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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 Parts 213 and 302

RIN 3206–AF53

Temporary, Seasonal, and Intermittent Employment in the Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending its regulations to consolidate excepted service authorities for filling temporary, intermittent, and seasonal jobs, to remove coverage for appointments that no longer meet the criteria for exception, and to establish a new excepted service authority which could be used by agencies to meet urgent, short-term hiring needs.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Tracy E. Spencer, (202) 606–0830, or fax (202) 606–2329.

SUPPLEMENTARY INFORMATION: These regulations implement the National Performance Review's recommendations to reduce the number of Federal hiring authorities and decentralize many personnel decisions. The regulations eliminate overlapping and obsolete appointing authorities and establish two authorities to meet common needs that may be used by any agency without obtaining specific OPM approval.

On September 26, 1994 (59 FR 49034), OPM published proposed regulations to revise and consolidate paragraphs (i) and (m) of section 213.3102, which both cover temporary, intermittent, and seasonal employment in the excepted service. We proposed to establish Governmentwide Schedule A authorities for temporary and less-than-full-time positions in remote or isolated locations involving no more than 1,040 working hours of employment in a service year and for short-term appointments to meet special hiring needs that would not exceed 30 days, plus one 30-day extension. We also proposed to allow OPM to authorize Schedule A appointments in other circumstances and requested comments on the need to include authority to make Schedule A temporary appointments (i.e., appointments limited to 1 year or less) in connection with post-doctoral fellowships, internships, and similar programs.

We received comments from six Federal agencies. All six supported the proposed Schedule A authority, although one suggested additional exceptions and two made technical and editorial suggestions.

Comments on Coverage

With regard to fellowship programs, the agencies indicated that such appointments are usually made for periods longer than 1 year and that an authority limited to temporary employment would have little use. We have, therefore, decided not to include a specific provision for fellowship appointments in the Schedule A authority for temporary, intermittent, and seasonal employment. Any agencies that wish to make temporary appointments in connection with post-doctoral fellowship programs may, however, request OPM's approval to use the Schedule A authority for that purpose.

One agency suggested that Schedule A appointments should be permitted for short-term work lasting up to 90 days (instead of 30 days as proposed), with an additional 30-day extension, and for all nonsupervisory temporary and seasonal laborer positions at WG–3 and below. We did not adopt those suggestions because we cannot find that use of competitive hiring procedures to fill the jobs would be impracticable.

Agencies may make temporary appointments in the competitive service using the applicant supply file procedures set out in 5 CFR part 333. Those procedures are very similar to the procedures for making temporary Schedule A appointments set out in 5 CFR part 302. The only differences are qualification requirements and public notice.

Agencies making temporary appointments under part 333 must apply competitive qualification standards. However, those standards contain only basic generic requirements, to which agencies may add specific requirements related to their jobs. For most jobs, there is little practical difference between the competitive standards and the standards agencies would develop under part 302.

Agencies making competitive temporary appointments must also notify OPM and State Employment Service offices of the vacancies. However, there are no mandatory minimum publicity requirements.

The agencies decide how widely to distribute notices and how long the notices will remain open.

We believe that the competitive hiring procedures are flexible enough to meet all but the most urgent staffing needs. We also believe that exceptions to basic hiring procedures should be authorized only when clearly necessary. Competitive hiring is not impracticable in all cases for temporary laborer jobs or for project jobs involving 3 or 4 months of work. Therefore, we are not establishing a general Schedule A authority for such positions. Any agency that needs to fill particular jobs more quickly than the competitive process would permit may, of course, request OPM's approval to make Schedule A appointments to those jobs.

Technical and Editorial Comments

With regard to procedural requirements, one agency asked whether the ranking and referral requirements of 5 CFR part 302 will apply to 30-day special need appointments under the new Schedule A authority. Formal ranking and referral procedures have not previously been required for 30-day special need appointments because the time needed for that process is not commensurate with the extremely short period of employment. That is still true. Accordingly, as provided in 5 CFR 302.101(c), we are granting an exception from the procedural requirements of part 302 for appointments made under the new Schedule A special need authority. Agencies must, however, apply veterans' preference to the extent administratively feasible.

The same agency also asked why the service limitation in the proposed Schedule A authority for positions in remote or isolated locations should apply to all employment in the same agency. The agency suggested that the limit should apply only to excepted

employment in the same or successor positions. We have adopted that suggestion in part. We agree that the limit should apply separately to positions having different job duties and qualification requirements. While a few individuals might be qualified and available to perform unrelated functions (e.g., surveyor and pilot), it would not be practical for the agency to create a job combining such distinct duties. We have rewritten the Schedule A authority to clarify that the limit applies to employment in jobs having related duties and comparable qualification requirements.

We have not adopted the suggestion that only excepted employment in an identical or successor position should count against the limit. Such a broad exclusion from the service limit would undermine the justification for the excepted authority. Examining for jobs in remote or isolated locations is impracticable when: only residents of the immediate area can be expected to reach the work site whenever they are needed; the amount of employment involved would not encourage outside applicants to move to the isolated area; and staff from an OPM or agency examining office could not readily reach the location to administer the competitive hiring process. If an agency can make competitive appointments to some jobs in a location, can combine related work to afford a substantial amount of employment, and/or can readily attract candidates from outside the immediate locality, the conditions for exception would not be met.

Another agency suggested that the authority should provide for OPM approval of Schedule A appointments for additional ''circumstances'' rather than additional ''positions.'' The agency notes that it is not always possible to identify in advance all specific positions that may be needed in connection with a particular program or situation.

The wording of the Schedule A authority reflects Civil Service Rule VI (5 CFR 6.1), which authorizes OPM to except positions from the competitive service. This language does not preclude exception of positions based on the circumstances under which they are filled. OPM has previously approved Schedule A authorities that cover all positions meeting certain conditions or all positions filled in connection with a particular program, without listing those positions specifically. We will entertain similar requests submitted under this new Schedule A authority.

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) because they apply only to Federal employees.

List of Subjects in 5 CFR Parts 213 and 302

Government employees, Reporting and recordkeeping requirements.

U.S. Office of Personnel Management

James B. King,

Director.

Accordingly, OPM is amending 5 CFR parts 213 and 302 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h), and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185.

2. In § 213.3102, paragraph (i) is revised and paragraph (m) is removed and reserved, to read as follows:

§ 213.3102 Entire executive civil service.

* * * * *

(i) Temporary and less-than-full time positions for which examining is impracticable. These are:

(1) Positions in remote/isolated locations where examination is impracticable. A remote/isolated location is outside the local commuting area of a population center from which an employee can reasonably be expected to travel on short notice under adverse weather and/or road conditions which are normal for the area. For this purpose, a population center is a town with housing, schools, health care, stores and other businesses in which the servicing examining office can schedule tests and/or reasonably expect to attract applicants. An individual appointed under this authority may not be employed in the same agency under a combination of this and any other appointment to positions involving related duties and requiring the same qualifications for more than 1,040 workings hour in a service year. Temporary appointments under this authority may be extended in 1-year increments, with no limit on the number of such extensions, as an exception to the service limits in § 213.104.

(2) Positions for which a critical hiring need exists. This includes both short-term positions and continuing positions that an agency must fill on an interim basis pending completion of competitive examining, clearances, or other procedures required for a longer appointment. Appointments under this authority may not exceed 30 days and may be extended for up to an additional 30 days if continued employment is essential to the agency's operations. The appointments may not be used to extend the service limit of any other appointing authority. An agency may not employ the same individual under this authority for more than 60 days in any 12-month period.

(3) Other positions for which OPM determines that examining is impracticable.

* * * * *

PART 302—EMPLOYMENT IN THE EXCEPTED SERVICE

3. The authority citation for part 302 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, and 8151, E.O. 10577 (3 CFR 1954–1958 Comp., p. 218); § 302.105 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); § 302.501 also issued under 5 U.S.C. 7701 et. seq.

4. In § 302.101, paragraph (c)(11) is added, to read as follows:

§ 302.101 Positions covered by the regulations.

* * * * *

(c) * * *

(11) Positions for which a critical hiring need exists when filled under § 213.3102(i)(2) of this chapter.

[FR Doc. 95–4394 Filed 2–22–95; 8:45 am]

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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2604

RIN 3209–AA17

Freedom of Information Act Rules and Schedule of Fees for the Production of Public Financial Disclosure Reports

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is issuing a final rule which establishes procedures for the implementation of the Freedom of Information Act (FOIA). The rule also establishes a schedule of fees which will be charged for the reproduction and mailing of public financial disclosure reports (SF 278s).

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Janet K. Roell, Office of Government Ethics, telephone (202) 523–5757, FAX (202) 523–6325.

SUPPLEMENTARY INFORMATION: In this rulemaking document, the Office of Government Ethics is adopting final rules under the Freedom of Information Act (FOIA), 5 U.S.C. 552, and for fees for copies of SF 278 reports requested under the Ethics in Government Act. As noted in OGE's proposed rules published at 59 FR 50171–50179 (October 3, 1994), this FOIA regulation, being codified at 5 CFR part 2604, will incorporate many of OGE's existing practices for the implementation of the FOIA and follows applicable guidance of the Department of Justice and the Office of Management and Budget. The regulation will also set separate schedules of fees for FOIA requests and for larger SF 278 requests.

The proposed rules provided a 60-day comment period and invited comments by agencies and the public. Only one comment was received. That comment did not suggest any specific changes to the regulations as proposed, but rather recommended more disclosure of certain activities of Federal officials. With respect to disclosure of activities, OGE believes that the existing system of public financial disclosure reporting of high-level officials under title I of the Ethics Act, as implemented for the executive branch by OGE's regulation at 5 CFR part 2634, as well as other pertinent laws and regulations adequately address that separate subject matter. Therefore, in adopting the proposed rules as final, the Office of Government Ethics is not making any substantive changes. The only changes reflect correction of a couple of minor typographical errors (including indication of the correct March 1 due date for annual FOIA reports) and clarification of two passages —§ 2604.102(c) to expressly indicate that a requester can opt for regular FOIA processing in lieu of alternative access for OGE items also available via the Government Printing Office or the National Information Technical Service of the Department of Commerce and § 2604.302(c) to state that OGE will generally provide *nonexempt* responsive records in existing formats to FOIA requesters.

Executive Order 12866

In promulgating this final rule, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulations set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This regulation has been reviewed by the Office of Management and Budget under that Executive order.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this regulation because it does not contain information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 2604

Administrative practice and procedure, Archives and records, Confidential business information, Conflict of interests, Freedom of Information, Government employees.

Approved: January 11, 1995.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending subchapter A of chapter XVI of title 5 of the Code of Federal Regulations by adding the text of and an authority citation for part 2604, previously reserved, and by revising the title thereof to read as follows:

PART 2604—FREEDOM OF INFORMATION ACT RULES AND SCHEDULE OF FEES FOR THE PRODUCTION OF PUBLIC FINANCIAL DISCLOSURE REPORTS

Subpart A—General Provisions

Sec.
2604.101 Purpose.
2604.102 Applicability.
2604.103 Definitions.

Subpart B—Public Reading Room and Index Identifying Information for the Public

Sec.
2604.201 Public reading room.
2604.202 Index identifying information for the public.

Subpart C—Production and Disclosure of Records Under FOIA

Sec.
2604.301 Requests for records.
2604.302 Response to requests.
2604.303 Form and content of responses.
2604.304 Appeal of denials.
2604.305 Time limits.

Subpart D—Exemptions Under FOIA

Sec.
2604.401 Policy.
2604.402 Business information.

Subpart E—Schedule of Fees

Sec.
2604.501 Fees to be charged—general.
2604.502 Fees to be charged—categories of requesters.
2604.503 Limitations on charging fees.
2604.504 Miscellaneous fee provisions.

Subpart F—Annual Report to Congress

Sec.
2604.601 Submission of report.
2604.602 Contents of the report.

Subpart G—Fees for the Reproduction and Mailing of Public Financial Disclosure Reports

Sec.
2604.701 Policy.
2604.702 Charges.

Authority: 5 U.S.C. 552; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

Subpart A—General Provisions

§ 2604.101 Purpose.

This part contains the regulations of the Office of Government Ethics (OGE) implementing the Freedom of Information Act (FOIA) and Executive Order 12600. It describes how any person may obtain records from OGE under the FOIA. It also implements section 105(b)(1) of the Ethics in Government Act of 1978, as amended, which authorizes an agency to charge reasonable fees to cover the cost of reproduction and mailing of public financial disclosure reports requested by any person.

§ 2604.102 Applicability.

(a) *General.* The FOIA and this rule apply to all OGE records. However, if another law sets forth procedures for the disclosure of specific types of records, such as section 105 of the Ethics in Government Act of 1978, 5 U.S.C. appendix, OGE will process a request for those records in accordance with the procedures that apply to those specific records. See 5 CFR 2634.603 and subpart G of this part. If there is any record which is not required to be released under those provisions, OGE will consider the request under the FOIA and this rule, provided that the special Ethics Act access procedures cited must be complied with as to any record within the scope thereof.

(b) *The relationship between the FOIA and the Privacy Act of 1974.* The Privacy Act of 1974, 5 U.S.C. 552a, applies to records that are about individuals, but only if the records are in a system of records as defined in the Privacy Act. Requests from individuals for records about themselves which are contained in an OGE system of records will be processed under the provisions

of the Privacy Act as well as the FOIA. OGE will not deny access by a first party to a record under the FOIA or the Privacy Act unless the record is not available to that individual under both the Privacy Act and the FOIA.

(c) *Records available through routine distribution procedures.* When the record requested includes material published and offered for sale (e.g., by the Superintendent of Documents, Government Printing Office) or which is available to the public through an established distribution system (such as that of the National Technical Information Service of the Department of Commerce), OGE will explain how the record may be obtained through those channels. If the requester, after having been advised of such alternative access, asks for regular FOIA processing instead, OGE will provide the record in accordance with its usual FOIA procedures under this part.

§ 2604.103 Definitions.

As used in this part,

Agency has the meaning given in 5 U.S.C. 551(1) and 5 U.S.C. 552(f).

Business information means trade secrets or other commercial or financial information, provided to the Office by a submitter, which arguably is protected from disclosure under Exemption 4 of the Freedom of Information Act.

Business submitter means any person who provides business information, directly or indirectly, to the Office and who has a proprietary interest in the information.

Commercial use means, when referring to a request, that the request is from, or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or of a person on whose behalf the request is made. Whether a request is for a commercial use depends on the purpose of the request and the use to which the records will be put. When a request is from a representative of the news media, a purpose or use supporting the requester's news dissemination function is not a commercial use.

Direct costs means those expenditures actually incurred in searching for and duplicating (and, in the case of commercial use requesters, reviewing) records to respond to a FOIA request. Direct costs include the salary of the employee performing the work and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space and heating or lighting of the facility in which the records are stored.

Duplication means the process of making a copy of a record. Such copies include paper copy, microform, audio-visual materials, and magnetic tapes, cards, and discs.

Educational institution means a preschool, elementary or secondary school, institution of undergraduate or graduate higher education, or institute of professional or vocational education, which operates a program of scholarly research.

Freedom of Information Act or *FOIA* means 5 U.S.C. 552.

General Counsel means the General Counsel of the Office of Government Ethics. The General Counsel may delegate any of his responsibilities in handling FOIA requests in this part to a designee on OGE's staff.

He, his and *him* include she, hers and her.

Noncommercial scientific institution means an institution that is not operated solely for purposes of furthering its own or someone else's business, trade, or profit interests, and that is operated for purposes of conducting scientific research the results of which are not intended to promote any particular product or industry.

Office or *OGE* means the United States Office of Government Ethics.

Person has the meaning given in 5 U.S.C. 551(2).

Records means any handwritten, typed, or printed documents (such as memoranda, books, brochures, studies, writings, drafts, letters, transcripts, and minutes) and documentary material in other forms (such as punchcards, magnetic tapes, cards or discs, paper tapes, audio or video recordings, maps, photographs, slides, microfilm and motion pictures) that are either created or obtained by the Office and are under Office control. It does not include objects or articles such as exhibits, models, equipment, and duplication machines or audiovisual processing materials.

Representative of the news media means a person actively gathering information for an entity organized and operated to publish or broadcast news to the public. News media entities include television and radio broadcasters, publishers of periodicals who distribute their products to the general public or who make their products available for purchase or subscription by the general public, and entities that may disseminate news through other media, such as electronic dissemination of text. Freelance journalists will be considered as representatives of a news media entity if they can show a solid basis for expecting publication through such an entity. A publication contract is such a basis, and the requester's past publication record may show such a basis.

Request means any request for records made pursuant to 5 U.S.C. 552(a)(3).

Requester means any person who makes a request for records to OGE.

Review means the process of initially, or upon appeal (see § 2604.501(b)(3)), examining documents located in a response to a request to determine whether any portion of any document is permitted to be withheld. It also includes processing documents for disclosure, such as redacting portions which may be withheld. Review does not include time spent resolving general legal and policy issues regarding the application of exemptions.

Search means the time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents.

Working days means calendar days, excepting Saturdays, Sundays, and legal public holidays.

Subpart B—Public Reading Room and Index Identifying Information for the Public

§ 2604.201 Public reading room.

(a) *Location of public reading room.* The Office of Government Ethics maintains a public reading room at its offices located at 1201 New York Avenue, NW., Suite 500, Washington, DC 20005–3917. Persons desiring to utilize the reading room should contact the Office, in writing or by telephone at (202) 523–5757 or FAX (202) 523–6325, to arrange a time to inspect the materials available there.

(b) *Records available.* The Office of Government Ethics public reading room contains OGE records which are required by 5 U.S.C. 552(a)(2) to be made available for public inspection and copying, including:

(1) Any final opinions, as well as orders, made in the adjudication of cases;

(2) Any statements of policy and interpretation which have been adopted by the agency and are not published in the **Federal Register**;

(3) Any administrative staff manuals and instructions to staff that affect a member of the public, and which are not exempt from disclosure under section (b) of the FOIA; and

(4) Current indexes providing identifying information for the public as to any matter which was issued, adopted or promulgated after July 4, 1967, and is required by 5 U.S.C. 552(a)(2) to be made available or published.

(c) *Copying.* The cost of copying information available in OGE's public

reading room shall be imposed on a requester in accordance with the provisions of subpart E of this part.

§ 2604.202 Index identifying information for the public.

(a) The Office of Government Ethics will maintain and make available for public inspection and copying a current index of the materials available at its public reading room which are required to be indexed under 5 U.S.C. 552(a)(2).

(b) The Director of the Office of Government Ethics has determined that it is unnecessary and impracticable to publish quarterly or more frequently and distribute (by sale or otherwise) copies of each index and supplements thereto, as provided in 5 U.S.C. 552(a)(2). The Office will provide copies of such indexes upon request, at a cost not to exceed the direct cost of duplication and mailing, if sending records by other than ordinary mail.

Subpart C—Production and Disclosure of Records Under FOIA

§ 2604.301 Requests for records.

(a) *Addressing requests.* Requests for copies of records may be made in person or by telephone, (202) 523–5757, during normal business hours at the Office of Government Ethics, 1201 New York Avenue, NW., Suite 500, Washington, DC 20005–3917 or by mail addressed to the General Counsel of OGE. Although oral requests may be honored, a requester generally will be asked to submit his request under the FOIA in writing. In the case of a written request, the envelope containing the request and the letter itself should both clearly indicate that the subject is a Freedom of Information Act request.

(b) *Description of records.* Each request must reasonably describe the desired records in sufficient detail to enable Office personnel to locate the records with a reasonable amount of effort. A request for a specific category of records will be regarded as fulfilling this requirement if it enables responsive records to be identified by a technique or process that is not unreasonably burdensome or disruptive of Office operations.

(1) Wherever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record.

(2) If the General Counsel determines that a request does not reasonably describe the records sought, he will either advise the requester what additional information is needed to locate the record, or otherwise state why the request is insufficient. The General Counsel will also extend to the requester an opportunity to confer with Office personnel with the objective of reformulating the request in a manner which will meet the requirements of this section.

(c) *Agreement to pay fees.* The filing of a request under this subpart will be deemed to constitute an agreement by the requester to pay all applicable fees charged under subpart E of this part, up to $25.00, unless a waiver of fees is sought. The request may also specify a limit on the amount the requester is willing to spend, or may indicate a willingness to pay an amount greater than $25.00, if applicable. In cases where a requester has been notified that actual or estimated fees may amount to more than $25.00, the request will be deemed not to have been received until the requester has agreed to pay the anticipated total fee.

(d) *Requests for records relating to corrective actions.* No record developed pursuant to the authority of 5 U.S.C. app. (Ethics in Government Act of 1978, section 402(f)(2)) concerning the investigation of an employee for a possible violation of any provision relating to a conflict of interest shall be made available pursuant to this part unless the request for such information identifies the employee to whom the records relate and the subject matter of any alleged violation to which the records relate. Nothing in this subsection shall affect the application of subpart D of this part to any record so identified.

§ 2604.302 Response to requests.

(a) *Response to initial request.* The General Counsel is authorized to grant or deny any request for a record and to determine appropriate fees.

(b) *Referral to another agency.* When a requester seeks records that originated in another Government agency, OGE will normally refer the request to the other agency for response. If OGE refers the request to another agency, it will notify the requester of the referral. If release of certain records may adversely affect United States relations with foreign governments, the Office will usually consult with the Department of State. A request for any records classified by some other agency will be referred to that agency for response.

(c) *Creating records.* If a person seeks information from OGE in a format that does not currently exist, OGE will not ordinarily reformat the information for the purpose of responding to the request. OGE will advise the requester that it does not have the record in the format sought, but will provide whatever nonexempt records in existing formats that would reasonably respond to the request. Additionally, OGE will not generally develop a new record of information to satisfy a request.

(d) *Record cannot be located.* If a requested record cannot be located from the information supplied, the General Counsel will so notify the requester in writing.

§ 2604.303 Form and content of responses.

(a) *Form of notice granting a request.* After the General Counsel has made a determination to grant a request in whole or in part, the requester will be notified in writing. The notice shall describe the manner in which the record will be disclosed, whether by providing a copy of the record with the response or at a later date, or by making a copy of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection may not unreasonably disrupt the operations of the Office. The response letter will also inform the requester in the response of any fees to be charged in accordance with the provisions of subpart E of this part.

(b) *Form of notice denying a request.* When the General Counsel denies a request in whole or in part, he will so notify the requester in writing. The response will be signed by the General Counsel and will include:

(1) The name and title or position of the person making the denial;

(2) A brief statement of the reason or reasons for the denial, including the FOIA exemption or exemptions which the General Counsel has relied upon in denying the request; and

(3) A statement that the denial may be appealed under § 2604.304 of this subpart, and a description of the requirements of that section.

