLEY	$148.49	$52.43	$83.75	$38.91
TODD	$88.01	$38.00	$106.17	$21.14
TURNER	$76.07	$28.06	$88.40	$44.91
WALWORTH	$102.80	$37.09	$134.80	$42.69
YANKTON	$96.09	$37.65	$118.70	$46.70
STATE: TENNESSEE				
BEDFORD	$86.62	$35.35	$85.74	$41.56
BLEDSOE	$104.22	$43.57	$107.92	$54.24
BRADLEY	$106.30	$41.62	$117.11	$50.68
CANNON	$152.08	$47.25	$173.85	$60.76
CARTER	$85.35	$33.83	$79.03	$44.85
CHESTER	$62.65	$29.47	$86.87	$40.14
CLAY	$112.91	$42.53	$114.17	$46.92
COFFEE	$119.99	$46.82	$129.69	$58.66
CUMBERLAND	$98.98	$43.52	$106.13	$50.09
DECATUR	$95.89	$37.27	$95.78	$41.09
DICKSON	$111.21	$48.87	$104.63	$53.84
FAYETTE	$94.90	$38.15	$105.43	$47.37
FRANKLIN	$101.92	$45.48	$106.16	$51.52
GILES	$126.90	$51.31	$161.01	$73.48
GREENE	$82.69	$33.40	$95.02	$45.13
HAMBLEN	$113.39	$44.22	$122.25	$57.30
HANCOCK	$90.57	$33.48	$125.01	$50.64
HARDIN	$88.28	$39.27	$93.09	$48.50
HAYWOOD	$82.25	$35.43	$96.30	$51.16
HENRY	$91.48	$42.92	$102.87	$49.07
HOUSTON	$91.06	$35.92	$81.35	$43.58
JACKSON	$100.70	$40.96	$100.85	$47.18
JOHNSON	$105.48	$40.45	$91.78	$43.78

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: TENNESSEE COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
KNOX	$106.96	$47.20	$127.44	$63.29
LAUDERDALE	$99.21	$41.76	$105.04	$49.04
LEWIS	$147.30	$42.76	$162.75	$50.30
LOUDON	$99.19	$40.28	$126.45	$61.22
MC NAIRY	$84.21	$34.13	$94.96	$43.83
MADISON	$89.93	$40.08	$100.48	$56.48
MARSHALL	$135.34	$48.80	$150.93	$70.11
MEIGS	$111.78	$40.37	$106.95	$48.32
MONTGOMERY	$80.81	$39.27	$88.49	$49.90
MORGAN	$94.69	$46.78	$64.75	$43.39
OVERTON	$105.70	$42.57	$112.61	$52.24
PICKETT	$140.84	$47.38	$113.55	$50.90
PUTNAM	$100.26	$44.21	$113.07	$55.27
ROANE	$111.19	$44.80	$118.43	$58.21
RUTHERFORD	$94.62	$40.50	$115.41	$61.98
SEQUATCHIE	$106.59	$43.96	$120.42	$64.13
SHELBY	$139.94	$54.55	$146.40	$61.34
STEWART	$77.43	$36.14	$85.87	$41.20
SUMNER	$123.39	$47.29	$152.97	$69.66
TROUSDALE	$105.33	$38.54	$180.25	$48.69
UNION	$91.72	$40.27	$94.15	$48.63
WARREN	$125.04	$50.09	$128.92	$59.13
WAYNE	$103.50	$39.25	$145.79	$61.13
WHITE	$94.53	$41.62	$105.76	$47.47
WILSON	$161.53	$50.80	$190.92	$74.67
STATE: TEXAS				
ANDERSON	$87.72	$42.56	$94.56	$48.89
ANGELINA	$101.03	$53.20	$99.39	$51.90
ARCHER	$102.50	$56.83	$103.21	$72.35
ATASCOSA	$119.42	$71.77	$115.29	$77.98
BAILEY	$140.01	$54.08	$151.10	$64.35
BASTROP	$93.62	$48.70	$88.52	$45.93
BEE	$104.25	$55.20	$96.87	$61.73
BEXAR	$125.38	$79.71	$131.61	$95.14
BORDEN	$122.04	$61.79	$146.48	$90.24
BOWIE	$105.79	$55.95	$142.23	$75.21
BRAZOS	$98.47	$47.06	$112.34	$55.83
BRISCOE	$118.04	$53.53	$116.23	$49.88
BROWN	$102.72	$45.66	$96.72	$54.61
BURNET	$89.07	$51.85	$98.00	$58.72
CALHOUN	$122.60	$55.93	$148.14	$67.40
CAMERON	$85.79	$54.79	$79.12	$55.32
CARSON	$118.25	$50.33	$130.10	$56.19
CASTRO	$115.06	$57.32	$157.34	$87.96
CHEROKEE	$128.15	$63.35	$130.53	$72.26
CLAY	$106.43	$42.87	$123.69	$50.47
COKE	$99.12	$54.24	$87.29	$41.76
COLLIN	$122.73	$56.16	$168.88	$79.47

STATE: TENNESSEE COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
LAKE	$86.62	$44.98	$69.90	$42.49
LAWRENCE	$113.82	$40.55	$122.10	$53.71
LINCOLN	$102.12	$43.77	$95.90	$50.78
MC MINN	$93.96	$36.55	$103.09	$50.31
MACON	$109.08	$37.68	$136.73	$59.53
MARION	$126.37	$49.40	$138.05	$53.16
MAURY	$107.49	$42.77	$101.42	$50.64
MONROE	$82.31	$31.91	$83.90	$46.92
MOORE	$96.95	$35.08	$74.59	$44.40
OBION	$89.46	$36.79	$88.35	$40.87
PERRY	$150.92	$39.72	$171.62	$50.16
POLK	$103.34	$41.10	$121.82	$53.86
RHEA	$104.63	$41.95	$106.98	$54.47
ROBERTSON	$115.96	$46.99	$110.40	$55.38
SCOTT	$104.74	$45.99	$75.17	$47.92
SEVIER	$101.90	$43.13	$107.88	$54.11
SMITH	$126.14	$39.82	$115.89	$43.97
SULLIVAN	$110.27	$45.02	$108.37	$57.40
TIPTON	$106.52	$41.56	$118.15	$53.27
UNICOI	$95.14	$33.68	$85.94	$43.10
VAN BUREN	$120.47	$50.90	$73.55	$38.98
WASHINGTON	$102.71	$37.92	$99.61	$48.32
WEAKLEY	$91.82	$33.52	$86.10	$38.42
WILLIAMSON	$124.58	$57.18	$128.23	$65.00
STATE: TEXAS				
ANDREWS	$133.20	$54.91	$248.78	$108.47
ARANSAS	$133.09	$68.42	$127.72	$65.92
ARMSTRONG	$75.23	$41.96	$77.35	$34.27
AUSTIN	$91.13	$43.34	$131.08	$58.61
BANDERA	$77.41	$46.58	$61.56	$41.51
BAYLOR	$140.29	$50.50	$149.55	$59.83
BELL	$86.40	$52.73	$70.26	$64.61
BLANCO	$99.64	$56.61	$108.49	$67.70
BOSQUE	$84.80	$37.01	$118.49	$57.17
BRAZORIA	$144.66	$67.94	$180.41	$85.57
BREWSTER	$87.73	$44.01	$87.16	$41.19
BROOKS	$80.99	$50.72	$86.19	$46.95
BURLESON	$104.88	$46.10	$92.14	$47.94
CALDWELL	$88.11	$50.83	$100.74	$59.10
CALLAHAN	$112.53	$48.27	$153.09	$60.03
CAMP	$105.38	$49.29	$94.91	$53.07
CASS	$92.46	$50.17	$102.96	$56.05
CHAMBERS	$200.68	$81.06	$204.74	$88.29
CHILDRESS	$124.71	$47.58	$164.10	$63.56
COCHRAN	$135.97	$64.65	$259.77	$144.53
COLEMAN	$103.54	$48.61	$120.31	$59.43
COLLINGSWORTH	$107.28	$45.77	$97.82	$45.74

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: TEXAS COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
COLORADO	$115.85	$47.17	$127.11	$56.38
COMANCHE	$111.34	$49.44	$127.52	$61.26
COOKE	$123.58	$50.91	$135.82	$67.33
COTTLE	$144.83	$53.38	$220.07	$83.12
CROCKETT	$121.96	$52.98	$198.19	$101.03
CULBERSON	$136.80	$60.77	$123.28	$58.53
DALLAS	$148.96	$76.99	$162.07	$90.79
DEAF SMITH	$92.35	$46.10	$87.24	$40.48
DENTON	$133.79	$61.24	$123.24	$67.62
DICKENS	$170.25	$65.74	$130.69	$128.12
DONLEY	$85.46	$48.01	$50.54	$36.96
EASTLAND	$106.69	$44.20	$94.73	$54.78
EDWARDS	$113.56	$60.48	$45.85	$27.88
EL PASO	$133.95	$67.18	$128.60	$72.70
FALLS	$105.30	$43.34	$107.98	$45.63
FAYETTE	$98.06	$45.28	$96.12	$47.11
FLOYD	$126.40	$49.12	$167.53	$99.06
FORT BEND	$133.74	$65.89	$110.57	$57.34
FREESTONE	$118.09	$47.67	$112.70	$48.37
GAINES	$132.20	$58.76	$234.14	$99.79
GARZA	$131.52	$60.89	$140.59	$65.80
GLASSCOCK	$119.07	$60.59	$109.08	$62.17
GONZALES	$89.70	$47.52	$118.94	$62.17
GRAYSON	$122.73	$58.80	$139.39	$75.24
GRIMES	$123.59	$56.76	$149.45	$72.92
HALE	$120.90	$54.66	$121.46	$62.06
HAMILTON	$82.64	$42.95	$83.80	$51.53
HARDEMAN	$139.87	$54.42	$97.76	$37.19
HARRIS	$176.84	$80.74	$222.35	$102.39
HARTLEY	$75.38	$44.92	$133.75	$69.94
HAYS	$98.47	$61.58	$95.90	$72.69
HENDERSON	$90.96	$47.29	$108.53	$59.37
HILL	$113.49	$47.90	$107.27	$52.89
HOOD	$114.85	$52.44	$161.19	$97.72
HOUSTON	$107.96	$47.72	$120.23	$57.70
HUDSPETH	$135.98	$60.80	$136.52	$79.68
HUTCHINSON	$104.02	$46.20	$111.68	$59.83
JACK	$103.23	$46.12	$153.46	$76.94
JASPER	$144.93	$59.33	$156.38	$73.57
JEFFERSON	$158.59	$66.88	$188.06	$80.71
JIM WELLS	$134.67	$76.82	$129.00	$74.89
JONES	$111.67	$47.94	$101.91	$53.79
KAUFMAN	$133.04	$56.80	$148.95	$79.31
KENEDY	$112.68	$56.79	$126.07	$72.35
KERR	$77.57	$47.02	$94.97	$56.09
KING	$122.04	$61.79	$256.35	$107.60
KLEBERG	$123.40	$67.00	$140.10	$68.85
LAMAR	$106.66	$55.46	$106.01	$57.48
LAMPASAS	$81.20	$43.46	$77.65	$50.75

STATE: TEXAS COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
COMAL	$80.39	$57.96	$89.14	$68.13
CONCHO	$128.07	$72.94	$166.94	$75.44
CORYELL	$98.03	$43.51	$62.08	$47.00
CRANE	$70.32	$44.23	$87.66	$66.17
CROSBY	$157.32	$64.02	$162.87	$70.38
DALLAM	$101.57	$49.46	$114.46	$67.32
DAWSON	$111.41	$49.96	$115.96	$54.93
DELTA	$104.76	$55.95	$79.65	$50.20
DE WITT	$103.49	$47.71	$105.24	$60.05
DIMMIT	$82.93	$56.14	$138.32	$93.67
DUVAL	$115.31	$73.70	$88.25	$55.77
ECTOR	$116.94	$57.45	$126.56	$65.03
ELLIS	$100.20	$51.83	$119.19	$61.20
ERATH	$96.64	$45.74	$109.79	$62.11
FANNIN	$113.75	$48.16	$129.59	$57.81
FISHER	$92.48	$40.65	$103.14	$58.43
FOARD	$103.28	$42.56	$106.50	$56.90
FRANKLIN	$114.51	$45.85	$181.06	$75.81
FRIO	$136.14	$78.86	$144.61	$102.90
GALVESTON	$165.36	$82.72	$202.10	$107.72
GILLESPIE	$83.70	$45.07	$93.03	$57.43
GOLIAD	$98.89	$51.27	$151.29	$66.58
GRAY	$122.73	$47.06	$161.75	$65.06
GREGG	$99.89	$51.08	$111.58	$60.03
GUADALOUPE	$73.80	$51.36	$70.35	$59.49
HALL	$78.17	$40.68	$130.22	$65.59
HANSFORD	$131.88	$51.67	$251.12	$93.54
HARDIN	$159.62	$64.44	$169.53	$74.81
HARRISON	$85.67	$43.19	$97.36	$50.86
HASKELL	$82.13	$41.97	$111.66	$51.29
HEMPHILL	$115.84	$38.19	$159.39	$57.03
HIDALGO	$69.54	$48.78	$63.60	$46.60
HOCKLEY	$157.64	$62.84	$154.34	$62.44
HOPKINS	$103.59	$46.35	$114.20	$59.25
HOWARD	$120.28	$52.58	$108.40	$50.98
HUNT	$93.75	$46.90	$121.54	$60.70
IRION	$110.42	$63.99	$162.76	$89.01
JACKSON	$118.61	$56.37	$130.70	$65.60
JEFF DAVIS	$82.98	$41.32	$111.80	$75.02
JIM HOGG	$81.99	$58.95	$83.52	$62.42
JOHNSON	$104.61	$55.88	$123.89	$66.87
KARNES	$107.09	$54.38	$91.91	$48.18
KENDALL	$90.62	$55.00	$112.95	$83.59
KENT	$101.35	$47.34	$126.37	$70.44
KIMBLE	$99.38	$53.19	$66.03	$28.28
KINNEY	$77.11	$50.00	$94.88	$58.77
KNOX	$122.52	$47.36	$113.34	$52.49
LAMB	$133.23	$56.96	$160.58	$65.87
LA SALLE	$107.74	$64.12	$116.67	$59.51

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: TEXAS COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
LAVACA	$86.88	$43.74	$106.97	$54.93
LEON	$125.07	$48.87	$122.05	$59.01
LIMESTONE	$104.65	$43.26	$46.38	$23.16
LIVE OAK	$102.62	$62.49	$63.96	$55.20
LOVING	$122.04	$61.79	$213.62	$139.88
LYNN	$133.68	$56.13	$137.54	$66.53
MC LENNAN	$73.05	$42.48	$72.25	$49.77
MADISON	$123.53	$49.73	$96.62	$49.63
MARTIN	$98.98	$48.41	$131.04	$76.38
MATAGORDA	$135.59	$55.22	$190.27	$76.74
MEDINA	$110.27	$66.26	$109.27	$72.38
MIDLAND	$107.85	$59.91	$124.19	$77.36
MILLS	$99.49	$46.04	$43.58	$28.29
MONTAGUE	$82.51	$41.87	$88.09	$46.62
MOORE	$94.01	$49.78	$126.94	$74.46
MOTLEY	$128.84	$54.77	$160.28	$106.22
NAVARRO	$82.86	$50.79	$74.39	$50.44
NOLAN	$109.83	$48.26	$129.25	$60.69
OCHILTREE	$124.61	$53.18	$169.08	$72.77
ORANGE	$163.07	$68.86	$199.87	$95.84
PANOLA	$109.09	$46.83	$125.66	$62.55
PARMER	$84.43	$39.28	$76.63	$48.78
POLK	$115.39	$54.22	$146.76	$70.08
PRESIDIO	$83.41	$47.39	$83.41	$39.39
RANDALL	$95.82	$53.03	$146.10	$80.21
REAL	$98.43	$50.22	$90.89	$51.99
REEVES	$115.93	$53.35	$114.58	$56.34
ROBERTS	$119.42	$41.02	$164.33	$93.25
ROCKWALL	$130.12	$69.40	$141.62	$89.66
RUSK	$93.78	$44.56	$91.41	$52.49
SAN AUGUSTINE	$101.26	$46.11	$86.35	$44.30
SAN PATRICIO	$116.93	$67.41	$117.07	$66.03
SCHLEICHER	$110.01	$59.10	$76.96	$55.01
SHACKELFORD	$111.13	$48.91	$88.18	$42.70
SHERMAN	$88.58	$52.69	$78.23	$31.98
SOMERVELL	$122.40	$42.51	$90.92	$41.24
STEPHENS	$103.53	$48.00	$128.63	$60.49
STONEWALL	$121.53	$55.29	$114.37	$79.58
SWISHER	$98.18	$53.28	$134.72	$60.57
TAYLOR	$101.03	$50.32	$85.68	$45.20
TERRY	$138.19	$61.74	$179.78	$68.28
TITUS	$125.83	$55.66	$152.59	$61.55
TRAVIS	$107.03	$64.84	$93.56	$58.78
TYLER	$124.65	$52.90	$133.44	$58.09
UPTON	$97.96	$46.80	$108.34	$74.56
VAL VERDE	$93.10	$51.30	$88.42	$54.60
VICTORIA	$117.73	$64.94	$160.85	$86.39
WALLER	$151.60	$62.60	$175.97	$69.64
WASHINGTON	$97.28	$46.95	$73.45	$34.01

STATE: TEXAS COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
LEE	$95.57	$44.77	$134.34	$56.68
LIBERTY	$160.36	$69.45	$172.11	$81.88
LIPSCOMB	$111.76	$49.59	$100.75	$33.75
LLANO	$90.40	$49.41	$77.38	$53.27
LUBBOCK	$141.71	$64.47	$152.88	$70.72
MC CULLOCH	$88.94	$45.25	$92.88	$44.31
MC MULLEN	$129.71	$81.51	$103.57	$58.28
MARION	$99.20	$46.40	$85.59	$44.76
MASON	$91.11	$51.08	$50.37	$42.49
MAVERICK	$104.07	$58.59	$84.81	$52.30
MENARD	$98.24	$49.64	$160.55	$100.11
MILAM	$94.95	$45.48	$85.03	$45.98
MITCHELL	$103.24	$44.92	$110.47	$49.83
MONTGOMERY	$159.44	$74.45	$192.11	$96.43
MORRIS	$119.12	$54.79	$141.63	$61.47
NACOGDOCHES	$131.94	$57.12	$141.60	$67.22
NEWTON	$136.16	$55.72	$135.59	$58.72
NUECES	$138.84	$77.59	$147.51	$86.41
OLDHAM	$116.21	$53.21	$103.97	$37.49
PALO PINTO	$109.96	$45.36	$120.23	$58.53
PARKER	$98.57	$47.89	$112.51	$66.37
PECOS	$100.41	$41.43	$148.06	$93.98
POTTER	$105.87	$56.11	$116.05	$71.93
RAINS	$120.12	$54.52	$114.65	$62.68
REAGAN	$119.63	$66.20	$174.31	$90.88
RED RIVER	$112.24	$44.34	$129.28	$52.98
REFUGIO	$113.29	$55.93	$129.25	$58.27
ROBERTSON	$93.38	$47.63	$89.44	$48.53
RUNNELS	$97.54	$54.43	$109.48	$54.81
SABINE	$118.23	$46.69	$115.87	$56.22
SAN JACINTO	$149.36	$73.24	$160.62	$84.66
SAN SABA	$103.71	$49.12	$102.60	$62.43
SCURRY	$153.31	$54.78	$161.61	$70.23
SHELBY	$122.59	$50.39	$116.23	$52.44
SMITH	$91.51	$52.53	$115.63	$64.10
STARR	$64.41	$42.91	$65.71	$33.94
STERLING	$79.94	$42.44	$129.80	$70.82
SUTTON	$129.89	$73.06	$179.78	$101.08
TARRANT	$115.90	$60.19	$143.58	$80.04
TERRELL	$104.40	$50.07	$134.40	$55.09
THROCKMORTON	$193.27	$70.77	$256.51	$122.47
TOM GREEN	$101.58	$58.36	$91.51	$54.95
TRINITY	$106.55	$51.57	$148.38	$76.04
UPSHUR	$101.89	$47.30	$126.78	$61.32
UVALDE	$101.03	$58.03	$114.24	$73.43
VAN ZANDT	$106.78	$52.95	$123.04	$64.50
WALKER	$154.37	$72.53	$166.49	$88.83
WARD	$144.71	$62.68	$154.00	$54.36
WEBB	$89.46	$58.64	$76.51	$57.34

STATE: TEXAS COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
WHARTON	$107.88	$48.41	$119.87	$61.33
WICHITA	$94.83	$55.97	$110.99	$69.19
WILLACY	$77.79	$50.30	$69.08	$49.72
WILSON	$104.02	$62.12	$115.23	$74.81
WISE	$100.42	$38.93	$109.37	$50.35
YOAKUM	$145.02	$58.85	$129.40	$58.24
ZAPATA	$91.18	$56.61	$59.95	$46.76
STATE: UTAH				
BEAVER	$109.44	$55.52	$114.51	$60.12
CACHE	$67.13	$40.70	$81.28	$47.48
DAGGETT	$95.66	$53.01	$135.71	$76.75
DUCHESNE	$90.59	$43.16	$106.02	$59.52
GARFIELD	$110.67	$50.09	$84.86	$48.46
IRON	$98.64	$51.13	$138.48	$63.85
KANE	$100.45	$49.28	$137.05	$88.27
MORGAN	$85.15	$46.12	$133.67	$114.75
RICH	$85.64	$50.00	$227.37	$83.92
SAN JUAN	$87.59	$39.42	$82.44	$35.43
SEVIER	$85.95	$44.10	$94.39	$54.36
TOOELE	$106.26	$48.90	$95.56	$54.58
UTAH	$106.02	$53.94	$109.28	$66.81
WASHINGTON	$89.26	$49.42	$90.18	$55.24
WEBER	$95.99	$53.63	$117.76	$68.69
STATE: VERMONT				
ADDISON	$107.77	$45.91	$98.69	$48.49
CALEDONIA	$114.32	$46.93	$96.53	$56.85
ESSEX	$123.64	$41.51	$132.81	$52.05
GRAND ISLE	$128.62	$48.26	$145.77	$67.09
ORANGE	$121.10	$49.44	$120.81	$58.35
RUTLAND	$121.20	$46.54	$111.66	$56.08
WINDHAM	$118.20	$50.70	$161.00	$74.66
STATE: VIRGIN ISLANDS				
ST CROIX	$57.37	$25.27	$70.79	$24.70
STATE: VIRGINIA				
ACCOMACK	$82.60	$36.48	$101.63	$48.56
ALEXANDRIA CITY	$174.97	$89.89	$229.48	$120.56
AMELIA	$110.84	$38.89	$124.91	$53.71
APPOMATTOX	$76.95	$33.12	$73.05	$44.14
AUGUSTA	$86.67	$35.91	$131.86	$55.99
BEDFORD CITY	$66.93	$29.26	$77.96	$44.69
BLAND	$130.91	$47.82	$123.14	$60.43
BRISTOL CITY	$87.45	$41.39	$68.76	$44.29
BUCHANAN	$153.36	$74.95	$94.66	$71.76
BUENA VISTA CITY	$82.29	$39.07	$99.95	$57.31
CAROLINE	$128.46	$50.21	$114.36	$52.54

STATE: TEXAS COUNTY NAME	****** AGED ****** PART A	 PART B	*** DISABLED *** PART A	 PART B
WHEELER	$131.31	$51.02	$178.42	$67.27
WILBARGER	$117.26	$51.42	$140.37	$61.26
WILLIAMSON	$77.80	$45.91	$91.57	$57.46
WINKLER	$138.44	$50.76	$172.46	$67.06
WOOD	$103.59	$49.13	$110.17	$61.45
YOUNG	$110.40	$48.49	$140.29	$63.90
ZAVALA	$94.80	$68.69	$100.00	$70.70
STATE: UTAH				
BOX ELDER	$86.50	$47.53	$87.79	$55.87
CARBON	$129.68	$75.29	$126.02	$68.78
DAVIS	$109.60	$57.62	$138.14	$81.83
EMERY	$107.28	$59.00	$112.96	$48.50
GRAND	$115.55	$42.08	$144.95	$64.18
JUAB	$130.84	$51.20	$101.53	$44.33
MILLARD	$87.60	$41.69	$56.63	$40.38
PIUTE	$117.25	$47.13	$142.20	$74.44
SALT LAKE	$100.29	$55.94	$128.67	$72.57
SANPETE	$98.62	$48.01	$144.12	$68.10
SUMMIT	$113.41	$48.51	$217.05	$82.72
UINTAH	$107.67	$55.17	$117.41	$49.21
WASATCH	$101.13	$49.71	$112.64	$76.22
WAYNE	$95.86	$53.16	$209.86	$66.73
STATE: VERMONT				
BENNINGTON	$126.94	$56.72	$136.34	$68.47
CHITTENDEN	$126.72	$49.31	$135.45	$70.63
FRANKLIN	$118.60	$44.92	$135.86	$62.92
LAMOILLE	$126.68	$55.97	$108.67	$54.94
ORLEANS	$117.64	$38.17	$122.89	$51.36
WASHINGTON	$95.83	$40.96	$100.33	$62.82
WINDSOR	$120.91	$52.77	$112.06	$62.34
STATE: VIRGIN ISLANDS				
ST THOMAS-JOHN	$49.08	$21.02	$44.11	$20.85
STATE: VIRGINIA				
ALBEMARLE	$103.49	$51.38	$151.88	$88.19
ALLEGHANY	$129.54	$53.26	$196.73	$77.96
AMHERST	$74.72	$32.68	$92.34	$42.60
ARLINGTON	$153.09	$83.87	$215.73	$114.18
BATH	$174.47	$50.64	$150.55	$63.79
BEDFORD	$87.78	$36.36	$104.68	$59.36
BOTETOURT	$112.63	$42.64	$89.15	$45.18
BRUNSWICK	$101.57	$42.09	$113.00	$49.52
BUCKINGHAM	$107.16	$49.91	$112.57	$65.26
CAMPBELL	$80.41	$33.49	$78.60	$43.47
CARROLL	$95.99	$36.10	$96.75	$46.99

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: VIRGINIA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
CHARLES CITY.....	$126.08	$46.75	$63.80	$46.01
CHARLOTTESVILLE CITY	$105.59	$55.17	$170.35	$104.62
CHESTERFIELD.....	$133.83	$57.53	$144.66	$73.54
CLIFTON FORGE CITY..	$124.35	$50.42	$154.50	$72.69
COVINGTON CITY.....	$137.69	$50.40	$111.89	$50.38
CULPEPER.....	$97.27	$49.59	$101.11	$54.55
DANVILLE CITY.....	$77.85	$39.77	$96.10	$55.52
DINWIDDIE.....	$102.18	$40.82	$96.42	$41.32
ESSEX.....	$120.60	$53.61	$136.43	$61.67
FAIRFAX.....	$131.47	$76.51	$174.88	$105.57
FAUQUIER.....	$123.12	$53.78	$132.12	$66.11
FLUVANNA.....	$103.82	$48.76	$141.78	$74.03
FRANKLIN.....	$111.08	$36.17	$95.26	$41.19
FREDERICKSBURG CITY.	$115.14	$53.35	$127.10	$70.36
GILES.....	$110.92	$46.55	$99.38	$51.95
GOOCHLAND.....	$113.84	$46.66	$113.61	$61.33
GREENE.....	$100.57	$46.01	$185.13	$81.85
HALIFAX.....	$81.40	$35.25	$104.83	$51.88
HANOVER.....	$129.20	$53.70	$163.73	$81.59
HENRICO.....	$130.75	$58.72	$197.42	$85.58
HIGHLAND.....	$99.41	$35.95	$93.33	$45.48
ISLE OF WIGHT.....	$116.12	$55.30	$107.40	$61.25
KING AND QUEEN.....	$139.09	$50.69	$119.69	$73.86
KING WILLIAM.....	$140.16	$56.08	$159.91	$66.07
LEE.....	$104.03	$51.46	$88.60	$50.41
LOUDOUN.....	$124.86	$60.90	$161.00	$91.42
LUNENBURG.....	$96.06	$39.77	$81.54	$42.37
MADISON.....	$101.66	$44.67	$96.39	$51.68
MANASSAS CITY.....	$164.06	$78.27	$193.95	$101.35
MATHEWS.....	$104.42	$43.26	$131.45	$58.53
MIDDLESEX.....	$103.75	$43.45	$120.84	$53.61
NELSON.....	$99.26	$41.32	$102.34	$60.72
NEWPORT NEWS CITY...	$99.82	$54.37	$116.81	$68.59
NORTHAMPTON.....	$83.37	$35.77	$88.96	$38.68
NORTON CITY.....	$157.37	$67.11	$130.90	$67.78
ORANGE.....	$111.17	$50.68	$102.58	$64.68
PATRICK.....	$104.64	$36.83	$124.91	$49.93
PITTSYLVANIA.....	$69.18	$33.30	$83.69	$43.92
POQUOSON CITY.....	$107.11	$55.87	$162.58	$93.48
PRINCE EDWARD.....	$93.37	$36.38	$110.72	$45.83
PRINCE WILLIAM.....	$155.08	$81.75	$212.07	$123.96
RADFORD CITY.....	$139.91	$49.11	$177.70	$68.25
RICHMOND.....	$142.98	$56.55	$138.05	$79.88
ROANOKE.....	$86.10	$40.17	$130.92	$61.92
ROCKBRIDGE.....	$79.06	$36.30	$107.71	$52.43
RUSSELL.....	$118.48	$52.22	$94.34	$56.36
SCOTT	$120.23	$43.82	$103.39	$51.25
SMYTH.....	$80.68	$34.50	$83.48	$42.05
SOUTHAMPTON.....	$110.28	$56.66	$133.68	$67.42

STATE: VIRGINIA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
CHARLOTTE.....	$76.00	$30.35	$70.23	$32.86
CHESAPEAKE.....	$159.07	$66.55	$163.27	$85.05
CLARKE.....	$90.33	$38.78	$113.33	$48.70
COLONIAL HGTS CITY..	$121.36	$50.84	$133.00	$65.21
CRAIG.....	$102.08	$39.89	$153.87	$65.95
CUMBERLAND.....	$114.28	$44.81	$69.20	$41.12
DICKENSON.....	$123.12	$61.79	$82.99	$57.73
EMPORIA.....	$131.70	$59.97	$163.50	$74.11
FAIRFAX CITY.....	$131.79	$75.31	$156.85	$93.37
FALLS CHURCH CITY...	$142.42	$85.17	$186.32	$106.44
FLOYD.....	$90.07	$36.23	$105.84	$50.73
FRANKLIN CITY.....	$129.87	$69.53	$156.48	$80.48
FREDERICK.....	$85.67	$36.02	$89.56	$54.96
GALAX CITY.....	$101.06	$40.19	$97.63	$44.01
GLOUCESTER.....	$107.87	$48.51	$128.26	$62.57
GRAYSON.....	$83.81	$31.86	$82.70	$35.07
GREENSVILLE.....	$124.17	$61.76	$126.86	$65.85
HAMPTON CITY.....	$101.95	$54.18	$122.40	$74.13
HARRISONBURG CITY...	$68.58	$35.32	$98.21	$56.96
HENRY.....	$100.37	$41.17	$107.80	$53.12
HOPEWELL CITY.....	$138.85	$61.08	$164.32	$82.90
JAMES CITY.....	$97.04	$44.99	$134.53	$68.84
KING GEORGE.....	$130.25	$52.92	$120.15	$72.07
LANCASTER.....	$93.82	$44.41	$116.20	$67.49
LEXINGTON.....	$72.05	$35.22	$57.47	$44.47
LOUISA.....	$112.32	$50.62	$145.19	$67.63
LYNCHBURG CITY.....	$83.88	$36.79	$91.51	$47.69
MARTINSVILLE CITY...	$90.95	$40.82	$102.91	$58.16
MANASSAS PARK CITY..	$118.10	$53.69	$130.93	$66.98
MECKLENBURG.....	$87.92	$40.74	$105.62	$47.84
MONTGOMERY.....	$104.27	$43.16	$115.14	$52.63
NEW KENT.....	$141.48	$50.35	$149.42	$69.99
NORFOLK CITY.....	$154.78	$67.34	$181.04	$84.53
NORTHUMBERLAND.....	$114.21	$49.47	$121.31	$61.30
NOTTOWAY.....	$103.63	$45.88	$105.56	$49.03
PAGE.....	$115.16	$41.39	$109.80	$54.08
PETERSBURG CITY.....	$118.42	$45.86	$133.13	$57.17
PORTSMOUTH CITY.....	$129.91	$63.41	$148.33	$87.17
POWHATAN.....	$127.41	$49.55	$120.67	$53.09
PRINCE GEORGE.....	$108.86	$47.66	$142.86	$61.19
PULASKI.....	$145.73	$51.55	$163.03	$79.41
RAPPAHANNOCK.....	$106.69	$47.31	$68.71	$43.67
RICHMOND CITY.....	$142.69	$61.25	$168.55	$76.29
ROANOKE CITY.....	$117.84	$46.35	$129.21	$56.66
ROCKINGHAM.....	$72.06	$34.01	$82.23	$45.57
SALEM.....	$95.77	$43.43	$126.55	$55.94
SHENANDOAH.....	$84.14	$36.71	$89.80	$48.37
SOUTH BOSTON CITY...	$88.04	$37.89	$122.32	$56.81
SPOTSYLVANIA.....	$102.15	$44.55	$121.35	$70.18

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: VIRGINIA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
STAFFORD	$105.62	$49.72	$151.75	$78.39
SUFFOLK CITY	$120.20	$55.60	$141.64	$71.91
SUSSEX	$123.29	$49.19	$131.76	$61.84
VIRGINIA BEACH CITY	$146.22	$71.95	$178.94	$95.80
WASHINGTON	$74.50	$35.49	$82.83	$45.66
WESTMORELAND	$132.72	$56.21	$153.56	$69.52
WINCHESTER CITY	$91.29	$39.41	$116.73	$52.94
WYTHE	$142.19	$45.54	$127.83	$51.59
STATE: WASHINGTON				
ADAMS	$118.43	$58.27	$116.92	$67.55
BENTON	$97.52	$54.25	$104.68	$64.88
CLALLAM	$98.68	$57.78	$103.83	$67.75
COLUMBIA	$116.43	$51.18	$89.34	$54.01
DOUGLAS	$98.60	$62.96	$82.86	$66.55
FRANKLIN	$114.13	$54.54	$135.04	$65.41
GRANT	$108.26	$57.75	$99.77	$61.33
ISLAND	$103.46	$54.45	$96.20	$55.61
KING	$129.17	$64.64	$154.86	$82.87
KITTITAS	$97.99	$52.37	$121.93	$61.90
LEWIS	$107.26	$57.72	$91.62	$61.89
MASON	$113.94	$59.30	$100.22	$60.10
PACIFIC	$140.58	$55.21	$121.61	$60.40
PIERCE	$103.03	$64.47	$99.64	$75.59
SKAGIT	$125.94	$63.21	$130.72	$73.11
SNOHOMISH	$121.40	$59.43	$133.74	$75.83
STEVENS	$114.45	$52.65	$113.21	$64.22
WAHKIAKUM	$107.89	$49.08	$85.78	$60.37
WHATCOM	$86.69	$54.60	$85.78	$62.56
YAKIMA	$105.40	$52.27	$111.50	$64.47
STATE: W. VIRGINIA				
BARBOUR	$121.44	$35.48	$96.97	$42.77
BOONE	$144.11	$85.10	$87.34	$57.29
BROOKE	$170.43	$51.37	$199.60	$65.75
CALHOUN	$122.78	$45.25	$90.33	$33.52
DODDRIDGE	$98.89	$38.59	$70.21	$32.77
GILMER	$103.07	$40.27	$89.53	$45.54
GREENBRIER	$111.06	$55.55	$93.76	$53.06
HANCOCK	$200.21	$59.40	$219.88	$78.14
HARRISON	$116.37	$50.09	$89.48	$49.91
JEFFERSON	$100.91	$40.82	$105.43	$49.31
LEWIS	$97.83	$38.49	$81.57	$43.74
LOGAN	$143.77	$69.33	$102.55	$66.29
MARION	$101.84	$35.73	$103.75	$46.89
MASON	$120.97	$44.82	$127.87	$56.01
MINERAL	$143.61	$44.60	$118.02	$45.22
MONONGALIA	$125.40	$57.26	$123.26	$67.15
MORGAN	$98.53	$40.22	$92.82	$50.91

STATE: VIRGINIA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
STAUNTON CITY	$94.93	$39.64	$109.64	$54.28
SURRY	$106.80	$47.17	$71.90	$39.26
TAZEWELL	$129.72	$64.55	$118.43	$73.13
WARREN	$120.90	$49.84	$158.67	$80.50
WAYNESBORO CITY	$117.67	$47.37	$132.24	$64.69
WILLIAMSBURG CITY	$121.33	$61.30	$159.82	$82.55
WISE	$134.81	$60.30	$107.46	$58.42
YORK	$106.13	$55.70	$113.26	$64.36
STATE: WASHINGTON				
ASOTIN	$106.74	$54.91	$92.32	$54.66
CHELAN	$94.32	$60.74	$105.60	$69.74
CLARK	$105.89	$57.10	$98.24	$59.10
COWLITZ	$116.50	$56.08	$124.45	$72.70
FERRY	$142.48	$57.95	$96.58	$56.60
GARFIELD	$116.65	$52.98	$90.08	$80.72
GRAYS HARBOR	$116.68	$59.68	$120.12	$67.70
JEFFERSON	$105.85	$57.87	$85.44	$55.77
KITSAP	$90.51	$63.27	$94.96	$72.47
KLICKITAT	$130.82	$51.11	$128.56	$58.71
LINCOLN	$102.39	$56.94	$130.35	$93.48
OKANOGAN	$108.38	$53.98	$115.88	$68.44
PEND OREILLE	$117.54	$55.19	$88.17	$51.71
SAN JUAN	$84.15	$51.66	$140.24	$84.86
SKAMANIA	$122.36	$51.24	$121.42	$71.86
SPOKANE	$108.67	$60.47	$109.60	$75.32
THURSTON	$91.13	$58.25	$87.20	$60.77
WALLA WALLA	$109.96	$57.94	$118.60	$62.95
WHITMAN	$108.09	$53.92	$94.80	$51.61
STATE: W. VIRGINIA				
BERKELEY	$109.84	$45.91	$114.16	$56.39
BRAXTON	$85.04	$37.89	$59.49	$30.81
CABELL	$88.55	$44.14	$80.01	$49.69
CLAY	$99.20	$42.22	$71.45	$39.51
FAYETTE	$135.24	$83.38	$101.55	$64.63
GRANT	$104.40	$41.98	$84.23	$43.62
HAMPSHIRE	$101.87	$43.15	$87.74	$44.07
HARDY	$84.35	$36.84	$76.73	$34.63
JACKSON	$86.41	$35.23	$96.19	$46.12
KANAWHA	$142.71	$54.30	$146.29	$61.98
LINCOLN	$89.13	$45.10	$64.80	$41.06
MC DOWELL	$136.91	$72.07	$84.27	$56.15
MARSHALL	$193.58	$51.87	$202.11	$68.16
MERCER	$136.25	$68.56	$124.02	$70.82
MINGO	$130.02	$62.49	$87.28	$58.01
MONROE	$104.51	$55.17	$78.35	$57.07
NICHOLAS	$98.85	$52.81	$84.72	$50.97

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: W. VIRGINIA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
OHIO	$153.47	$48.47	$228.06	$68.54
PLEASANTS	$128.42	$42.93	$77.44	$50.05
PRESTON	$94.11	$41.20	$78.73	$42.91
RALEIGH	$109.10	$90.55	$78.84	$68.76
RITCHIE	$98.68	$37.08	$84.87	$44.54
SUMMERS	$114.68	$54.86	$109.64	$58.26
TUCKER	$119.11	$48.75	$71.20	$42.78
UPSHUR	$71.99	$36.61	$66.98	$36.15
WEBSTER	$87.85	$44.41	$64.16	$43.43
WIRT	$107.34	$40.83	$108.84	$42.42
WYOMING	$150.42	$92.05	$83.69	$67.91
STATE: WISCONSIN				
ADAMS	$124.44	$47.28	$145.67	$63.44
BARRON	$102.10	$40.22	$106.96	$49.80
BROWN	$107.91	$41.22	$128.19	$66.22
BURNETT	$121.30	$40.43	$133.88	$49.89
CHIPPEWA	$115.75	$47.18	$108.59	$61.94
COLUMBIA	$112.21	$44.71	$132.69	$62.81
DANE	$108.90	$50.44	$133.68	$76.22
DOOR	$117.06	$46.63	$130.52	$63.59
DUNN	$86.52	$40.81	$93.04	$55.64
FLORENCE	$102.97	$39.70	$131.12	$65.63
FOREST	$94.59	$41.88	$105.00	$52.12
GREEN	$87.57	$36.22	$110.65	$59.26
IOWA	$85.44	$35.65	$108.42	$55.43
JACKSON	$119.11	$42.94	$100.96	$49.85
JUNEAU	$101.76	$43.70	$106.74	$54.69
KEWAUNEE	$116.05	$40.44	$126.77	$52.55
LAFAYETTE	$115.66	$41.67	$140.68	$60.11
LINCOLN	$121.26	$46.07	$160.99	$72.64
MARATHON	$101.21	$45.12	$106.35	$56.04
MARQUETTE	$101.30	$44.56	$121.61	$59.95
MILWAUKEE	$178.06	$66.79	$206.13	$93.04
OCONTO	$98.89	$37.56	$112.79	$46.68
OUTAGAMIE	$114.27	$45.06	$135.88	$65.21
PEPIN	$86.11	$43.95	$102.88	$63.25
POLK	$124.32	$43.24	$126.87	$55.05
PRICE	$102.89	$41.42	$120.32	$54.67
RICHLAND	$82.75	$37.12	$95.80	$48.51
RUSK	$105.68	$46.24	$114.29	$58.55
SAUK	$106.29	$47.23	$116.77	$57.11
SHAWANO	$83.38	$38.84	$100.15	$51.33
TAYLOR	$108.15	$43.76	$109.34	$53.38
VERNON	$79.63	$37.49	$96.23	$50.39
WALWORTH	$121.00	$47.32	$167.88	$62.37
WASHINGTON	$121.81	$51.24	$122.94	$64.48
WAUPACA	$90.64	$37.14	$91.94	$47.77
WINNEBAGO	$127.80	$46.90	$148.79	$77.02