§ 2604.304 Appeal of denials.

(a) *Right of appeal.* If a request has been denied in whole or in part, the requester may appeal the denial to the Deputy Director of the Office of Government Ethics, 1201 New York Avenue, NW., Suite 500, Washington, DC 20005–3917.

(b) *Letter of appeal.* The appeal must be in writing and must be sent within 30 days of receipt of the denial letter. An appeal should include a copy of the initial request, a copy of the letter denying the request in whole or in part, and a statement of the circumstances, reasons or arguments advanced in support of disclosure of the request for the record. Both the envelope and the letter of appeal must be clearly marked ''Freedom of Information Act Appeal.''

(c) *Action on appeal.* The disposition of an appeal will be in writing and will

constitute the final action of the Office on a request. A decision affirming in whole or in part the denial of a request will include a brief statement of the reason or reasons for affirmance, including each FOIA exemption relied on. If the denial of a request is reversed in whole or in part on appeal, the request will be processed promptly in accordance with the decision on appeal.

(d) *Judicial review.* If the denial of the request for records is upheld in whole or in part, the Office will notify the person making the request of his right to seek judicial review under 5 U.S.C. 552(a)(4).

§ 2604.305 Time limits.

(a) *Initial request.* Following receipt of a request for records, the General Counsel will determine whether to comply with the request and will notify the requester in writing of his determination within 10 working days.

(b) *Appeal.* A written determination on an appeal submitted in accordance with § 2604.304 will be issued within 20 working days after receipt of the appeal.

(c) *Extension of time limits.* The time limits specified in either paragraph (a) or (b) of this section may be extended in unusual circumstances up to a total of 10 working days, after written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be made.

(d) For the purposes of paragraph (c) of this section, *unusual circumstances* means that there is a need to:

(1) Search for and collect records from archives;

(2) Search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) Consult with another agency having a substantial interest in the determination of the request, or consult with various OGE components that have substantial subject matter interest in the records requested.

Subpart D—Exemptions Under FOIA

§ 2604.401 Policy.

(a) *Policy on application of exemptions.* Section 552(b) of the Freedom of Information Act contains nine exemptions to the mandatory disclosure of records. A requested record will not be withheld from inspection or copying unless it comes within one of the classes of records exempted by 5 U.S.C. 552. In making its determination on withholding, OGE will consider whether another statute, Executive order or regulation prohibits release or, if not, whether there is a need in the public interest to withhold material which is otherwise exempt under FOIA.

(b) *Pledge of confidentiality.* Information obtained from any individual or organization, furnished in reliance on a provision for confidentiality authorized by applicable statute, Executive order or regulation, will not be disclosed to the extent it can be withheld under one of the exemptions. However, this paragraph does not itself authorize the giving of any pledge of confidentiality by any officer or employee of the Office of Government Ethics.

(c) *Exception for law enforcement information.* The Office may treat records compiled for law enforcement purposes as not subject to the requirements of the Freedom of Information Act when:

(1) The investigation or proceeding involves a possible violation of criminal law;

(2) There is reason to believe that the subject of the investigation or proceeding is unaware of its pendency; and

(3) The disclosure of the existence of the records could reasonably be expected to interfere with the enforcement proceedings.

(d) *Partial application of exemptions.* Any reasonably segregable portion of a record will be provided to any person requesting the record after deletion of the portions which are exempt under this subpart.

§ 2604.402 Business information.

(a) *In general.* Business information provided to the Office of Government Ethics by a submitter will not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section.

(b) *Designation of business information.* Submitters of business information should use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, those portions of their submissions which they deem to be protected under exemption 4 of the FOIA (5 U.S.C. 552(b)(4)). Any such designation will expire 10 years after the records were submitted to the Government, unless the submitter requests, and provides reasonable justification for, a designation period of longer duration.

(c) *Predisclosure notification.* The General Counsel will provide a submitter with prompt written notice of a FOIA request regarding its business information if:

(1) The information has been designated by the submitter as information deemed protected from disclosure under Exemption 4 of the FOIA; or

(2) The General Counsel has reason to believe that the information may be protected from disclosure under Exemption 4 of the FOIA. Such written notice shall either describe the exact nature of the business information requested or provide copies of the records containing the business information. The requester also shall be notified that notice and an opportunity to object are being provided to a submitter.

(d) *Opportunity to object to disclosure.* A submitter has five working days from receipt of the predisclosure notification to provide a written statement of any objection to disclosure. Such statement shall specify all the grounds for withholding any of the information under any exemption of the FOIA and, in the case of Exemption 4, shall demonstrate why the information is deemed to be a trade secret or commercial or financial information that is privileged or confidential. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA.

(e) *Notice of intent to disclose.* The General Counsel will consider all objections raised by a submitter and specific grounds for nondisclosure prior to determining whether to disclose business information. Whenever the General Counsel decides to disclose business information over the objection of a submitter, he will send the submitter a written notice at least 10 working days before the date of disclosure containing:

(1) A statement of the reasons why the submitter's objections were not sustained;

(2) A copy of the records which will be disclosed or a written description of the records; and

(3) A specified disclosure date. The requester shall also be notified of the General Counsel's determination to disclose records over a submitter's objections.

(f) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of business information, the General Counsel shall promptly notify the submitter.

(g) *Exceptions to predisclosure notification.* The notice requirements in paragraph (c) of this section do not apply if:

(1) The General Counsel determines that the information should not be disclosed;

(2) The information has been published previously or has been officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The designation made by the submitter in accordance with paragraph (b) of this section appears obviously frivolous; except that, in such a case, the General Counsel will provide the submitter with written notice of any final decision to disclose business information within a reasonable number of days prior to a specified disclosure date.

Subpart E—Schedule of Fees

§ 2604.501 Fees to be charged—general.

(a) *Policy.* Fees shall be assessed according to the schedule contained in paragraph (b) of this section and the category of requesters described in § 2604.502 for services rendered in responding to and processing requests for records under subpart C of this part. All fees shall be charged to the requester, except where the charging of fees is limited under § 2604.503(a) and (b) or where a waiver or reduction of fees is granted under § 2604.503(c). Requesters shall pay fees by check or money order made payable to the Treasury of the United States.

(b) *Types of charges.* The types of charges that may be assessed in connection with the production of records in response to a FOIA request are as follows:

(1) *Searches*—(i) *Manual searches for records.* Whenever feasible, the Office will charge at the salary rate (i.e., basic pay plus 16%) of the employee making the search. However, where a homogeneous class of personnel is used exclusively in a search (e.g., all clerical time or all professional time) the Office will charge $10.00 per hour for clerical time and $20.00 per hour for professional time. Charges for search time will be billed by fifteen minute segments.

(ii) *Computer searches for records.* Requesters will be charged the actual direct cost of conducting a search using existing programming. These direct costs shall include the cost of operating a central processing unit for that portion of operating time that is directly attributable to searching for records responsive to a request, as well as the cost of operator/programmer salary apportionable to the search. The Office will not alter or develop programming to conduct a search.

(iii) *Unproductive searches.* The Office will charge search fees even if no records are found which are responsive to the request, or if the records found are exempt from disclosure.

(2) *Duplication.* The standard copying charge for documents in paper copy is $.15 per page. When responsive information is provided in a format other than paper copy, such as in the form of computer tapes and discs, the requester may be charged the direct costs of the tape, disc, or whatever medium is used to produce the information, as well as any related reproduction costs.

(3) *Review.* Costs associated with the review of documents, as defined in § 2604.104(q), will be charged at the salary rate (i.e., basic pay plus 16%) of the employee conducting the review. Except as noted below, charges may be assessed only for review at the initial level, i.e., the review undertaken the first time the documents are analyzed to determine the applicability of specific exemptions to a particular record or portion of the records. A requester will not be charged for review at the administrative appeal level concerning the applicability of an exemption already applied at the initial level. However, when a record has been withheld pursuant to an exemption which is subsequently determined not to apply and the record is reviewed again at the appeal level to determine the potential applicability of other exemptions, the costs of such additional review may be assessed.

(4) *Other services and materials.* Where the Office elects, as a matter of administrative discretion, to comply with a request for a special service or materials, such as certifying that records are true copies or sending records by special methods, the actual direct costs of providing the service or materials will be charged.

§ 2604.502 Fees to be charged—categories of requesters.

(a) *Fees for various requester categories.* The paragraphs below state, for each category of requester, the type of fees generally charged by the Office. However, for each of these categories, the fees may be limited, waived or reduced in accordance with the provisions set forth in § 2604.503. In determining whether a requester belongs in any of the following categories, the Office will determine the use to which the requester will put the documents requested. If the Office has reasonable cause to doubt the use to which the requester will put the records sought, or where the use is not clear from the request itself, the Office will seek clarification before assigning the request to a specific category.

(b) *Commercial use requester.* The Office will charge the full costs of search, review, and duplication. Commercial use requesters are not entitled to two hours of free search time or 100 free pages of reproduction as described in § 2604.503(a); however, the de minimis fees provision of § 2604.503(b) does apply to such requesters.

(c) *Educational and noncommercial scientific institutions and news media.* If the request is from an educational institution or a noncommercial scientific institution, operated for scholarly or scientific research, or a representative of the news media, and the request is not for a commercial use, the Office will charge only for duplication of documents, excluding charges for the first 100 pages.

(d) *All other requesters.* If the request is not one described in paragraph (b) or (c) of this section, the Office will charge the full and direct costs of searching for and reproducing records that are responsive to the request, excluding the first 100 pages of duplication and the first two hours of search time.

§ 2604.503 Limitations on charging fees.

(a) *In general.* Except for requesters seeking records for a commercial use as described in § 2604.502(b), the Office will provide, without charge, the first 100 pages of duplication and the first two hours of search time, or their cost equivalent.

(b) *De minimis fees.* The Office will not assess fees for individual requests if the total charge would be $10.00 or less.

(c) *Waiver or reduction of fees.* Records responsive to a request under 5 U.S.C. 552 will be furnished without charge or at a reduced charge where the Office determines, based upon information provided by a requester in support of a fee waiver request, that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester. Requests for a waiver or reduction of fees will be considered on a case-by-case basis.

(1) In determining whether disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, the Office will consider the following factors:

(i) *The subject of the request: Whether the subject of the requested records concerns the operations or activities of the Government.* The subject matter of the requested records, in the context of

the request, must specifically and directly concern identifiable operations or activities of the Federal Government. Furthermore, the records must be sought for their informative value with respect to those Government operations or activities;

(ii) *The informative value of the information to be disclosed: Whether the information is likely to contribute to an understanding of Government operations or activities.* The disclosable portions of the requested records must be meaningfully informative on specific Government operations or activities in order to hold potential for contributing to increased public understanding of those operations and activities. The disclosure of information which is already in the public domain, in either a duplicative or substantially identical form, would not be likely to contribute to such understanding, as nothing new would be added to the public record;

(iii) *The contribution to an understanding of the subject by the public likely to result from disclosure: Whether disclosure of the requested information will contribute to public understanding.* The disclosure must contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons. A requester's identity and qualifications—e.g., expertise in the subject area and ability and intention to convey information to the general public—will be considered; and

(iv) *The significance of the contribution to public understanding: Whether the disclosure is likely to contribute significantly to public understanding of Government operations or activities.* The public's understanding of the subject matter in question, as compared to the level of public understanding existing prior to the disclosure, must be likely to be significantly enhanced by the disclosure.

(2) In determining whether disclosure of the requested information is not primarily in the commercial interest of the requester, the Office will consider the following factors:

(i) *The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure.* The Office will consider all commercial interests of the requester, or any person on whose behalf the requester may be acting, which would be furthered by the requested disclosure. In assessing the magnitude of identified commercial interests, consideration will be given to the effect that the information disclosed would have on those commercial interests; and

(ii) *The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.* A fee waiver or reduction is warranted only where the public interest can fairly be regarded as greater in magnitude than the requester's commercial interest in disclosure. The Office will ordinarily presume that, where a news media requester has satisfied the public interest standard, the public interest will be served primarily by disclosure to that requester. Disclosure to data brokers and others who compile and market Government information for direct economic return will not be presumed to primarily serve the public interest.

(3) Where only a portion of the requested record satisfies the requirements for a waiver or reduction of fees under this paragraph, a waiver or reduction shall be granted only as to that portion.

(4) A request for a waiver or reduction of fees must accompany the request for disclosure of records, and should include:

(i) A clear statement of the requester's interest in the documents;

(ii) The proposed use of the documents and whether the requester will derive income or other benefit from such use;

(iii) A statement of how the public will benefit from release of the requested documents; and

(iv) If specialized use of the documents is contemplated, a statement of the requester's qualifications that are relevant to the specialized use.

(5) A requester may appeal the denial of a request for a waiver or reduction of fees in accordance with the provisions of § 2604.304.

§ 2604.504 Miscellaneous fee provisions.

(a) *Notice of anticipated fees in excess of $25.00.* Where the Office determines or estimates that the fees to be assessed under this section may amount to more than $25.00, the Office shall notify the requester as soon as practicable of the actual or estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Where a requester has been notified that the actual or estimated fees may exceed $25.00, the request will be deemed not to have been received until the requester has agreed to pay the anticipated total fee. A notice to the requester pursuant to this paragraph will include the opportunity to confer with Office personnel in order to reformulate the request to meet the requester's needs at a lower cost.

(b) *Aggregating requests.* A requester may not file multiple requests, each seeking portions of a document or documents in order to avoid the payment of fees. Where there is reason to believe that a requester or group of requesters acting in concert, is attempting to divide a request into a series of requests for the purpose of evading the assessment of fees, the Office may aggregate the requests and charge accordingly. The Office will presume that multiple requests of this type made within a 30-day period have been made in order to evade fees. Multiple requests regarding unrelated matters will not be aggregated.

(c) *Advance payments.* An advance payment before work is commenced or continued will not be required unless:

(1) The Office estimates or determines that the total fee to be assessed under this section is likely to exceed $250.00. When a determination is made that the allowable charges are likely to exceed $250.00, the requester will be notified of the likely cost and will be required to provide satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or will be required to submit an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 days of the date of the billing). In such cases the requester may be required to pay the full amount owed plus any applicable interest as provided by paragraph (e) of this section, and to make an advance payment of the full amount of the estimated fee before the Office begins to process a new request.

(3) When the Office requests an advance payment of fees, the administrative time limits described in subsection (a)(6) of the FOIA will begin to run only after the Office has received the advance payment.

(d) *Billing and payment.* Normally the Office will require a requester to pay all fees before furnishing the requested records. However, the Office may send a bill along with, or following the furnishing of records, in cases where the requester has a history of prompt payment.

(e) *Interest charges.* Interest charges on an unpaid bill may be assessed starting on the 31st day following the day on which the billing was sent. Interest shall be at the rate prescribed in

31 U.S.C. 3717 and shall accrue from the date of billing. To collect unpaid bills, the Office will follow the provisions of the Debt Collection Act of 1982, as amended (96 Stat. 1749 *et seq.*) including the use of consumer reporting agencies, collection agencies, and offset.

Subpart F—Annual Report to Congress

§ 2604.601 Submission of report.

On or before March 1 of each calendar year, a report of OGE's activities over the preceding year relating to the Freedom of Information Act will be submitted to the Speaker of the House of Representatives and the President of the Senate.

§ 2604.602 Contents of the report.

The annual report to Congress will include for the relevant reporting period:

(a) The number of FOIA requests made to OGE, determinations made by OGE not to comply with requests for records made to it under the FOIA and the reasons for each such determination;

(b) The number of appeals made by persons under the FOIA, the results of such appeals, and the reasons for the action by OGE upon each appeal that results in a denial of information;

(c) The names and titles or positions of each person responsible for the denial of records requested under the FOIA;

(d) The results of each proceeding conducted pursuant to subsection (a)(4)(F) of the FOIA, including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(e) A copy of every rule made by OGE regarding the FOIA;

(f) A copy of the fee schedule and the total amount of fees collected by OGE for making records available under the FOIA; and

(g) Such other information as indicates efforts by OGE to administer fully the FOIA.

Subpart G—Fees for the Reproduction and Mailing of Public Financial Disclosure Reports

§ 2604.701 Policy.

Fees for the reproduction and mailing of public financial disclosure reports (SF 278s) requested pursuant to section 105 of the Ethics in Government Act of 1978, as amended, and § 2634.603 of this chapter shall be assessed according to the schedule contained in § 2604.702. Requesters shall pay fees by check or money order made payable to the Treasury of the United States. Except as provided in § 2604.702(d), nothing concerning fees in subpart E of this part supersedes the charges set forth in this subpart for records covered in this subpart.

§ 2604.702 Charges.

(a) *Duplication.* Except as provided in paragraph (c) of this section, copies of public financial disclosure reports (SF 278s) requested pursuant to section 105 of the Ethics in Government Act of 1978, as amended, and § 2634.603 of this chapter will be provided upon payment of $.03 per page furnished.

(b) *Mailing.* Except as provided in paragraph (c) of this section, the actual direct cost of mailing public financial disclosure reports will be charged for all forms requested. Where the Office elects to comply, as a matter of administrative discretion, with a request for special mailing services, the actual direct cost of such service will be charged.

(c) *De minimis fees.* The Office will not assess fees for individual requests if the total charge would be $10.00 or less.

(d) *Miscellaneous fee provisions.* The miscellaneous fee provisions set forth in § 2604.504 apply to requests for public financial disclosure reports pursuant to § 2634.603 of this chapter.

[FR Doc. 95–4347 Filed 2–22–95; 8:45 am]
BILLING CODE 6345–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 94–AGL–23]

Establishment of Class D Airspace; Akron-Canton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace at Akron-Canton Regional Airport, Akron, Ohio. Currently, the airspace at Akron-Canton Regional Airport is designated as Class C airspace. During certain periods of time, the Akron-Canton Air Traffic Control Tower (ATCT) radar approach control facility is not operational. However, the ATCT at Akron-Canton Regional Airport is full-time. The intended effect of this proposal is to provide accurate reference to Class D airspace at Akron-Canton Regional Airport.

EFFECTIVE DATE: 0901 UTC, May 25, 1995.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Griffith, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On August 24, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class D airspace at Akron-Canton Regional Airport, Akron, Ohio (59 FR 43517).

Currently, the airspace at Akron-Canton Regional Airport is designated as Class C airspace. During certain period of time, the Akron-Canton ATCT radar approach control facility is not operational and traffic is re-routed to Cleveland ARTCC during those times. However, the ATCT at Akron-Canton Regional Airport is full-time. The intended effect of this proposal is to correctly reference Class D airspace in aeronautical maps and charts. This action does not change the existing method of handling air traffic operations at Akron-Canton ATCT.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Eight (8) letters of objection were received in response to the proposal. These objections were based on concerns for safety. The following concerns were raised:

1. Establishing Class D airspace at Akron, Ohio would jeopardize safety at Akron-Canton Regional Airport for air traffic operations during the hours that Class D airspace would be in effect. VFR traffic should be separated from IFR traffic.

2. Within the Weather Bureau closing, the airport would be unattended for the hours of Class D operation (midnight to 6:00 a.m. local time) and therefore there would be no controllers at the ATCT to observe and instruct snow removal from the runways during these times. This was of concern to the commenter because the airport is in the snow belt of Lake Erie.

3. Akron-Canton ATCT needs more controllers to handle the existing and increasing traffic so as not to jeopardize the continued growth of Akron-Canton Regional Airport.

All of these comments were considered and evaluated. They are responded to as follows:

1. There is no change to the existing method of handling air traffic operations at Akron-Canton Regional Airport. Class D airspace has existed at Akron-Canton Regional Airport for several years; however, it is not correctly indicated on aeronautical maps and charts. During

this time period of Class D operations, there has been no derogation of safety. The purpose of this docket is to initiate action to reference correctly Class D airspace in aeronautical directories and charts.

2. Responding to the issue of the airport being closed for snow removal, changing aeronautical maps and charts to reflect existing airspace will not impact the length of time that the airport would be closed for snow removal. The City of Akron, OH is responsible to remedy airport conditions caused by inclement weather. Comments regarding actions taken for snow removal at the airport can be directed to the City of Akron airport authorities. This comment addresses issues beyond the scope of the action proposed in this notice.

3. Implementation of the proposal on Class D airspace will not affect staffing at the Akron-Canton ATCT. Accordingly, the comment regarding staffing is beyond the scope of this notice.

A minor modification has been made to the legal description from that shown in the notice to exclude the airspace within the Akron-Canton Regional Airport Class C airspace area. This modification is required in accordance with new guidelines.

The coordinates for this airspace docket are based on North American Datum 83. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes Class D airspace at Akron-Canton Regional Airport, Akron, Ohio during certain periods of time when the Akron-Canton ATCT radar approach control facility is not in operation. Currently, the airspace at Akron-Canton Regional Airport is designated as Class C airspace only. The intended effect of this proposal is to provide reference to Class D airspace to maintain the two-way radio communications requirements when the radar approach control facility is not in operation at the airport. This action does not change the existing method of handling traffic but will allow for action to be taken to correctly reference the airspace in aeronautical directories and charts.

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 ''significant regulatory action'' under Executive Order 12866; (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

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000 General

* * * * *

AGL OH D Akron-Canton, OH [New]

(Lat. 40°54′59″ N., Long. 81°26′32″ W.)

That airspace extending upward from the surface to and including 3700 feet MSL within a 4.3-mile radius of the Akron-Canton Regional Airport, excluding that airspace within the Akron-Canton Regional Airport, OH Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on February 9, 1995.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 95–4439 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 94–ASO–23]

Amendment to Class E Airspace; Millington, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace area at Millington, TN, to accommodate a VOR/DME RWY 22 Standard Instrument Approach Procedure (SIAP) at the Memphis NAS/Millington Municipal Airport. This amendment also makes a technical correction to the name of the airport, which is now joint use, and a minor correction to the geographic position coordinates of the airport.

EFFECTIVE DATE: 0901 UTC, March 30, 1995.

FOR FURTHER INFORMATION CONTACT: Michael J. Powderly, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

On December 2, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying the Class E airspace area at Millington, TN (59 FR 64878). The proposed action would provide additional controlled airspace to accommodate a VOR/DME RWY 22 SIAP at the Memphis NAS/Millington Municipal Airport. A technical correction is also being made to the name of the airport and a minor correction is being made to the geographic position coordinates of the airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the Class E airspace area at Millington, TN, to accommodate

a VOR/DME RWY 22 SIAP at the Memphis NAS/Millington Municipal Airport. This amendment also makes a technical correction to the name of the airport, which is now joint use, and a minor correction to the geographic position coordinates of the airport.