STATE: W. VIRGINIA COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
PENDLETON	$73.45	$34.86	$90.39	$33.05
POCAHONTAS	$97.43	$39.81	$95.17	$44.66
PUTNAM	$116.43	$47.00	$105.23	$50.47
RANDOLPH	$101.91	$45.73	$87.13	$45.18
ROANE	$105.25	$34.87	$79.90	$37.29
TAYLOR	$101.89	$41.95	$116.71	$51.40
TYLER	$102.32	$35.25	$85.46	$41.36
WAYNE	$83.69	$40.25	$62.96	$39.25
WETZEL	$119.06	$39.93	$112.55	$41.26
WOOD	$124.31	$46.86	$124.46	$55.81
STATE: WISCONSIN				
ASHLAND	$99.36	$39.81	$125.99	$56.32
BAYFIELD	$108.49	$42.08	$112.78	$51.72
BUFFALO	$86.97	$44.58	$89.49	$55.20
CALUMET	$104.17	$37.61	$108.71	$62.13
CLARK	$98.00	$40.89	$78.80	$43.88
CRAWFORD	$99.82	$42.23	$123.22	$58.98
DODGE	$103.50	$43.99	$103.15	$55.57
DOUGLAS	$138.19	$47.79	$144.33	$54.45
EAU CLAIRE	$118.73	$52.62	$140.74	$64.25
FOND DU LAC	$103.52	$45.49	$116.11	$60.05
GRANT	$106.12	$40.11	$116.36	$54.82
GREEN LAKE	$117.08	$45.49	$138.03	$62.56
IRON	$111.43	$41.98	$82.60	$40.86
JEFFERSON	$104.27	$44.33	$106.19	$49.09
KENOSHA	$162.52	$60.32	$195.22	$85.72
LA CROSSE	$99.75	$52.04	$122.51	$76.09
LANGLADE	$101.51	$45.94	$90.80	$59.32
MANITOWOC	$117.68	$45.89	$157.46	$69.19
MARINETTE	$91.53	$33.69	$87.50	$44.49
MENOMINEE	$99.88	$52.97	$96.04	$56.11
MONROE	$91.33	$40.69	$87.26	$49.63
ONEIDA	$114.18	$48.10	$115.07	$55.66
OZAUKEE	$150.70	$56.02	$184.50	$79.55
PIERCE	$94.84	$40.85	$100.04	$58.73
PORTAGE	$110.21	$43.31	$110.61	$55.25
RACINE	$122.40	$54.61	$157.59	$86.10
ROCK	$114.24	$50.10	$133.31	$69.43
ST CROIX	$116.35	$41.72	$109.44	$52.26
SAWYER	$120.51	$45.99	$132.10	$58.28
SHEBOYGAN	$113.78	$39.67	$152.68	$65.66
TREMPEALEAU	$84.91	$40.77	$94.39	$50.39
VILAS	$127.76	$50.03	$151.15	$63.52
WASHBURN	$142.16	$45.69	$130.45	$49.37
WAUKESHA	$141.56	$55.93	$178.45	$81.61
WAUSHARA	$119.15	$45.02	$123.17	$59.32
WOOD	$104.84	$48.98	$112.37	$63.42

TABLE 2
STANDARDIZED PER CAPITA RATES OF PAYMENT

STATE: WYOMING COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
ALBANY	$123.67	$56.09	$159.04	$69.57
CAMPBELL	$147.39	$58.57	$161.44	$58.19
CONVERSE	$106.55	$44.52	$118.98	$97.21
FREMONT	$148.24	$53.19	$117.24	$49.30
HOT SPRINGS	$149.55	$53.55	$123.61	$69.29
LARAMIE	$116.73	$52.45	$109.47	$60.70
NATRONA	$121.90	$51.76	$149.21	$78.66
PARK	$91.81	$51.30	$126.91	$92.57
SHERIDAN	$86.36	$40.71	$79.56	$52.62
SWEETWATER	$123.39	$54.93	$138.58	$57.69
UINTA	$111.53	$54.25	$84.42	$56.51
WESTON	$112.65	$46.38	$159.68	$67.89
STATE: GUAM				
AGANA	$67.42	$26.90	$54.29	$19.42
AGAT	$67.42	$26.90	$61.90	$21.05
BARRIGADA	$67.42	$26.90	$57.79	$21.45
DEDEDO	$67.42	$26.90	$52.00	$17.24
MAITE	$67.42	$26.90	$57.48	$21.29
MERIZO	$67.42	$26.90	$57.48	$21.29
ORDOT	$67.42	$26.90	$55.08	$19.02
SANTA RITA	$67.42	$26.90	$57.48	$21.29
TALOFOFO	$67.42	$26.90	$55.49	$19.77
TOTO	$67.42	$26.90	$60.16	$19.19
YIGO	$67.42	$26.90	$55.88	$19.31

STATE: WYOMING COUNTY NAME	****** AGED ****** PART A	PART B	*** DISABLED *** PART A	PART B
BIG HORN	$125.06	$53.44	$123.36	$60.59
CARBON	$146.31	$47.81	$169.92	$76.63
CROOK	$157.87	$47.28	$116.44	$42.75
GOSHEN	$119.30	$43.12	$127.26	$48.90
JOHNSON	$100.31	$45.52	$127.76	$53.80
LINCOLN	$106.15	$47.02	$138.18	$57.80
NIOBRARA	$102.07	$42.05	$139.01	$53.76
PLATTE	$107.33	$46.53	$129.75	$70.38
SUBLETTE	$130.11	$51.43	$109.37	$39.70
TETON	$130.44	$62.09	$140.54	$105.04
WASHAKIE	$118.66	$52.67	$95.38	$44.79
STATE: GUAM				
AGANA HEIGHTS	$67.42	$26.90	$54.45	$19.77
ASAN	$67.42	$26.90	$55.08	$19.02
CHALAN PAGO	$67.42	$26.90	$57.48	$22.15
INARAJAN	$67.42	$26.90	$47.33	$14.57
MANGILAO	$67.42	$26.90	$56.89	$18.87
MONGMONG	$67.42	$26.90	$61.90	$18.05
PITI	$67.42	$26.90	$42.35	$15.38
SINAJANA	$67.42	$26.90	$54.37	$17.09
TAMUNING	$67.42	$26.90	$54.46	$18.50
UMATAC	$67.42	$26.90	$58.52	$20.26
YONA	$67.42	$26.90	$55.88	$21.63

BILLING CODE 4120-01-C

TABLE 3

PER CAPITA RATES OF PAYMENT FOR MEDICARE ENROLLEES WITH ***** END-STAGE RENAL DISEASE *****

STATE	PART A	PART B
ALABAMA	$472.04	$1,002.60
ALASKA	$1,024.62	$1,653.35
ARIZONA	$707.10	$1,687.11
ARKANSAS	$456.32	$1,219.50
CALIFORNIA	$822.31	$1,770.84
COLORADO	$582.85	$1,516.90
CONNECTICUT	$724.31	$1,601.11
DELAWARE	$775.49	$1,538.27
DIST. OF COL.	$1,159.02	$1,733.27
FLORIDA	$649.68	$1,578.85
GEORGIA	$563.51	$1,514.22
HAWAII	$1,003.90	$1,943.03
IDAHO	$673.29	$1,183.18
ILLINOIS	$747.11	$1,640.63
INDIANA	$763.85	$1,447.22
IOWA	$601.29	$1,093.12
KANSAS	$886.50	$1,512.08
KENTUCKY	$871.94	$1,255.37
LOUISIANA	$613.59	$1,526.99
MAINE	$893.22	$1,261.22
MARYLAND	$1,077.96	$1,704.07
MASSACHUSETTS	$737.02	$1,169.05
MICHIGAN	$995.76	$1,511.46
MINNESOTA	$1,334.26	$1,348.09
MISSISSIPPI	$374.82	$1,640.50
MISSOURI	$702.28	$1,382.13
MONTANA	$753.64	$1,246.00
NEBRASKA	$819.74	$1,176.86
NEVADA	$761.82	$1,930.82
NEW HAMPSHIRE	$939.43	$1,484.41
NEW JERSEY	$694.56	$1,745.33
NEW MEXICO	$721.42	$1,381.05
NEW YORK	$593.71	$1,560.85
N. CAROLINA	$563.86	$1,451.27
N. DAKOTA	$1,216.61	$1,249.06
OHIO	$719.72	$1,435.46
OKLAHOMA	$594.02	$1,140.60
OREGON	$1,255.40	$1,508.48
PENNSYLVANIA	$773.89	$1,711.51
PUERTO RICO	$256.61	$1,485.02
RHODE ISLAND	$909.59	$1,696.82
S. CAROLINA	$602.67	$1,602.84
S. DAKOTA	$1,348.46	$1,337.30
TENNESSEE	$542.28	$1,378.74
TEXAS	$664.36	$1,564.96
UTAH	$530.24	$1,362.46
VERMONT	$966.30	$1,382.23
VIRGIN ISLANDS	$271.30	$1,676.84
VIRGINIA	$598.19	$1,541.70
WASHINGTON	$740.51	$1,260.55
W. VIRGINIA	$833.33	$1,632.77
WISCONSIN	$1,061.81	$1,275.97
WYOMING	$439.65	$1,204.40
GUAM	$590.11	$1,698.34

V. Regulatory Impact Statement

This notice merely explains in detail the methodology used to determine the AAPCC and sets forth a schedule of the demographic cost factors and standardized per capita rates to be used in determining payments to HMOs and CMPs with risk contracts for contracting periods beginning in 1986. This notice is not a proposed rule or a final rule issued after a proposal, and does not alter any regulations or policy. Therefore, we have determined, and the Secretary certifies, that no analyses are required under Executive Order 12291 or the Regulatory Flexibility Act (5 U.S.C. 601 through 612).

IV. Other Required Information

This notice does not impose information collection requirements; consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare Hospital Insurance Program and No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: November 11, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 85-30855 Filed 12-31-85; 12:53 pm]

BILLING CODE 4120-01-M

federal register

Monday
January 6, 1986

Part V

Office of Management and Budget

Federal Agencies Responsible for Cost Negotiation and Audit of State and Local Governments; Republication

OFFICE OF MANAGEMENT AND BUDGET

Federal Agencies Responsible for Cost Negotiation and Audit of State and Local Governments; Republication

[Editorial Note: The following document was originally published at page 52406 in the issue of Monday, December 23, 1985. In that publication, the list of cognizant agency assignments for the State of Missouri was omitted and the asterisks in the list were not printed correctly. The corrected document is reprinted below in its entirety.]

AGENCY: Office of Management and Budget, Financial Management Division.

ACTION: Final notice.

SUMMARY: This notice transmits a revised list of Federal agencies responsible for administering the provisions of OMB Circular A–87, "Cost Principles for State and Local Governments," and OMB Circular A–128, "Audits of State and Local Governments."

FOR FURTHER INFORMATION CONTACT: Marvin E. Saunders, Financial Management Division, (202) 395–3993.

John J. Lordan,

Deputy Associate Director for Financial Management.

SUPPLEMENTARY INFORMATION:

Office of Management and Budget

Federal Agencies Responsible for Cost Negotiation and Audit of State and Local Governments

Agency: Office of Management and Budget.

Action: Notice of Cognizant Agency Assignments.

Summary: This notice transmits a revised list of Federal agencies responsible for administering the provisions of OMB Circular A–87, "Cost Principles for State and Local Governments," and OMB Circular A–128, "Audits of State and Local Governments."

In the past OMB has assigned cognizance separately for cost allocation and for audit. The revised list combines the assignments and makes one Federal agency responsible for both requirements. Federal agencies assigned cognizance under this notice shall remain cognizant for a period of three years.

The revised list replaces cognizant agency assignments published in the Federal Register on February 28, 1980, and October 6, 1980. The revised list also replaces audit assignments for local governments included in the Director of OMB's Memorandum to Departments and Agencies dated March 2, 1982.

For Further Information Contact: Marvin E. Saunders, Financial Management Division, Office of Management and Budget, Washington, DC 20503, (202) 395–3993.

Supplemental Information: On February 27, 1985, OMB requested comments from the major grantmaking agencies on a proposed revision to the cognizant agency assignments. Comments received from the agencies were analyzed and considered in developing the revised list included in this notice.

The revised list assigns cognizance under Circulars A–87 and A–128 for most governmental units included in the 1980 and 1982 lists. Where organizational changes have occurred at the State and local levels, appropriate cognizant agency assignments have been made for the new government entities. Cognizant agency assignments have been made for all States, including State agencies. Territorial governments, Indian tribal governments, and larger local governments are also included. Those State departments and local units of government not listed should deal with the Federal agency providing them the most funds.

Generally, the new assignments make the same Federal agency responsible for cost negotiation and for audit. The only exception is for statewide cognizance. Under Circular A–87, the Department of Health and Human Services has negotiated statewide cost allocation plans for all States, plus the District of Columbia and Puerto Rico. OMB sees no reason for change. Consequently, in many cases the Federal agencies assigned statewide responsibility for cost negotiation and the lead agency [1] for audit will be different.

The following Federal agencies will continue to be responsible for audit and approval of cost allocation plans and general oversight of single audits.

Indian tribal governments	DOI
Territorial governments	DOI
Special districts:	
Airport authorities	DOT
Economic development districts	DOC
Hospital, library, and health districts.	HHS
Housing and urban development districts.	HUD
Park and recreation districts	DOI
Port authorities	DOT
School districts	ED
Transit districts	DOT
Water and sewer districts	EPA

Because of frequent changes in Federal agency funding levels of State and local recipients requiring changes in cognizant assignments, several agencies have suggested that the term of the cognizance assignments be fixed. OMB agrees that this would be usefu and has established the period of assignments at three years. During that time cognizant agencies requiring help in accomplishing its assignments may request assistance from other agencies. However, the assigned cognizant agency shall continue to be responsible under this directive. After three years the Federal agency or the recipient may request OMB to consider a change in the cognizant assignment if circumstances warrant.

James C. Miller III,

Director.

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A–87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A–128

	Cognizant Federal agency
ALABAMA	
State agencies:	*
Aging Commission	HHS
Agriculture and Industry	USDA
Archives and History	DOI
Civil Defense	FEMA
Conservation and Natural History	DOI
Corrections	DOJ
Development	HUD
Economic and Community Affairs	DOL
Education	ED
Education-Voc Rehab Service	ED
Environmental Management	EPA
Forestry Commission	USDA
Governor's Office	HUD
Geological Survey	DOI
Highway	DOT
Industrial Relations	DOL
Labor	DOL
Law Enforcement Planning Agency	DOJ
Medical Services Administration	HHS
Mental Health	HHS
Military	DOD
Pensions and Securities	HHS
Planning and Federal Programs	HUD
Public Health	HHS
Youth Services	HHS
Counties:	
Calhoun	HHS
Dallas	HHS
Etowah	HHS
Houston	HHS
Jefferson	EPA
Lauderdale	HHS
Madison	HHS
Mobile	HHS
Montgomery	EPA
Morgan	HHS
Talladega	HHS
Tuscaloosa	DOL
Walker	HHS

[1] Lead agencies for audit are designated in the list by an asterisk. For local governments the asterisk also indicates the Federal agency responsible for negotiating cost allocation plans. Federal agencies assigned as lead agencies should represent the interest of other Federal audit agencies in carrying out the cognizant agency responsibilities for single audit of State and local governments. Federal agencies assigned audit cognizance for State and local departmental units shall cooperate with and assist the lead agency in carrying out the requirement for the single audit.

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Cities:	
Birmingham	HUD
Garlsden	HHS
Huntsville	DOL
Mobile	HUD
Montgomery	HUD
Tuscaloosa	HUD
ALASKA	
State agencies:	
Commerce and Economic Development	DOE
Community and Regional	DOL
Corrections	DOJ
Education	ED
Environmental Conservation	USDA
Fish and Game	DOI
Governor's Office	HHS
Health and Social Services	HHS
Housing Authority	HUD
Labor	DOL
Military and Veteran Affairs	DOD
Natural Resources	DOI
Public Safety	DOJ
Transportation and Public Facilities	DOT
Vocational Rehabilitation	HHS
Counties: Greater Anchorage	HHS
Cities: Anchorage	HHS
AMERICAN SAMOA	
State agencies: All departments and agencies	DOI
ARIZONA	
State Agencies:	
Corrections	DOJ
Economic Security	HHS
Education	ED
Emergency and Military Affairs	DOD
Game and Fish	DOI
Governor's Office	DOL
Health Services	HHS
Industrial Commission	DOL
Land	USDA
Mine Inspector	DOL
Public Safety	DOJ
State Parks	DOI
Transportation	DOT
Counties:	
Cochise	HHS
Maricopa	HUD
Pima	HHS
Pinal	HHS
Cities:	
Phoenix:	
Aviation	DOT*
Community Development	HUD
Housing	HUD
Human Resources/Relations	DOL
Parks and Recreation	DOI
Police	DOJ
Public Works	DOT
Sewer Utility	EPA
Transit	DOT
Tucson	HUD
ARKANSAS	
State agencies:	
Corrections	DOJ
Education	ED
Emergency Services Office	FEMA
Energy Office	DOE
Forestry Comission	USDA
Game and Fish Commission	DOI
Governor's Office	DOL
Health	HHS
Highway and Transportation	DOT
Human Services	HHS
Labor	DOL
Natural and Cultural Heritage	DOI
Parks and Tourism	DOI
Pollution Control and Ecology	EPA
Workers' Compensation Commission	DOL
Veterans Affairs	VA
Counties:	
Jefferson	HHS
Mississippi	HHS
Pulaski	HUD

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Sebastian	EPA
Washington	HHS
Cities:	
Fort Smith	HUD
Little Rock:	
Community Improvement	DOL
Human Resources	HUD
Parks	DOI*
North Little Rock	EPA
CALIFORNIA	
State agencies:	
Aging	HHS*
Air Resources Board	EPA
Alcohol and Drug Abuse Programs	HHS
Conservation	EPA
Corrections	HHS
Developmental Services	HHS
Economic and Business Development	DOC
Education	ED
Emergency Services Office	FEMA
Employment Development	DOL
Energy Commission	DOE
Finance	HUD
Fish and Game	DOI
Food and Agriculture	USDA
Forestry	USDA
Governor's Office	DOJ
Health Services	HHS
Housing and Community Development	HUD
Industrial Relations	DOL
Justice	DOJ
Mental Health	HHS
Military Department	DOD
Parks and Recreation	DOI
Post Secondary Education Commission	ED
Planning and Research Office	HUD
Rehabilitation	ED
Resources Agency	EPA
Social Services	HHS
Solid Waste Management Board	EPA
Transportation	DOT
Veterans Affairs	VA
Water Resources Control Board	EPA
Youth Authority	HHS
Counties:	
Alameda:	
District Attorney	HHS*
Health/Human Services	HHS
Planning	HUD
Probation	DOJ
Sheriff	DOJ
Social Services	HHS
Streets	DOT
Contra Costa	HHS
Fresno	HHS
Kern	HHS
Los Angeles:	
Community and Senior Citizens/Services	HHS*
Community Development Commission	HUD
Courts	DOJ
District Attorney	HHS
Health Services	HHS
Mental Health	HHS
Parks and Recreation	USDA
Public Social Services	HHS
Public Works	DOT
Regional Planning	DOT
Sheriff	DOJ
Merced	HHS
Monterey	HHS
Orange:	
Airport	DOT
Criminal Justice	DOJ
Courts	DOL
District Attorney	HHS*
Environmental Affairs/Protection	HUD
Health/Human Services	HHS
Probation	HHS
Senior Citizens/Services	HHS
Sheriff	HHS
Riverside	HHS
Sacramento	HHS
San Bernardino:	
Community Development	HUD
Environmental Public Works	EPA

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Health/Human Services	HHS*
Human Resources/Relations	HHS
Law and Justice	DOJ
Manpower	DOL
San Buenaventura	HHS
San Diego	HHS
San Joaquin	HHS
San Luis Obispo	HHS
San Mateo	HHS
Santa Cruz	HHS
Sonoma	HHS
Stanislaus	HHS
Tulare	HHS
All other counties	HHS
Cities:	
Alameda	HUD
Alhambra	HHS
Anaheim	HHS
Bakersfield	EPA
Berkeley	HUD
Burbank	HHS
Butte	HHS
Carson	DOT
Compton	HUD
Downey	HHS
Fresno	HUD
Fullerton	HHS
Garden Grove	HHS
Glendale	HHS
Hayward	HUD
Inglewood	HHS
Lakewood	HHS
Long Beach	HUD
Los Angeles:	
Airport	DOT
Building and Safety	HUD
Community Development	HUD
Council	DOT
Fire Services	FEMA
General Services	HUD
Housing Authority	HUD
Mayor's Office	DOC
Parks and Recreation	HUD
Personnel	DOL*
Public Works	EPA
Redevelopment Agency	HUD
Transportation	DOT
Norwalk	HHS
Oakland	HUD
Palo Alto	EPA
Pasadena	HHS
Pomona	HUD
Richmond	HUD
Riverside	HUD
Sacramento	HUD
San Bernardino	HUD
San Diego:	
General Services	DOT
Housing Commission	HUD
Streets	HUD
Utilities	EPA*
San Francisco:	
Administrative Office	EPA
Arts	DOI
Health/Human Services	HHS
Mayor's Office	DOL*
Parks and Recreation	DOI
Planning	DOC
Police	DOJ
San Jose	USDA
San Leandro	HHS
San Mateo	HUD
Santa Ana	HUD
Santa Barabara	HUD
Santa Clara:	
Justice	DOJ
Planning	HUD*
Santa Monica	HHS
Southgate	HHS
Stockton	HUD
Sunnyvale	HHS
Torrance	HHS
Vallejo	HUD
Ventura	HHS
West Covina	HHS

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
COLORADO	
State agencies:	
Agriculture	USDA
Education	ED
Governor's Office	DOE
Highways	DOT
Institutions	HHS*
Labor and Employment	DOL
Local Affairs	HUD
Natural Resources	DOI
Health	HHS
Public Safety	DOT
Public Utilities Commission	DOT
Social Services	HHS
State Planning and Budgeting Office	HUD
Counties:	
Adams	HHS
Arapaho	HHS
Boulder	HHS
El Paso:	
Parks	DOI
Social Services	HHS*
Jefferson	HHS
Larimer	HHS
Mesa	HHS
Pitkin	DOT
Pueblo	HHS
Weld	HHS
Cities:	
Colorado Springs:	
Airport	DOT
Community Development	HUD
Housing Authority	HUD*
Parks and Recreation	DOI
Police	DOJ
Public Works	DOT
Utilities/Utilities Authority	EPA
Pueblo:	
Airport	DOT*
Community Development	HUD
Human Resources/Relations	HHS
Parks	DOI
Public Works	EPA
Regional Planning	DOT
Transportation	DOT
Denver	HHS
CONNECTICUT	
State agencies:	
Aging	HHS*
Agriculture	USDA
Children and Youth Services	HHS
Consumer Protection	DOC
Correction	DOJ
Economic Development	DOC
Education	ED
Environmental Protection	EPA
Governor's Office	DOJ
Health Services	HHS
Historical Commission	DOI
Housing	HUD
Human Resources	HHS
Income Maintenance	HHS
Labor	DOL
Mental Health	HHS
Mental Retardation	HHS
Military	DOD
Policy and Management Office	HHS
Public Safety	DOJ
Transportation	DOT
Veterans Home and Hospital	VA
Cities:	
Bridgeport	HUD
Hartford:	
Aging	DOL
Community Improvement	DOL
Education	ED
Health/Human Services	HHS
Housing	HUD*
Parks and Recreation	DOL
Planning	HUD
Public Works	DOC
Redevelopment	HUD
Meriden	EPA
New Britain	HHS
New Haven:	
Development Administration	HUD*
Education	ED
Human Resources	HHS
Police	DOJ
Public Works	EPA
Norwalk	HHS
Stamford	HHS
Waterbury	HUD
Towns:	
Greenwich	HHS
West Hartford	HUD
DELAWARE	
State agencies:	
Agriculture	USDA
Community Affairs	DOC
Employment Security Commission	DOL
Governor's Office	DOJ
Health and Social Services	HHS
Labor	DOL
National Guard	DOD
Natural Resources and Environmental Control	DOI
Public Instruction	ED*
State	DOJ
Transportation	DOT
Counties:	
Kent	HHS
New Castle	HUD
Sussex	EPA
Cities: Wilmington	HUD
DISTRICT OF COLUMBIA	
State agencies:	
Corrections	DOJ
Employment Services	DOL
Housing and Community Development	HUD
Human Services	HHS
Mayor's Office	HUD
Metropolitan Police	DOJ
Public Library	HHS
Public Schools	ED
Public Works	DOT
Recreation	DOI
FLORIDA	
State agencies:	
Administration	HUD
Agriculture and Consumer Services	USDA
Commerce	DOC
Community Affairs	DOJ
Education	ED*
Environmental Regulation	EPA
Game and Fresh Water Commission	DOI
Governor's Office	ED
Health and Rehabilitative Services	HHS
Labor and Employment Security	DOL
Law Enforcement	DOJ
Military Affairs	DOD
Natural Resources	DOI
State	ED
Transportation	DOT
Counties:	
Akaloosa	HHS
Alachua	DOL
Bay	HHS
Brevard	DOL
Broward	HUD
Dade	DOT
Duval/Jacksonville	EPA
Escambia	HUD
Hillsborough	HHS
Lake	HHS
Lee	HUD
Leon	DOL
Manatee	DOL
Marion	HHS
Orange	DOL
Palm Beach:	
Area Planning Board	EPA*
Criminal Justice	DOJ
Employment Training	DOL
Engineering	DOC
Health	HHS
Housing and Community Development	HUD
Human Resources	HHS
Transit Authority	DOT
Water and Sewer	EPA
Pasco	DOL
Pinellas	HUD
Polk	HUD
Sarasota	DOL
Seminole	DOL
Volusia	DOL
Cities:	
Gainesville	HUD
Fort Lauderdale	EPA
Hialeah	HHS
Miami	HUD
Miami Beach	HHS
Orlando	HUD
Pensacola	EPA
St. Petersburg	HUD
Tallahassee	EPA
Tampa	EPA
West Palm Beach	HUD
GEORGIA	
State agencies:	
Agriculture	USDA*
Community Affairs	DOJ
Defense	FEMA
Education	ED
Forestry Commission	USDA
Governor's Office	DOE
Highway Safety Office	DOT
Human Resources	HHS
Industry and Trade	HUD
Labor	DOL
Natural Resources	DOI
Offender Rehabilitation	DOJ
Planning and Budget Office	HUD
Public Safety	DOJ
Transportation	DOT
University Regents Board	HHS
Veterans Service	VA
Counties:	
Bobb	HHS
Cobb	EPA
Chatham	HHS
De Kalb	EPA
Dougherty	HHS
Floyd	HHS
Gwinnett	HUD
Fulton	HHS
Muskogee/Columbus	HHS
Richmond	HHS
Cities:	
Albany	HUD
Atlanta:	
Aviation	DOT
Courts	DOJ
Environment and Streets	EPA*
Human and Community Development	HUD
Mayor's Office	DOL
Parks and Recreation	DOI
Public Safety	DOC
GUAM	
State agencies: All departments and agencies	DOI
HAWAII	
State agencies:	
Agriculture	USDA
Attorney General	DOJ
Budget and Finance	HHS
Commerce and Consumer Affairs	DOC
Defense	DOD
Education	ED
Governor's Office	HHS
Health	HHS
Labor and Industrial Relations	DOL
Land and Natural Resources	DOI
Planning and Economic Development	DOC
Social Services and Housing	HHS
Transportation	DOT
Counties: Hawaii	DOL
Cities:	
Honolulu:	
Building	DOC
Community Development and Housing	HUD
Human Resources/Relations	DOL

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Police	DOJ
Prosecuting Attorney	DOJ
Public Works	EPA*
Transportation	DOT
IDAHO	
State agencies:	
Adjutant General	DOD
Agriculture	USDA
Education	ED
Employment	DOL
Fish and Game	DOI
Governor's Office	HHS
Health and Welfare	HHS
Historical Society	DOI
Industrial Commission	DOL
Labor and Industrial Services	DOL
Lands	USDA
Parks and Recreation	DOI
Transportation	DOT
Water Resources	DOT
Counties:	
Ada	HHS
Canyon	HHS
ILLINOIS	
State agencies:	
Aging	HHS
Agriculture	USDA
Atomic Energy Commission	DOE
Board of Education	ED
Children and Family Services	HHS
Commerce and Community Affairs	HHS
Conservation	DOI
Corrections	DOJ
Emergency Services and Disaster Agency	FEMA
Energy and Natural Resources	DOE
Environmental Protection Agency	EPA
Governor's Office	DOL
Human Rights	DOJ
Labor	DOL
Law Enforcement	DOJ
Mental Health and Developmental Disabilities	HHS
Military and Naval	DOD
Mines and Minerals	DOI
Public Aid	HHS
Public Health	HHS
Rehabilitation Services	HHS
Sanitary Board	EPA
Transportation	DOT
Veterans Affairs	VA
Counties:	
Adams	HHS
Champaign	HUD
Cook:	
Community Development	HUD
Environmental Control/Resources	DOE
Manpower	DOL*
Sheriff	DOJ
De Kalb	EPA
Du Page	HUD
Kane	HHS
Kankakee	HHS
Knox	HHS
Lake	HUD
La Salle	HHS
Macon	HHS
Madison	HHS
McHenry	HHS
McLean	HHS
Peoria	HUD
Rock Island	HHS
Sangamon	HHS
St. Clair	HUD
Tazewell	HHS
Vermilion	HHS
Whiteside	HHS
Will	HHS
Winnebego	HHS
Cities:	
Aurora	HHS
Berwyn	HHS
Chicago:	
Community Development and Housing	HUD*
Consumer Services	EPA
Economic Development/Opportunity	HUD
Employment and Training	DOL
Health/Human Services	HHS
Housing	HUD
Mayor's Office	DOT
Planning	HUD
Police	DOJ
Public Safety	DOJ
Public Works	DOT
Senior Citizens/Services	HHS
Cicero	HHS
Decatur	HHS
East St. Louis	HHS
Evanston	HHS
Joliet	EPA
Oak Park	HHS
Peoria:	
Community Development	HHS*
Community Improvement	DOL
Public Works	EPA
Rockford	HHS
Rock Island	HUD
Skokie	HHS
Springfield	EPA
Waukegan	EPA
Towns:	
Aurora	HHS
Berwyn	HHS
Bloom	HHS
Breman	HHS
Capital	HHS
Decatur	HHS
Downers Grove	HHS
E. St. Louis	HHS
Elgin	HHS
Evanston	HHS
Joliet	HHS
Leyden	HHS
Lyons	HHS
Maine	HHS
Milton	HHS
New Trier	HHS
Niles	HHS
Oak Park	HHS
Proviso	HHS
Rockford	HHS
Thornton	HHS
Waukegan	HHS
Wheeling	HHS
INDIANA	
State agencies:	
Aging and Community Services	HHS
Civil Defense and Emergency Management	FEMA
Commerce	DOE
Correction	DOJ
Education	ED
Employment Security Division	DOL
Governor's Office	HHS
Health Board	HHS
Highways	DOT
Housing Board	HUD
Labor Division	DOL
Mental Health	HHS
Military	DOD
Natural Resources	DOI
Public Service Commission	DOT
Public Welfare	HHS
Regional Planning Commissions	DOC
Rehabilitation Service Agency	HHS
State Police	DOJ
Transportation	DOT
Veteran Affairs	VA
Counties:	
Allen	HHS
Clark	HHS
Delaware	HHS
Elkhart	HHS
Floyd	HHS
Grant	HHS
Howard	HHS
Lake	HHS
La Porte	HHS
Madison	HHS
Marion	HHS
Monroe	HHS
Porter	HHS
St. Joseph	HHS
Tippecanoe	HHS
Vanderburgh	HHS
Vigo	HHS
Wayne	HHS
Cities:	
East Chicago	HHS
Evansville:	
Community Development	HUD*
Planning	DOC
Transportation	DOT
Fort Wayne	EPA
Gary	HUD
Hammond	EPA
Indianapolis	HUD
Muncie	HHS
South Bend	HUD
Terre Haute	HUD
Towns:	
Anderson	HHS
Calumet	HHS
Center-Kokomo	HHS
Center-Muncie	HHS
Gary	HHS
Harrison	HHS
Knight	HHS
North-Hammond	HHS
Pigeon	HHS
Portage	HHS
Warren	HHS
Washington	HHS
Wayne-Fort Wayne	HHS
Wayne-Indianapolis	HHS
Wayne-Richmond	HHS
IOWA	
State agencies:	
Aging Commission	HHS
Agriculture	USDA
Commerce Commission	DOT
Conservation Commission	DOI
Corrections	DOJ
Development Commission	HUD
Governor's Office	DOL
Health	HHS
Historical	DOI
Human Services	HHS
Job Service	DOL
Labor Bureau	DOL
Planning and Programming	HHS
Public Defense	FEMA
Public Instruction	ED
Public Safety	DOJ
Transportation	DOT
Veterans' Affairs	VA
Water, Air, and Waste Management	EPA
Counties:	
Black Hawk	HHS
Clinton	HHS
Dubuque	HHS
Johnson	HHS
Linn	HHS
Polk	HHS
Pottawattamie	HHS
Scott	HHS
Woodbury	HHS
Cities:	
Cedar Rapids	EPA
Council Bluffs	HHS
Davenport	HHS
Des Moines	HUD
Dubuque	EPA
Sioux City	HUD
Waterloo	HHS
KANSAS	
State agencies:	
Adjutant General	FEMA
Aging	HHS
Agriculture Board	USDA
Corrections	DOJ
Education	ED
Economic Development	HUD
Fish and Game Commission	DOI
Forestry	DOI
Governor's Office	USDA

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Health and Environment	HHS
Highway Patrol	DOT
Historical Society	DOI
Human Resources	DOL
Park and Resources Authority	DOI
Social and Rehabilitation Services	HHS
Transportation	DOT
Water Resources Board	DOI
Counties:	
Johnson	HHS
Reno	HHS
Saline	HHS
Sedgwick	HHS
Shawnee	HHS
Wyandotte	HHS
Cities:	
Kansas City	EPA
Topeka	HHS
Wichita	DOT
KENTUCKY	
State agencies:	
Agriculture	USDA
Appalachian Regional Commission	DOC
Commerce	DOC
Corrections	DOJ
Education and Humanities	ED
Energy	DOE
Governor's Office	HUD
Housing Corporation	HUD
Human Resources	HHS
Justice	DOJ
Labor	DOL
Local Government	DOI
Military Affairs	DOD
Natural Resources and Environmental Protection.	USDA
Public Protection and Regulation	DOL
Tourism	DOI
Transportation	DOT*
Counties:	
Boyd	HHS
Campbell	HHS
Christian	HHS
Daviess	HHS
Hardin	HHS
Harlan	HHS
Jefferson	EPA
Kenton	HHS
Lexington-Fayette	EPA
McCracken	HHS
Pike	HHS
Cities:	
Covington	HUD
Lexington	EPA
Louisville	DOL
LOUISIANA	
State agencies:	
Agriculture	USDA
Commerce	DOC
Corrections	DOJ
Culture, Recreation and Tourism	DOI
Education	ED*
Environmental Quality	EPA
Governor's Office	DOC
Health and Human Resources	HHS
Justice	DOJ
Labor	DOL
Military	DOD
National Resources	EPA
Public Safety	DOJ
Transportation and Development	DOT
Urban and Community Affairs	HUD
Veterans Affairs	VA
Wildlife and Fisheries	DOI
Counties (Parishes):	
Bossier	HHS
Caddo	HHS
Calcasieu	HHS
Iberia	HHS
Jefferson	HHS
Lafayette	HHS
Lafourche	HHS
Quachita	HHS
Rapides	HHS

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
St. Landry	HHS
Tangipahoa	HHS
Terrebonne	EPA
Cities:	
Baton Rouge	HUD
Lake Charles	EPA
Monroe	HUD
New Orleans	HUD
Shreveport:	
Parks and Recreation	USDA
Public Affairs/Services	DOL
Public Works	DOT
Sportron	DOT
Urban Development	EPA*
Water/Sewer	HUD
Slidell	HHS
MAINE	
State agencies:	
Agriculture, Food, and Rural Resources	USDA
Conservation	USDA
Corrections	DOJ
Defense and Veteran Services	VA
Educational and Cultural Services	ED
Environmental Protection	EPA
Governor's Office	HHS
Human Services	HHS
Housing Authority	HUD
Inland Fisheries and Wildlife	DOI
Labor	DOL
Mental Health and Mental Retardation	HHS
Public Safety	DOJ
Transportation	DOT
Counties:	
Androscoggin	HHS
Cumberland	HHS
Kennebec	HHS
Penobscot	HHS
York	HHS
Cities:	
Bangor	HHS
Portland	HHS
MARYLAND	
State agencies:	
Aging Office	HHS
Agriculture	USDA
Children and Youth Office	HHS
Economic and Community Development	HUD
Education	ED
Employment and Training	DOL
Environmental Services	EPA
Governor's Office	DOJ
Health and Mental Hygiene	HHS
Human Resources	HHS
Law Enforcement and Administration on Justice Commission.	DOJ
Licensing and Regulation	HHS
Military	DOD
Natural Resources	DOI
Public Safety and Correctional Services	FEMA
Public Service Commission	DOT*
State Planning	HUD
Transportation	DOT
Veterans Commission	VA
Counties:	
Allegany	HHS
Anne Arundel:	
Administrative Office	DOJ
Aging	HHS
Domestic Relations	HHS
Planning and Zoning	HUD
Public Works	EPA*
Baltimore	EPA
Caroline	DOT
Carroll	EPA
Frederick	HHS
Harford	EPA
Howard	DOT
Kent	DOT
Montgomery	HUD
Prince Georges:	
Aging	HHS
Circuit Court	HHS
Emergency Preparedness	DOE
Health and Human Services	DOJ

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Personnel	DOL*
Planning and Economic Development	HUD
Police	DOJ
State's Attorney	HHS
Queen Annes	DOT
St. Marys	DOT
Washington	EPA
Wicomico	DOT
Cities:	
Baltimore:	
Aging	HHS
Education	ED
Criminal Justice	DOJ
Health and Human Services	HHS
Hospitals	HHS
Housing and Community Conservation	HUD
Manpower	DOL
Mayor's Office	HUD
Parks and Recreation	DOI
Planning	HUD
Public Works	DOT*
Social Services	HHS
State's Attorney	DOJ
MASSACHUSETTS	
State agencies:	
Administration and Finance Executive Office	HHS
Communities and Development	HUD
Consumer Affairs and Business Regulation	DOC
Economic Affairs	DOC
Educational	ED
Elder Affairs	HHS
Energy Resources	DOE
Environmental Affairs	DOI
Environmental Management	EPA
Food and Agriculture	USDA
Governor's Office	DOJ
Labor and Industries	DOL
Mental Health	HHS
Public Safety	DOJ
Public Welfare	HHS
Public Works	DOE
Social Services	HHS
State	DOI
Transportation and Construction Office	DOT*
Veterans Services Office	VA
Counties:	
Barnstable	HHS
Berkshire	HHS
Bristol	HHS
Essex	HHS
Franklin	HHS
Hampden	HHS
Hampshire	HHS
Middlesex	HHS
Norfolk	HHS
Plymouth	HHS
Worcester	HHS
Cities:	
Boston:	
Education	ED*
Health and Hospitals	HHS
Mayor's Office	DOL
Parks and Recreation	DOI
Police	DOJ
Public Works	DOT
Brockton:	
Community Improvement	DOL
Education	ED*
Cambridge	HUD
Chicopee	EPA
Fall River	ED
Holyoke	HUD
Lawrence:	
Airport	DOT
Community Development	HUD*
Education	ED
Highways	DOT
Lowell	HHS
Lynn	HUD
Malden	HHS
Medford	HHS
New Bedford	HUD
Newton	HHS
Pittsfield	EPA
Quincy	HHS

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Somerville	HUD
Springfield	HHS
Waltham	HHS
Worcester	HUD
Town: Brookline	HHS
MICHIGAN	
State Agencies:	
Aging office	HHS
Attorney General	HHS
Agriculture	USDA
Commerce	HUD
Corrections	DOJ
Education	ED
Governor's Office	DOJ
Labor	DOL
Management and Budget	HHS
Mental Health	HHS
Military Affairs	DOD
Natural Resources	DOI
Police	DOT
Public Health	HHS
Social Services	HHS
State	DOI
Transportation	DOT
Counties:	
Allegan	HHS
Bay	HHS
Berrien	EPA
Calhoun	HHS
Genesee	HHS
Ingham	HHS
Jackson	HHS
Kalamazoo	HHS
Kent	EPA
Lenawee	HHS
Macomb	HHS
Madison	EPA
Marquette	HHS
Midland	HHS
Monroe	HHS
Muskegon	HHS
Oakland	HUD
Ottawa	EPA
Saginaw	EPA
Shiawassee	HHS
St. Clair	EPA
Washtenaw	HHS
Wayne	HHS
Cities:	
Ann Arbor	HUD
Bay City	HUD
Dearborn	HHS
Dearborn Heights	HHS
Detroit:	
Community and Economic Development	HUD
Employment and Training	DOL
Finance	HUD
Health and Human Services	HHS*
Historical	HUD
Neighborhood Services	HHS
Planning	HUD
Police	DOJ
Public Works	HUD
Recreation	DOI
Senior Citizens/Services	HHS
Transportation	DOT
Flint:	
Community Development	HUD*
Community Improvement	DOL
Public Works	DOC
Water/Sewer	EPA
Grand Rapids	EPA
Jackson	HHS
Kalamazoo	EPA
Lansing	EPA
Lincoln Park	HHS
Livonia	HHS
Pontiac	HUD
Roseville	HHS
Royal Oak	HHS
St. Clair Shores	HHS
Saginaw	HUD
Westland	HUD
Warren	HHS