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 ''significant regulatory action'' under Executive Order 12866; (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 for the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet Above the Surface of the Earth.

* * * * *

ASO TN E5 Memphis NAS/Millington Municipal, TN [Revised]

Memphis NAS/Millington Municipal Airport, TN
(Lat. 35°21′20″ N, Long. 89°52′10″ W)
Arlington Municipal Airport
(Lat. 35°16′59″ N, Long. 89°40′22″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Memphis NAS/Millington Municipal Airport and within a 7-mile radius of Arlington Municipal Airport.

* * * * *

Issued in College Park, Georgia, on February 10, 1995.

Walter R. Denley,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–4434 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM93–23–001; Docket No. RM93–25–001]

Project Decommissioning at Relicensing; Use of Reserved Authority in Hydropower Licenses To Ameliorate Cumulative Impacts; Order Dismissing Requests for Rehearing and Denying Requests for Reconsideration

Issued February 9, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Policy statements; order dismissing requests for rehearing and denying requests for reconsideration.

SUMMARY: The Federal Energy Regulatory Commission is issuing an order that dismisses requests for rehearing, and denies requests for reconsideration, of the two policy statements that were issued on December 14, 1994. The Commission, in Docket No. RM93–25–000, adopted a policy statement with respect to the use of reserved authority in licenses for hydropower projects to ameliorate cumulative impacts of such projects in the same river basin. In Docket No. RM93–23–000, the Commission adopted a policy statement that addressed issues related to relicensing and decommissioning of hydropower projects. The Commission found that, because there is no aggrievement, rehearing does not lie and that no particular circumstances requiring reconsideration of the policy statements have been shown.

EFFECTIVE DATE: February 9, 1995.

FOR FURTHER INFORMATION CONTACT: Barry Smoler, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 208–1269.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this documents during normal business hours in Room 3104, 941 North Capitol Street NE., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, 1200 or 300bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS for 60 days from the date of issuance in ASCII and WordPerfect 5.1 format. After 60 days the document will be archived, but still accessible. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, located in Room 3104, 941 North Capitol Street NE., Washington, D.C. 20426.

Order Dismissing Requests for Rehearing and Denying Requests for Reconsideration

Issued February 9, 1995.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

On December 14, 1994, the Commission issued policy statements in each of the two above-captioned dockets.[1]

On January 13, 1995, the American Public Power Association (APPA) filed a request for reconsideration or rehearing of both policy statements. APPA expressed the view that rehearing does not lie, because the policy statements do not give rise to ''aggrievement'' within the meaning of Section 313 of the Federal Power Act,[2] but requested rehearing in the event that the Commission determined that it was appropriate.

On January 13, 1995, the National Hydropower Association filed a ''statement in opposition'' to the policy statement on decommissioning issued in Docket No. RM93–23–000, but did

[1] The policy statement issued in Docket No. RM93–23–000 (69 FERC ¶ 61,336) was published in the **Federal Register** on January 4, 1995 (60 FR 339). The policy statement issued in Docket No. RM93–25–000 (69 FERC ¶ 61,337) was published in the **Federal Register** on December 28, 1994 (59 FR 66714).

[2] 16 U.S.C. 825*l* (1992).

not request rehearing, stating (correctly) that ''its members will have the opportunity to challenge any Commission assertion of decommissioning authority in the context of actual proceedings where this becomes an issue.'' Similarly, on January 31, 1995, the Edison Electric Institute filed comments on the policy statement on reserved authority issued in Docket No. RM93–25–000, as well as on the policy statement in Docket No. RM93–23–000.

Also on January 13, 1995, three requests for rehearing of the policy statement on decommissioning, in Docket No. RM93–23–000, were filed: (1) By the Hydropower Reform Coalition;[3] (2) by (jointly) the U.S. Department of Commerce and the U.S. Department of the Interior (the U.S. Departments);[4] and by (jointly) Edwards Manufacturing Co., Inc. and the City of Augusta, Maine (Edwards and Augusta).[5] The pleading filed by the U.S. Departments is styled as a petition for ''clarification, reconsideration and rehearing.''

The above-captioned policy statements issued on December 14, 1994, provide only notice of the Commission's general views and intentions with respect to a broad range of potential issues that may come before it in future cases. The policy statements do not apply those views and intentions to the specific facts of any particular case, nor do they purport to resolve any specific case or controversy. They do not impose an obligation, deny a right, or fix some legal relationship as a consummation of the administrative process. Therefore, as there is no aggrievement, rehearing does not lie. Nor have the petitioners shown any particular circumstances requiring that we reconsider our positions taken in these policy statements.[6] Accordingly, the above-described requests for rehearing of the policy statements issued on December 14, 1994, in the above-captioned dockets are dismissed to the extent that they seek rehearing of either or both of those two policy statements, and are denied to the extent that they seek reconsideration of either of both of those policy statements.

The Commission Orders

The request for reconsideration and rehearing filed by the American Public Power Association in Docket Nos. RM93–23–001 and RM93–25–001, and the requests for rehearing, reconsideration and/or clarification filed by the Hydropower Reform Coalition, by the U.S. Departments of Commerce and the Interior, and by Edwards Manufacturing Company, Inc. and the City of Augusta, Maine, in Docket No. RM93–23–001, are rejected as requests for rehearing and are denied as requests for reconsideration or clarification.

By the Commission. Commissioner Bailey dissented in part with a separate statement attached.

Lois D. Cashell,

Secretary.

Bailey, Commissioner, *dissenting in part.*

For the reasons discussed in my earlier dissent, I would grant reconsideration of the Decommissioning Policy Statement (Docket No. RM93–23–001).

Vicky A. Bailey,

Commissioner.

[FR Doc. 95–4354 Filed 2–22–95; 8:45 am]

BILLING CODE 6717–01–P

[3] In the alternative, the Coalition requests reconsideration or clarification of the policy statement.

[4] The pleading filed by the U.S. Departments also requests rehearing of a companion order issued on December 14, 1994 (69 FERC ¶ 61,338), that removed a standard reservation of authority article from approximately 60 licenses. That portion of the pleading is not affected by this order.

[5] The pleading filed by Edwards and Augusta also requests rehearing of another companion order issued on December 14, 1994 (69 FERC ¶ 61,335), which amended their license for the Augusta Hydroelectric Project (Edwards Dam). That portion of the pleading is not affected by this order.

[6] *See* Papago Tribal Utility Authority v. FERC, 628 F.2d 235, 239 (D.C. Cir. 1980).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 207

[Docket No. R–95–1768; FR–3753–I–01]

RIN 2502–AG34

Multifamily Cooperative Refinancing and Conversion Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: HUD's multifamily mortgage insurance regulations are being amended to revise the occupancy requirements for rental projects converted to cooperative ownership. The amended regulations replace the strict 70 percent owner-occupant subscription requirement with one that varies according to the loan-to-value ratio. This flexibility will allow the Federal Housing Commissioner to expand affordable housing opportunities.

DATES: Effective date: March 27, 1995.

Expiration date: Section 207.32a(h)(2) will expire on September 23, 1996.

Comments due date: April 24, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: Linda D. Cheatham, Director, Office of Multifamily Housing Development, Room 6134, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410–0500, telephone (202) 708–3000. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

Title II of the National Housing Act of 1934, specifically section 223(f) (12 U.S.C. 1715n(f)), authorizes HUD to insure mortgages for multifamily rental units through the Federal Housing Administration (FHA). The regulations implementing section 223(f) are codified at 24 CFR 207.32a. The section 223(f) regulations were amended June 24, 1985 (50 FR 25940), to include cooperative mortgagors. The regulations, as amended in 1985, expand section 223(f) to provide mortgage insurance for the refinancing of existing cooperative projects and the purchase/conversion of existing rental projects by cooperative sponsors.

Paragraph (h)(2) of § 207.32a sets forth the occupancy requirements for rental projects converted to cooperative ownership. At least 70 percent of the total units in the project must be subscribed to on a cooperative basis before endorsement of the mortgage for insurance by the Federal Housing Commissioner. This interim rule replaces the strict 70 percent subscription requirement of § 207.32a(h)(2) with one that varies according to the loan-to-value ratio.

The amended regulation provides that with respect to a cooperative project, the following pre-sale and loan-to-value ratios apply: (1) A 70 percent loan-to-value ratio loan will require that 51

percent of the project's units be pre-sold and occupied by the owners as a principal residence prior to endorsement; (2) an 80 percent loan-to-value ratio loan will require that 60 percent of the project's units be pre-sold and occupied by the owners as a principal residence prior to endorsement; and (3) a 90 percent loan-to-value ratio loan will require that 70 percent of the project's units be pre-sold and occupied by the owners as a principal residence prior to endorsement.

These amendments will minimize HUD's risk in insuring mortgages on cooperative projects while at the same time, providing a mechanism for development of a wide range of cooperative projects. In general, the higher the pre-sale rate, the more likely a project will succeed as a cooperative. Likewise, the greater the loan-to-value ratio, the higher HUD's risk in most cases. Therefore, the amendment requires a higher pre-sale rate in order to secure a higher loan-to-value ratio loan. Conversely, the smaller the loan-to-value ratio, the less substantial HUD's risk, and, thus, the lower the required pre-sale.

Furthermore, this interim rule also creates a new § 207.32a(h)(2)(iv) mandating that voting control of the cooperative project rest with the owner-occupants. Since owner-occupant control is a distinguishing feature of cooperatives, this requirement will ensure that the insured mortgage is associated with a legitimate cooperative project.

These amendments not only increase program flexibility with respect to the insurance of mortgages on cooperative projects, but will promote HUD's policy of revitalizing neighborhoods and communities. HUD believes these amendments will help make affordable housing a reality for more families everywhere and help revitalize ''communities in peril.''

II. Justification for Interim Rulemaking

It is HUD's policy to publish rules for public comment before their issuance for effect, in accordance with its own regulations on rulemaking found at 24 CFR part 10. However, part 10 provides that prior public procedure will be omitted if HUD determines that it is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). HUD finds that in this case prior public comment is contrary to the interest of the public. This interim rule removes a strict regulatory and administrative requirement in order to increase program flexibility and expand homeownership opportunities. Although HUD believes the public will benefit from immediate implementation of this interim rule, HUD welcomes public comment. All comments will be considered in the development of the final rule.

The Department has adopted a policy of setting an expiration date for an interim rule unless a final rule is published before that date. This ''sunset'' provision appears in § 207.32a(h)(2)(v), and provides that the interim rule will expire on a date 18 months from its effective date.

III. Other Matters

A. Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(k) of the HUD regulations, the policies and procedures contained in this interim rule relate only to HUD administrative procedures and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

B. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this interim rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Specifically, this interim rule is directed towards applicants and participants in HUD's multifamily mortgage insurance program. It effects no changes in the current relationships between the federal government, the states and their political subdivisions in connection with these programs.

C. Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this interim rule does not have potential for significant impact on family formation, maintenance, and general well-being, and thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this interim rule, as those policies and programs relate to family concerns.

D. Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this interim rule, and in so doing certifies that this interim rule will not have a significant economic impact on a substantial number of small entities. This interim rule only governs the procedures under which the Department insures multifamily cooperative projects, and will not have any meaningful economic impact on any entity.

E. Regulatory Agenda

This interim rule was listed as sequence number 1773 in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57634) in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 207

Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, 24 CFR part 207 is amended as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. The authority citation for 24 CFR part 207 continues to read as follows:

Authority: 12 U.S.C. 1701z-11(e), 1713, and 1715b; 42 U.S.C. 3535(d).

2. In § 207.32a, paragraph (h)(2) is revised to read as follows:

§ 207.32a Eligibility of mortgages on existing projects.

* * * * *

(h) * * *

(2) With respect to a cooperative project:

(i) At least 51 percent of the total units in the project must be subscribed to on a cooperative basis and occupied by the owners as a principal residence before endorsement of the mortgage for insurance by the Commissioner in order to obtain a 70 percent loan-to-value ratio loan;

(ii) At least 60 percent of the total units in the project must be subscribed to on a cooperative basis and occupied by the owners as a principal residence before endorsement of the mortgage for insurance by the Commissioner in order to obtain an 80 percent loan-to-value ratio loan; and

(iii) At least 70 percent of the total units in the project must be subscribed to on a cooperative basis and occupied by the owners as a principal residence before endorsement of the mortgage for insurance by the Commissioner in order to obtain a 90 percent loan-to-value ratio loan.

(iv) Voting control of the cooperative rests with the owner-occupants.

(v) This paragraph (h)(2) expires on September 23, 1996, unless a **Federal Register** notice extending its effectiveness is published prior to this expiration date.

* * * * *

Dated: December 27, 1994.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 95–4366 Filed 2–22–95; 8:45 am]

BILLING CODE 4210–27–P

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 597

[Docket No. R–95–1702; FR–3580–N–06]

RIN 2506–AB65

Notice of Designation of Empowerment Zones and Enterprise Communities

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of designation of Empowerment Zones and Enterprise Communities.

SUMMARY: On January 18, 1994, HUD published an interim rule that implemented that portion of Subchapter C, Part I (Empowerment Zones, Enterprise Communities and Rural Development Investment Areas) of Title XIII of the Omnibus Budget Reconciliation Act of 1993 dealing with the designation of urban Empowerment Zones and Enterprise Communities. On January 18, 1994, HUD also published a notice inviting applications for designation of Empowerment Zones and Enterprise Communities.

This notice announces the jurisdictions that were designated urban Empowerment Zones and Enterprise Communities by HUD. This notice also announces the designation of two Supplemental Empowerment Zones and four Enhanced Enterprise Communities.

FOR FURTHER INFORMATION CONTACT: Michael T. Savage, Deputy Director, Office of Economic Development, Room 7136, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–2290; TDD (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On January 18, 1994 (59 FR 2790), HUD published an interim rule that implemented that portion of Subchapter C, Part I (Empowerment Zones, Enterprise Communities and Rural Development Investment Areas) of Title XIII of the Omnibus Budget Reconciliation Act of 1993 which addresses the designation of urban Empowerment Zones and Enterprise Communities. This interim rule was made final by a final rule published on January 12, 1995 (60 FR 3034).

Title XIII also provides for the designation of rural Empowerment Zones and Enterprise Communities. As noted in the January 18, 1994 interim rule, the urban part of the program is administered by HUD as a Federal-State-local partnership. The rural part of the program is administered by the Department of Agriculture, which also published an interim rule on January 18, 1994 (59 FR 2686).

On January 18, 1994 (59 FR 2711), in addition to publication of the interim rule, HUD published a notice inviting applications from States and local governments for nomination of urban areas as Empowerment Zones and Enterprise Communities. The January 18, 1994 notice provided for an application deadline of June 30, 1994. HUD carefully considered all applications, and on December 21, 1994, President Clinton announced the urban areas that were designated by HUD as Empowerment Zones and Enterprise Communities, and the rural areas that were designated by the Department of Agriculture as rural Empowerment Zones and Enterprise Communities.

On that date, President Clinton announced the designation of two Supplemental Empowerment Zones and four Enhanced Enterprise Communities that will receive HUD economic development grants. The Supplemental Empowerment Zone and Enhanced Enterprise Community grants are provided under HUD's economic development initiative (EDI), which enables communities to provide financing for economic development, housing rehabilitation, and essential development projects.

Appendix A to this notice announces the urban areas that were designated urban Empowerment Zones and Enterprise Communities by HUD. Appendix A to this notice also announces the two Supplemental Empowerment Zones and the four Enhanced Enterprise Communities.

Dated: February 10, 1995.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

EMPOWERMENT ZONE, SUPPLEMENTAL EMPOWERMENT ZONE, ENHANCED ENTERPRISE COMMUNITY AND ENTERPRISE COMMUNITY DESIGNEES

State	City
Alabama EC	Birmingham.
Arizona EC	Phoenix.
Arkansas EC	Pulaski County.
California SEZ	Los Angeles City & County.
California EEC	Oakland.
California EC	Los Angeles/Huntington Park.
Do	San Diego.
Do	San Francisco/Bayview/Hunters Point.
Colorado EC	Denver City & County.
Connecticut EC	Bridgeport.
Do	New Haven.
Delaware EC	Wilmington, New Castle Co.
District EC	District of Columbia.
Florida EC	Dade County, Miami.
Do	Tampa.
Georgia EZ	Atlanta.
Georgia EC	Albany.
Illinois EZ	Chicago.
Illinois EC	East St. Louis.
Do	Springfield.
Indiana EC	Indianapolis.
Iowa EC	Des Moines.
Kentucky EC	Louisville.
Louisiana EC	New Orleans.
Do	Ouachita Parish.
Maryland EZ	Baltimore.
Massachusetts EEC	Boston.
Massachusetts EC	Lowell.
Do	Springfield.
Michigan EZ	Detroit.
Michigan EC	Flint.
Do	Muskegon.
Minnesota EC	Minneapolis.
Do	St. Paul.
Mississippi EC	Jackson.
Missouri EEC	Kansas City (Mo and Kans).
Missouri EC	St. Louis, St. Louis County, Wellston.
Nebraska EC	Omaha.
Nevada EC	Clarke County/Las Vegas.
New Hampshire EC	Manchester.
New Jersey EC	Newark.
New Mexico EC	Albuquerque.
New York EZ	New York, Bronx County.
New York EC	Albany.
Do	Buffalo.
Do	Newburgh/Kingston.
Do	Rochester.
No. Carolina EC	Charlotte.
Ohio SEZ	Cleveland.
Ohio EC	Akron.
Do	Columbus.
Oklahoma EC	Oklahoma City.
Oregon EC	Portland.

EMPOWERMENT ZONE, SUPPLEMENTAL EMPOWERMENT ZONE, ENHANCED ENTERPRISE COMMUNITY AND ENTERPRISE COMMUNITY DESIGNEES—Continued

State	City
Pennsylvania EZ	Philadelphia, Camden N.J.
Pennsylvania EC	Harrisburg.
Do	Pittsburgh & Allegheny Co.
Rhode Island EC	Providence.
So. Carolina EC	Charleston.
Tennessee EC	Memphis.
Do	Nashville.
Texas EEC	Houston.
Texas EC	Dallas.
Do	El Paso.
Do	San Antonio.
Do	Waco.
Utah EC	Ogden.
Vermont EC	Burlington.
Virginia EC	Norfolk.
Washington EC	Seattle.
Do	Tacoma.
West Virginia EC	Huntington.
Wisconsin EC	Milwaukee.

[FR Doc. 95–4365 Filed 2–22–95; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 351

Offering of United States Savings Bonds, Series EE

CFR Correction

In title 31 of the Code of Federal Regulations, part 200 to end, revised as of July 1, 1994, on page 265, § 351.2 (e)(1) is corrected to read as follows:

§ 351.2 Description of bonds.

* * * * *

(e) * * *

(1) *Guaranteed minimum investment yield.* The guaranteed minimum investment yield of a bond from its issue date to each semiannual interest accrual date occurring on or after 5 years from issue up to original maturity will be 7.5 percent per annum, compounded semiannually, for a bond bearing an issue date of November 1, 1982, through October 1, 1986, and 6 percent per annum, compounded semiannually, for a bond bearing an issue date of November 1, 1986, through February 1, 1993; and, 4 percent per annum, compounded semiannually, for a bond bearing an issue date of March 1, 1993, or thereafter. Interest that accrues on a Series EE bond becomes part of its redemption value and is paid, as set out in § 351.2 (h).

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD05–94–088]

RIN 2115–AA98

Anchorage Regulations Anchorage 7 off Marcus Hook; Delaware River, Southeast Side of the Channel Along Marcus Hook Range

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the boundaries of Anchorage 7 off Marcus Hook on the southeast side of the channel along the Marcus Hook Range of the Delaware River. It corrects the published coordinates to reflect those coordinates of the Army Corps of Engineers maintained anchorage, and clearly designates an area large enough to accommodate modern, large vessels requiring examination by public health, customs or immigration authorities.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: LCDR Tom Flynn, Assistant Chief, Planning and Waterways Management Section, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, VA 23704–5004, (804) 398–6285.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LCDR Tom Flynn, project officer, Aids to Navigation and Waterways Management Branch, Fifth Coast Guard District and LT Andy Norris, project attorney, Fifth Coast Guard District Legal Staff.

Regulatory History

On November 8, 1994, the Coast Guard published a notice of proposed rulemaking entitled Anchorage Regulations; Anchorage Grounds: Anchorage 7 off Marcus Hook; Delaware River, Southeast Side of the Channel Along Marcus Hook Range in the **Federal Register** (59 FR 55598). The comment period expired on January 9, 1995. The Coast Guard received no letters commenting on the proposal. A public hearing was not requested and one was not held.

Background and Purpose

Section 7 of the Act of March 4, 1915, as amended (33 U.S.C. 471), authorizes the establishment of anchorage grounds for vessels in the navigable waters of the United States whenever it is apparent that such grounds are required by the maritime or commercial interests of the United States for safe navigation. A Coast Guard initiated Waterways Analysis and Management System Study (WAMS) of the Delaware River, conducted in 1989, determined that a discrepancy existed between the charted anchorage, the Army Corps of Engineers maintained anchorage, and the anchorage coordinates published in 33 CFR 110.157(a)(8). WAMS was developed to serve as the basis for a systematic analysis and management of the aids to navigation in our nation's waterways. WAMS is intended to identify the navigational needs of the users of a particular waterway, the present adequacy of the aids system in terms of those needs, and what is required in those cases where the users' needs are not being met. The WAMS process also looks into the resources—physical, financial, and personnel—needed to carry out the Aids to Navigation program responsibilities. The analyses of each waterway and the attendant resources are then integrated to provide documentation for both day to day management and future planning within the Aids to Navigation program. Anchorage 7, off Marcus Hook, as defined in 33 CFR 110.157(a)(8), does not correctly delineate the anchorage as currently maintained by the Army Corps of Engineers nor as charted by the National Ocean Service. The preferential area in this anchorage designated for the use of vessels awaiting quarantine inspection is vaguely defined and may not provide adequate room for modern, large vessels. This rule will correct those discrepancies.

Discussion of Comments and Changes

No comments were received concerning the notice of proposed rulemaking. There are no substantive differences between the proposed rule and this final rule.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this

final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The basis for this finding is that Anchorage 7 is already being utilized within the boundaries set forth in this final rule.

Small Entities

Under 5 U.S.C. 601 *et seq.*, known as the Regulatory Flexibility Act, the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small Entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Since the impact of this final rule is expected to be minimal, the Coast Guard will certify under 5 U.S.C. 605(b), that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it is anticipated that this final rulemaking will not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

This final rulemaking has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.e of Commandant Instruction M16475.1B. It has been determined that a Categorical Exclusion Determination statement is not required (see 59 FR 38654, July 29, 1994).

List of Subjects in 33 CFR Part 110

Anchorage Grounds.

Final Regulations

For the reasons set out in the preamble, Part 110 of Title 33, Code of Federal Regulations is amended as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. In § 110.157 paragraph (a)(8) is revised to read as follows:

§ 110.157 Delaware Bay and River.

(a) * * *

(8) *Anchorage 7 off Marcus Hook.* (i) On the southeast side of the channel along Marcus Hook Range, bounded by a line connecting the following points:

Latitude	*Longitude*
39°49′17.254″ N	75°22′50.0994″ W
39°48′39.984″ N	75°23′17.238″ W
39°47′45.309″ N	75°25′01.278″ W
39°47′43.111″ N	75°26′00.186″ W

(DATUM: NAD 83)

(ii) A vessel that is arriving from or departing for sea and that requires an examination by public health, customs, or immigration authorities shall anchor in the preferential area of this anchorage designated for the use of vessels awaiting quarantine inspection, this area being the waters bounded by the arc of a circle with a radius of 366 yards and with the center located at:

Latitude	*Longitude*
39°48′46.334″ N	75°23′26.881″ W

(DATUM: NAD 83)

(iii) Should the remainder of the anchorage be in use, the preferential area, when available, may be used by vessels not subject to quarantine inspection.

* * * * *

Dated: January 23, 1995.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 95–4410 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 162

[CGD09–95–006]

Temporary Speed Limits for the St. Marys River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is making a temporary amendment to the speed limits for the St. Marys River during the 1994–95 icebreaking season. This amendment reduces the speed limit by 2 miles per hour through that part of the system, between Munuscong Lake Lighted Buoy 8 (LLNR 13065) and Lake Nicolet Light 80 (LLNR 13465) upbound and between Lake Nicolet Light 80 (LLNR 13465) and West Neebish Channel Light 9 (LLNR 13715) downbound. These temporary changes to the speed regulations are a precautionary measure to minimize any possible damage to the environment due to movement of large commercial vessels through the ice.

EFFECTIVE DATE: This regulation is effective from February 9, 1995, through April 15, 1995.

FOR FURTHER INFORMATION CONTACT: Lieutenant Scott J. Smith, Ninth Coast Guard District, Aids to Navigation and Waterways Management Branch, 1240 East 9th Street, Cleveland, Ohio 44199–2060, (216) 522–3990 or Ensign William B. Morgan, Group Sault Ste. Marie, 337 Water St., Sault Ste. Marie, MI 49783, (906) 635–3303.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Publication of a notice of proposed rulemaking and delay in the effective date would be contrary to the public interest because immediate action is necessary to prevent possible damage to the environment. Additionally, the Coast Guard issued this temporary rule for the 1993–94 icebreaking season and no comments were received. Therefore, nothing would apparently be gained by pre-publication.

Discussion of Proposed Regulations

In a letter received on February 26, 1993, the Michigan Department of Natural Resources advised the Commander of the Ninth Coast Guard District of concerns over the environmental impact of ship transits through the St. Marys River during the period of March 21 to April 1. March 25 is the fixed date for the opening of the locks at Sault St. Marie, which allows large commercial shipping access to the St. Marys River from Lake Superior. In accordance with an agreement reached on June 29, 1993, with the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the Michigan Department of Natural Resources, the Coast Guard is making this temporary change to the speed regulations during periods when icebreaking is being conducted in the vicinity of Neebish Island, St. Mary's River, Michigan, as a precautionary measure to minimize any possible damage to the environment. The speed limit is being reduced by 2 statute miles per hour in the area between Munuscong Lake Lighted Buoy 8 (LLNR 13065) and Lake Nicolet Light 80 (LLNR 13465), upbound, and

between Lake Nicolet Lighted Buoy 80 (LLNR 13465) and West Neebish Channel Light 9 (LLNR 13715), downbound. The West Neebish Channel Light 9 checkpoint has been added to extend the reduced speed limit area past Winter Point, thereby protecting the sensitive environment between Winter Point and West Neebish Channel Light 9. Speed limits apply to the average speed between established reporting points.

Drafting Information

The drafters of this regulation are Lieutenant J.G. Byron D. Willeford, Project Officer, Ninth Coast Guard District, Aids to Navigation & Waterways Management Branch, and Lieutenant and Karen E. Lloyd, Project Attorney, Ninth Coast Guard District Legal Office.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

A recent environmental impact study by the United States Army Corps of Engineers indicated that March 21 is the optimal opening date. [see U.S. Army Corps of Engineers Draft Environmental Impact Statement, Opening Operations of the Lock Facilities on March 21 (February 1993), Supplement III to the Final Environmental Impact Statement, Operations, Maintenance, and Minor Improvements of the Federal Facilities at Sault Ste. Marie, Michigan (July 1977)]. The same study by the Corps of Engineers indicates that there is not significant impact on fish populations due to movement of large commercial vessels through the ice. However, the Michigan Department of Natural Resources asserts that there may be such an impact during the early period of March 21 to April 1.

The Ninth Coast Guard District has adopted the U.S. Army Corps of Engineers EIS, EIS Supplements, and EIS studies on Operations, Maintenance, and Minor Improvements of the Federal Facilities at Sault Ste. Marie, Michigan. In addition, the Coast Guard is preparing a supplement for the 1974 Ninth Coast Guard District EIS regarding icebreaking activity on the Great Lakes.

Economic Assessment and Certification

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of the DOT is unnecessary.

Collection of Information

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 33 CFR Part 162

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

Regulations

In consideration of the foregoing, the Coast Guard temporarily amends Part 162 of Title 33, Code of Federal Regulations, as follows:

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

1. The authority citation for 33 CFR Part 162 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. From February 9, 1995 through April 15, 1995, paragraph (g) in § 162.117 is suspended and a new paragraph (i) is added to read as follows:

§ 162.117 St. Marys River, Sault Ste. Marie, Michigan.

(i) *Speed rules.* The following speed limits indicate the average speed over the ground between reporting points:

The speed limit between	Speed limit	
	Miles/hr	Knots
De Tour Reef Light and Sweets Point Light	14	12.2
Round Island Light and Point Aux Frenes Light 21	14	12.2
Munuscong Lake Lighted Buoy 8 and Everns Point	10	8.7
Everns Point and Reed Point	7	6.0
Reed Point and Lake Nicolet Lighted Buoy 62	8	7.0
Lake Nicolet Lighted Buoy 62 and Lake Nicolet Light 80	10	8.7
Lake Nicolet Lighted Buoy 80 and Munuscong Lake Light 9 (downbound, West Neebish Channel)	8	7.0
Lake Nicolet Light 80 and Winter Point (West Neebish Channel)	8	7.0
Lake Nicolet Light 80 and Six Mile Point Ranger Rear Light	10	8.7
Six Mile Point Range Rear Light and lower limit of the St. Marys Falls Canal:		
Upbound	8	7
Downbound	10	8.7
Upper limit of the St. Marys Falls Canal and Point Aux Pins Main Light	12	10.4

Dated: February 9, 1995.

Thomas A. Trosvig,

Captain, U.S. Coast Guard Commanding Officer, VTS St. Marys River.

[FR Doc. 95–4412 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Contents of Second-Class Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: On July 20, 1994, the Postal Service published a proposed rule for public comment in the **Federal Register** (59 FR 37011–37018) that would revise the current standards in the Domestic Mail Manual (DMM) on materials eligible for mailing at second-class rates with authorized second-class publications. This final rule adopts most of the proposed changes to the standards governing the contents and characteristics of second-class mail.

The final rule adopts the proposed objective criteria for determining which materials may be mailed at second-class rates, revises the regulations on pages with''novel characteristics,'' and liberalizes the standards governing the mailing of products and product samples. The final rule adds instructions specifying how advertising content is measured and a new definition of public service announcements. The Postal Service has decided not to adopt the proposal to remove the current advertising

limitation on loose supplements to bound publications.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Jerome M. Lease, (202) 268–5188, or Alixe M. Johnson, (312) 765–5487.

SUPPLEMENTARY INFORMATION: The proposed rule discussed in detail efforts on the part of the Postal Service in recent years to adopt standards that satisfy and protect the interests of both the mailing public and the Postal Service regarding the mailing of additional materials, such as supplements, at second-class rates. Changes in technology, such as a publisher's ability to enclose a publication with supplemental materials in a polybag, have led to a renewed debate over the limits to which the standards should allow loose pieces, such as advertising supplements, to be mailed with a publication at second-class rates. Difficulty in consistent interpretation of the current standards has been a major concern for the Postal Service. This difficulty has required the need for additional Postal Service resources for training and mail acceptance and has compromised the ability of the Postal Service to consistently collect the correct postage on second-class mail.

At the behest of the second-class mailing industry, the Postal Service agreed to review the standards governing the contents of second-class mail and solicit public comment on proposed changes. As a result, the Postal Service published the proposed rule on July 20, 1994.

The comment period ended on September 19, 1994, and 27 written comments were received from interested associations, publishers, and individuals. Having given thorough consideration to these comments, the Postal Service is now publishing its final rule. This final rule completely reorganizes and renumbers DMM C200, using a format with four main headings (as described in the proposed rule): 1.0 Permissible Mailpiece Components, 2.0 Impermissible Mailpiece Components, 3.0 Mailpiece Construction, and 4.0 Printed Features. Following this new format, each section and the comments applicable to that section are summarized and discussed below. Affected sections of modules A, E, and P of the DMM are also listed and discussed in detail.

Not specifically discussed below is one comment received that stated general acceptance of the entire proposal. In addition, one comment was received requesting that the Postal Service amend the mailing standards governing carrier route second-class mail. This comment is outside the scope of this rulemaking and is not addressed in the final rule. One commenter noted an error in proposed C200.4.3 referring to an exception in C200.1.4d although no subsection C200.1.4d was shown in the proposal. This omission is corrected in the final rule.

Discussion of Comments

Additional Standards for Second-Class Mail (A010.7.0)

1. Preparation (A010.7.1)

This section, which provides the basic standards for addressing second-class mail, is moved intact from current A200.1.1. No comments were received. The proposal is adopted.

2. Address Labels (A010.7.2)

Current text from A200.1.2 forms this new section. No comments were received. The proposal is adopted.

3. Address Placement (A010.7.3)

Current A200.1.3 is also relocated to these general standards for addressing second-class mail. The section is revised for clarity. No comments were received. The proposal is adopted.

4. Return Address (A010.7.4)

Instructions on mail requiring a return address when it is endorsed ''Return Postage Guaranteed'' are relocated from current A200.1.4. No comments were received. The proposal is adopted.

Permissible Mailpiece Components (C200.1.0)

5. Pages (C200.1.1)

One commenter expressed concern over the proposed language that states, in part, ''no page may have dimensions (when folded, if folded) that exceed the dimensions of the cover of the publication.'' This commenter was concerned about covers that are slightly shorter than the full dimensions of the publication. The Postal Service believes that this commenter's concern has merit. The Postal Service has removed the reference to the cover of the publication. The pertinent phrase now reads ''that exceed the dimensions of the publication.'' Three commenters remarked favorably on proposed language that would allow small amounts of fastening material such as grommets, string, or rubber bands when used to assemble a page. No negative comments were received. The proposed language is adopted with the revision noted above.

6. Parts and Sections (C200.1.2)

Although no substantive change concerning parts or sections was proposed, four commenters offered remarks on the reorganized language that carries forward the standards governing parts and sections. These commenters suggested that the language providing that ''parts or sections produced by someone other than the publisher may not be mailed at second-class rates if these parts or sections are prepared by or for advertisers or if they are provided to the publisher free or at a nominal charge'' is unnecessary and/or confusing and should be eliminated. This language essentially prohibits parts or sections produced for advertising purposes. Such parts or sections have historically been restricted from second-class eligibility and that restriction remains in place. The Postal Service believes that the language in question is useful in making it clear that pieces that are not eligible as supplements may not be prepared as parts or sections in order to qualify for mailing at second-class rates. The language is also useful in providing a clear distinction between parts and sections and other components such as supplements. The proposed language is adopted with a minor revision providing that any postal official, not just the rates and classification service centers, may request publishers to submit contracts entered into with producers of parts or sections.

7. Enclosures at First- or Third-Class Rates (C200.1.3)

This section clarifies the standards governing enclosures at First- or third-class rates. No comments were received. The proposal is adopted.

8. Enclosures at Second-Class Rates (C200.1.4)

Three commenters favored the proposed language clarifying that permissible enclosures allowable at second-class rates are not counted when determining the percentage of advertising in a second-class publication, but instead are included in the total weight of the publication reported on the mailing statement, either PS Form 3541–R or PS Form 3541–N. Another commenter suggested that the section allowing a receipt or request for a subscription to be accompanied by a single sheet of printed matter containing information related exclusively to it (proposed C200.1.4b) be revised to permit two separate sheets rather than one. The revision to DMM language that allowed for a separate single sheet was in

response to industry requests for production flexibility, particularly to allow extended forms to be divided into two separate sheets (e.g., order form and related promotional information). See Postal Bulletin 21848 (August 19, 1993). The Postal Service believes that it is inconsistent with the limited nature of loose enclosures to consider allowing any additional material as enclosures. The section is adopted as proposed.

9. Supplements (C200.1.5)

The proposed rule explained in detail the concerns expressed by many publishers over a course of several years regarding the mailing standard requiring that 25% nonadvertising content be included in all loose supplements to bound second-class publications. Publishers have asserted that this requirement is a burden to the industry and unnecessarily restricts publishers from including desired advertising and other supplemental materials with the host publication. At the urging of those publishers, the Postal Service agreed to propose, for public comment, elimination of the 25% nonadvertising requirement for loose supplements to bound second-class publications. Two commenters offered historical reviews of the regulations concerning second-class supplements to support their position that relaxing the current standard would damage the integrity of second-class mail. These commenters were joined by eight other commenters who also opposed eliminating the 25% nonadvertising requirement. Most often the reason given was that the elimination of this requirement could diminish the distinction between second-class and other classes of mail and eliminate the preferential rate treatment accorded to second-class mail. In one commenter's opinion, postal operations would also be negatively impacted because more publishers would use polywrapping.

On the other hand, seven commenters offered support for the elimination of the 25% nonadvertising requirement, although some expressed concern about the continued viability of second-class mail if safeguards are not taken to monitor second-class mailings strictly to ensure that typical third-class matter not be allowed to be mailed at second-class rates. For the most part, these seven commenters viewed the elimination of the 25% nonadvertising requirement as an improvement and believed that the overall limit on advertising is adequate to protect the integrity of second-class mail.

The comments received on the elimination of the 25% nonadvertising requirement indicate that there is no consensus within the second-class industry on this proposal. Based on this lack of consensus, the Postal Service has concluded that there is insufficient support for a change to the existing standards at this time. Thus, the Postal Service will retain the 25% nonadvertising requirement for loose supplements to bound second-class publications.

Eight commenters supported the retention of the ''Supplement to'' endorsement requirement as a safeguard against the inclusion of third-class material being carried as a supplement. One commenter favored the complete elimination of the ''Supplement to'' endorsement. The Postal Service believes that it is necessary to retain the ''Supplement to'' requirement as an indication that the material was designed for inclusion with the publication. Therefore, this part of the rule is adopted as proposed. Six commenters requested that the Postal Service clarify that supplements to unbound publications do not require the endorsement ''Supplement to'' unless the supplement is included loose outside the publication. This final rule does so.

Three commenters expressed a concern that the proposed definition of supplements would exclude from second-class eligibility special supplemental advertising materials that are bound into a second-class publication. The Postal Service considers such an advertisement to be an integral part of the publication. It is not a ''supplement'' within the meaning of this section. Six other commenters requested that the Postal Service better define the term ''supplement'' to avoid any misunderstanding over its use. Although, as indicated, some publishers use the term ''supplement'' to refer to items that are either bound into a bound publication or included loose with a bound publication, the Postal Service considers the definition in the proposal to be less confusing than prior definitions and a more accurate description of what is acceptable as a supplement. The proposed definition is adopted in the final rule.

One commenter disagreed with the requirement that the external dimensions of a supplement (its length and height) may not exceed the dimensions of the host publication. The commenter suggested that this restriction be dropped if the publication and its supplement or supplements are polybagged. The Postal Service considers the height and length restriction on supplements to be a necessary requirement to aid in recognizing the second-class piece as the host piece to ensure proper handling as a time-value publication. Additionally, this restriction promotes the production of a mailpiece (i.e., host and supplement) that is easier to process. The proposal is adopted.

10. Covers (C200.1.6)

No comments were received concerning the proposed language in this section. The proposal is adopted.

11. Mailing Wrappers (C200.1.7)

One commenter suggested that the definition of a wrapper include the words ''partial wrapper,'' consistent with the use of this term elsewhere in these standards (see C200.3.4). The Postal Service agrees. This wording is added and the proposal is adopted.

12. Attachments (C200.1.8)

The rule as proposed in C200.1.8a allows for stickers of any size and shape to be attached to the cover, protective cover, or mailing wrapper if no portion of the publication name is obscured. One commenter requested that this reference to stickers as attachments be clarified to state that stickers attached to a page using any manufacturing process are allowable. The Postal Service believes that the suggested reference to ''any manufacturing process'' is too broad and all inclusive and that the proposed language is sufficiently clear and accommodating. No other comments were received. This section is adopted as proposed.

13. Printed Additions (C200.1.9)

This section consolidates the list of words, characters, figures, and phrases that may be added to a copy of a second-class publication after it is printed or placed on the protective cover or mailing wrapper. No comments were received. The proposal is adopted.

14. Label Carriers (C200.1.10)

One commenter suggested that a label carrier should be permitted with publications enclosed within polywrap or a partial wrapper (such as a sleeve). The Postal Service believes that there is merit in this suggestion and has amended this section accordingly in the final rule.

Impermissible Components (C200.2.0)

15. General Standard (C200.2.1)

This section describes materials not eligible for second-class rates. No comments were received. The proposal is adopted.

16. Prohibited Matter (C200.2.2)

This section describes those materials that are prohibited from being mailed at

second-class rates whether as a loose supplement, as a bound-in ''preprint,'' or as a run-of-press (ROP) page. One commenter stated that the prohibitions should be applicable to loose supplements only and not to preprints or ROP pages. The Postal Service considers that, by definition, certain materials are not eligible to be mailed at second-class rates. Further, the Postal Service does not find the manner in which matter would be incorporated in a host publication (e.g., as a loose supplement or bound-in advertisement) to be a relevant factor in determining second-class eligibility. The Postal Service believes that the listed elements for prohibited matter should apply to all material offered for entry at the second-class rates.

It was further suggested by a commenter that a USPS number be added to the list of prohibited matter. Although separate second-class publications may be combined under certain specified conditions, the Postal Service believed that it was understood that a second-class publication could not be mailed as a supplement. Seeing some merit in this suggestion, the Postal Service has added a USPS number to the list of prohibited matter (see C200.2.2e) to clarify this point.

Two commenters strongly favored the Postal Service's new list of objective criteria for defining those independent publications that are ineligible to be mailed at second-class rates. One commenter stated that the list of prohibited items does not go far enough to ensure that prohibited independent publications not be allowed to mail at second-class rates, and suggested that the standards be revised to retain a specific prohibition against ''independent publications'' and to treat the list of components as creating a strong presumption that the item is (or is not) an independent publication. The commenter also suggested that the list be expanded to include a separate table of contents, pagination, and masthead as indicators of a publication's possible independence. Eliminating the confusion surrounding what constitutes an independent publication is a major objective of this rulemaking. The Postal Service believes that the proposed rule as written serves to eliminate such confusion and that it is not necessary to adopt requirements more stringent than those in the proposed rule, especially because the 25% nonadvertising requirement for loose supplements to a bound publication has been retained. Therefore, except for the aforementioned amendment, the proposal is adopted.

17. Products (C200.2.3)

The following proposed language concerning products drew numerous comments: ''Printed pages, including oversized pages and calendars, are not considered products if they are not separately distributed or offered for sale, bear the name of the host publication and the issue date, and relate to other advertising or nonadvertising content of the host publication.'' Five commenters objected to this language as being both too vague and too stringent (except for the prohibition against such pages as calendars being offered for sale). Seven commenters were in favor of the Postal Service's position that noncommercially available oversized pages and calendars be permitted to be mailed at second-class rates. The Postal Service intended this proposed revision to allow pages (specifically pages prepared as posters) and calendars that are not commercially sold or offered for sale by the publisher to be included in publications mailed at the second-class rates. The requirement for including the host publication name, issue date, and the relation of the page or calendar to other advertising or nonadvertising content of the host publication was intended to demonstrate the piece's relationship to the host piece, thereby reinforcing its acceptability. To minimize the likelihood of misinterpretation, however, the Postal Service has reworded portions of this section for greater clarity.

One commenter suggested that publishers should be allowed to sell their own reprints and other reader service items to their subscribers without paying a ''postage penalty.'' The Postal Service does not believe that it is appropriate to allow publishers to obtain preferential second-class rates for material that is also designed for separate sale. This view is consistent with the exclusion from eligibility for second-class rates of items bearing a separate price (see C200.2.2a). Three commenters suggested that the word ''Poster'' be included. The Postal Service does not wish to limit oversized pages to posters because other items (e.g., maps, wall charts, and patterns) will also be acceptable at second-class rates if not commercially available or offered for sale.

18. Fourth-Class Mail (C200.2.4)

One commenter suggested that this section be revised to allow second-class matter to be mailed with fourth-class matter at fourth-class rates. However, the proposed section pertains to what may be mailed at second-class rates. The comment goes beyond the scope of this rulemaking. No other comments concerning this portion of the proposal were received. The proposal is adopted as written.

19. Nonprinted Sheets (C200.2.5)

This section makes clear that any matter not formed of printed sheets (except for small amounts of fastening material such as grommets, string, or rubber bands needed to assemble the page [see C200.1.1b]) is not eligible for second-class rates. No comments were received. The proposal is adopted.

Mailpiece Construction (C200.3.0)

20. Bound/Unbound (C200.3.1)

This section defines bound and unbound publications for the purposes of second-class mail. No comments were received. The proposal is adopted.