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Towns:	
Dearborn	HHS
Redford	HHS
MINNESOTA	
State agencies:	
Administration	HHS
Aging Board	HHS
Agriculture	USDA*
Commerce	DOC
Corrections	DOJ
Council for the Handicapped	HHS
Economic Security	DOL
Education	ED
Employment Security	DOL
Energy and Economic Development	USDA
Governor's Office	HHS
Health	HHS
Historical Society	HUD
Housing Finance Agency	HUD
Human Services	HHS
Labor and Industry	DOL
Military Affairs	DOD
Natural Resources	DOI
Planning Agency	HHS
Pollution Control Agency	EPA
Transportation	DOT
Veterans Affairs	VA
Counties:	
Anoka	HHS
Dakota	HHS
Hennepin	HHS
Olmsted	HHS
Ramsey	HHS
Stearns	HHS
St Louis	HHS
Washington	HHS
Cities:	
Bloomington	HHS
Duluth	HHS
Minneapolis:	
Community Action Agency	HHS
Contract Management	HUD*
Employment and Training	DOL
Riverfront Development	DOI
St. Paul	HUD
MISSISSIPPI	
State agencies:	
Agriculture and Commerce	USDA
Archives and History	DOI
Economic Development	DOC
Education	ED
Employment Security Commission	DOL
Energy and Transportation	DOE
Forestry Commission	USDA
Governor's Office	HHS*
Health	HHS
Highway	DOT
Human Development	HHS
Medicaid Commission	HHS
Mental Health	HHS
Military	DOD
Natural Resources	DOI
Public Safety	DOJ
Public Welfare	HHS
Rehabilitative Services	HHS
Veterans Affairs Commission	VA
Wildlife Conservation	DOI
Youth Services	ED
Counties:	
Bolivar	HHS
Forrest	HHS
Harrison	HHS
Hinds	HHS
Jackson	HHS
Jones	HHS
Lauderdale	HHS
Washington	HHS
Cities:	
Jackson	HUD
MISSOURI	
State agencies:	
Agriculture	USDA
Consumer Affairs, Regulation and Licensing	HUD

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Conservation	DOI
Corrections and Human Resources	DOJ
Elementary and Secondary Education	ED
Governor's Office	DOC
Highway and Transportation	DOT
Labor and Industrial Relations	DOL
Mental Health	HHS*
Natural Resources	DOI
Public Safety	DOJ
Social Services	HHS
Counties:	
Boone	HHS
Buchanan	HHS
Clay	HHS
Greene	HHS
Jackson	HHS
Jasper	HHS
Jefferson	HHS
St. Charles	HHS
St. Louis	HHS
Cities:	
Independence	HUD
Kansas City	HUD
Springfield	DOT
St. Joseph	HUD
St. Louis:	
Circuit Court	DOJ
Community Development	HUD*
Courts	DOT
Criminal Justice	DOJ
Employment and Training	DOL
Health/Human Services	HHS
Public Safety	EPA
Welfare	USDA
University City	HHS
MONTANA	
State agencies:	
Agriculture	USDA
Arts Council	HHS*
Commerce	DOC
Education	ED
Fish, Wildlife and Parks	DOI
Governor's Office	HHS
Health and Environmental Science	HHS
Highways	DOT
Institutions	DOJ
Justice	DOJ
Labor and Industry	DOL
Library	HHS
Military Affairs	DOD
Natural Resources and Conservation	DOI
Social and Rehabilitation Services	HHS
State Lands	DOI
Counties:	
Cascade	HHS
Yellowstone	HHS
Cities:	
Billings	HHS
Great Falls	HHS
NEBRASKA	
State agencies:	
Aging	HHS
Aeronautics	DOT
Agriculture	USDA
Correctional Services	DOJ
Economic Development	HUD
Education	ED
Energy Office	DOE
Environmental Control	EPA
Game and Parks Commission	DOI
Governor's Office	HHS
Health	HHS
Historical Society	DOI
Justice	DOJ
Labor	DOL
Law Enforcement and Criminal Justice Commission	DOJ
Military	DOD
Policy Research Office	DOC
Public institutions	HHS
Social Services	HHS
State Patrol	DOT
Roads	DOT
Veterans Affairs	VA

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Water Resources	DOI
Counties:	
Douglas	HHS
Lancaster	HUD
Cities:	
Lincoln	DOT
Omaha	HUD
NEVADA	
State agencies:	
Agriculture	USDA
Commerce	DOC
Community Services Office	HHS
Conservation and Natural Resources	DOI
Education	ED*
Employment Security	DOL
Governor's Office	DOL
Human Resources	HHS
Industrial Commission	DOL
Military Department	DOD
Motor Vehicle	DOJ
Traffic Safety	DOT
Transportation	DOT
Wildlife	DOI
Counties:	
Clark	HHS
Lancaster	HUD
Cities:	
Las Vegas	EPA
Reno	HUD
NEW HAMPSHIRE	
State agencies:	
Adjutant General	DOD
Aging Council	HHS
Agriculture	USDA
Air Resources Agency	DOI
Corrections	DOJ
Education	ED
Employment Security	DOL*
Fish and Game	DOI
Governor's Office	DOJ
Health and Welfare	HHS
Housing Finance Authority	HUD
Labor	DOL
Public Works and Highways	DOT
Resources and Economic Development	DOI
Safety	DOJ
Veterans Council	VA
Counties:	
Hillsboro	HHS
Merrimack	HHS
Rockingham	HHS
Strafford	HHS
Cities: Manchester	HUD
NEW JERSEY	
State agencies:	
Agriculture	USDA
Community Affairs	HHS*
Commerce and Economic Development	HUD
Corrections	DOJ
Defense	DOD
Delaware Valley Regional Planning Commission	DOT
Education	ED
Energy	DOE
Environmental Protection	DOT
Governor's Office	HHS
Health	HHS
Human Services	HHS
Labor	DOL
Law Enforcement Planning Agency	DOJ
Law and Public Safety	DOJ
Port Authority of New York and New Jersey	DOT
Transportation	DOT
Counties:	
Atlantic	HHS
Bergen:	
Aging	HHS*
Children's Services	HHS
Community Action Planning	HHS
Community Development	HUD
Hospital	HHS
Housing Authority	HUD
Mental Health/Retardation	HHS
Planned Parenthood	HHS
Utilities/Utilities Authority	EPA
Burlington	HHS
Camden	HHS
Cumberland	HHS
Essex	HHS
Gloucester	HHS
Hudson	HHS
Hunterdon	HHS
Mercer	HHS
Middlesex	HHS
Monmouth:	
Aging	HHS*
Community Improvement	DOL
Planning	HUD
Prosecuting Attorney	DOJ
Morris	HHS
Ocean	HHS
Passaic	HHS
Salem	HHS
Somerset	HHS
Union:	
Human Resources/Relations	DOL
Planning and Engineering	HUD
Probation	HHS*
Warren	HHS
Cities:	
Atlantic City	HUD
Bayonne	HHS
Bloomfield	HHS
Camden	HUD
Clifton	HHS
East Orange	HUD
Elizabeth	HHS
Irvington	HHS
Jersey City	HUD
Newark:	
Employment and Training	DOL
Engineering	DOC
Health/Human Services	HHS*
Mayor's Office	HUD
Police	DOJ
Passaic	HHS
Paterson	DOL
Trenton	HUD
Union	HHS
Towns:	
Hamilton	HHS
Union	HHS
Woodbridge	HHS
NEW MEXICO	
State agencies:	
Adjutant General-Emergency Preparedness	FEMA
Aging	HHS
Agriculture	USDA
Corrections	DOJ
Economic Development and Tourism	DOC
Education	ED
Employment Security	DOL
Energy and Minerals	DOE
Finance and Administration	HUD
Fish and Game	DOI
Governor's Office	DOL
Health and Environment	HHS
Highway	DOT
Human Services	HHS
Natural Resources	USDA
Transportation	DOT
Counties:	
Bernalillo	HHS
Chaves	HHS
Dona Ana	DOT
Eddy	HHS
San Juan	HHS
City: Albuquerque	DOT
NEW YORK	
State agencies:	
Aging Office	HHS*
Agriculture and Markets	USDA
Alcohol and Substance Abuse Office	HHS
Commerce	DOC
Correctional Services	DOJ
Consumer Protection Board	HHS
Education	ED
Energy Office	DOE
Environmental Conservation	EPA
Governor's Office	DOC
Health	HHS
Housing and Community Renewal Division	HUD
Labor	DOL
Mental Health Office	HHS
Military and Naval Affairs Division	DOD
Motor Vehicles	DOT
Parks, Recreation and Preservatation Office	DOI
Port Authority of New York and New Jersey	DOT
Social Services	HHS
State	DOE
State Police	DOT
Transportation	DOT
Urban Development Corp	HUD
Youth Division	HHS
Counties:	
Albany	HHS
Broome:	
Aviation	DOT
Community Improvement	DOL
Health/Human Services	HHS*
Parks	HHS
Public Works	DOT
Sheriff	DOT
Social Services	HHS
Transportation	DOT
Cattaraugus	HHS
Cayuga	HHS
Chautauqua	HHS
Chemung	HHS
Clinton	HHS
Cortland	HHS
Dutchess:	
Community Improvement	DOL
Health/Human Services	HHS*
Mental Health/Retardation	HHS
Social Services	HHS
Transportation	HHS
Erie	HHS
Fulton	HHS
Genesee	HHS
Herkimer	HHS
Jefferson	HHS
Madison	HHS
Montgomery	HHS
Monroe:	
Community Affairs/Services	DOI
Community Development	HUD
Health/Human Services	HHS*
Public Works	EPA
Social Services	HHS
Water Quality	EPA
Nassau:	
Housing and Intergovernmental Affairs	HUD
Planning	DOT
Public Workds	EPA
Social Services	HHS*
Youth Employment	DOL
Niagara	HHS
Oneida	HHS
Onondaga	HHS
Ontario	HHS
Orange	HHS
Otsego	HHS
Oswega	HHS
Renesselaer	HHS
Rockland	HHS
Saratoga	HHS
Schenectady	HHS
St. Lawrence	HHS
Steuben	HHS
Suffolk:	
Aging	HHS*
Community Development	HUD
Criminal Justice	DOJ
Health/Human Services	HHS
Labor Resources	DOL
Public Assistance	EPA
Social Services	HHS
Transportation	DOT
Tompkins	HHS
Ulster	HHS
Wayne	HHS

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Westchester	HHS
Cities:	
Albany	HHS
Binghamton	EPA
Buffalo:	
Community Development	HUD*
Economic Development	HUD
Education	ED
Housing Authority	HUD
Human Resources	DOL
Parks	DOI
Police	DOJ
Public Works	EPA
Sewer Authority	EPA
Transportation	ED
Urban Renewal	HUD
Youth	DOI
Water	EPA
Cheektowaga	HHS
Mount Vernon	HUD
New Rochelle	HHS
New York:	
Aging	HHS*
Board of Education	ED
Criminal Justice Coordinating Council	DOJ
Economic Development Administration	DOC
Employment	DOL
Environmental Protection	EPA
Health	HHS
Housing Preservation and Development	HUD
Human Resources Administration	HHS
Mayor's Office	HUD
Mental Health	HHS
Parks	DOI
Transportation	DOT
Niagara Falls	HHS
Rochester	HUD
Schenectady	HHS
Syracuse	HHS
Troy	HHS
Utica	HHS
White Plains	HUD
Yonkers	HUD
Towns:	
Amherst	HHS
Babylon	HHS
Brookhaven	HUD
Colonie	HHS
Greenburgh	HHS
Hempstead	HUD
Huntington	HHS
Irondequiot	HHS
Islip	HHS
North Hempstead	HHS
Oyster Bay	HHS
Smithtown	HHS
Tonawanda	HHS
Union	HHS
NORTH CAROLINA	
State agencies:	
Administration	HHS*
Agriculture	USDA
Commerce	DOE
Community Colleges	ED
Correction	HHS
Cultural Resources	ED
Crime Control and Public Safety	DOJ
Public Education	ED
Employment Security Commission	DOL
Governor's Office	HUD
Human Resources	HHS
Labor	DOL
Natural Resources and Community Development	DOL
Transportation	DOT
Wildlife Resources Commission	DOI
Counties:	
Alamance	DOL
Buncombe	HUD
Burke	HHS
Cabarrus	HHS
Catawba	HHS
Cleveland	HHS
Craven	HHS
Cumberland	DOL
Davidson	DOL
Durham	HHS
Edgecombe	HHS
Forsyth	HHS
Gaston	HHS
Guilford	HHS
Halifax	HHS
Iredell	HHS
Johnston	HHS
Lenoir	HHS
Mecklenburg	HHS
Nash	HHS
New Hanover	HHS
Onslow	DOL
Pitt	HHS
Randolph	HHS
Robeson	DOC
Rockingham	HHS
Rowan	HHS
Wake	DOL
Wayne	HHS
Wilson	HHS
Cities:	
Asheville	HUD
Charlotte	HUD
Durham	HUD
Greensboro	EPA
High Point	HUD
Raleigh	HUD
Winston-Salem	HUD
NORTH DAKOTA	
State agencies:	
Adjutant General	DOD
Agriculture	USDA
Combined Law Enforcement Council	DOJ
Forest Service	DOI
Game and Fish	DOI
Governor's Office	DOL
Government Affairs Bureau	HUD
Health	HHS
Highway	DOT
Highway Patrol	DOT
Human Services	HHS
Housing Finance Agency	HUD
Institutions Director	HHS
Job Service	DOL
Labor	DOL
Management and Budget	HUD
Parks and Recreation	DOI
Parole and Probation	DOJ
Public Instruction	ED*
State Government and Outdoor Recreation	DOI
Veteran Affairs	VA
Vocational Rehabilitation	HHS
Water Commission	DOI
Counties: Cass	HHS
OHIO	
State agencies:	
Adjutant General	DOD
Aging Commission	HHS
Agriculture	USDA
Development	DOE
Education	ED
Employment Services Bureau	DOL
Environmental Protection Agency	EPA
Governor's Office	HHS
Health	HHS
Highway Safety	DOT
Human Services	HHS
Industrial Relations	DOL
Mental Health	HHS
Natural Resources	DOI
Public Utilities	DOT
Rehabilitation and Correction	DOJ
Transportation	DOT
Youth Service	HHS
Counties:	
Allen	HHS
Ashtabula	HHS
Belmont	HHS
Butler	HHS
Clark	HHS
Clermont	HHS
Columbiana	HHS
Cuyahoga:	
Aging	HHS*
Commissioners	DOC
Community and Economic Development	DOL
Community Development	HUD
Courts	DOJ
Sanitation	EPA
Sheriff	DOJ
Welfare	HHS
Erie	HHS
Fairfield	HHS
Franklin	HHS
Greene	HHS
Hamilton:	
Community Development	DOL
Community Improvement	HUD*
Hancock	HHS
Jefferson	HHS
Lake	HHS
Lawrence	HHS
Licking	HHS
Lorain	HHS
Lucas:	
Community Commissioners	DOI
County Engineer	DOT
Courts	DOJ
Sanitary Engineer	EPA
Welfare	HHS*
Mahoning	HHS
Marion	HHS
Medina	HHS
Miami	HHS
Montgomery:	
Community Development	HUD
Community Services	HHS*
Engineering	DOT
Parks and Recreations	DOI
Sanitary	EPA
Muskingum	HHS
Portage	HHS
Richland	HHS
Ross	HHS
Sandusky	HHS
Scioto	HHS
Seneca	HHS
Stark	HHS
Summit	HHS
Trumbull	HHS
Tuscarawas	HHS
Warren	HHS
Washington	HHS
Wayne	HHS
Wood	HHS
Cities:	
Akron	EPA
Canton:	
Community Development	HUD
Health/Human Services	EPA*
Mayor's Office	DOL
Water Pollution Control	EPA
Cincinnati:	
Community Improvement	DOL
Health/Human Services	HHS
Mayor's Office	HUD*
Planning	DOT
Public Safety	DOJ
Recreation	USDA
Transit	DOT
Water	EPA
Cleveland:	
Community Development	HUD
Economic Development/Opportunity	HUD
Health/Human Services	EPA
Human Resources/Relations	DOL*
Cleveland Heights	HHS
Columbus	HUD
Dayton:	
Aviation	USDA
Community Improvement	DOL*
Fire Services	DOJ
Housing and Urban Development	HUD
Water	EPA
Youth Services	USDA
Euclid	HHS
Hamilton	HHS
Kettering	HHS

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Lakewood	HHS
Lima	HHS
Lorain	EPA
Parma	HHS
Springfield	HHS
Toledo	HUD
Warren	HUD
Youngstown	HUD
Towns:	
Canton	HHS
Madison	HHS
Perry	HHS
Plain	HHS
Springfield	HHS
OKLAHOMA	
State agencies:	
Agriculture	USDA
Civil Defense	FEMA
Conservation Commission	EPA
Corrections	DOJ
Economic and Community Affairs	DOL
Education	ED
Employment Security Commission	DOL*
Governor's Office	DOC
Health	HHS
Human Services	HHS
Labor	DOL
Mental Health	HHS
Military	DOD
Mines	DOI
Pollution Control	EPA
Public Safety	DOJ
Tourism and Recreation	DOI
Transportation	DOT*
Veterans Affairs	VA
Vocational and Technical Education	ED
Water Resources Board	EPA
Wildlife Conservation	DOI
Counties:	
Comanche	HHS
Garfield	HHS
Kay	HHS
Muskogee	EPA
Oklahoma	HHS
Tulsa	EPA
Cities:	
Lawton	HUD
Oklahoma City	HHS
Tulsa	HUD
OREGON	
State agencies:	
Agriculture	USDA
Commerce	DOC
Economic Development	DOC
Education	ED
Energy	DOE
Environmental Quality	EPA
Executive Department	DOL
Fish and Wildlife	DOI
Forestry	USDA
Geology and Mineral Industries	DOI
Governor's Office	HUD
Human Resources	HHS*
Justice	DOJ
Labor and Industries Bureau	DOL
State Police	DOJ
Transportation	DOT
Veteran Affairs	VA
Water Resources	DOI
Workers Compensation	DOL
Counties:	
Clackamas	HHS
Coos	HHS
Douglas	HHS
Jackson	HHS
Lane	HHS
Linn	HHS
Marion	HHS
Washington	HHS
Cities:	
Eugene	HUD
Portland	HUD
Salem	DOT

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
PACIFIC ISLANDS	
State agencies: All departments and agencies	DOI
PENNSYLVANIA	
State agencies:	
Aging	HHS
Agriculture	USDA*
Attorney General's Office	DOJ
Commerce	DOC
Community Affairs	HUD
Education	ED
Emergency Management Agency	FEMA
Energy Council	DOE
Environmental Resources	EPA
Fish Commission	DOI
Game Commission	DOI
Governor's Office	DOL
Health	HHS
Historical and Museum Commission	DOI
Housing Finance Agency	HUD
Labor and Industry	DOL
Military Affairs	DOD
Probation and Parole Board	DOJ
Public Welfare	HHS
State Police	DOJ
Transportation	DOT
Counties:	
Adams	HHS
Allegheny:	
Audit Services	HHS*
Community Development	HUD
Comprehensive Education and Training Act	HHS
Federal Programs	DOL
Health/Human Services	HHS
Jail	DOJ
Mental Health/Retardation	HHS
Armstrong	HHS
Beaver	HHS
Berks	HHS
Blair	HHS
Bradford	HHS
Bucks:	
Adult Services	HHS*
Child Welfare	HHS
Community Development	HHS
Community Improvement	DOL
Mental Health/Retardation	HHS
Butler	HHS
Cambria	HHS
Carbon	HHS
Centre	HHS
Chester	HHS
Clearfield	HHS
Columbia	HHS
Crawford	HHS
Cumberland	HHS
Dauphin	HHS
Delaware	HHS
Erie	HHS
Fayette	HHS
Franklin	DOL
Indiana	HHS
Lackawanna	HHS
Lancaster	HHS
Lawrence	HHS
Lebanon	HHS
Lehigh	HHS
Lycoming	HHS
Luzerne	DOL
McKean	HHS
Mercer	HHS
Montgomery:	
Child Welfare	HHS*
Community Development	HUD
Community Improvement	DOL
Geriatric Center	HHS
Northampton	HHS
Northumberland	HHS
Schuylkill	HHS
Somerset	HHS
Washington	DOL
Westmoreland:	
Aging	HHS*
Children's Bureau	HHS
Housing Authority	HUD

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Manpower	DOL
Planning	HUD
Transportation	DOT
York	DOL
Cities:	
Allentown	HUD
Altoona	HUD
Bethlehem	HHS
Chester	HUD
Erie	HUD
Harrisburg	HUD
Johnstown	HUD
Lancaster	EPA
Philadelphia:	
Public Property	DOT
Schools	ED
All other departments	HUD*
Pittsburgh	HUD
Reading	HUd
Scranton:	
Community and Economic Development	HUD
All other departments	EPA*
Westmoreland	HUD
Wilkes-Barre	HUD
York	HHS
Towns:	
Abington	HHS
Bristol	HHS
Haverford	HHS
Lower Merion	HHS
Penn Hills	HHS
Upper Darby	HHS
PUERTO RICO	
State agencies:	
Agriculture	USDA
Commerce	DOC
Consumer Affairs	HHS
Cooperative Development Administration	DOC
Crime Commission	DOJ
Cultural Affairs	HHS
Addiction Services	HHS
Economic Development Administration	DOL
Education	ED
Employment Security Bureau	DOL
Environmental Quality Board	EPA
Governor's Office	DOI
Health	HHS
Housing	HUD
Labor and Human Resources	DOL
Metropolitan Bus Authority	DOT
Municipal Services Administration	HUD
National Guard	DOD
Natural Resources	HHS
Social Services	HHS
Soilid Waste Management Authority	EPA
Transportation and Public Works	DOT
Rhode Island	
State agencies:	
Adjutant General's Office	DOD
Administration	HHS*
Attorney General	DOJ
Business Regulation	DOC
Children and Their Families	HHS
Community Affairs	HHS
Corrections	DOJ
Economic Development	DOL
Education	ED
Elderly Affairs	HHS
Emergency Management Agency	FEMA
Employment Security	DOL
Environmental Management	USDA
Governor's Office	DOJ
Health	HHS
Labor	DOL
Mental Health, Retardation, and Hospitals	HHS
Public Transit Authority	DOT
Social and Rehabilitative Services	HHS
State Police	DOJ
Transportation	DOT
Cities:	
Cranston	HHS
Pawtucket	EPA
Providence:	
Community Development	HUD*

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Community Improvement	DOL
Federal Programs	ED
Planning and Urban Development	HUD
Warwick	HUD
SOUTH CAROLINA	
State agencies:	
Adjutant General's Office	DOD
Aging Commission	HHS
Agriculture	USDA
Alcohol and Drug Abuse Commission	HHS
Archives and History	DOI
Corrections	DOJ
Development Board	DOC
Education	ED
Employment Security Commission	DOL
Forestry Commission	USDA
Governor's Office	DOL
Health and Environmental Control	HHS
Highways and Public Transportation	DOT
Housing Authority	HUD
Human Affairs	DOL
Labor	DOL
Land Resources Conservation Commission	EPA
Mental Health	HHS
Mental Retardation	HHS
Parks, Recreation and Tourism	DOI
Parole and Community Corrections	DOJ
Public Service Commission	DOT
Social Services	HHS
Vocational Rehabilitation	ED
Water Resources Commission	DOC
Wildlife and Marine Resource	DOI
Youth Services	HHS
Veteran's Affairs	VA
Counties:	
Aiken	HHS
Anderson	HHS
Charleston	HHS
Darlington	HHS
Florence	HHS
Greenville	DOL
Horry	HHS
Lexington	HHS
Orangeburg	HHS
Richland	HUD
Spartanburg	HHS
Sumter	HHS
York	HHS
Cities:	
Charleston	HUD
Columbia	EPA
Greenville	HUD
SOUTH DAKOTA	
State agencies:	
Agriculture	USDA
Charities and Corrections Board	HHS*
Commerce and Regulation	DOC
Education and Cultural Affairs	ED
Energy Office	DOE
Game, Fish and Parks	DOI
Governor's Office	DOE
Health	HHS
Housing Development Authority	HUD
Labor	DOL
Military and Veterans Affairs	DOD
Public Safety	DOJ
Social Services	HHS
State Development	DOC
Transportation	DOT
Vocational Rehabilitation	HHS
Water and Natural Resources	EPA
Counties:	
Minnehaha	HHS
Pennington	HHS
Cities:	
Sioux Falls	EPA
TENNESSEE	
State agencies:	
Aging Commission	HHS*
Agriculture	USDA
Commerce and Insurance	DOC
Conservation	DOI
Corrections	DOJ
Economic and Community Development	DOL
Employment Security	DOL
Education	ED
Governor's Office	DOJ
Health and Environment	HHS
Historical Commission	DOI
Housing Development Agency	HUD
Human Services	HHS
Labor	DOL
Mental Health and Retardation	HHS
Military	FEMA
Planning Office	HUD
Safety	DOJ
Transportation	DOT
Veterans Affairs	VA
Wildlife Resources Agency	DOI
Counties:	
Anderson	HHS
Blount	HHS
Hamilton	DOC
Knox	HHS
Madison	HHS
Montgomery	HHS
Nashville-Davidson:	
Community Development	HUD
Community Improvement	DOL
District Attorney	DOJ
Education	ED
Health/Human Services	EPA*
Hospital	HHS
Metro Action Commission	HHS
Police	DOJ
Social Services	HHS
Water/Sewer	EPA
Rutherford	HHS
Shelby	HHS
Sullivan	DOL
Washington	HHS
Cities:	
Chattanooga	HHS
Knoxville	HHS
Memphis	HUD
Nashville	HUD
TEXAS	
State agencies:	
Aeronautical Commission	DOT
Aging	HHS
Agriculture	USDA
Air Control Board	EPA
Attorney General's Office	DOJ
Budget and Planning Office	HUD
Community Affairs	DOL
Corrections	DOJ
Education Agency	ED
Employment Commission	DOL
Forest Service	USDA
Governor's Office	DOJ
Health	HHS
Highway and Public Transportation	DOT
Historical Commission	DOI
Human Resources	HHS
Intergovernmental Relations Advisory Commission	HHS
Labor and Standards	DOL
Mental Health Retardation	HHS
Parks and Wildlife	DOI
Public Safety	DOJ
Public Utility Commission	DOE
Railroad Commission	DOT
Rehabilitation Commission	ED
Veteran Affairs Commission	VA
Water Resources	DOI
Youth Commission	HHS
Counties:	
Bell	HHS
Bexar	HHS
Bowie	HHS
Brazoria	HHS
Cameron	HHS
Dallas	HHS
Ector	HHS
El Paso	DOJ
Galveston	HHS
Grayson	HUD
Gregg	HHS
Harris:	
Community Development and Housing	HUD
Courts	DOJ
District Attorney	DOJ
Employment and Training	DOL
Health/Human Services	HHS
Juvenile Probation/Detention	DOJ
Parks	DOI*
Hidalgo	HHS
Jefferson	HHS
Lubbock	HHS
McLennan	HHS
Midland	HHS
Nueces	DOC
Orange	HUD
Plainview	DOT
Potter	HUD
Smith	HHS
Tarrant	HHS
Taylor	HHS
Tom Green	HHS
Travis	HHS
Webb	HHS
Wichata	HHS
Cities:	
Abilene	HUD
Amarillo	HUD
Austin	HHS
Beaumont	HHS
Corpus Christi	HHS
Dallas	DOT
El Paso	HUD
Fort Worth	HUD
Galveston	HUD
Houston:	
Aging	HHS
Airport	DOT
Community Development	HUD*
Community Improvement	DOL
Health/Human Services	HHS
Library	ED
Public Works	EPA
Laredo	HUD
Lubbock	HHS
San Angelo	HHS
San Antonio	EPA
Tyler	HHS
Waco	HUD
Wichita Falls	EPA
UTAH	
State agencies:	
Agriculture	USDA
Apprenticeship Council	DOL
Community and Economic Development	HUD
Education Office	ED
Employment Security	DOL
Governor's Office	HUD
Health	HHS*
Industrial Commission	DOL
National Guard	DOD
Natural Resources	DOI
Public Safety	HHS
Social Services	HHS
Transportation	DOT
Counties:	
Davis	HHS
Salt Lake	HHS
Utah	HHS
Weber	HHS
Cities:	
Ogden	HHS
Salt Lake City	HUD
VERMONT	
State agencies:	
Agriculture	USDA
Development and Community Affairs	HUD
Education	ED
Employment and Training	DOL
Environmental Conservation	DOI
Governor's Office	HHS*
Human Services	HHS
Labor and Industry	DOL
Libraries	HHS
Military	DOD

COGNIZANT AGENCY ASSIGNMENTS FOR COST ALLOCATION UNDER OMB CIRCULAR A-87 AND FOR SINGLE AUDIT UNDER OMB CIRCULAR A-128—Continued

	Cognizant Federal agency
Public Safety	DOJ
Public Service	DOE
Rehabilitation Center	HHS
Transportation	DOT
Counties: Chittenden	HHS
VIRGINIA	
State agencies:	
Adjutant General's Office	DOD
Aging	HHS
Agriculture and Consumer Affairs	USDA
Air Pollution Control Board	EPA
Commerce	DOC
Conservation and Economic Development	DOI
Corrections	DOJ
Criminal Justice Services	DOJ
Education	ED
Emergency and Energy Services Office	FEMA
Employment Commission	DOL
Game and Inland Fisheries Commission	DOI
Governor's Office	DOL
Health	HHS
Highways and Transportation	DOT
Historic Landmarks Commission	DOI
Housing and Community Development	HUD
Law	DOJ
Labor and Industry	DOL
Library	HHS
Mental Health and Mental Retardation	HHS
Planning and Budget	HUD
Rehabilitative Services	HHS
Social Services	HHS
State Police	DOJ
Water Control Board	EPA
Counties:	
Arlington	HHS
Chesterfield	EPA
Fairfax	EPA
Henrico	HUD
Montgomery:	
Education	ED
Public Assistance	HHS*
Orange	DOT
Pittsylvania	HHS
Prince William	EPA
Roanoke	HHS
Cities:	
Alexandria	HHS
Chesapeake	ED
Hampton	HHS
Lynchburg	HHS
Newport News	ED
Norfolk:	
City Manager	HUD*
Community Relations	HUD
Development	HUD
Education	ED
General Government	HHS
Housing Authority	HUD
Human Resources/Relations	HHS
Judicial	DOJ
Parks and Recreation	HUD
Personnel	DOT
Planning	DOJ
Police	HHS
Public Health	HHS
Portsmouth	HHS
Richmond	HUD
Roanoke	DOT
Virginia Beach	ED
VIRGIN ISLANDS	
State agencies: All departments and agencies	DOI
WASHINGTON	
State agencies:	
Agriculture	USDA
Archaeology and Historic Preservation Office	DOI
Attorney General's Office	DOJ
Commerce and Economic Development	DOC
Community Development	HUD*
Corrections	DOJ
Ecology	DOI
Emergency Management	FEMA
Employment Security	DOL
Energy Office	DOE
Financial Management Office	HHS
Fisheries	DOC
Game	DOI
Governor's Office	HHS
Labor and Industries	DOL
Library	HHS
National Guard	DOD
Natural Resources	USDA
Parks and Recreation Commission	DOI
Post Secondary Education Council	HHS
Public Instruction	ED
Social and Health Services	HHS
State Patrol	DOJ
Traffic Safety Commission	DOT
Transportation	DOT
Veterans Affairs	VA
Counties:	
Benton	HHS
Clark	HHS
Cowlitz	HHS
Grays Harbor	HHS
King	HHS
Kitsap	HHS
Pierce:	
Aging	HHS*
Airport	DOT
Community Action	HHS
Community Development	HUD
Law and Justice	DOJ
Manpower	DOL
Sewer Utility	EPA
Social Services	HHS
Skagit	HHS
Snohomish	HUD
Spokane	USDA
Thurston	HHS
Whatcom	HHS
Yakima	HHS
Cities:	
Seattle	HHS
Spokane:	
Community Development and Planning	HUD
Employment and Training	DOL
Human Services	HHS*
Public Works	DOT
Sewer Utility	EPA
Transit	DOT
Water	DOE
Tacoma	EPA
WEST VIRGINIA	
State agencies:	
Adjutant General's Office	DOD
Aging Commission	HHS
Agriculture	USDA
Air Pollution Control Commission	HHS
Attorney General	DOJ
Corrections	DOJ
Culture and History	DOI
Economic and Community Development Office	DOL
Education	ED
Emergency Services Office	FEMA
Employment Security	DOL
Finance and Administration	DOT
Governor's Office	HHS
Health	HHS
Highways	DOT
Housing Development Fund	HUD
Human Services	HHS
Labor	DOL
Mines	DOI
Natural Resources	DOI
Public Service Commission	DOT
Public Safety	DOJ
Veterans Affairs	VA
Vocational Education Board	ED
Counties:	
Cabell	HHS
Fayette	HHS
Harrison	HHS
Kanawha:	
Employment and Training	DOL*
Housing Authority	HUD
Parks and Recreation	DOI
Regional Intergovernmental Council	DOT
Transit Authority	DOT
Logan	HHS
Marion	HHS
McDowell	HHS
Mercer	HHS
Monongalia	HHS
Ohio	EPA
Raleigh	HHS
Wood	HHS
WISCONSIN	
State agencies:	
Administration	HHS
Agriculture, Trade and Consumer Protection	USDA
Development	DOC
Governor's Office	DOJ
Health and Social Services	HHS
Historical Society	DOI
Housing and Economic Development Authority	HUD
Industry, Labor and Human Relations	DOL
Justice	HHS
Military Affairs	DOD
Natural Resources	DOI
Public Instruction	ED
Transportation	DOT
Veterans Affairs	VA
Counties:	
Brown	HHS
Dane	HHS
Dodge	HHS
Eau Claire	HHS
Fond du Lac	HHS
Jefferson	HHS
Kenosha	HHS
La Crosse	HHS
Manitowoc	HHS
Marathon	HHS
Milwaukee	HHS
Outagamie	HHS
Racine	HHS
Rock	HHS
Sheboygan	HHS
Walworth	HHS
Waukesha	HHS
Winnebago	HHS
Wood	HHS
Cities:	
Green Bay	HUD
Kenosha	HHS
Madison	DOT
Milwaukee	HUD
Racine	EPA
Wauwatosa	HHS
West Allis	HHS
WYOMING	
State agencies:	
Agriculture	USDA
Attorney General's Office	DOJ
Charities and Reform Board	HHS
Economic Planning and Development	DOC
Education	ED
Employment Security Commission	DOL
Environmental Quality	EPA
Game and Fish	DOI
Governor's Office	DOL
Health and Social Services	HHS
Highway	DOT
Labor and Statistics	DOL
Public Lands	USDA
Mine Inspector	DOI
National Guard	DOD
Public Service Commission	DOT
Recreation Commission	DOI
Workers Compensation Division	DOL
Counties: Laramie	HHS

*Lead cognizant agency for single audits at State and local levels. Also, responsible for negotiating cost allocation plans at local levels. HHS will continue to be cognizant agency for review of State-wide cost allocation plans.

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Federal Register

Monday
January 6, 1986

Part VI

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 870

Medical Devices; Invitation for Offers To Submit or To Develop a Performance Standard for Vascular Graft Prosthesis of 6 Millimeters and Greater Diameter; Notice of Inquiry

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 870

[Docket No. 83N-0190]

Medical Devices; Invitation for Offers To Submit or To Develop a Performance Standard for Vascular Graft Prosthesis of 6 Millimeters and Greater Diameter

AGENCY: Food and Drug Administration.

ACTION: Notice of inquiry.

SUMMARY: The Food and Drug Administration (FDA) is issuing this notice to invite interested persons, including any Federal agency, to submit any existing standard as a proposed performance standard for the vascular graft prosthesis of 6 millimeters and greater diameter, or to submit an offer to develop such a proposed standard. If FDA does not receive any response to this notice, or receives a response but does not accept any existing standard or offer to develop a standard, the agency will proceed to develop a performance standard or take other appropriate action to facilitate the development of a performance standard for the device.

DATE: Existing standards or offers shall be submitted on or before March 7, 1986.

ADDRESS: Existing standards or offers shall be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles E. MacNeill, Center for Devices and Radiological Health (HFZ-83), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION:

I. Background/Introduction

Under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), FDA is required to classify each medical device into one of three regulatory categories: class I (general controls), class II (performance standards), or class III (premarket approval).

In the **Federal Register** of February 5, 1980 (45 FR 7938), FDA published a final rule (21 CFR 870.3460) classifying the vascular graft prosthesis of 6 millimeters (mm) and greater diameter into class II. In the **Federal Register** of July 8, 1983 (48 FR 31395), FDA initiated a proceeding to establish for the device a performance standard under section 514 of the act (21 U.S.C. 360d). As required by section 514(b) of the act, the proceeding was initiated by publishing in the **Federal Register** a notice of opportunity to submit to the agency, within 15 days of the date of publication of the notice, a request for a change in the classification of the device based on new information relevant to its classification. FDA did not receive any request for a change in the classification of the device or any comments in response to the July 8, 1983 notice. Therefore, further action is not required under section 514(b) of the act.

As provided by section 514(c) of the act and Part 861 of the regulations governing performance standards development (21 CFR Part 861), FDA is continuing the proceeding to establish a performance standard for the vascular graft prosthesis of 6 mm and greater diameter by inviting interested persons to submit an existing standard as a proposed performance standard for the device or to submit an offer to develop such a proposed standard.

II. Current Action

Section 514(c)(1)(A) of the act and § 861.20(c) of the regulations provide that in the event further action is not required under section 514(b) of the act, FDA shall publish in the **Federal Register** a notice inviting any interested person, including any Federal agency, to submit to FDA, within 60 days after the date of publication of the notice, an existing standard as a proposed performance standard, or an offer to develop a proposed performance standard.

Section 514(c)(2)(B) of the act and § 861.22 of the regulations provide that the notice is to include (1) a description or other designation of the device; (2) a statement of the risk or risks associated with the use of the device and which are intended to be controlled by a performance standard, including pertinent portions of the recommendations of FDA's advisory committees with respect to the device; (3) a summary of the data on which FDA has found a need for initiation of the proceeding to develop a performance standard, including pertinent portions of the recommendations of FDA's advisory committees with respect to the device; (4) identification of any existing performance standard known to FDA which may be relevant to the proceeding; (5) the approximate number of products (i.e., kinds of models) within the generic type of device; and (6) the time period within which the standard is to be developed, which may be extended by the Commissioner of Food and Drugs for good cause shown.

Device Description

The vascular graft prosthesis of 6 mm and greater diameter is identified in § 870.3460 as a device used to replace sections of arteries. The prosthesis is constructed of expanded polytetrafluoroethylene or woven or knitted materials, such as polyethylene terephthalate. Vascular graft prostheses made of other materials or of animal origin, including human umbilical cords, are excluded from this description. Also, vascular graft prostheses classified in § 870.3460 include only those devices that are 6 mm and greater diameter. Vascular graft prostheses less than 6 mm diameter are classified into class III under 21 CFR 870.3450 and are not affected by this notice.

Scope of the Standard; Models of the Device

FDA believes that any proposed performance standard to be offered or developed for the vascular graft prosthesis of 6 mm and greater diameter needs to characterize the biological, physical, and material characteristics of the various prostheses using standard test procedures, so that the physician may compare available devices and select the device that best resolves the patient's condition. Also, any graft needs to correct the imbalance in the rate of blood flow in the vascular system and the reduction of vascular trauma to yield a "normal" net functioning of the cardiovascular system. Thus, any proposed performance standard for the vascular graft prosthesis of 6 mm and greater diameter needs to define the vascular characteristics of the device under conditions simulating the dynamic environment of the human body. In addition to the short-term risk of returning the patient to a near "normal" physiological condition, the long-term risks relating to compatibility, deterioration of the materials used in the construction of the device, and inconsistences in the composition of materials have been associated with the device. FDA believes that an appropriate standard needs to address such risks to provide reasonable assurance of safety and effectiveness when the device is implanted into the human body.

FDA has identified four models of grafts within the generic classification of vascular graft prostheses. These four models are: straight tubular arterial grafts, axillo femoral arterial grafts, bifurcated arterial grafts, and special branched grafts (Ref. 21).

Risks Associated With the Device and Which are to be Controlled by a Performance Standard

In the **Federal Register** of March 9, 1979 (44 FR 13366), FDA published its proposed rule to classify the vascular graft prosthesis of 6 mm and greater diameter into class II. The Circulatory System Devices Panel and the General and Plastic Surgery Devices Panel (then the Cardiovascular Device Classification Panel and the General and Plastic Surgery Device Classification Panel, respectively), FDA advisory committees, identified the following risks to health: (i) Clot formation: Material incompatibility with the blood can lead to clot formation, (ii) Ripping of the graft: An improper design of the graft can cause ripping of the graft when punctured with a surgical needle, (iii) Dilation: Dilation can result from insufficient physical strength of the material or from improper design of the weave or knit pattern of the graft, and (iv) Blood seepage or leakage: Inadequate preclotting of the graft can cause seepage or leakage of blood through the graft wall. (A further description of the risks identified by FDA's advisory committees is presented in the section of this notice "Summary of the Data Supporting the Need for a Performance Standard.") The committees concluded, however, that such vascular grafts when implanted perform as well as the alternative procedures involving endarterectomy or autogenous vein grafts.

FDA believes that, as a minimum, a performance standard for the vascular graft prosthesis of 6 mm or greater diameter under section 514 of the act is necessary to control the risks to health listed below. This listing of risks was developed from three major FDA activities: the risks identified by FDA's advisory committees, a study on the safety and performance of vascular grafts conducted under contract to FDA (Ref. 21), and an FDA cosponsored update symposium on vascular graft safety and performance (Ref. 22).

(1) *Infection.* One of the most serious risks associated with clinical implantation of vascular grafts is local infection. Infection that occurs in association with clinical implantation of vascular grafts has serious consequences and may be uncontrollable, not uncommonly resulting in the loss of life.

(2) *Occlusion.* Occlusion of the vascular graft is an unsatisfactory condition of blockage of the graft preventing blood flow and resulting in injury or death unless surgically reconstructed. The occlusion or patency (the condition of being wide open) rate is considered an important performance parameter of vascular grafts.

(3) *Noncompliance.* Noncompliance is the failure of a vascular graft to match the physiological characteristics of the artery under intraluminal blood pressure, causing flow disruptions to blood. The prosthesis should comply with the physiological characteristics of the vascular system to be effective.