21. Physical Size (C200.3.2)

This section explains that publications claimed at certain rates may need to comply with other DMM standards regarding size or weight. Additionally, it provides that requester publications must contain at least 24 pages per issue. No comments were received. The proposal is adopted.

22. Without Wrapper (C200.3.3)

One commenter suggested that the tolerance for protective covers (i.e., ¾ inch of the edge opposite the fold or binding) in C200.3.5 be allowed for attachments to covers as well. The Postal Service agrees that the standards governing protective covers and attachments to covers should be consistent and has added language to permit acceptable attachments to covers (as outlined in C200.1.8b) that come within ¾ inch opposite the fold or binding to be mailed without a wrapper. The proposal is adopted with this clarification.

23. With Wrapper (C200.3.4)

No comments were received concerning the proposed language in this section. The proposal is adopted.

24. Protective Cover (C200.3.5)

Two commenters supported the proposed language in C200.3.5, which would allow a protective cover to be up to ¾ inch shorter than the cover of the edge opposite the fold or binding. No negative comments were received. The proposal is adopted.

25. APO/FPO Copies (C200.3.6)

This section requires that any single copy of an unbound publication that includes any enclosures, supplements, or more than one part or section and that is mailed to an APO/FPO address

to be completely enclosed in a wrapper. No comments were received. The proposal is adopted.

26. Sealing (C200.3.7)

This section explains that second-class mail must be prepared so that it can be easily examined. No comments were received. The proposal is adopted.

Printed Features (C200.4.0)

27. Publication Name; Notices (C200.4.1)

This section details how and where the publication name and any notices must be displayed on the publication and any protective cover or mailing wrapper. No comments were received. The proposal is adopted.

28. Endorsements (C200.4.2)

This section pertains to endorsement placement on second-class mailing wrappers. No comments were received. The proposal is adopted.

29. Advertising (C200.4.3)

This section explains that, regardless of location, an advertisement must be prepared as an integral part of the publication. This section also details acceptable preparation standards for advertisements. No comments were received. The proposal is adopted.

30. Marking of Paid Reading Matter (18 U.S.C. 1734) (C200.4.4)

This section on the marking of paid reading matter is carried word for word from the current DMM. No comments were received. The proposal is adopted.

Standards Applicable to All Second-Class Mail (E211)

31. Printed Sheets (E211.3.0)

Two commenters opposed the revision to this section, with one commenter suggesting that the additional language would ''limit the types of publications included within 'printed sheet' and would exclude publications printed on computer-readable plastic or metal sheets from second-class eligibility.'' The language in E211.3.0 was not revised, but taken word for word from current module C, Characteristics and Content, of the DMM. The Postal Service did not propose to make any change in its policy or interpretation concerning what constitutes a printed sheet. Rather, the proposal was solely intended to move this provision to a more appropriate position in module E, Eligibility. Four commenters suggested that the section be revised to include ''plastic'' to describe permissible sheets mailed at second-class rates, and one commenter suggested that the section be revised to include ''a small swatch of cloth, fabric, wallpaper, or plastic.'' The current language does not exclude materials such as plastic, and the Postal Service believes that retention of the words ''or other similar materials'' is preferable to an attempt to set forth a complete list of eligible materials. The language is adopted as proposed.

32. Contents (E211.7.3)

Five commenters suggested that this section be revised to include ''buyers' guides'' as permissible contents to issues of a second-class publication. The Postal Service believes that this is a reasonable suggestion and has revised the wording accordingly. The proposal is adopted with this change.

33. Back Numbers and Reprints (E211.9.0)

This section rewords for clarity current DMM requirements governing back numbers and reprints. No comments were received. The proposal is adopted.

34. Public Service (E211.11.2)

One comment was received concerning the Postal Service's proposed definition of what constitutes a public service announcement, expressing the concern that material on behalf of advertisers might be published as part of a public service announcement. The Postal Service's definition of advertising states, in part, ''articles, items, and notices in the form of reading matter inserted by custom or understanding that textual matter is to be inserted for the advertiser or the advertiser's products in the publication in which a display advertisement appears is 'advertising.' '' The Postal Service believes that this provision is adequate to protect against the commenter's concerns. Therefore, the definition as proposed is adopted.

Mixed Classes (P070)

35. Enclosures in Second-Class Publications (P070.2.0)

This section contains the general rule for postage payment on enclosures in second-class mail. Current P070.2.4, which contains instructions on how to mark mail including First- or third-class enclosures, is moved from module P, Postage and Payment Methods, to the revised module C (see C200.2.8b). No comments were received. The proposal is adopted.

36. Computing Permit Imprint Postage (P070.2.8)

This section clarifies the procedures to follow when computing permit imprint postage. No comments were received. The proposal is adopted.

Basic Information (P200.1.0)

37. Measuring Advertising (P200.1.7)

One commenter asserted that this section is ''self-contradictory'' because some advertising space (e.g., columns as well as borders) is required to be counted twice under these instructions. The proposed standard does not require that advertising be counted twice. Consistent with past practice, this provision provides that the publisher must use the same method to compute the advertising/nonadvertising percentage (e.g., column inches, square inches, or pages) consistently throughout the measurement process. Instructions concerning the measurement of portions of a page or blank borders are only meant to ensure that if an advertising rate is paid for the material, it must be included in the advertising percentage. For example, if an advertiser who pays for a full page of advertising to be measured in column inches chooses to produce a small advertisement surrounded by blank space on a full page that contains 27 column inches, the entire 27 column inches must be claimed at the advertising rate even though a majority of the page is blank space. The Postal Service believes, therefore, that the standard as proposed should be adopted.

Two commenters found the final sentence confusing in the section that reads ''[w]hen two or more sheets or parts thereof are glued together, the surface area of each sheet (front and back) is included when measuring the advertising or nonadvertising portion.'' The Postal Service agrees with this assessment and has changed the language to read ''[w]hen two or more sheets are permanently glued together to form a single sheet, the surface area of the resulting sheet (front and back) is included when measuring the advertising or nonadvertising portion.'' The proposal is adopted with this minor clarification.

List of Subjects in 39 CFR Part 111

Postal Service.

In view of the considerations discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111.1).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Renumber existing Domestic Mail Manual A200.1.0 (including Exhibit 1.3) as A010.7.0; renumber subsections accordingly and revise as shown below; delete remainder of existing A200.

A010 General Information

* * * * *

7.0 ADDITIONAL STANDARDS FOR SECOND-CLASS MAIL

7.1 Preparation

[Insert text of existing A200.1.1.]

7.2 Address Labels

[Insert text of existing A200.1.2.]

7.3 Address Placement

The delivery address must be clearly visible on or through the outside of the mailpiece, whether placed on a label or directly on the host publication, a component, or the mailing wrapper. If placed on the mailing wrapper, the address must be on a flat side, not on a fold (see Exhibit 7.3). If a polybag is used, the address must not appear on a component that rotates within the bag, and the address must remain visible throughout the addressed component's range of motion.

7.4 Return Address

The return address must appear on any mailing wrapper that is endorsed ''Return Postage Guaranteed.''

3. Replace current Domestic Mail Manual C200, Second-Class Mail, with the following:

C200 Second-Class Mail

1.0 PERMISSIBLE MAILPIECE COMPONENTS

1.1 Pages

Pages are the printed sheets forming the publication or one of the mailpiece's components, bearing advertising, nonadvertising, or both, including pages having textual and graphic matter (see E211), blank spaces for writing or marking, and material to be completed or used by the reader. A minor portion of the pages in a second-class mailpiece may have unusual characteristics, such as a different size, shape, or construction, or portions that may be wholly or partially separable; and pages prepared for folding out. No page may have dimensions (when folded, if folded) that exceed the dimensions of the publication. Pages are also subject to these standards:

a. A detachable coupon, application, or order form must relate directly to advertising or nonadvertising matter printed on the page of which it is a part or to which it is attached.

b. Multilayer pages (including pages formed by sheets glued together and pages that have unusual shapes, such as cutouts, movable flaps, or ''pop-ups'') may include small amounts of fastening material such as grommets, string, or rubber bands as needed to assemble the page. Multilayer pages may also be formed as pouches or pockets but may contain only permissible loose enclosures (see 1.4) or other securely affixed permissible components.

c. Multiple pages may be held together by staples or other means separate from and in addition to the regular binding of the publication.

d. Oversized pages may be used for illustrations, charts, maps, and other advertising and nonadvertising content.

1.2 Parts and Sections

Parts and sections are pages (subject to 1.1) that are physically separate subdivisions of the publication, as identified by the publisher. Each part or section must show the publication name, and the number of parts or sections in the issue must be stated on the cover of the first part or section. Parts or sections produced by someone other than the publisher may not be mailed at second-class rates if these parts or sections are prepared by or for advertisers or if they are provided to the publisher free or at a nominal charge. On request, publishers must submit contracts entered into with producers of parts or sections.

1.3 Enclosures at First- or Third-Class Rates

Matter to be paid at the applicable First- or third-class rate may be enclosed in a second-class mailpiece subject to these conditions:

a. The total weight of all enclosed third-class matter must be less than 16 ounces.

b. Postage and fee payment is subject to P070. A permit imprint that may appear on a First- or third-class enclosure must not be visible when the mailpiece is prepared for mailing except as provided under P070.

c. When enclosing nonincidental First- or any third-class mail, combination envelopes or containers with separate parts for the two classes of mail may be used. If both the sender's and addressee's names and addresses are not on both pieces, the sender's name and address must be placed on one piece and the addressee's name and address on the other. Combination containers with inseparable parts may bear the names and addresses on only one part.

d. The applicable ''First-Class Mail Enclosed'' or ''Third-Class Mail Enclosed'' marking must be placed on or in the host publication if it contains a nonincidental First- or any third-class enclosure. If placed on the outer wrapper, polybag, envelope, or cover of the host publication, the marking must be set in type no smaller than any used in the required ''POSTMASTER: Send change of address * * *'' statement. If placed in the identification statement, the marking must meet the applicable standards. The marking must not be on or in copies not accompanied by a First- or third-class enclosure unless additional information is provided under the applicable postage payment standards in P070.

1.4 Enclosures at Second-Class Rates

Only the following material may be included loose as an enclosure in a second-class mailpiece and be paid at second-class rates, subject to the corresponding conditions:

a. An incidental First-Class piece must be closely related but secondary to the second-class publication with which it is enclosed and must consist of matter that, if mailed separately, would require First-Class postage. Examples of an incidental First-Class enclosure are a bill for the publication, a statement of account for past publication purchases, or a personal message or greeting included with the publication.

b. A receipt, request, or order for a subscription may be printed or written; prepared as a card or envelope, including business reply, or as a combination form for the host and one or more second-class publications issued by the same publisher; arranged to include a coin receptacle; and inserted in an envelope within the publication. The receipt or request may be part of or accompanied by a single sheet of printed matter containing information related exclusively to a receipt or request or order for a subscription to the host second-class publication (or a combination of the host and other second-class publications of the same publisher) if that printed matter does not advertise, promote, or offer for sale other products or services.

c. A card or form for the recipient's use in providing address correction information to the publisher may be printed or written; prepared as a card or envelope, including business reply, or as a combination form for two or more second-class publications issued by the same publisher; inserted in an envelope that is attached to, bound in, or loose within the publication; or prepared as a detachable part of another permissible enclosure.

d. Enclosures listed in 1.4b and 1.4c are not counted when determining the percentage of advertising in the publication, but they are included in the total weight of the publication reported on the mailing statement. If the publication otherwise consists entirely of nonadvertising matter, an incidental First-Class enclosure as described in 1.4a may be treated as nonadvertising matter. In all other cases, an incidental First-Class enclosure is considered part of the advertising portion of the publication.

1.5 Supplements

A supplement is one or more pages (subject to 1.1) formed by one or more printed sheets that are not bound into a publication. A supplement may be devoted to a single topic and may contain material different from that in the host publication. The external dimensions of a supplement (i.e., its length and height) may not exceed those of the host publication. Supplements are also subject to these conditions as applicable:

a. A loose supplement to a bound second-class publication must contain at least 25% nonadvertising matter and bear the endorsement ''Supplement to'' followed by the name of the publication or the publisher. A bound publication with one or more supplements must be enclosed in a wrapper under 3.4. If a supplement to a bound publication is formed of more than one sheet, all sheets making up the supplement must be bound together.

b. A supplement to an unbound publication must be combined with and inserted within the publication under 3.3. If the supplement is included loose outside the unbound publication, the publication and its supplement must be enclosed in a wrapper or envelope under 3.4 and the supplement must bear the endorsement ''Supplement to'' followed by the name of the publication or publisher.

1.6 Covers

A cover may be placed on the outside of a second-class publication. A protective cover is an additional cover placed around the outside of a publication; preparation is subject to 3.5. Advertising, nonadvertising, or both may be printed on the cover or protective cover. The cover and protective cover on a publication are included when measuring advertising percentage. Nothing may be attached to the cover or protective cover except as permitted under 1.8.

1.7 Mailing Wrappers

A mailing wrapper is an envelope, sleeve, partial wrapper, or polywrap used to enclose the mailpiece. Advertising may be printed on the mailing wrapper and is included when measuring advertising percentage. Nothing may be attached to the mailing wrapper except as permitted under 1.8.

1.8 Attachments

The following may be attached to a page, cover, protective cover, or mailing wrapper of a publication:

a. Stickers of any size and shape. If stickers are attached to the cover, protective cover, or mailing wrapper, no portion of the publication name may be obscured.

b. Material allowed as a loose enclosure described in 1.3 or 1.4. When nonincidental First- and/or any third-class enclosures (see 1.3) are attached, the marking ''First-Class'' or ''Letter Enclosed'' must be on a First-Class attachment; ''Third-Class,'' on a third-class attachment.

1.9 Printed Additions

Only the following may be printed on a copy of a second-class publication after it is printed or placed on its cover, protective cover, or mailing wrapper:

a. The name and address of the intended recipient or of the publisher or sender.

b. The printed title of the publication and its place of publication.

c. The expiration date of the subscription.

d. Requests for address-correction information from the addressee.

e. The words ''Sample Copy'' (on a sample), ''Marked Copy'' (when the copy contains a marked item or article), or ''Return Postage Guaranteed'' (when the copy is to be returned to the sender if undeliverable as addressed).

f. The number of copies enclosed (on the outside of a package) or a package count (e.g., ''2 of 4'') (on a package wrapper).

g. Corrections of typographical errors or a mark, except by written or printed words, to call attention to a word or passage.

h. Printed messages not required to be mailed as First-Class Mail or Express Mail.

1.10 Label Carriers

A label carrier is a single unfolded, uncreased sheet of card or paper stock, securely affixed to the cover of the publication or large enough so that it does not rotate inside the wrapper (as defined in 1.7) or cover the publication title (if placed over the front cover), that is used to carry the delivery address for the mailpiece, subject to these conditions:

a. The label carrier must bear the title of the second-class publication; the second-class imprint or ''Second-Class'' endorsement in the upper right corner of the address side (unless ''Second-Class'' is printed on the address side of the polybag); and the address to which the mailpiece can be returned if undeliverable (if endorsed ''Return Postage Guaranteed'').

b. If the address remains clearly visible, the label carrier may also bear a request for address correction from the addressee; information for requesting or subscribing to the publication; or a subscription or request form.

c. As applicable, the label carrier may show the endorsement ''First-Class Mail Enclosed'' or ''Third-Class Mail Enclosed'' or the permit imprint used to pay postage for the First- or third-class enclosure if that permit imprint is below the second-class imprint or the endorsement ''Second-Class.''

d. Other printed information, whether advertising or nonadvertising, is permitted only on the back of the label carrier and is subject to measurement and postage payment accordingly. A single line of text calling attention to information on the reverse may be placed on the front of the label carrier. If any information on the reverse of the label carrier is advertising, the line of text on the front is also treated as advertising.

2.0 IMPERMISSIBLE COMPONENTS

2.1 General Standard

Regardless of preparation or characteristics, or whether otherwise meeting the standards in 1.0, the materials described in 2.2 through 2.5 are not eligible for second-class rates.

2.2 Prohibited Matter

Material that contains any one of the following printed items or that is referred to in a component of the second-class mailpiece (by the use of one of these items) is ineligible to be mailed at second-class rates:

a. A separate price or subscription instructions different from those of the host publication.

b. The word ''Catalog.''

c. A First-, third-, or fourth-class permit imprint.

d. An ISBN (International Standard Book Number).

e. An ISSN (International Standard Serial Number) or USPS number different from that of the host publication.

2.3 Products

Products may not be mailed at second-class rates. Examples include stationery (such as pads of paper or blank printed forms); cassettes; floppy disks; merchandise; envelopes containing enclosures, other than receipts, orders for subscriptions, and incidental First-Class matter; and wall, desk, and blank calendars. Printed pages, including oversized pages and calendars, are not considered products if they are not offered for sale.

2.4 Fourth-Class Mail

Fourth-class mail may not be combined with a second-class publication.

2.5 Nonprinted Sheets

Any matter not formed of printed sheets (except as permitted under 1.1b) is not eligible for second-class rates.

3.0 MAILPIECE CONSTRUCTION

3.1 Bound/Unbound

Publications may be prepared in either a bound or unbound form, with or without wrappers unless required by 3.6. A bound publication is a publication in which pages are securely held together by two or more staples, spiral binding, glue, stitching, or other permanent fastening. All other publications are unbound, including folded multisheet and single-sheet publications and those in which pages are loose and collated (''nested'') or in which pages are held together by a single staple.

3.2 Physical Size

Standards for size or weight may apply to publications claimed at certain rates. Requester publications must contain at least 24 pages per issue.

3.3 Without Wrapper

When the mailpiece does not have a mailing wrapper, all the components of an unbound publication must be combined with and inserted inside the publication.

Only enclosures mailable at second-class rates under 1.4 may be included loose inside a bound unwrapped publication. An enclosure under 1.3 or 1.4 may be securely attached on the outside of an unwrapped publication along the bound edge if it does not exceed any dimension of the cover of the publication and comes within 3/4 inch of the edge opposite the fold or binding.

3.4 With Wrapper

Except as provided in 1.5, when the mailpiece is completely enclosed in a mailing wrapper, there are no restrictions on where the components may be located within that wrapper. When a sleeve or other partial wrapper is used, the components must be secured so that they do not fall out during handling. Bound publications carrying loose supplements or prepared in physically separate parts or sections must be either completely enclosed in an envelope, plastic wrapper (polybag), or paper wrapper or inserted within a sleeve so that the component parts do not become separated while in the mail.

3.5 Protective Cover

If the mailpiece is not completely enclosed in a mailing wrapper, any protective cover must cover both the front and back of the host publication and extend to within at least 3/4 inch of the edge opposite the fold or binding. If the host publication is bound, the protective cover must be permanently attached to the publication.

3.6 APO/FPO Copies

Any single copy of an unbound publication that includes any enclosures, supplements, or more than one part or section and that is mailed to an APO/FPO address must be completely enclosed in a mailing wrapper.

3.7 Sealing

Second-class mail must be prepared so that it can be easily examined. The mailing of publications at second-class postage rates represents consent by the sender to USPS inspection of the contents whether loose or inserted in envelopes, wrappers, or other covers. Mailers who want to ensure that publications are not opened for postal inspection must pay First-Class rates and mark such mail accordingly.

4.0 PRINTED FEATURES

4.1 Publication Name; Notices

The publication name must be displayed prominently on the publication, and the name must be visible through or displayed prominently on any protective cover or mailing wrapper. The publication name, followed immediately by the USPS publication number (or ISSN if one has been assigned), and the mailing address to which undeliverable copies or change-of-address notices are to be sent may be shown in the upper left corner of the address side of a mailing wrapper or directly on the outside of the host publication if it can be read when the mailing wrapper is in place. The publication number includes an alpha prefix and is to be within parentheses, e.g., THE NATIONAL WEEKLY (ISSN 9876–543X) or THE COMMUNITY (USPS 123–456).

4.2 Endorsements

Mailing wrappers that completely enclose the host publication must bear the words ''Second-Class'' in the upper right corner of the address area. If a clear plastic wrapper is used, those words may appear anywhere on the address side of the wrapper or the topmost item inside.

4.3 Advertising

Advertising (as defined in E211) may be printed on the pages of any component of a publication, subject to the corresponding standards. Regardless of location, an advertisement must be prepared as an integral part of the publication. Except for advertisements in supplements and on printed matter included as part of a receipt or order (or request) for a subscription, all advertisements in a bound publication must be permanently attached. Except as provided in 1.4d, all advertising must be included in the advertising portion of the issue measured under P200. Different advertising may occupy the same space in different editions of the same issue.

4.4 Marking of Paid Reading Matter (18 USC 1734)

If a valuable consideration is paid, accepted, or promised for the publication or any editorial or other reading matter in a second-class publication, that matter must be plainly marked ''advertisement'' by the publisher. When a single item of paid editorial or other reading matter occupies more than one page, it need only be marked ''advertisement'' on the first page. The word ''advertisement'' may be included in a statement that explains why the material is marked ''advertisement.'' Such a statement must be prominent on the first page of the material and the word ''advertisement'' in the statement must be in bold or italicized print or otherwise emphasized so that it can be plainly seen. Editors or publishers who print such matter without plainly marking it ''advertisement'' are subject to a fine of not more than $500.

4. Revise Domestic Mail Manual E211, Standards Applicable to All Second-Class Mail, to read as follows:

E211 Standards Applicable to All Second-Class Mail

* * * * *

3.0 PRINTED SHEETS

[Insert the following after the first sentence:]

* * * Sheets may be die cut or deckle-edged and may be made of paper, cellophane, foil, or other similar materials. * * *

* * * * *

7.0 ISSUES

* * * * *

7.3 Contents

Issues may include annual reports, directories, buyers'' guides, lists, and similar material prepared as part of the contents if copies of these issues bear the publication name and are included in the regular subscription price.

* * * * *

9.0 BACK NUMBERS AND REPRINTS

[Combine 9.1 and 9.2; revise as follows:]

Second-class rates may be paid on mailings of back issues (if the publication's second-class entry is in effect). Reprint copies of daily publications printed within 1 week of the issue date and reprint copies of other than daily publications printed before the next issue is printed are also mailable at second-class rates. Other mailings of reprint or back issues, including permanently bound reprint or back issues, are subject to the applicable First-, third-, or fourth-class rates.

* * * * *

11.0 ADVERTISING STANDARDS

* * * * *

11.2 Public Service

Public service announcements are announcements for which no valuable consideration is received by the publisher, which do not include any matter related to the business interests of the publisher, and which promote programs, activities, or services of federal, state, or local governments or of nonprofit organizations, or matters generally regarded as in the public interest. Public service announcements are not treated as advertising.