(4) *Excessive/inadequate porosity.* In fabric grafts, rather than nonfabric grafts, excessive porosity may cause intraoperative or early postoperative hemorrhage. Inadequate porosity may predispose to thrombosis and failure to develop a healthy neointima.

(5) *Low structural integrity.* The loss of structural integrity of vascular grafts results in rupture, hemorrhage, and aneurysm formation. Vascular grafts of low longitudinal tension, transverse tension, resistance to tearing or ripping, suture pullout resistance, and vascular pressure resistance under cycling conditions may cause leakage, as well as rupture, hemorrhage, aneurysms, and dilation.

(6) *Nonbiocompatibility.* Nonbiocompatible materials in a vascular graft will result in adverse tissue and blood reactions in the patient. Material that is incompatible with blood will cause clot formation which may result in injury or death to the patient.

Because of the tissue and blood interfaces involved in the use of vascular grafts, FDA believes that the materials used in the prostheses need to be controlled by standards. In addition, device characteristics such as porosity and tensile strength should be maintained at a generally accepted satisfactory level. FDA believes that general controls alone would not provide sufficient control over the performance characteristics of the vascular graft prosthesis of 6 mm and greater diameter. FDA believes, however, that although the device is implanted and life-sustaining, a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

Summary of the Data Supporting the Need for a Performance standard

The need to establish a performance standard for the vascular graft prosthesis of 6 mm and greater diameter is based on information from several sources. These sources include FDA's advisory committees, a contractual report regarding the risks and hazards associated with vascular graft prostheses as well as the effectiveness of the devices (Ref. 21), a recent symposium on vascular graft safety and performance sponsored jointly by FDA and the private sector, reports received through the agency's Device Experience Network (DEN), and information submitted to the agency under Part 803 of the regulations governing medical device reporting (21 CFR Part 803). FDA believes the data obtained from these sources and presented herein support the need for a performance standard to address the risks to health associated with the device.

FDA Advisory Committee Proceedings Data

The Circulatory System Devices Panel and the General and Plastic Surgery Devices Panel recommended that the vascular graft prosthesis of 6 mm and greater diameter be classified into class II based principally on the advisory committees' reviews of the literature on vascular grafts.

In the literature reviewed by FDA's advisory committees, the authors cited the following surgical complications associated with implantation of vascular graft prostheses: thromboembolic complications (Refs. 1 through 6); failure to heal properly, including insufficient or excessive tissue ingrowth, resulting in failure to incorporate the graft in neointima (Refs. 2, 4, and 6) or stenosis (Refs. 7 and 8); material or mechanical failures Refs. 4, 5, and 9 through 13); hemolysis (Ref. 14); sarcoma (Ref. 15); late infection (Ref. 16); aneurysms and dilation of the prostheses or "false aneurysm" (Refs. 2, 4, 9, and 19).

Reported material and mechanical failures include kinking (Refs. 4 and 5) and dilation (Refs. 2, 4, 9, and 19). Loss of tensile strength occurred with nylon materials and caused them to be abandoned (Refs. 5 and 10). Blood compatibility of vascular graft materials has always been a risk, because no truly blood-compatible artificial material has been discovered. Yet, thrombogenicity of the materials used should be reduced to a minimum. There is, however, no agreement on the most effective means to minimize thrombogenicity of the materials. For example, Guidoin and associates (Ref. 20) cited conflicting reports on the thrombogenicity of Dacron™used in vascular graft prostheses. For materials now used, it appears that artificial grafts of 6 mm and greater in diameter compare favorably with alternative biologic material forms of vascular replacement. For example, Szilagyi and associates (Ref. 2) reported later patency of 85 percent for artificial grafts in the aortoiliac position, while

endarterectomy and antogenous vein grafts had patencies of 90 percent and 80 percent, respectively.

FDA Contract Safety and Performance Study

In 1979, FDA entered into a contract with the Utah Biomedical Testing Laboratory (UBTL), Division of the University of Utah Research Institute, with the specific objectives of identifying, documenting, and analyzing important determinants of the safety and effectiveness of vascular graft prostheses (Ref. 21). A further objective to the study was to suggest ways and means to minimize or control identified risks associated with these devices, including performance requirements for the device parameters which were considered amenable to control by a performance standard. The specific vascular graft devices including in this study were:

(1) Fabric arterial prostheses (grafts) with internal diameter measuring 6 mm or greater, including the following types: (i) Dacron™ and Teflon™; (ii) knitted, woven, and braided; (iii) crimped and noncrimped; (iv) filamentous, single velour, and double velour; (v) straight, bifurcated, and branched; and (vi) with or without incorporated mechanical or biologic valves; and

(2) Expanded polytetrafluoroethylene (PTFE) or other polymeric or synthetic vascular prostheses with internal diameter measuring 6 mm or greater.

For the UBTL study, data and information on the safety and performance of vascular graft prostheses of 6 mm or greater diameter were collected from four sources: (1) A comprehensive literature review of more than 700 references, including scientific papers, books and monographs, technical reports, and miscellaneous sources, such as draft voluntary industry standards and personal communications; (2) a survey of manufacturers of vascular graft prostheses and a collection of manufacturers' product data on the device; (3) a study and discussion with users of the device (i.e., surgeons); and (4) a public review and critique of the study and its findings which was held on April 15, 1980, in San Francisco, CA, and which was open to 200 users and manufacturers of the device, and to scientific personnel.

Literature study and review. UBTL reviewed the scientific literature of published reports concerning the safety and effectiveness of vascular replacements. More than 1,250 such reports were reviewed and useful data were collected from approximately 730 of these reports. The papers with specific data or information are listed in the bibliography for the UBTL study (Ref. 21). Voluntary standards for vascular grafts developed by organizations in several countries were reviewed as a part of this literature search. A few technical reports that were not published in scientific journals, but were judged to have scientific value and to contain useful data, were included in this literature review.

Manufacturer's device survey. All known manufacturers of vascular graft prostheses included within the scope of the UBTL study were invited to submit descriptions of their vascular products, proprietary literature, instructions for use, advertisements, in-house investigative studies, informational brochures, and scientific literature which are available to buyers or users of the products. The requested material was collected, reviewed, and analyzed, forming a significant source of data and information for the UBTL study.

Surgeon's experience survey. To broaden the experience base and to obtain input concerning risks, performance, complications, and possible dissatisfactions with vascular grafts (which may not have been published in scientific reports), the principal investigator for the UBTL study interviewed a panel of nine active vascular surgeons concerning their experience with vascular devices. The interviewees included surgeons with significant experience related to vascular grafts, wide geographic distribution, and freedom from conflict of interest or bias related to specific types of vascular graft prostheses. The information produced by these interviews, designated as the User's Study, has been used as an important source of data for, and has been analyzed and summarized in, the UBTL study.

Public review and critique. The preliminary and interim reports of the UBTL study were submitted to open review meetings of users and manufacturers of vascular graft prostheses, and to general interest professionals. The reactions, responses, and suggestions of many reviewers were collected as an additional source of data for the study.

The four major sources of data described above form the base of information used by UBTL in its study. UBTL considered and evaluated all the data and information collected from these sources in making its summations, conclusions, and recommendations to FDA at the conclusion of the study. Documentation was supplied by reference to specific sources of information.

The report of the extensive Utah Biomedical Testing Laboratory study summarized the major risks specifically related to vascular graft prostheses with background discussion as follows:

(1) *Patency.* Occlusion of the vascular graft represents the most common unsatisfactory responses that have been reported. The incidence of this condition varies from essentially zero in large, short aortic replacements to more than 75 percent when the device is used as a venous replacement. Occlusion is closely related to the flow rate of blood through the implanted vascular replacement, which in turn is controlled to a large extent by the rate of run-off of blood through the vascular bed distal to the implant. Specific risks with the vascular replacement device which may cause or predispose to occlusion include excessive thrombogenicity of the material, mechanically rough surface in contact with blood (causing turbulence), excessively thick neointima formation, anastomotic intimal hyperplasmia, poor suturability or lack of conformability of the device which results in constricted or turbulent anastomoses, elongation of the graft to produce kinking, excessive fibrosis in the wall, failure of the replacement device to form a healthy neointima, development of atherosclerotic plaques in the neointima, and deterioration of the replacement device.

(2) *Hemostasis.* Intraoperative bleeding may occur through the interstices of highly porous fabric grafts, particularly in heparinized patients, even though preclotting of the replacement device have been performed. Defects in the fabrication or "fabric creep" may cause holes or weak areas which become holes when subjected to arterial blood pressure. Excessive fraying at cut ends of fabric grafts may make the anastomotic suture lines insecure and leaky. Needle holes in the graft may enlarge or tear under the stress of pulsatile arterial pressure. Deterioration of the replacement device with loss of tensile strength may result in aneurysm formation or rupture. Incompatibility of suture material with graft material, resulting in thrombosis or hemorrhage, has been reported. Failure of healing at suture lines has also been a cause of late hemorrhage.

(3) *Physical properties of the devices.* Grafts that do not match the natural arteries to which they are anastamosed in respect to diameter, compliance, wall thickness, pulsatility, or elasticity may be predisposed to occlusive thrombosis. Poor suturability, lack of conformability, and difficulty in handling during the implantation procedure likewise can

result in low patency rates. Defects in fabrication, holes, weak areas, and fabric irregularities can result in hemorrhage, development of aneurysm, rupture or deformity of the prosthesis. The tendency of fabrics to fray at cut ends, enlargement of needle holes, and the inability to hold sutures are conditions that may result in hemorrhage, development of fistula or anastomotic false aneurysms. Excessive roughness of the inner surface, wrinkling, kinking, or improper branching angle can produce turbulent blood flow which can be a factor leading to thrombosis, hemolysis, and platelet injury. In fabric grafts, excessive porosity may cause intraoperative or early postoperative hemorrhage which inadequate porosity may predispose to thrombosis and failure of the graft to develop a thin, healthy neointima.

(4) *Durability.* Risks associated with durability of the vascular replacement device can be related to absorption of the material, loss of tensile strength, fabric or material creep, stretching, or softness which may occur as a result of chemical, enzyme, osmotic, or pH characteristics of blood or tissue fluids in contact with the replacement device. In time such changes in the graft may cause the development of aneurysm, rupture, or thrombosis. Stiffening of the graft can result from excessive fibrosis in or around the device, caused by its chemical or physical nature. Also, stiffening can result from deposition of calcium salts in or on the device or from chemical changes in the material from which the device has been fabricated. Elongation of the graft may produce kinking and obstruction. Also, vascular replacement devices may change during storage—i.e., have inadequate shelf-life and not have the same properties at the time of use that they had when fabricated or packaged.

(5) *Biocompatibility.* Nonbiocompatibility can result in excessive fibrous tissue formation in or around the implanted device, which in turn can obstruct the device or obstruct adjacent structures such as the ureter, lymphatics, or veins. Excessive neointima formation inside the graft may cause it to obstruct or become stiff. If neointima forms slowly or incompletely, thrombosis or local infection may result. Mutagenic responses as a manifestation of bioincompatibility could result in development of neoplasm. Pyrogenic foreign material in or on the implanted device may trigger a febrile reaction, or the prosthetic material itself may be pyrogenic. Because even the most biocompatible prosthetic materials are foreign bodies, they are capable of harboring or predisposing to infection. Incompatibility of a vascular replacement device to blood can result in thrombus formation, production and release of micro- or macroemboli into the blood stream, damage or destruction of platelets or white blood cells. Hemolysis and disseminated intravascular coagulopathy have been reported, but rarely in association with implanted vascular replacement devices. Occasionally, allergic responses by the host recipient to an implanted graft may be observed. Antigenicity of some replacement devices may result in development of antibodies to the graft, as a type of rejection phenomenon.

(6) *Compliance.* Compliance is a performance parameter that can significantly influence the ease and accuracy with which a graft can be implanted and play a role in the graft's ability to remain patent and functional after implantation. Compliance, or changes in diameter with changing intraluminal pressure when carrying blood flow, is sometimes called elasticity or pulsability. Thus, it is important to know the details of these characteristics.

(7) *Porosity.* Although the significance of porosity may have been exaggerated in the early scientific literature, it appears likely that porosity (either mechanical or biologic) may be an important parameter for fabric grafts. High biologic porosity (ability to accept rapid ingrowth of vascularized host tissue) has been advocated as the major determinant of the rapidity and completeness of "healing" of a vascular replacement device, because the quality is associated with healthy neointima formation. Porosity has been related to high patency rates and formation of thin but continuous neointima.

Vascular Graft Safety and Performance Update Symposium

On November 27 and 28, 1984, FDA, the American Society for Testing and Materials (ASTM) Committee F–4 on Medical and Surgical Materials and Devices, and the International Center for Artificial Organs and Transplantation cosponsored the "ASTM Symposium on Vascular Graft Update: Safety and Performance." This symposium, held in Williamsburg, VA, included 28 scientific papers and a summary workshop on the safety and performance of vascular graft prostheses and the development of standards for the device. Papers presented at the symposium reported on biologic as well as synthetic material vascular grafts, such as human umbilical vein bioprosthetics and polyester graft prostheses.

An overview of the need for standards for vascular graft prostheses, including the historical and surgical perspectives, was presented by Wesolow (Ref. 24). Weslow listed the following mechanisms of failure in recovered vascular graft prostheses: (1) Failure of diagnoses; (2) error of implantation; (3) patient contributions to failure; (4) complications of healing; (5) device fabrication failures; and (6) superficial, deep, and fatal infections.

Wesolow concluded that for a vascular graft prosthesis to be considered reasonably safe and effective, three characteristics of the device are especially necessary. There should be (1) no deleterious effect of the implant upon the host, (2) no deleterious effect of the host upon the implant, and (3) an adequately functioning implant. Wesolow concluded further that these conditions should pertain for a duration consistent with the duration of functional need for the device and the risk of implantation as related to the seriousness of the offending condition requiring the implant.

Darcon™ arterial grafts, their comparative structures, and the basis for successful use of current prostheses were reviewed by Sauvage et al. (Ref. 25). These authors concluded that optimal performance characteristics and designs required of Dacron™ fabric prostheses vary according to the demands of the location in which they are used. Veith et al. reviewed the use during the past several years of expanded polytetrafluoroethylene (PTFE) arterial grafts (Ref. 26). These authors concluded that PTFE is a promising vascular graft material which facilitates the salvage of otherwise doomed human limbs.

Snyder et al. reviewed the strength and durability characteristics of vascular graft prostheses currently in use (Ref. 27). These authors proposed that durability be demonstrated by bench testing, animal studies, and controlled clinical studies, and that strength characteristics be used to control production of the device. These authors noted that the most common cause of failure of large diameter grafts was attributable to fatigue, a condition that they characterized variously as "dilation," "rupture," or "false aneurysm" failures.

Questions concerning sterility and pyrogenicity in synthetic vascular grafts were described by Helmus et al. The issues raised included sterilization techniques, validation methods, and the physical and biological effects of

sterilization (Ref. 28). These authors concluded that although graft infections have a low frequency of occurrence, infections are a catastrophic risk which extract a high morbidity and mortality, and that strict sterilization process control is mandatory.

The "applicability" of vascular graft prostheses was reviewed by Mortensen; "applicability" was defined as meaning appropriate for use under specific conditions (Ref. 29). Mortensen identified the typical problems of graft applicability as: size, porosity, thrombogenicity, anastomotic intimal hyperplasmia, compliance, suturability, arterial versus venous location, perevascular bed, composition of graft materials, infection, mobility, low flow, and intraluminal pressure (hyper, hypo, or pulsatile). Mortensen concluded that this information is useful for those involved in the development of vascular graft safety and performance standards, and that any standards for the device should address these types of problems.

Information on the physical properties of PTFE vascular grafts that FDA believes will be of value in the development of a safety and performance standard for the vascular graft prosthesis of 6mm and greater diameter was presented by McClurken et al. (Ref. 30). These authors provided detailed descriptions for current test methods designed to measure physical dimensions, bulk density, porosity, water entry pressure, longitudinal tensile strength, radial (hoop) tensile strength, suture retention strength, burst strength, and percent of polymer powders sintered. The PTFE grafts evaluated by the authors appear to possess adequate physical properties.

Hoffman described production factors that the author regards as necessary to produce safe and effective fibrous polyester vascular graft prostheses (Ref. 31). The quality assurance lists described by the author include visual inspection, usable length, "crimp pattern" burst strength, water porosity, extractable materials, and sterility for polyester material-based grafts. The biological tests for polyester grafts include cytotoxicity, pyrogenicity, acute systemic toxicity, intracutaneous toxicity, implantation test, and hemolysis for acceptability.

According to Botzko, water porosity testing of vascular grafts is used by manufacturers as a quality control measurement and by users as an indicator of the ease of preparation and preclotting of the graft (Ref. 32). The author discussed the results of a round robin test on a series of vascular grafts along with the important variables in the test method which cause variations in test results for similar graft materials. Botzko identified pretensioning of test specimens as the variable having the greatest effect on the porosity test results. This author identified the time between initiation of flow and measurement of flow as the second most significant factor. The author concluded that although a number of variables influence the results of water porosity testing of vascular grafts, such testing is an important element in the process used to manufacture the device.

The categories of animal species that have been considered for the evaluation of vascular grafts are the nonhuman primate, the dog, or none at all, according to Didisheim (Ref. 33). The rationale for not using an animal species at all is that all species differ from man and the ultimate test is the behavior of grafts in the human. Didisheim reviewed the differences and similarities between humans and other species and concluded that more than one species, for example, the dog and the pig, may be necessary to evaluate vascular grafts.

Reports Received by FDA

DEN is an FDA system for reporting and tracking malfunctions in medical devices. The system is voluntary, which limits the reliability of the data. FDA assumes that: (1) Not all device malfunctions are reported; (2) a listing of reported kinds of malfunctions probably does not include all of the kinds of malfunctions that occur; and (3) the frequency of reported kinds of malfunctions does not provide quantitative information and should be regarded only qualitatively.

FDA has reviewed recently received DEN reports to identify deaths, serious injuries, and malfunctions that were associated with vascular graft prosthesis products. Twelve DEN reports were received and provided specific information on deaths (one report), infections (seven reports), material disruptions (two reports), ruptures (one report), and aneurysm formations (one report).

In the **Federal Register** of September 14, 1984 (49 FR 36348), FDA issued Part 803 effective December 13, 1984, that requires manufacturers and importers of medical devices, including diagnostic devices, to report to FDA whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed devices (1) may have caused or contributed to a death or serious injury or (2) has malfunctioned and that the device or any other device marketed by the manufacturer or importer would be likely to cause or contribute to a death or serious injury if the malfunction were to recur. Ninety-five such reports on vascular graft prostheses have been submitted to the agency under Part 803. These reports include deaths (2 reports), malfunctions (21 reports), and serious injuries (72 reports). The reports are initial reports submitted over a period of 9 months following the effective date of Part 803.

The character of both the DEN reports and reports submitted under Part 803 is consistent with the findings on the safety and performance of vascular grafts previously reported above under the FDA advisory committee proceedings and the FDA contract safety and performance study. The DEN reports as well as the reports submitted under Part 803 currently are being investigated by FDA and will be considered in the proceeding to establish a performance standard for the vascular graft prosthesis of 6 mm and greater diameter to the extent that they may bear on the provisions of any such standard.

III. Invitation for Offers to Submit Existing Standards

In accordance with section 514(c)(1)(A) of the act and § 861.20(c), FDA invites any interested person, including any Federal agency, to submit by March 7, 1986, an existing standard as a proposed performance standard for the vascular graft prosthesis of 6 mm and greater diameter. Alternatively, any such person may submit pertinent portions of an existing standard, including completed portions of any standard that is under development.

FDA is aware of two voluntary standards that are under development and that are applicable to the device: the Association for the Advancement of Medical Instrumentation (AAMI) "Standard for Vascular Graft Prostheses (Draft)" (AAMI VP-D/84) (Ref. 22), and the International Organization for Standardization (ISO) Draft Proposal "Standard for Synthetic Tubular Vascular Prostheses" (ISO/DP7198) (Ref. 23).

The Vascular Prosthesis Committee of AAMI initiated the development of a standard on vascular graft prostheses with the objectives of establishing requirements for labeling, assuring uniformity of biomaterials, and defining performance characteristics of textile and nontextile synthetic grafts and vascular heterografts. The draft AAMI voluntary standard reflects the efforts of concerned physicians and clinical engineers, in consultation with manufacturers, to achieve those levels of safety and effectiveness that could reasonably be achieved. The draft

AAMI voluntary standard covers vascular graft prostheses used to replace segments of arteries and to accomplish vascular anastomoses and provides specific labeling, biomaterial, performance, packaging, and sterility requirements. It does not, however, establish minimum performance requirements for devices within its scope, nor does it cover related devices such as autografts. The test section of the draft AAMI voluntary standard includes detailed test methods for identification of biomaterials, such as specific gravity, fiber content, solubility, and physical properties; evaluation of finished products, such as surface properties, porosity, tensile strength, burst strength, and dimensional measurements; and sterility testing. It does not cover the evaluation of biocompatibility of implant materials regarding the reaction of the body and its tissues or blood to the implant.

The Technical Committee 150 on Implants for Surgery, Subcommittee 2 on Cardiovascular Implants of the ISO, initiated the development of an international standard on synthetic tubular vascular prostheses with the objectives of establishing requirements for labeling, assuring uniformity of biomaterials, and defining performance of textile and nontextile synthetic prostheses. The draft ISO voluntary standard does not cover related devices, such as biologic material implants. Also, it does not specify minimum performance requirements for the finished product on the ground that standard performance criteria do not exist and vary according to patient needs. ISO intends the draft standard to aid the surgeon in choosing the type of prosthesis best suited for the patient and the surgical procedure. Although the draft ISO voluntary standard recognizes that clot formation due to material incompatibility with blood is a risk to the patient, it does not cover specific biocompatibility requirements.

The draft AAMI and the draft ISO voluntary standards contain many useful and worthwhile concepts, but the agency does not believe that either of these draft standards in its current form would be acceptable as a performance standard to provide reasonable assurance of the safety and effectiveness of the vascular graft prosthesis of 6 mm or greater diameter. The draft standards do not establish minimum, or reasonable, performance requirements for the device or cover specific biocompatibility requirements pertaining to the device. FDA advises, however, that all, or parts, of the draft standards may be submitted as a proposed performance standard because the draft standards contain relevant concepts that should be considered in the development of a performance standard under section 514 of the act for the device.

Section 861.24 sets forth the conditions under which FDA may accept an existing standard or a standard under development as a proposed performance standard. Accordingly, FDA advises that any such submission is to include the following:

1. A description of the procedures used to develop the standard and a list of persons and organizations that participated in, or in the event the standard is under development, that are participating in its development, to the extent that such information is available or reasonably obtainable;

2. An identification of the specific portions of the existing standard, or standard under development, that the person submitting the standard believes are appropriate for adoption as, or inclusion in, the proposed standard; and

3. A summary of the test data or other information, including rationales, necessary to support each specific portion of the standard identified by the person submitting the standard. More detailed information may be requested concerning certain portions of the standard if FDA determines that the summary is inadequate.

In accordance with section 514(d)(2) of the act, if an existing standard or one that is under development is submitted to FDA in response to this notice and FDA does not accept the standard, the agency will publish a notice of that fact together with the reasons therefor. In accordance with § 861.24(b), if an existing standard or one that is under development is submitted to FDA in response to this notice and FDA accepts the standard, or accepts the standard with modification, as a proposed standard, the agency will publish a notice of that fact. FDA advises that in the latter event, it may publish the notice as a notice of proposed rulemaking to establish a performance standard under section 514(g) of the act and § 861.20(e)(1). FDA expects to make such determination and publish the notice of its decision within 180 days after the close of the comment period on this notice.

IV. Invitation for Offers to Develop Proposed Standards

In accordance with section 514(c)(1)(B) of the act and §§ 861.20(c) and 861.22, FDA invites any interested person, including any Federal agency, to offer by March 7, 1986, to develop a performance standard for the vascular graft prosthesis of 6 mm and greater diameter, as described in this notice, to control the risks associated with the device.

Section 514(c)(3) of the act sets out certain criteria applicable to any offerors. Section 514(e)(3) of the act provides that if an offer is accepted, FDA may, upon application which may be made before the acceptance of the offer, agree to contribute to the offeror's cost in developing a proposed standard if FDA determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution. Therefore, in accordance with section 514 (c)(3) and (e) of the act and § 861.26, FDA advises that any offer to develop a proposed performance standard is to include:

1. Information on the offeror's expertise and experience that qualifies the offeror to develop the standard.

2. Sufficient information on the offeror's financial stability to establish its capability to conduct adequate standards development either with or without contribution by FDA to the offeror's costs. Any request for contribution by FDA to the offeror's cost of developing the standard shall include:

(i) A list of the items of expense for which contribution is sought and the amount requested for each item;

(ii) A justification of each item of expense, including an explanation of how the contribution is likely to ensure development of a more satisfactory standard;

(iii) A statement that the offeror will employ an adequate accounting system (one in accordance with generally accepted accounting principles) to record the costs and expenditures allocable to development of the standard; and

(iv) A statement requesting an advance payment of funds, if necessary to enable the offeror to meet operating expenses during the development period.

3. Information relating to any potential conflicts of interest on the part of the offeror, its directors or officers, or any employees or consultants who may participate in the development of the standard, including any financial interest in the particular device or in the device industry generally, current industrial or commercial affiliates of the offeror, current sources of financial support for research, and all business entities in which the offeror has a financial interest that may be relevant to the offeror's qualifications to develop a standard for the particular device.

4. Information regarding the offeror's compliance with Federal, State, and local environmental regulations.

5. A detailed description of the procedures the offeror intends to utilize in developing the standard.

6. A description of how the offeror intends to provide interested persons adequate and reasonable notice of their right and opportunity to participate in the development of the standard.

7. A description of the method whereby interested persons who respond to the notice may participate, either in person or through correspondence, in the development of the standard.

8. A statement describing the facilities or equipment the offeror intends to utilize in developing the standard, and how the offeror intends to gain access to them.

9. An estimate of the time required to develop the standard, including a detailed schedule for each phase of the procedure.

10. A description of the method the offeror intends to use or has used to acquire test data or other information needed to support the standard.

11. A description of the method the offeror intends to use to maintain records of the development of the standard and other relevant matters and to make such records available for disclosure during development, and a schedule for meeting the periodic reporting requirements of § 861.30(b).

FDA advises that under section 514(c)(3) of the act and § 861.26(b), information included in an offer to develop a proposed standard is to be made available to the public only if the offer is accepted (except for information exempt from disclosure under 21 CFR 20.61), or if disclosure is required under 21 CFR Part 20.

Time Period To Develop a Standard

FDA estimates the time period to develop a proposed standard and rationale for the vascular graft prosthesis of 6 mm and greater diameter will be 2 years. This time span will enable the collection of existing information to consider in the development of the standard and will enable some public comment to occur on the drafts of the standard. The time period may be extended by the Commissioner for good cause shown.

Acceptance by FDA

As required by section 514(e)(1) of the act and § 861.28(a), in determining whether to accept an offer to develop a performance standard, FDA will evaluate the qualifications of the offeror on the basis of the offeror's expertise, experience, financial stability, and potential conflicts of interest. In choosing among competing offerors, the offeror without any financial interest in the particular device for which a proposed standard is sought or in the device industry generally will be preferred, all other things being equal. More than one offer, however, may be accepted.

As required by section 514(e)(2) of the act and § 861.28(c), FDA will publish in the **Federal Register** the name and address of each person whose offer to develop a standard is accepted and a summary of the terms of the accepted offer, including a statement of the extent to which FDA will contribute, if at all, to the cost of developing the proposed standard. As required by section 514(e)(5) of the act and § 861.28(d), if FDA does not accept an offer, the agency will publish in the **Federal Register** a notice of that fact and the reasons for its decision.

V. Future Actions

Following expiration of the 60-day time period provided by this notice for interested persons to submit an existing standard or to offer to develop a proposed standard, FDA will:

1. Authorize a Federal agency to develop a proposed performance standard if FDA determines that a performance standard can be developed by a Federal agency, based on the personnel, expertise, and resources of the agency; or

2. Accept an existing standard as a proposed performance standard or as a basis upon which a proposed performance standard may be developed provided FDA determines that such standard is based upon scientific data and information and has been subjected to adequate scientific consideration. An existing standard may be one that is submitted in response to the invitation for standards or it may be a standard that has been issued or adopted (or is being developed) by any Federal agency or any other qualified entity; or

3. Accept one or more offers to develop a proposed standard; or

4. Proceed to develop a proposed standard; or

5. Take other appropriate action to facilitate development of a performance standard for the device.

The agency has determined under 21 CFR 25.24(e)(3) (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.

In any notice of proposed rulemaking that includes a proposed performance standard for the vascular graft prosthesis of 6 mm and greater diameter, FDA will announce its initial determination whether the proposed rule is a major rule under Executive Order 12291 and will consider the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Until the provisions of any proposed standard are known, FDA cannot determine the economic consequences of the promulgation of such standard.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Hansen, O.K., O. Kraft, and C. Mouritzen, "Biologic and Semibiologic Vascular Grafts," *Surgery, Gynecology, and Obstetrics*, 138:940-944, 1974.

2. Szilagyi, D.C., et al., "Long-Term Behavior of a Dacron Arterial Substitute," *Annals of Surgery*, 162(3):453-477, 1965.

3. Berger, S., and E.W., Salzman, "Thromboembolic Complications of a Prosthetic Device," *Progress in Hemostasis and Thrombosis*, 2:273-309, 1974.

4. Hallin, R.W., "Complications with the Mandril-Grown (Sparks) Dacron Arterial Graft," *American Surgeon*, 41(9):550-554, 1975.

5. Szilagyi, D.C., J.R. Pfeifer, and F.J. DeRusso, "Long-Term Evaluation of Plastic Arterial Substitutes: An Experimental Study," *Surgery*, 55(1):165-183, 1964.

6. Sauvage, L.R., "The Future of Porous-Fabric Arterial Prosthesis," *Annals of Thoracic Surgery*, 19:333-335, 1975.

7. Miller, B.G., et al., "Electrical Conductivity: Effect on Intravascular Performance of Foams, Velour, Flock and Fabric," *Transactions of the American Society for Artificial Internal Organs*, 20:91-100, 1974.

8. Weinstein, G., et al., "Subvalvular Stenosis of Aortic Prosthesis," *Journal of Thoracic and Cardiovascular Surgery*, 68:17-20, 1974.

9. Ottinger, L.W., et al., "Failure of Ultralightweight Knitted Dacron Grafts in Arterial Reconstruction," *Archives of Surgery*, 111:146-149, 1976.

10. Lindenauer, S.M., et al., "The Use of Velour as a Vascular Prosthesis," *Biomedical Engineering*, 11(9):301-306, 1978.

11. Deterling, R.A., "Editorial: Failure of Dacron Arterial Prostheses," *Archives of Surgery*, 108:113, 1974.

12. Cooke, P.A., P.A. Nobis, and R.J. Stoney, "Dacron Aortic Graft Failure," *Archives of Surgery*, 100:101-103, 1974.

13. Hayward, R.H., and F.L. Korompai, "Degeneration of Knitted Dacron Grafts," *Surgery*, 79(5):581-583, 1976.

14. Singh, A., E.A. Letsky, and J. Stark; "Hemolysis Following Correction of Double-Outlet Right Ventricle," *Journal of Thoracic and Cardiovascular Surgery*, 71(2):226–229, 1976.

15. O'Connell, T.X., H.J. Fee, and J. Golding, "Sarcoma Associated With Dacron Prosthetic Material," *Journal of Thoracic and Cardiovascular Surgery*, 72(1):91–96, 1976.

16. Thompson, J., et al., "Prosthesis Endocarditis," *Journal of Thoracic and Cardiovascular Surgery*, 71(1):28:32, 1976.

17. Florian, A., et al., "Small Vessel Replacement with Gore-Tex (Expanded Polytetrafluorethylene)," *Archives of Surgery*, 111:267–270, 1976.

18. Campbell, D.D., et al., "Expanded Polytetrafluoroethylene as a Small Artery Substitute," *Transactions of the American Society for Artificial Internal Organs*, 20:86–90, 1974.

19. Read, R.C., "Uninfected Anastomotic False Aneurysms Following Arterial Reconstruction with Prosthetic Grafts," *Journal of Cardiovascular Surgery*, 16:558–561 1975.

20. Guidoin, R.G., et al., "Preclotting and Thrombosis of a Dacron Prosthesis: A Scanning Electron Microscope Study," *Biomaterials, Medical Devices, and Artificial Organs*, 3(3):365–382, 1975.

21. Mortensen, J.D., "Vascular Replacements: A Study of Safety and Performance," Final Report TR5–533–011, Contract FDA 223–79–5070, Utah Biomedical Testing Laboratory Division of the University of Utah Research Institute, February 26, 1980.

22. "Standard for Vascular Graft Prostheses (Draft)," AAMI VP–D/84, Vascular Prostheses Committee, published by the Association for the Advancement of Medical Instrumentation (AAMI), Suite 1901 Nor h Ft. Myer Dr., Arlington, VA 22209.

23. "Standard for Synthetic Tubular Vascular Prostheses," Draft Proposal ISO/DP7198, July 1980, ISO/Technical Committee 150/Subcommittee 2, published by International Organization for Standardization (ISO), 1 Rue de Verembe, CH–1211, Geneva 20, Switzerland.

24. Wesolow, A., "Vascular Prostheses: The Need for Standards," ASTM Symposium on Vascular Graft Update: Safety and Performance, Williamsburg, VA, November 27 and 28, 1984.

25. Sauvage, L.R., et al., "Dacron Arterial Grafts: Comparative Structures and Basis for use of Current Prostheses," ASTM Symposium on Vascular Graft Update: Safety and Performance, Williamsburg, VA, November 27 and 28, 1984.

26. Veith, F.J., E. Ascer, and S.K. Gepta, "Expanded Polytetrafluoroethylene (PTFE) Arterial Grafts: An Eight Year Experience," ASTM Symposium on Vascular Graft Update: Safety and Performance, Williamsburg, VA, November 27 and 28, 1984.

27. Snyder, R.W., B. Tenney, and R. Guidoin, "Strength and Endurance of Vascular Grafts," ASTM Symposium on Vascular Graft Update: Safety and Performance, Williamsburg, VA, November 27 and 28, 1984.

28. Helmus, M.N., et al., "Sterility and Pyrogenicity Issues of Synthetic Vascular Grafts," ASTM Symposium on Vascular Graft Update: Safety and Performance, Williamsburg, VA, November 27 and 28, 1984.

29. Mortensen, J.D., "Vascular Graft Applicability," ASTM Symposium on Vascular Graft Update: Safety and Performance, Williamsburg, VA, November 27 and 28, 1984.

30. McCurken, M.E., J.M. McHaney, and W.M. Colone, "Physical Properties and Test Methods for Expanded PTFE Grafts," ASTM Symposium on Vascular Graft Update: Safety and Performance, Williamsburg, VA, November 27 and 28, 1984.

31. Hoffman, H.L., "Fabrication and Testing of Polyester Arterial Grafts," ASTM Symposium on Vascular Graft Update: Safety and Performance, Williamsburg, VA, November 27 and 28, 1984.

32. Botzko, K.M., "Porosity Testing of Polyester Arterial Grafts," ASTM Symposium on Vascular Graft Update: Safety and Performance, Williamsburg, VA, November 27 and 28, 1984.

33. Didisheim, P., "Species Selection for Vascular Graft Evaluation," ASTM Symposium on Vascular Graft Update: Safety and Performance, Williamsburg, VA, November 27 and 28, 1984.

Interested persons may, on or before March 7, 1986, submit to the Dockets Management Branch (address above) an existing standard or an offer to develop a standard for the vascular graft prosthesis of 6 mm and greater diameter. Two copies of any standards or offers are to be submitted. Submissions are to be identified with the docket number found in brackets in the heading of this document. Received submissions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1985.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

[FR Doc. 86–111 Filed 1–3–86; 8:45 am]

BILLING CODE 4160–01–M

Federal Register

Monday
January 6, 1986

Part VII

Department of Energy

Grants Availability, Procurement and Assistance Management Directorate; District Heating and Cooling System; Notice

Budget Estimates

Part VII

Department of Energy

Grants Availability, Procurement and Assistance Management Directorate; District Heating and Cooling System Module

DEPARTMENT OF ENERGY

Grants Availability, Procurement and Assistance Management Directorate; District Heating and Cooling System

AGENCY: Department of Energy.

ACTION: Notice of solicitation Number DE–PSO1–86CE26546.

SUMMARY: DOE announces that it is soliciting grant applications for the purpose of assessing the potential for using District Heating and Cooling (DHC) systems in communities where such systems could substantially increase the efficiency of energy delivery and/or substitute abundant and renewable resources for the use of scarce premium fuels while enhancing the economic viability of the community. Where DHC systems can be cost-effectively applied, the DOE recognizes their contribution to the national strategy of promoting a balanced and mixed energy resource that decreases reliance on imported fuels.

Eligibility

Any public or private entity may respond to this solicitation though no fee or profit will be allowed to the applicant. Where the applicant is not an agent of a general unit of local government, the application must include a letter from the chief executive of a unit of general local government indicating that: (a) The applicant's proposed activities under the Notice are for the purpose of assisting the governmental unit to plan, develop, or administer its energy supply and conservation program(s) and/or its community development program(s); (b) the unit of general local government will provide representation to, and fully participate in, the local DHC Assessment Work Group; and (c) the unit of general local government is committed to implementing DHC project(s) in the community should the assessment process produce feasible results. Local government commitment to this effort is critical because DHC systems are an instrument in community infra-structure just as are sewer and water systems, etc.

Project Scope

The purpose of this solicitation is to advance the DHC concept. Each application will: identify and characterize potential DHC service areas, heat supply options, and distribution networks; specify potential DHC projects and assess their technical, economic, market, and institutional and financial feasibility; develop community consensus on whether to proceed with such projects; and develop plans of action for those DHC projects on which consensus has been achieved. This assessment work is considered to be the first phase of a three-phase process leading to the construction and operation of a DHC system. Phase II, preliminary design and financing, and Phase III, final design and construction are *not* part of this solicitation.

Multiple awards for assessment projects are expected to be made under the 1986 program. Currently, up to $500,000 has been programmed for these awards.

Solicitations will be issued in January of 1986. Written requests should be sent to: U.S. Department of Energy, Office of Procurement Operations, Forrestal Building, Room 1J–005, 1000 Independence Ave., SW., Washington, DC 20585, Attn: Document Control Specialist, MA–451.1.

Point of contact: Pat Wyatt, telephone number (202) 252–1236. Issued in Washington, DC on December 30, 1985.

David G. Newman,

Director, Office of Procurement Operations.

[FR Doc. 86–191 Filed 1–3–86; 8:45 am]

BILLING CODE 6450–01–M

Reader Aids

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $595.00 domestic, $148.75 additional for foreign mailing.

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[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

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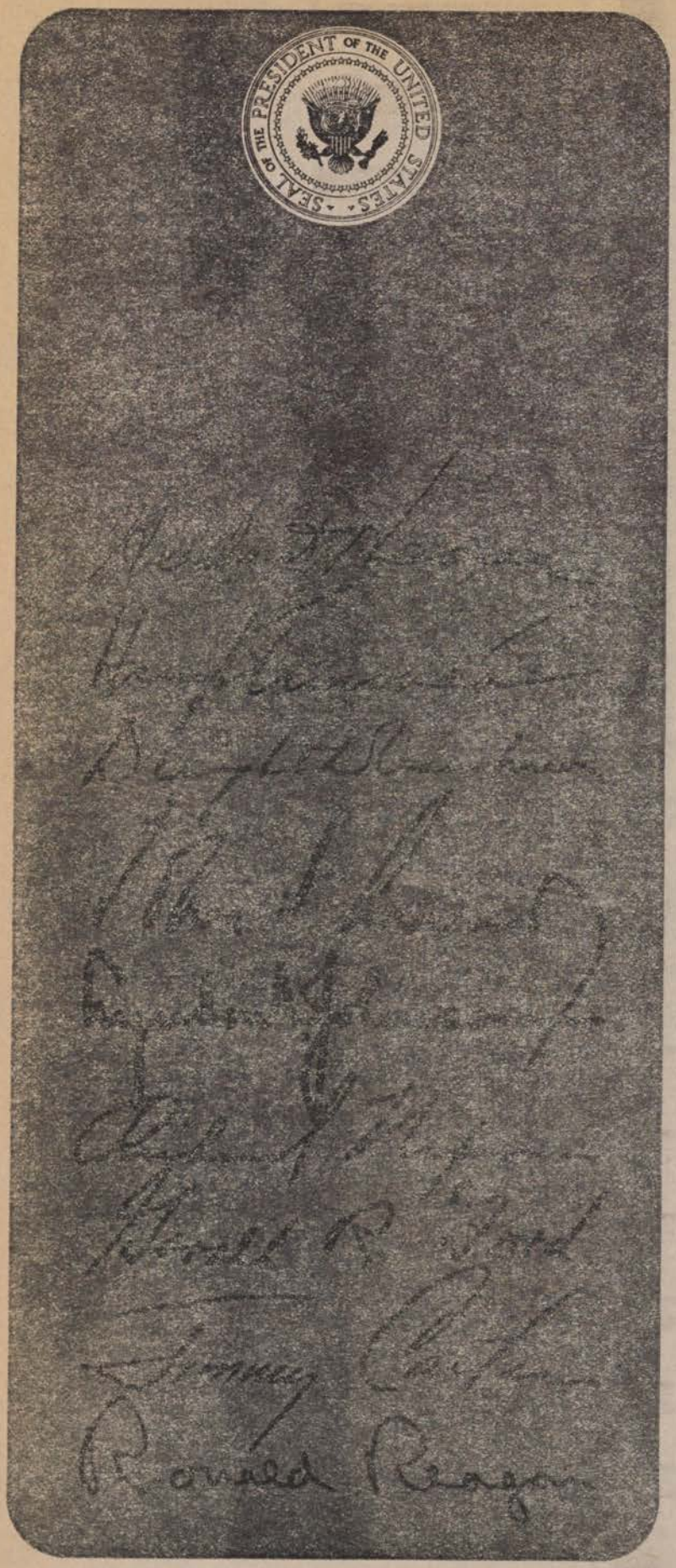

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