* * * * *

5. Revise Domestic Mail Manual P070, Mixed Classes, to read as follows:

P070 Mixed Classes

* * * * *

2.0 ENCLOSURES IN SECOND-CLASS PUBLICATIONS

* * * * *

[Delete existing 2.4; renumber succeeding sections accordingly.]

* * * * *

2.8 Computing Permit Imprint Postage

[Renumber as 2.7 and insert the following after the first sentence:]

* * * The enclosure is eligible for the rate for its class of mail that is most comparable to the presort and destination discounts that apply to the second-class host piece. For example, a third-class enclosure is eligible for the SCF entry discount if the publication is deposited at the destinating SCF. When more than one enclosure of the same class of mail is enclosed with a publication, the enclosures are treated as a single enclosure for computing postage. * * *

* * * * *

6. In Domestic Mail Manual P200, Second-Class Mail, renumber current 1.7 through 1.11 as 1.8 through 1.12, respectively; delete current 2.3; renumber 2.4 and 2.5 as 2.3 and 2.4, respectively; add new 1.7 to read as follows:

P200 Second-Class Mail

1.0 BASIC INFORMATION

* * * * *

1.7 Measuring Advertising

The total advertising and nonadvertising portions may be determined by column inches, square inches, pages, or by another recognized unit of measure if the same unit of measure is used for both portions. One full page of advertising must equal one full page of nonadvertising regardless of the amount of blank space between each advertisement or nonadvertising article on a page. If measured in column inches, nonadvertising inches are determined by subtracting the total measured advertising inches from the total column inches of the publication. A blank page, portion of a page, or blank border or margin is counted as advertising if consideration was received for the whole page, the blank portion, or the blank border or margin. The border of a page is otherwise considered neither advertising nor nonadvertising and is not measured, but it is included in the total weight of the publication for purposes of postage calculation. When measuring nonrectangular sheets, the measurement is based on the smallest rectangle that could contain the irregular sheet; exact measurement is not attempted. When two or more sheets are permanently glued together to form a single sheet, the surface area of the resulting sheet (front and back) is included when measuring the advertising or nonadvertising portion.

* * * * *

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published in the **Federal Register** as provided by 39 CFR 111.3.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–4333 Filed 2–22–95; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9

OMB Approvals Under the Paperwork Reduction Act

CFR Correction

In Title 40 of the Code of Federal Regulations, parts 1 to 51, revised as of July 1, 1994, in § 9.1, in the Standards of Performance for New Stationary Sources table, the OMB control number for the entry ''60.703–60.705'' is corrected to read ''2060–0269''.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43–CFR Public Land Order 7116

[AK–932–1430–01; AA–58374]

Public Land Order No. 7104, Correction; Partial Revocation of Executive Order dated October 8, 1914, as Modified; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will correct an error in the legal description in Public Land Order No. 7104.

EFFECTIVE DATE: February 23, 1995.

FOR FURTHER INFORMATION CONTACT: Sue A. Wolf, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

The legal description, as stated in Public Land Order No. 7104, 59 FR 62609, December 6, 1994, is hereby corrected to show the lands following the word ''except'' are now being revoked. The changes are as follows:

On page 62609, third column, delete lines 4 through 8. In line 9, delete the words ''discharge; except'' and in line 16, delete the word ''except''.

Dated: February 6, 1995.

Bob Armstrong

Assistant Secretary of the Interior.

[FR Doc. 95–4345 Filed 2–22–95; 8:45 am]

BILLING CODE 4310–JA–P

Office of the Secretary

43 CFR Part 2

Records and Testimony; Freedom of Information Act

CFR Correction

In title 43 of the Code of Federal Regulations, parts 1 to 999, revised as of October 1, 1994, the text for appendix B to part 2 was inadvertently omitted.

On page 35, following the text of appendix A, appendix B should read as follows:

Appendix B to Part 2—Bureaus and Offices of the Department of the Interior

1. *Bureaus and Offices of the Department of the Interior.* (The address for all bureaus and offices, unless otherwise indicated, is U.S. Department of the Interior, Washington, DC 20240.)

Secretary of the Interior, Office of the Secretary
Office of Administrtative Services (for Office of the Secretary components)
Assistant Secretary, Territorial and International Affairs
Commissioner, Bureau of Indian Affairs
Director, U.S. Fish and Wildlife Service
Director, National Park Service, P.O. Box 37127, Washington, DC, 20013–7127
Commissioner, Bureau of Reclamation
Director, Bureau of Land Management
Director, Minerals Management Service
Director, Bureau of Mines, Columbia Plaza, 2401 E Street NW., Washington, DC 20241
Director, Geological Survey, The National Center, Reston, VA 22092
Director, Office of Surface Mining Reclamation and Enforcement
Director, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203
Inspector General, Office of Inspector General
Solicitor, Office of the Solicitor

2. *Freedom of Information Officers of the Department of the Interior.* (The address for all Freedom of Information Officers, unless otherwise indicated, is U.S. Department of the Interior, Washington, DC 20240.)

Director, Office of Administrative Services (for Office of the Secretary components), U.S. Department of the Interior
Director, Office of Administration, Bureau of Indian Affairs
Freedom of Information Act Officer, Bureau of Land Management
Assistant Director, Finance and Management, Bureau of Mines, Columbia Plaza, 2401 E Street NW., Washington, DC 20241
Freedom of Information Act Officer, Bureau of Reclamation
Chief, Division of Media Information, National Park Service
Chief, Regulatory Development and Issues Management, Office of Surface Mining Reclamation and Enforcement
Chief, Directives Management Branch, Policy and Directives Management, U.S. Fish and Wildlife Service,
Chief, Paperwork Management Unit, U.S. Geological Survey, The National Center, Reston, VA 22092
Freedom of Information Act Officer, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, VA 22091
Information Officer, Office of Inspector General

3. *Office of Hearings and Appeals*—Field Offices:

Administrative Law Judge, 710 Locust St., Federal Building, Suite 116, Knoxville, TN 37902
Administrative Law Judges, 6432 Federal Bldg., Salt Lake City, UT 84138
Administrative Law Judge, 2901 N. Central Ave., Suite 955, Phoenix, AZ 85012–2739
Administrative Law Judge, 2020 Hurley Way, Suite 150, Sacramento, CA 95825
Administrative Law Judges, Bishop Henry Whipple Federal Building, 1 Federal Drive, rooms 674 and 688, Fort Snelling, MN 55111
Administrative Law Judge, 1700 Louisiana N.E., Suite 220, Albuquerque, NM 87110
Administrative Law Judge, 215 Dean A. McGee Ave., room 507, Oklahoma City, OK 73102
Administrative Law Judge (Indian Probate), Federal Bldg. & Courthouse, 515 9th St., Suite 201, Rapid City, SD 57701
Administrative Law Judge (Indian Probate), Federal Bldg. & Courthouse, Rm. 3329, 316 N. 26th St., Billings, MT 59101

4. *Office of the Solicitor*—Field Offices.

Regional Solicitors

Regional Solicitor, U.S. Department of the Interior, 701 C Street, Anchorage, AK 99513
Regional Solicitor, U.S. Department of the Interior, Room E–2753, 2800 Cottage Way, Sacramento, CA 95825
Regional Solicitor, U.S. Department of the Interior, P.O. Box 25007, Denver Federal Center, Denver, CO 80225
Regional Solicitor, U.S. Department of the Interior, Richard B. Russell Federal Building, 75 Spring Street, SW., Suite 1328, Atlanta, GA 30303
Regional Solicitor, U.S. Department of the Interior, Suite 612, One Gateway Center, Newton Corner, MA 02158
Regional Solicitor, U.S. Department of the Interior, Room 3068, Page Belcher Federal Building, 333 West 4th Street, Tulsa, OK 74103
Regional Solicitor, U.S. Department of the Interior, Lloyd 500 Building, Suite 607, 500 N.E. Multnomah, Portland, OR 97232
Regional Solicitor, U.S. Department of the Interior, Suite 6201, Federal Building, 125 South State Street, Salt Lake City, UT 84138

Field Solicitors

Field Solicitor, U.S. Department of the Interior, Suite 150, 505 North Second St., Phoenix, AZ 85004
Field Solicitor, U.S. Department of the Interior, P.O. Box M, Window Rock, AZ 86515
Field Solicitor, U.S. Department of the Interior, Box 36064, 450 Golden Gate Avenue, Room 14126, San Francisco, CA 94102
Field Solicitor, U.S. Department of the Interior, Box 020, Federal Building, U.S. Courthouse, 550 West Fort Street, Boise, ID 83724
Field Solicitor, U.S. Department of the Interior, 686 Federal Building, Twin Cities, MN 55111
Field Solicitor, U.S. Department of the Interior, Room 5431, Federal Building, 316 N. 26th Street, Billings, MT 59101
Field Solicitor, U.S. Department of the Interior, P.O. Box 1042, Santa Fe, NM 87504
Field Solicitor, U.S. Department of the Interior, Osage Agency, Grandview Avenue, Pawhuska, OK 74056
Field Solicitor, U.S. Department of the Interior, Suite 502J, U.S. Post Office and Courthouse, Pittsburgh, PA 15219
Field Solicitor, U.S. Department of the Interior, P.O. Box 15006, Knoxville, TN 37901
Field Solicitor, U.S. Department of the Interior, 1100 South Fillmore, Amarillo, TX 79101
Field Solicitor, U.S. Department of the Interior, 603 Morris Street, 2nd Floor, Charleston, WV 25301.

[52 FR 45593, Nov. 30, 1987, as amended at 53 FR 16128, May 5, 1988; 58 FR 48973, Sept. 21, 1993]

BILLING CODE 1505-01-D

Bureau of Reclamation

43 CFR Part 426

[RIN 1006–AA33]

Administrative Fee Provision of the Acreage Limitation Rules and Regulations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rule.

SUMMARY: The purposes of this rule are to improve compliance with the form submission requirements of the Reclamation Reform Act of 1982 (RRA) and the Acreage Limitation Rules and Regulations in order to ensure that irrigation water is delivered only to eligible landholders (landowners and lessees), and to recoup administrative costs that the Bureau of Reclamation (Reclamation) incurs due to noncompliance with the RRA reporting requirements. The rule adds a section that imposes fees on districts when they do not meet statutory and regulatory requirements for submitting RRA forms.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Alonzo Knapp, Manager, Reclamation Law, Contracts, and Repayment Office, Bureau of Reclamation, Attention: D–5200, PO Box 25007, Denver, CO 80225, Telephone: (303) 236–1061, extension 224.

SUPPLEMENTARY INFORMATION: The RRA limits the amount of owned land on which a landholder can receive irrigation water and places a limit on the amount of leased land that can receive such water at a subsidized water rate. In order to ensure compliance with the ownership limitations and the limitations on subsidies, certain statutory and regulatory requirements must be met.

One of these requirements applies to all landholders whose landholdings in districts subject to the acreage limitation provisions total more than 40 acres. These landholders must complete RRA certification or reporting forms before receiving irrigation water. The forms must be completed annually and submitted to each district in which the landholder receives irrigation water. Landholders must disclose on the forms all the land they own and lease directly or indirectly in Reclamation projects that are subject to the acreage limitation provisions. The forms must be resubmitted whenever a landholding change occurs. If a landholding does not change, a verification form to that effect must be submitted each year.

While the RRA and the Acreage Limitation Rules and Regulations (43 CFR Part 426) set limits on the receipt of irrigation water and establish requirements that must be met in order to receive such water, the current rules do not address situations in which water has been delivered to landholders who failed to meet all the requirements and thus, were ineligible to receive the water. These situations were not addressed because the RRA does not contemplate such deliveries.

Districts, rather than Reclamation, generally control the deliveries of irrigation water to landholders. Under their contracts with the United States, districts are legally obligated not to deliver irrigation water to landholders who do not meet the eligibility requirements of the RRA.

With respect to the form requirements discussed previously, § 426.10(k) specifically states that failure by landholders to submit the required certification or reporting form(s) will result in loss of eligibility to receive irrigation water. However, during its water district reviews, Reclamation has found that in some instances, districts have delivered irrigation water to landholders who had failed to meet the form requirements and other requirements of the law and rules.

In 1988, Reclamation adopted a compensation policy whereby full-cost charges were assessed for irrigation water that had been delivered to ineligible landholders. This policy is based on the legal theory of conversion in that when irrigation water is delivered to ineligible recipients, it is an unlawful conversion of the Government's property interest in the water, and the Government is therefore entitled to be compensated for the conversion. Since Reclamation cannot recover the water that was delivered to the ineligible recipients, it has been Reclamation's position that it is entitled to recover the value of its property interest in that water and that the full-cost water rate prescribed in the RRA is an appropriate measure of the water's value.

In 1993, Reclamation decided to review certain agency policies, one of which was the full-cost compensation policy for RRA form violations. The Commissioner of Reclamation asked the Department of the Interior's Office of the Solicitor whether Reclamation is permitted to impose charges other than full-cost compensation charges for such violations. In a July 23, 1993, memorandum, the Associate Solicitor, Division of Energy and Resources, advised the Commissioner that several laws ''* * * authorize Reclamation to promulgate regulations necessary to carry out its mission, including those which would assess fees. This means that Reclamation may, by regulation, impose administrative fees or other charges designed to recover the costs it incurs for processing improperly submitted forms or for collecting forms from those who have not submitted them.'' The Associate Solicitor further concluded that ''* * * Reclamation has considerable discretion in determining how to calculate those costs, so long as the charges imposed bear a demonstrable relationship to the costs incurred by the agency and have the intended effect of improving compliance with the Act and achieving congressional objectives.''

Based on the Associate Solicitor's conclusions, Reclamation decided to amend the Acreage Limitation Rules and Regulations by adding a provision to impose assessments to recover its administrative costs when landholders do not comply with the RRA form requirements. Reclamation notified the public of its intent in the **Federal Register** (see 58 FR 59427) Nov. 9, 1993, and published the proposed rule at 59 FR 33251, June 28, 1994.

Summary of Amendment to the Rules

The amendment to the Acreage Limitation Rules and Regulations provides that Reclamation will assess a district for administrative costs when RRA forms are not submitted before receipt of irrigation water. The assessment will be applied on a yearly basis in each district for each landholder that failed to comply with the form requirements. A district will also be assessed for administrative costs when corrections to RRA forms are not provided within a 60-day grace period. The assessment will be applied on a yearly basis for each landholder for which corrected forms are not provided within the grace period. These assessments for administrative costs will replace the full-cost charges that Reclamation has assessed in the past for form violations under its compensation policy. The administrative cost assessments will not be subject to the underpayment interest component set forth in § 426.23.

The assessment for administrative costs shall be set periodically on the basis of the average costs associated with performing activities to address RRA form violations. The assessment reflects the average direct and indirect costs incurred Reclamation-wide for: (1) Communicating with district representatives or landholders to obtain missing or corrected forms, (2) assisting landholders in completing certification or reporting forms for the period of time they were not in compliance with the form requirements, (3) performing onsite visits to determine if irrigation water deliveries have been terminated to landholders that failed to submit the required forms, and (4) performing other activities necessary to address form violations. Initially the amount of the assessment will be $260. The amount is based on a review of the costs Reclamation incurred in 1991, 1992, and 1993 performing activities to address RRA form violations. The assessment will be reviewed at least once every 5 years and, if needed, will be adjusted to reflect new cost data.

As with other assessments, districts will be held responsible for payment of the assessments because of their contractual obligation with the United States. Charges collected through the imposition of assessments for administrative costs will be credited to the general fund of the Treasury as miscellaneous receipts.

Payment of the assessments set forth in the proposed rule does not exempt districts and landholders from the form requirements of the RRA or Acreage Limitation Rules and Regulations.

Districts are not permitted to continue water deliveries to ineligible recipients simply because they are willing to pay the assessments. Reclamation will take all necessary actions to prevent the delivery of irrigation water to ineligible land.

Comments About the Proposed Rule

During the public comment period from June 28, 1994, through August 29, 1994, Reclamation received 48 responses on the proposed rule. The responses were submitted by or on behalf of 40 districts, 7 water user associations, 5 landholders, one Federal agency, and one U. S. Congressman.

Approximately 80 percent of the respondents either approved of the proposed rule entirely or in part. Many of these respondents stated that the administrative cost assessment will provide a reasonable and equitable means for addressing RRA form violations and will be a vast improvement over Reclamation's past policy of assessing compensation charges for nonsubmission of RRA forms.

Approximately 20 percent of the respondents were opposed to the rule, mainly because they think the administrative cost assessments are unnecessary or excessive. Several respondents objected to the rule because they do not think Reclamation has the legal authority to impose such assessments.

General Comments

Following are the general comments received about the proposed rule and our response to each:

Comment 1: Two respondents commented that the rule should make it clear that the administrative cost assessment will be the sole economic ramification for RRA form violations.

Response: The respondent's comment has not been accommodated because we think such language would be superfluous. First, the main purpose of the rule is to set forth the charges that will be assessed in cases of RRA form violations, which it does. In addition, it was stated previously in this preamble that the administrative cost assessment will replace the compensation charges Reclamation previously assessed for form violations. This statement clearly sets forth Reclamation's intent with regard to assessments for form violations.

Comment 2: Four respondents commented that the rule should clearly state that the administrative cost assessments will be applied prospectively only.

Response: The rule will be applied prospectively. The rule will be effective March 27, 1995. This date is printed at the beginning of this preamble, under **EFFECTIVE DATE.** We do not think it is necessary to repeat the effective date in the rule itself.

Comment 3: Nineteen respondents commented that the administrative cost assessments should be applied retrospectively to past RRA form violations instead of the compensation rate.

Response: As stated in the response to the preceding comment, the rule will be applied prospectively. However, Reclamation is currently considering a plan whereby issued and pending compensation bills for RRA form violations would be reviewed using the dollar amount in § 426.24(e) as the basis for possible action.

Comment 4: One respondent commented that Reclamation needs to define ''$260 per form violation'' and asked how many RRA forms are required of a farmer in a single year.

Response: We assume the phrase the respondent is referring to is from a statement in the preamble of the proposed rule. The complete sentence reads as follows: ''The assessment for administrative costs is initially set at $260 per form violation.'' The sentence in question is a general statement, the main purpose of which was to make the reader aware of the amount of the administrative cost assessment; i.e., $260. Sections 426.24(a) and (b) describe how the assessment will be applied to form nonsubmissions and form errors.

Regarding the respondent's question, a landholder generally needs to submit just one RRA form annually; however, in some cases, additional forms may be required. Regardless of the number of forms required, the $260 assessment for forms nonsubmission will be based on a landholder's entire RRA form effort for the water year in question, for each district in which land is held. For example, if Landholder A held land in District B and received irrigation water in 1995 despite the fact that he/she submitted neither of two RRA forms required for that water year, the assessment would be $260, not $520.

Comment 5: One respondent commented that the proposed rule did not adequately comply with the Regulatory Flexibility Act because it did not explain why the rule would not have a significant effect on a substantial number of small entities.

Response: The explanatory language referred to by the respondent has been added to the preamble of this final rule. By doing so, Reclamation believes it is in full compliance with the requirements of the Regulatory Flexibility Act.

Comment 6: Five respondents questioned Reclamation's authority to impose administrative cost assessments. Several of the respondents commented that the assessments are actually penalties, and since the RRA does not include a penalty provision, the assessments cannot be charged.

Response: Reclamation is authorized to promulgate regulations and to collect all data necessary to carry out its mission. 43 U.S.C. § 373; 43 U.S.C. 390 ww(c); 31 U.S.C. § 9701.

Reclamation determines eligibility to receive water, in large part, based on the information provided on RRA certification and reporting forms. Section 426.10(k) of the regulations requires that failure by landholders to submit the required certification or reporting form(s) will result in loss of eligibility to receive water.

In issuing the administrative fee rule, Reclamation has properly exercised its authority to promulgate regulations for ensuring the delivery of irrigation water only to eligible landholders. The fee is intended to improve compliance with RRA certification requirements and ensure that irrigation water is delivered only to those landholders eligible under the RRA and to recoup certain administrative costs Reclamation incurs due to noncompliance with RRA reporting requirements.

Reclamation, as a Federal agency, also may impose remedial measures. Courts have recognized an agency's authority to impose measures if they reasonably relate to the purpose of the enabling statute and further congressional objectives. *Gold Kist, Inc. v. Department*, 741 F.2d 344, 348 (11th Cir. 1984); *West v. Bergland*, 611 F.2d 710, 725 (8th Cir. 1980); *United States v. Frame*, 885 F.2d 1119 (3d Cir. 1989).

The $260 charge provided for in this rule is an administrative fee designed to improve compliance with the acreage limitation requirements and to recover Reclamation's costs in helping landholders to meet the eligibility requirements of the Act. As such, the fee is remedial in nature rather than punitive.

In addition, Reclamation possesses authority to ''* * * prescribe regulations establishing the charge for a service or thing of value provided by the agency.'' 31 U.S.C. § 9701. As discussed above, under Reclamation law, any landholder who received irrigation water prior to submitting the requisite certification forms failed to meet the criteria which Congress established for eligibility. When Reclamation becomes

aware of the violation and undertakes a variety of additional activities to obtain the forms and the necessary information, Reclamation is helping that landholder establish eligibility for receiving the ''service or thing of value''—irrigation water. Certainly, these additional Reclamation activities are valuable services the agency provides districts and landholders who would otherwise not be in compliance with applicable Federal laws, regulations and contracts.

Finally, it should be noted that Reclamation's authority to promulgate these regulations was not diminished by the court's decision in *Orange Cove Irrigation District v. United States*, 28 Fed. Cl. 790 (1993). That case did not involve the issue of Reclamation's authority to assess administrative fees or to issue rules. The plaintiff in that case, Orange Cove Irrigation District (OCID), brought suit against the United States to recover money it paid to Reclamation at the time OCID renewed its water service contract in 1988. Reclamation had assessed the district full-cost charges for water delivered in 1987 to certain district landholders before they submitted RRA certification forms. On August 12, 1993, the court rendered its decision in favor of OCID. The case was resolved on the narrow issue of breach of contract and should only be read in light of facts specific to that controversy.

Although not necessary to its holding, the Court also determined that the assessment of full cost constituted an unauthorized penalty under the facts of this case and that the United States had not violated any notice and rulemaking requirements of the Administrative Procedure Act.

Comment 7: Twenty-one respondents commented that the rule should include a provision to increase the 40-acre exemption threshold for RRA form requirements. Ten of the respondents suggested the threshold be increased to 320 acres; six of them suggested a 160-acre threshold. The remainder were not specific as to what the revised threshold should be. Many of the respondents stated that an increased threshold would help to decrease the cost and burden placed on districts and landholders and yet provide adequate means for proper enforcement of the RRA. Several respondents also stated that Reclamation ensured water users in the past that the 40-acre threshold would be increased. One respondent commented that the 40-acre threshold should not be reduced.

Response: As stated in the preamble to the proposed rule, the 40-acre threshold issue is outside the scope of this rulemaking. This rulemaking action was limited to administrative cost assessments in an effort to expedite the process. Reclamation is currently engaged in a rulemaking action in which we will review the Acreage Limitation Rules and Regulations in their entirety. The exemption threshold will be addressed in that rulemaking. The proposed rule for that rulemaking action is scheduled to be published in February 1995.

Comment 8: One respondent asked why the Government tells landholders the amount of land they may farm in order to make a living.

Response: The RRA does not limit the amount of land landholders may farm. It does, however, limit the amount of owned land on which any one landholder can receive irrigation water from Reclamation projects and the amount of leased land that can receive such water at a rate that is less than the full-cost rate. The reason for this is to ensure that the benefits from the Reclamation program are widely distributed rather than concentrated in the hands of a few landholders.

Specific Comments

The following comments refer to specific provisions within the proposed rule and are followed by Reclamation's response to each.

Section 426.24(a)—Forms Submittal

Comment 1: Eleven respondents commented that the rule needs to define the terms ''direct landholder'' and ''indirect landholder,'' as used in §§ 426.24(a) and (b). Several of the respondents stated that the words ''direct'' and ''indirect'' should be deleted because the term ''landholder'' is sufficient by itself.

Response: The terms ''direct landholder'' and ''indirect landholder'' were included in the proposed rule so readers would be aware that in applying the administrative cost assessment to legal entities, Reclamation will treat compliance by an entity independently from compliance by its part owners or beneficiaries. For example, if three shareholders in a corporation submit their RRA forms, but the entity and the remaining two shareholders do not, the administrative cost assessment would be applied to the entity and each of the two shareholders that were not in compliance, for a total of $780. Reclamation has decided to clarify §§ 426.24(a) and (b) by deleting the words ''direct'' and ''indirect'' and adding a sentence to address application of the administrative cost assessment when legal entities are involved as described above.

Comment 2: One respondent commented that if an entity completes the required RRA form, but one or more of the part owners does not, this should be treated as a form correction and not failure to file a form.

Response: Part owners of legal entities are required to file forms separately from those of the entities in which they have an interest. The reason for this is that the acreage limitation entitlements and other requirements of Reclamation law apply to part owners in the same manner as they apply to any other landholder. Since the part owners may own or lease land in addition to the land that is attributable to them through interest in the entity, it is not sufficient for the entity's form to be submitted in order to determine if all acreage limitation entitlements have been met. Therefore, if a part owner does not submit the required RRA forms, this is not viewed as a correctable error on the part of the entity, but rather as nonsubmission of forms by the part owner. Thus, in the case presented by the respondent, the $260 administrative cost assessment would be applied for each part owner that received irrigation water without having submitted the required forms. However, an additional assessment would not be applied as a result of the entity's actions, because it was in compliance with the RRA form requirements.

Comment 3: One respondent requested that the following statement in the preamble to the June 28, 1994, proposed rule be clarified: ''A district will be assessed for administrative costs when RRA forms are not submitted prior to receipt of irrigation water.'' The respondent questioned whether this statement referred to the receipt of irrigation water to landowners or to the district.

Response: The statement refers to the receipt of irrigation water by landholders subject to the RRA form requirements. We believe the language in § 426.24(a) is clear on this point; therefore, the rule was not revised to accommodate the comment.

Section 426.24(b)—Forms Corrections

Comment 1: Four respondents commented about the 45-day grace period provided for form corrections. One respondent thought landholders/districts should be given a longer period of time in which to correct RRA forms before imposition of the $260 assessment. Three of the landholders thought the 45-day grace period was fair.

Response: This section has been revised to increase the length of the grace period from 45 days to 60 days.

The grace period was lengthened to account for any additional time districts and landholders may need for mailing the forms in question. This section was also revised to clarify that the 60-day grace period will be based on calendar days rather than working days.

Comment 2: Three respondents commented that the $260 assessment for administrative costs is excessive for cases where RRA forms are not corrected.

Response: Reclamation believes the $260 assessment is reasonable to cover the additional costs it incurs to obtain corrections on RRA forms. In addition, any financial hardships can be avoided because the assessment will not be applied if the corrected forms are submitted within the 60-day grace period.

Comment 3: One respondent understood the provision to mean that $260 would be assessed for every error Reclamation identified on an RRA form.

Response: The assessment will be applied on a yearly basis for each landholder for which corrected forms are not submitted within the grace period. Therefore, if Landholder A did not submit timely corrections for four errors on his 1995 forms, the assessment would be $260, not $1,040. The application of the $260 assessment for form corrections is explained in § 426.24(b); therefore, no revisions were made to accommodate this comment.

Comment 4: Three respondents commented that mistakes occur on RRA forms because the forms are very complicated and are revised annually. Therefore, they were opposed to assessments for form errors.

Response: The assessment for form corrections will not be applied immediately when Reclamation identifies errors on landholder forms. Landholders/districts have 60 days in which to submit corrected forms before the $260 assessment will be charged. To the extent possible, Reclamation is also willing to provide assistance if help is needed in completing RRA forms. Because of the preceding, we find the rule to be reasonable, even if the forms are perceived by some to be difficult to complete.

Comment 5: Six respondents commented that the $260 assessment for RRA form corrections should not be charged for inadvertent errors. Four of the respondents thought the assessment was appropriate only in cases involving fraud.

Response: Reclamation realizes that inadvertent errors will sometimes be made on RRA forms. On the other hand, these errors cannot be overlooked because complete and accurate information is needed in order to determine if a landholder is within applicable entitlements and meets other requirements of the RRA. Section 426.24(b) resolves both the potential for inadvertent errors and the need for accurate information by providing landholders a 60-day grace period in which to submit corrected forms before imposition of the $260 assessment. This assessment is not appropriate in cases involving fraud because the consequences for fraudulent actions are set forth in 18 U.S.C. 1001. These consequences, as related to the RRA forms, are discussed in § 426.10(j).

Comment 6: Two respondents did not think the assessment would help reduce the number of RRA form problems. One of the respondents thought the assessment would only cause antagonism. The other respondent stated that the fee would be too high in cases where the errors were inadvertent and too low in cases of fraud.

Response: Reclamation believes the assessment will provide an equitable method for addressing errors on RRA forms while recovering the incremental costs it incurs to address such problems. We also think the assessment is reasonable, and in most cases, will provide an incentive for landholders and districts to complete their forms properly in future water years. The applicability of the administrative cost assessment to fraudulent actions is discussed in the response to the preceding comment.

Comment 7: Three respondents maintained that the assessment for RRA form corrections should not be a flat fee, but should be based on the severity of the error.

Response: All the information landholders are required to disclose on the forms is needed for Reclamation to have adequate information to determine if landholders are in compliance with the acreage limitations and enforce other requirements of the RRA. Therefore, all omissions and errors identified by Reclamation are considered to be of equal severity. It must also be remembered that even in those cases where errors are perceived to be insignificant, the $260 assessment will not be charged if corrections are made within the grace period.

Comment 8: One respondent asked if the assessment for administrative costs will be applied to RRA form errors as well as to the nonsubmission of such forms.

Response: Section 426.24(a) provides for the imposition of the $260 administrative cost assessment in cases of form nonsubmission. Section 426.24(b) provides for the assessment in cases of form errors. However, in the case of errors, the assessment will not be charged if corrected forms are submitted within the grace period. The assessment in § 426.24(a) will be applied independently from the assessment in § 426.24(b). Sections 426.24(a) and (b) were revised to clarify this point.

Comment 9: One respondent commented that the assessment for form corrections should be applied to landholders for whom corrected forms are not provided within the grace period only if irrigation water has been received by the landholder.

Response: Reclamation agrees with this comment and § 426.24(b) has been revised accordingly. However, Reclamation will proceed to prepare the bill for the administrative cost assessment after expiration of the grace period. If the landholder did not in fact receive irrigation water during the year in question, the district will need to provide evidence to this effect before the assessment will be retracted.

Section 426.24(c)—Parties Responsible for Paying Assessments

Comment 1: Twenty respondents disagreed with this provision. For legal reasons and from the standpoint of equity, they think Reclamation should collect the payment of administrative cost assessments from landholders rather than districts.

Response: This comment has not been accommodated. Reclamation contracts almost exclusively with districts rather than individual water users. In general, districts agree in their contracts that the delivery of irrigation water is subject to Reclamation law as amended and supplemented. Based on the preceding, Reclamation will hold districts ultimately responsible for payment of the administrative cost assessments. However, § 426.24(c) does not preclude districts from collecting the assessments from the involved landholders.

Section 426.24(e)—Assessment for Administrative Costs

Comment 1: One respondent thought that it was unfair to impose the same fee on all districts in every instance of noncompliance.

Response: The type of violations for which the assessments will be charged are the same in all districts. Therefore, we believe it is fair to establish Reclamation's average costs and impose the same assessment westwide. In fact, landholders and districts have frequently requested that such a uniform fee be established.

Comment 2: One respondent suggested that the bill for each

landholder be based on an hourly rate that is consistent Reclamationwide.

Response: This comment has not been accommodated. Reclamation analyzed the costs it incurred in the past to address RRA form violations and has determined it is fair and reasonable to charge an average assessment that is uniform in all districts.

Comment 3: Two respondents commented that the $260 assessment does not accurately reflect Reclamation's costs to bring landholders into compliance because Reclamation only identifies the violations; the district performs all the other work.

Response: Reclamation acknowledges that districts frequently take actions to bring landholders into compliance. However, in most cases, Reclamation also performs additional activities to address noncompliance problems. Examples of such activities were listed previously in this preamble. Districts may not be aware of these activities because they are not always conducted at the site of the district office.

Comment 4: One respondent did not think it was fair that Reclamation can adjust the administrative cost assessment every 5 years without input from the districts.

Response: The basic methodology for determining the assessment was set forth in the proposed rule, which was open for public comment. The methodology was explained again previously in this preamble. Since adjustments will generally only be made to reflect new cost data and a notice of the revised assessment will be published in the **Federal Register**, we do not think another comment period is necessary before the adjustments are made.

Comment 5: One respondent questioned whether the costs will continually increase until they are equal to the compensation rate.

Response: Reclamation's goal is to establish fair and reasonable charges to recover the costs it incurs to address RRA form violations. The process will be reexamined should the assessments ever reach a point where this goal can no longer be achieved.

Comment 6: One respondent commented that the administrative cost assessment should not be based on 1991, 1992, and 1993 costs because Reclamation keeps changing the RRA forms, which is confusing to landholders.

Response: The changes that were made to the RRA forms during 1991, 1992, and 1993 were relatively minor. Reclamation finds no evidence to support a conclusion that the noncompliance level increased because of form revisions.

Comment 7: One respondent commented that the rule is too vague with regard to the basis for the administrative cost assessment.

Response: Reclamation agrees that the rule does not provide a detailed description of the basis for the administrative cost assessment. However, it would be inappropriate to include the complete cost analysis in either the rule or the preamble. In the final rule, the description has been deleted from § 426.24(e). However, it has been retained in the preamble so readers will be aware of the general basis for the $260 assessment.

Comment 8: One respondent wanted clarification as to whether the administrative cost assessment is a combination of a penalty and costs incurred by Reclamation.

Response: The assessment is based strictly on Reclamation's costs and is remedial in nature. It does not include a penalty factor.

Comment 9: One respondent commented that overhead costs should not be included in the administrative cost assessment.

Response: Reclamation thinks it is reasonable to recover all additional costs incurred to address RRA form violations. Overhead costs are part of these costs; therefore, they have been included in the assessment.

Comment 10: One respondent commented that the administrative cost assessment should not include the cost of Reclamation's audits, because that is the Government's job.

Response: The assessment does not include costs for reviewing a district's compliance with the RRA or audits of individuals. It includes only those additional costs Reclamation incurs to address RRA form violations after they have been found.

Comment 11: One respondent commented that some districts are not always able to terminate deliveries of irrigation water to just those landholders that have not submitted the required RRA forms. The reason for this is that several landholders, some of whom may be in compliance, are located on the same ditch with the same delivery point.

Response: Despite the circumstances described by the respondent, districts are not permitted to deliver irrigation water to landholders that are not in compliance with the RRA form requirements. In the case described, districts may need to take extra measures to encourage all landholders located on the same ditch to submit the required forms. To the extent possible, Reclamation will work with districts to help resolve such situations.

Comment 12: Two respondents stated that Reclamation is not permitted to terminate water deliveries in cases where landholders fail to submit the required forms. The respondents maintain that landholders must first be provided with a notice or hearing before such deliveries can be terminated.

Response: These comments were not accommodated. Reclamation believes it is permitted to terminate water deliveries in such cases because: (1) Pursuant to the requirements in §§ 206, 224(c), and 228 of the RRA and § 426.10(e) of the Acreage Limitation Rules and Regulations, landholders are required to submit RRA forms as a condition for receipt of irrigation water. (2) The consequence for noncompliance with this requirement has been clearly set forth in § 426.10(k) since the Acreage Limitation Rules and Regulations were first promulgated in 1983. That is, failure to submit the required forms results in loss of eligibility to receive irrigation water by the landholder.

As stated previously, Reclamation is currently engaged in a rulemaking action in which we will review the Acreage Limitation Rules and Regulations in their entirety. As part of that rulemaking action, we will consider the comment regarding notices or hearings prior to termination of water deliveries.

Executive Order 12866

This rule does not constitute a significant regulatory action under Executive Order 12866, and therefore does not require review by the Office of Management and Budget.

National Environmental Policy Act

Neither an environmental assessment nor an environmental impact statement is required for this rulemaking because, pursuant to 40 CFR 1508.4 and Departmental Manual part 516 DM 6, Appendix 9, § 9.4.A.1, this action is categorically excluded from the provisions of the National Environmental Policy Act.

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget as is required by 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1006–0005 and 1006–0006.

Small Entity Flexibility Analysis

Reclamation identified approximately 500 landholders with RRA form violations during the 1990, 1991, and

1992 water years. This represents 1.1 percent of the 45,000 landholders subject to the RRA form requirements and 0.2 percent of the 230,000 landholders in districts subject to the RRA. The violations were found in 60 different districts, which is approximately 20 percent of the districts subject to the ownership and full-cost pricing provisions of the RRA and about 10 percent of the total districts that have entered contracts with the United States for receipt of irrigation water.

The administrative cost assessment of $260 will in most cases be less than the full-cost charges that Reclamation previously assessed for RRA form violations pursuant to its compensation policy. Therefore, in comparison, the assessment will generally have a positive economic effect on most landholders and districts involved with form violations.

Based on the preceding, Reclamation has certified that the rule will not have a significant economic effect on a substantial number of small entities. Small entities also are able to avoid all negative effects by complying with the form requirements of the RRA and Acreage Limitation Rules and Regulations.

Civil Justice Reform

The Department of the Interior has certified to the Office of Management and Budget that this proposed rule meets the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

Authorship

This proposed rule was prepared by staff in the Reclamation Law, Contracts, and Repayment Office, D–5200, Bureau of Reclamation, Denver, Colorado.

List of Subjects in 43 CFR Part 426

Administrative practice and procedure, Irrigation, Reclamation, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, 43 CFR Part 426 is amended as follows:

Dated: January 11, 1995.

Elizabeth Ann Rieke,

Assistant Secretary—Water and Science.

PART 426—RULES AND REGULATIONS FOR PROJECTS GOVERNED BY FEDERAL RECLAMATION LAW

1. The authority citation for Part 426 is revised to read as follows:

Authority: 43 U.S.C. 371–383; 43 U.S.C. 390aa–390zz–1; 31 U.S.C. 9701.

2. Section 426.24 is redesignated as § 426.25, and new section 426.24 is added to read as follows:

§ 426.24 Assessments of administrative costs.

(a) *Forms submittal.* A district will be assessed for the administrative costs described in paragraph (e) of this section when irrigation water has been delivered to landholders that did not submit certification or reporting forms before receiving irrigation water in accordance with § 426.10(e). The assessment will be applied on a yearly basis in each district for each landholder that received irrigation water but failed to comply with § 426.10(e). In applying the assessment to legal entities, compliance by an entity will be treated independently from compliance by its part owners or beneficiaries. The assessment in this paragraph will be applied independently of the assessment set forth in paragraph (b) of this section.

(b) *Forms corrections.* Where corrections are needed on certification or reporting forms, the requirements of § 426.10(a) will be deemed to have been met so long as the district provides corrected forms to Reclamation within 60 calendar days of the date of Reclamation's written request for corrections. A district will be assessed for the administrative costs described in paragraph (e) of this section when corrected forms are not provided within this 60-day time period. The assessment will be applied on a yearly basis in each district for each landholder that received irrigation water and for whom corrected forms are not provided within the applicable 60-day time period. In applying the assessment to legal entities, compliance by an entity will be treated independently from compliance by its part owners or beneficiaries. The assessment in this paragraph will be applied independently of the assessment set forth in paragraph (a) of this section.

(c) *Parties responsible for paying assessments.* Districts shall be responsible for payment of the assessments described in paragraphs (a) and (b) of this section.

(d) *Disposition of assessments.* The administrative costs assessed and collected under paragraphs (a) and (b) of this section will be deposited to the general fund of the United States Treasury as miscellaneous receipts.

(e) *Amount of assessment.* The assessment for administrative costs shall be set periodically on the basis of the average costs associated with performing activities to address certification and reporting form violations. Initially the amount shall be $260. This assessment for administrative costs will be reviewed at least once every 5 years and adjusted, if needed, to reflect new cost data. Notice of the revised assessment for administrative costs will be published in the **Federal Register** in December of the year the data is reviewed.

[FR Doc. 95–4416 Filed 2–22–95; 8:45 am]

BILLING CODE –94–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7611]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard

areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibles—Emergency Program			
Alabama: Clayhatchee, town of, Dale County	010415	January 6, 1995.	
Georgia: McDonough, city of, Henry County	130342	.....do	December 28, 1979.
North Carolina:			
Huntersville, town of, Mecklenburg County	370478	January 11, 1995.	
Matthews, town of, Mecklenburg County	370310	.....do.	
Texas: Point Blank, city of, San Jacinto County	481528	January 13, 1995	May 1, 1979.
Georgia:			
Butts County, unincorporated areas	130518	January 24, 1995.	
Jasper County, unincorporated areas	130519	.....do.	
Oklahoma: Harmon County, unincorporated areas	400545	January 27, 1995.	
North Dakota:			
Ramsey County, unincorporated areas	380092	January 31, 1995.	
Benson County, unincorporated areas	380682	.....do.	
Amenia, city of, Cass County	380019	.....do.	
New Eligibles—Regular Program			
Mississippi: Flora, town of, Madison County[1]	280399	January 31, 1995	April 15, 1994.
Reinstatements—Regular Program			
Indiana: Steuben County, unincorporated area	180243	August 26, 1975, Emerg.; July 3, 1986, Reg.; October 4, 1994, Susp.; January 11, 1995, Rein.	July 3, 1986.
Illinois: Barrington Hills, village of, Cook, Kane, McHenry and Lake Counties	170058	April 3, 1975, Emerg.; August 10, 1979, Reg.; January 5, 1995, Susp.; January 13, 1995, Rein.	August 10, 1979.
North Carolina: North Wilkesboro, town of, Wilkes County	370257	December 28, 1973, Emerg.; February 15, 1978, Reg.; February 20, 1978, Susp.; January 31, 1995, Rein.	February 15, 1978.

State/location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
Georgia: Clayton, city of, Rabun County	130157	July 25, 1975, Emerg.; August 13, 1984, With.; January 13, 1988, Rein.; January 13, 1988, Reg.; January 19, 1994, Susp.; January 31, 1995, Rein.	June 19, 1989.
Regular Program Conversions			
Region III:			
Pennsylvania: Allentown, city of, Lehigh County	420585	January 5, 1995, suspension withdrawn.	January 5, 1995.
Virginia:			
Dumfries, town of, Prince William County	510120	.....do	Do.
Manassas, city of, Independent city	510122	.....do	Do.
Manassas Park, city of, Independent city	510123	.....do	Do.
Occoquan, town of, Prince William County	510124	.....do	Do.
Prince William County, unincorporated areas	510119	.....do	Do.
Kentucky:			
Beaver Dam, town of, Ohio County	210184	January 19, 1995, Suspension Withdrawn.	September 29, 1989.
Henderson County, unincorporated areas	210286	.....do	February 6, 1991.
Lewisburg, city of, Logan County	210149	.....do	June 17, 1977.
Loyall, city of, Harlan County	210589	.....do	December 11, 1981.
Maysville, city of, Mason County	210168	.....do	March 7, 1980.
Murray, city of, Calloway County	210033	.....do	April 1, 1980.
Region IV:			
Arkansas: Bentonville, city of, Benton County	050012	.....do	September 18, 1991.
Region VII:			
Nebraska:			
Bellevue, city of, Sarpy County	310191	.....do	January 19, 1995.
La Vista, city of, Sarpy County	310192	.....do	Do.
Papillion, city of, Sarpy County	315275	.....do	Do.
Sarpy County, unincorporated areas	310190	.....do	Do.
Springfield, city of, Sarpy County	310194	.....do	Do.

NOTE: The Town of Batesburg, South Carolina has merged with the Town of Leesville to become one governmental jurisdiction. The new name is the ''Town of Batesburg-Leesville.'' Community number 450130 will be maintained for the new community.

[1] The Town of Flora has no special flood hazard areas (NSFHA). The town is a part of Madison County's countywide Flood Insurance Rate Map (FIRM) issued 4–15–94.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension, Rein.—Reinstatement.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Issued: February 16, 1995.

Frank H. Thomas,

Deputy Associate Director, Mitigation Directorate.

[FR Doc. 95–4414 Filed 2–22–95; 8:45 am]

BILLING CODE 6718–21–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 21, and 94

[WT Docket No. 94–148, DA 95–140]

Terrestrial Microwave Fixed Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; extension of time.

SUMMARY: The Order provides additional time to respond to the revision of the Commission's rules regarding the establishment of a new part for terrestrial microwave fixed radio services. This action was in response to a request from the Telecommunications Industry Association (TIA). It will allow ITA and others to prepare better reponses to the complex changes proposed to the microwave rules.

DATES: Comments are due on or before February 17, 1995 and reply comments are due on or before March 17, 1995.

FOR FURTHER INFORMATION CONTACT: Robert James Federal Communications Commission Washington, D.C. (202) 418–0680.

SUPPLEMENTARY INFORMATION:

Order

Adopted: January 31, 1995.

Released: February 2, 1995.

By the Chief, Wireless Telecommunications Bureau:

1. Before the Bureau is a request for additional time within which to respond to the Commission's *Notice of Proposed Rulemaking* (NPRM) in WT Docket No. 94–148, filed by Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association (TIA). In support of this request, TIA states that the proposed changes are complex. As the principal industry association representing microwave manufacturers, it needs time to coordinate among its members to ensure that the Association's comments reflect industry consensus.

Additionally, it notes, the *Notice of Proposed Rulemaking* was released during the year-end holidays, which reduced the amount of available time for review.

2. For the foregoing reasons, It Is Hereby Ordered that the time within which to file comments in this proceeding is extended to February 17, 1995 and the deadline for filing reply comments is extended to March 17, 1995.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 2

Radio.

47 CFR Part 21

Communications equipment.

47 CFR Part 94

Communications equipment.

Federal Communications Commission.

Robert H. McNamara,

Acting Chief, Private Radio Division, Wireless Telecommunications Bureau.

[FR Doc. 95–4389 Filed 2–22–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 950209046–5046–01; I.D. 021495B]

RIN 0648–AG82

Pacific Coast Groundfish Fishery; Modification of Nontrawl Sablefish Season

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule.

SUMMARY: By a separate notice in the **Federal Register**, NMFS will publish proposed regulations that would establish a new season structure for the nontrawl sablefish component of the Pacific Coast Groundfish (PCG) limited entry fishery. The proposed new regular season would begin at noon August 6 each year. Under the regulations currently governing the fishery, the PCG nontrawl sablefish regular season could start as early as February 26, 1995, preceded by a 72–hour closure beginning on February 23. This early season is unacceptable to the industry for a number of reasons, particularly safety, but also because at that time the quality and market value of sablefish is lower and there are alternative fishing opportunities. Accordingly, NMFS is temporarily amending the current regulations to prevent the PCG nontrawl sablefish regular season from opening pending the completion of the above-mentioned rulemaking to establish a new season structure for the fishery.

EFFECTIVE DATE: This rule is effective from February 17, 1995, through September 1, 1995.

ADDRESSES: Information relevant to this temporary rule is available for public review during business hours at the Office of the Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070; and at the Office of the Director, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) can be obtained from the Pacific Fishery Management Council (Council), 2000 SW First Avenue, Suite 420, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney R. McInnis at 310–980–4030.

SUPPLEMENTARY INFORMATION:

By a separate notice in the **Federal Register**, NMFS, based on a recommendation of the Council, will propose regulations that would establish a new season structure for the nontrawl sablefish component of the PCG limited entry fishery. The proposed new regular season would begin at noon August 6 each year. Both the limited entry and open-access fisheries would be required to remove all nontrawl gear from the water for the 72–hour period just prior to the start of the regular season for the limited entry fishery, except that baited pot gear may be deployed 24 hours prior to the start.

Under section IV.E.(3)(c) of the current annual specifications for the fishery, the limited entry sector of the nontrawl sablefish fishery is subject to a 300-lb (136 kg) daily trip limit when N. of 36°00′00″ N. lat. and a 350–lb (159 kg) daily trip limit when S. of 36°00′00″ N. lat. (60 FR 2331, 2343, January 9, 1995). Under the current regulations (50 CFR 663.23(b)(2)(i)), the opening of the PCG nontrawl sablefish regular season is linked to the first nontrawl sablefish season opening in the Gulf of Alaska (GOA), which normally occurs in May. Under the new GOA Individual Fishing Quota (IFQ) program, which is governed by 50 CFR part 676, the Alaska season could start as early as March 1, 1995, causing the PCG fishery to open on February 26, 1995, preceded by a 72–hour closure beginning on February 23. This early season is unacceptable to the industry for a number of reasons, particularly safety, but also because at that time the quality and market value of sablefish is lower and there are alternative fishing opportunities.

Accordingly, NMFS is temporarily amending the current regulations to prevent the PCG nontrawl sablefish regular season from opening pending the completion of the above-mentioned rulemaking to establish a new season structure for the fishery.

Classification

The Assistant Administrator for Fisheries, NOAA, (AA), has determined that this temporary rule is consistent with the Pacific Coast Groundfish Fishery Management Plan, the Magnuson Fishery Conservation and Management Act, and other applicable law.

This temporary rule has been determined to be not significant for the purposes of E.O. 12866.

The Council prepared an Environmental Assessment (EA) for the proposed establishment of a new season structure for the nontrawl sablefish component of the PCG limited entry fishery.

On the basis of the EA, the AA concluded that there would be no significant impact on the environment.

NMFS is taking this action under the abbreviated rulemaking authority of the FMP (see 50 CFR part 663, Appendix III.B.3). This action and the proposed establishment of a new season structure was discussed, and was subject to public comment and scrutiny during Council meetings in August and October, 1994. The date the season would have opened under the existing rule is still uncertain, but the opening is tied to the opening date of the nontrawl sablefish season in the GOA and would probably be February 26. A late February opening is not desirable for several reasons, including potentially unsafe fishing conditions due to rough winter weather along much of the coast.

Accordingly, the AA has determined under 5 U.S.C. 553(b)(B) that it is unnecessary and contrary to the public interest to provide prior notice in the **Federal Register** and to provide an opportunity for public comment on preventing the PCG nontrawl sablefish regular season from opening pending the completion of the above mentioned rulemaking to establish a new season structure for the fishery.

For the same reasons, the AA also finds good cause under 5 U.S.C.

553(d)(3) not to delay the effectiveness of this temporary rule for 30 days. Otherwise the regular season could open as early as February 26, 1995, preceded by a 72–hour closure beginning on February 23.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 16, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 663 is temporarily amended effective February 17, 1995, through September 1, 1995, as follows:

PART 663—PACIFIC COAST GROUNDFISH FISHERY

l. The authority citation for part 663 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 663.23, paragraphs (b)(2)(i) through (b)(2)(iv) are suspended, and paragraph (b)(2)(v) is added to read as follows:

§ 663.23 Catch restrictions.

* * * * *

(b) * * *

(2) * * *

(v) The regular season for the nontrawl sablefish fishery is postponed pending the establishment of a new season structure. Trip landing, frequency, and/or size limits may be imposed under paragraph (c) of this section.

* * * * *

[FR Doc. 95–4445 Filed 2–17–95; 3:02 pm]

BILLING CODE 3510–22–F

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50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 021795B]

Groundfish of the Bering Sea and Aleutian Islands Area; Offshore Component Pollock in the Bering Sea Subarea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock by vessels catching pollock for processing by the offshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first allowance of the pollock total allowable catch (TAC) for the offshore component in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), February 21, 1995, until 12 noon, A.l.t., August 15, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii), the first seasonal allowance of pollock for vessels catching pollock for processing by the offshore component in the BS was established by the final groundfish specifications (60 FR 8479, February 14, 1995), as 310,781 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined in accordance with § 675.20(a)(8), that the first allowance of pollock TAC for the offshore component in the BS soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 300,781 mt with consideration that 10,000 mt will be taken as incidental catch in directed fishing for other species in the BS. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the BS.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 17, 1995.

Alfred Bilik,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–4446 Filed 2–17–95; 3:15 pm]

BILLING CODE 3510–22–F

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50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 021795A]

Groundfish of the Bering Sea and Aleutian Islands Area; Rock Sole/Flathead Sole/''Other Flatfish''

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal bycatch allowance of Pacific halibut apportioned to the trawl rock sole/flathead sole/''other flatfish'' fishery category in the BSAI.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), February 21, 1995, until 12 noon, A.l.t., March 30, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The first seasonal bycatch allowance of Pacific halibut for the BSAI trawl rock sole/flathead sole/''other flatfish'' fishery category, which is defined at § 675.21(b)(1)(iii)(B)(2), was established as 428 metric tons (mt) by the 1995 initial specifications (60 FR 8479, February 14, 1995).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the first seasonal bycatch allowance of Pacific halibut apportioned to the trawl rock sole/flathead sole/''other flatfish'' fishery in the BSAI has been caught. Therefore, NMFS is prohibiting directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the BSAI.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 17, 1995.

Alfred Bilik,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–4447 Filed 2–17–95; 3:15 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 36
Thursday, February 23, 1995

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

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Parts 210 and 220

National School Lunch Program and School Breakfast Program: Compliance With the Dietary Guidelines for Americans and Food-Based Menu Systems; Correction

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Consumer Service is correcting errors in the preamble and in the regulatory text to the proposed rule published on January 27, 1995, (60 FR 5513) entitled National School Lunch Program and School Breakfast Program: Compliance with the *Dietary Guidelines for Americans* and Food-Based Menu Systems.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302; by telephone at 703–305–2620.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 1995, the Department published a proposed rule to implement provisions of the Healthy Meals for Healthy Americans Act of 1994, requiring that a variety of meal planning approaches be made available to school food authorities, including ''food-based menu systems,'' and that school meals comply with the *Dietary Guidelines for Americans,* as the Department also proposed on that date. However, the proposed rule as published contains errors in the preamble and regulatory text that need correction. In addition, readers should note that a portion of Appendix A-Regulatory Cost/Benefit Assessment: Food-Based Menu Systems, reflects an early draft of the proposal. The discussion of burden was based on a provision that contained recordkeeping/reporting requirements that the Department subsequently decided not to propose.

Correction of Publication

Accordingly, the publication on January 27, 1995, is corrected as follows:

1. On page 5517, first column, in the first paragraph under the heading ''*Grains/Breads*'', the third to last sentence is corrected to read ''For children in grades 7 through 12, the number of servings would be increased from 8 (10 recommended) to 15 *per week*.''

2. On page 5518, in the second column, in line 11 of the first full paragraph, the reference to ''June 10, 1995,'' is corrected to read ''June 10, 1994.''

§ 220.8 [Corrected]

3. On page 5521, in the chart entitled ''Minimum Quantities:''

a. in the column entitled ''Ages 1–2,'' the reference in the second line to ''½ ounce plus'' is removed;

b. in the column entitled ''Preschool,'' the reference in the second line to ''½ ounce plus'' is removed;

c. in the column entitled ''Grades K–12,'' the reference in the second line to ''1 ounce plus'' is removed;

d. in the column entitled ''Grades 7–12,'' the reference in the second line to ''2 ounces plus'' is removed, the reference to ''(4 ounces)'' in line 9 is corrected to read ''(2 ounces),'' and the word ''ounce'' in line 10 is corrected to read ''serving.''

Dated: February 16, 1995.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 95–4404 Filed 2–22–95; 8:45 am]

BILLING CODE 3410–3–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ASO–9]

Proposed Amendment to Class E Airspace; Milledgeville, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Milledgeville, GA. A LOC RWY 28 Standard Instrument Approach Procedure (SIAP) has been developed for Baldwin County Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for instrument flight rules (IRF) operations at the airport.

DATES: Comments must be received on or before March 30, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 95–ASO–9, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Michael J. Powderly, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–ASO–9.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will

be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace area at Milledgeville, GA. A LOC RWY 28 SIAP has been developed for Baldwin County Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate this SIAP and for IFR operations at the airport. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9B dated July 18, 1994 and effective September 16, 1994, which is incorporated by reference in CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria for the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994 and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 feet Above the Surface of the Earth.

* * * * *

ASO GA E5 Milledgeville, GA [Revised]

Baldwin County Airport, GA
(Lat. 33°09′15″ N, long. 83°14′26″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Baldwin County Airport and within 2.1 miles each side of the 098° bearing from the Culver LOM, extending from the 7-mile radius to 7 miles east of the LOM.

* * * * *

Walter E. Denley,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–4435 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–13–M

Coast Guard

33 CFR Part 110

[CGD11–95–001]

RIN 2115–AA98

Anchorage Grounds; Pacific Ocean at Santa Catalina Island, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to reduce the Isthmus Cove Anchorage Grounds off Santa Catalina Island, CA to exclude the area designated as the Wrigley Marine Science Center Marine Life Refuge, formerly known as the Catalina Marine Science Center Marine Life Refuge, from the Isthmus Cove Anchorage Grounds. The Coast Guard proposes to voluntarily reduce the geographic limits of the Anchorage Grounds at the suggestion of the State of California. In establishing the Marine Life Refuge, California has prohibited unauthorized anchoring in the affected area under state law. In order to reduce confusion among recreational and commercial mariners, and in order to enhance the safety of navigation in support of the efforts of the State of California, the Coast Guard proposes to exclude the area encompassed by the Marine Life Refuge from the Anchorage Grounds.

DATES: Comments must be received on or before April 24, 1995.

ADDRESSES: Comments may be mailed to Commander (oan), Eleventh Coast Guard District, 501 W. Ocean Blvd., Suite 6200, Long Beach, CA 90822–5399, Attn: CGD11–95–001, or may be delivered to the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant P. C. Barnett, Aids to Navigation and Waterways Management Branch, telephone (310) 980–4300, extension 513.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this proposed rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD11–95–001) and the specific section of the proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound materials is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Project Manager at the address under **ADDRESSES**. The request should include reasons why a hearing would be

beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Lieutenant P.C. Barnett, Eleventh Coast Guard District, Aids to Navigation and Waterways Management Branch, Project Officer, and Lieutenant R.J. Barber, Eleventh Coast Guard District Legal Office, Project Attorney.

Background and Purpose

The Isthmus Cove Anchorage Grounds (the Anchorage) were codified by final rulemaking CGFR 67–46, published in 32 FR 17728 (December 12, 1967). The Wrigley Marine Science Center (the Center) was built during that same year. The Center's primary function was and continues to be to provide an environment that facilitates scientific investigation. It was intentionally located in close proximity to a virtually undisturbed marine environment to allow researchers the opportunity to conduct long-term underwater investigations of sea life under conditions where human influences are minimal.

In 1988, the state of California established the Wrigley Marine Science Center Marine Life Refuge (the Refuge), formerly known as the Catalina Marine Science Center Marine Life Refuge, near the Center. A portion of the waters of the Refuge is located within the waters of the Anchorage.

In order to protect and preserve the delicate ecosystem of the Refuge and to prevent damage caused by anchors to the valuable scientific equipment being used to conduct research within the Refugee, the state of California, as part of the original legislation establishing the Refuge, prohibits unauthorized anchoring and mooring within the Refuge.

Discussion of Proposed Regulations

The proposed amendment to the Isthmus Cove Anchorage Grounds regulation seeks to reduce the size of the Anchorage by removing from it the waters located in Fisherman Cove and those waters shoreward from a line extending approximately 50 yards from shore connecting Blue Cavern Point to Fisherman Cove. In order to reduce confusion among recreational and commercial mariners, and in order to enhance the safety of navigation in support of the efforts of the State of California, the Coast Guard proposes to exclude the area encompassed by the Marine Life Refuge from the Anchorage Grounds.

The proposed amendment to the regulation also describes the Anchorage more accurately by using coordinates in addition to making reference to well-known landmarks.

Regulatory Evaluation

This proposal is not a significant regulatory action under Section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under Section 6(a)(3) of that Order. It has been exempted from review by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the Department of Transportation regulatory policies and procedures is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal would have significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a is also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.216 is amended by revising paragraph (a)(2) to read as follows:

§ 110.216 Pacific Ocean at Santa Catalina Island, CA

(a) * * *

(2) *Isthmus Cove.* All the waters bounded by a line connecting the following coordinates, beginning at 33°–27′–12″ N, 118°–30′–05″ W (the promontory known as Lion Head); thence southeast to 33°–26′–55.5″ N, 118°–28′–44″ W; thence west-southwest to 33°–26′–50″ N, 118°–29′–08″ W; thence southwest to 33°–26′–39″ N, 118°–29′–19″ W; thence along the shoreline returning to the point of origin, excluding the following-described non-anchorage area: an area 300 feet wide (170 feet west and 130 feet east of the centerline of the Catalina Island Steamship Line pier), extending 1600 feet from the root of the pier, and an area 150 feet seaward of the shoreline extending approximately 1500 feet east and 1500 feet northwest of the centerline of said pier.

* * * * *

Dated: January 19, 1995.

D.D. Polk,

Captain, U.S. Coast Guard Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 95–4409 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Parts 154 and 156

[CGD 93–056]

RIN 2115–AE59

Facilities Transferring Oil or Hazardous Materials in Bulk

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the regulations covering facilities transferring oil or hazardous material in bulk. These revisions are intended to update and clarify the current regulations. The revisions should result in regulations that are more effective in providing a high level of safety and environmental protection.

DATES: Comments must be received on or before May 24, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 93–056), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jonathan C. Burton, Marine Environmental Protection Division, (202) 267–6714.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 93–056) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8 by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Lieutenant Jonathan C. Burton, Project Manager, Marine Environmental Protection Division and Ms. Helen Boutrous, Project Counsel, Office of Chief Counsel.

Background and Purpose

Until 1990, the regulations covering the transfer of products between vessels and facilities capable of transferring oil or hazardous materials in bulk to or from a vessel with a capacity of 250 barrels or more were contained in two different parts of the Code of Federal Regulations. Facilities transferring oil in bulk were covered by 33 CFR part 154, while those transferring hazardous materials in bulk were covered by 33 CFR part 126 (Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities). The Coast Guard consolidated and revised the provisions into part 154 (Facilities Transferring Oil or Hazardous Material in Bulk) in a final rule published on September 4, 1990 (55 FR 36252). Since that time, numerous comments have been received from Coast Guard personnel and industry about problems in working with part 154. Coast Guard personnel and industry advisory groups have provided numerous suggestions for improving part 154. In 1992, a Coast Guard task force, chartered as the result of a General Accounting Office report on the Coast Guard's facility inspection program, recommended a number of changes to 33 CFR part 154. Based on the task force's recommendations, the Coast Guard decided to initiate a rulemaking project to review all of 33 CFR part 154. A solicitation was sent to all Coast Guard Marine Safety Officers and Captains of the Ports asking for assistance in identifying problem areas. Every unit solicited responded with comments identifying changes to provisions that, if adopted, would greatly improve their facility oversight and enforcement operations, and thereby enhance industry's ability to comply with the regulations.

Discussion of Proposed Changes

Section 154.100 Applicability

There has been confusion regarding the applicability of the regulations in 33 CFR part 154. Particularly, there has been confusion over whether applicability is determined by the capacity of the facility or the capacity of the vessel. The proposed rule seeks to clarify that the total capacity of the vessel is the determining factor. Part 154 applies to facilities transferring oil or hazardous materials to vessels capable of carrying 250 barrels or more of oil or hazardous materials, or a combination of oil types, or hazardous materials, or both.

Also, a new paragraph is proposed to be added to the applicability section which would specify all of the requirements that are applicable to mobile transfer facilities. Both industry and Coast Guard personnel have indicated that such a provision would be helpful. Inclusion of this paragraph should eliminate confusion in determining which requirements are applicable to mobile facilities.

Included in the proposed list of requirements that would apply to mobile facilities are certain safety requirements found in § 154.735 that do not currently apply to mobile facilities. These include standards for access to the mobile facility by firefighting personnel, proper storage of hazardous material, sufficient fire extinguishers, rubbish containment, protective equipment, heating equipment placement, electrical wiring and three way warning signs. Additionally, this NPRM proposes to subject mobile facilities to the ''person in charge requirements'' of 33 CFR 154.710. Comments on the cost of applying these regulations to mobile facilities are requested.

Section 154.105 Definitions

A definition for ''caretaker status'', and revisions to the definitions of ''facility'', and ''transfer'' are proposed.

''Caretaker status'' is proposed to be defined as a facility that is free of oil or hazardous material, certified as gas free and where specified piping has been blanked off and the letter of adequacy has been suspended by the COTP.

The proposed revisions to the definition of ''facility'' clarify that tank cleaning and stripping facilities, and floating docks or barges used as part of the transfer platform, are considered to be within the definition of facility. The proposed rule also makes it clear that barges and other floating structures used to support an intricate part of the facility's operation, such as piping for

the facility, are to be considered part of the facility.

Finally, the proposed revision to the definition of ''transfer'' would specify that a transfer begins once the transfer hose is connected, thereby requiring owners and operators to comply with the safety requirements pertaining to the transfer of oil or hazardous material at an early stage of the process. Safety measures at this stage are crucial because as soon as a transfer hose is connected, there is a risk of oil or hazardous material being inadvertently transferred, resulting in a spill. Therefore, hose connections should be made only while complying with the supervisory and other requirements specified in part 154.

Section 154.107 Alternatives

This section is proposed to be revised to provide that the Captain of the Port (COTP) will take final approval or disapproval action within 60 days, rather than 30 days, of a request from a facility operator to use alternate methods, procedures or equipment standards from those required by part 154. The additional 30 days will allow more time for the COTP to thoroughly evaluate requests. Every effort will be made to respond to requests in less than 60 days if possible.

Section 154.110 Letter of Intent

This NPRM proposes to require that the facility owner's name, address, and telephone number be included in the letter of intent required by § 154.110. Currently, this information is required of the facility operator only. This additional information will be of great assistance in determining and locating the responsible party during a spill or other emergency.

Section 154.310 Operations Manual: Contents

This NPRM proposes to require that a map of the facility, drawn to scale, be included in the operations manual. In the past there has been confusion among industry and enforcement personnel over the boundaries of various facilities subject to regulation. The required map would depict the physical boundaries of the facility and include all structures, such as wharfs, and would indicate which piping in the facility is subject to the testing requirements of 33 CFR 156.170(c)(4). This revision would assist Coast Guard and industry personnel in more readily determining which pipes are subject to Coast Guard inspection as opposed to those regulated by the Environmental Protection Agency. The accuracy of the facility operator's determinations as to which pipes are subject to Coast Guard inspection under § 156.170 would be reviewed by the COTP when the operations manual is submitted to the COTP for a review of adequacy under § 154.300. This revision would help the Coast Guard and facility owners and operators ensure that all piping subject to the regulations is properly tested.

The proposed rule seeks to simplify for industry the information retention requirements of part 154. Currently, § 154.310(a)(5) requires facility operators to retain specified information about the products handled by the facility. This NPRM proposes that Material Safety Data Sheets be retained rather than the information currently required by § 154.310(a)(5). This revision would provide the Coast Guard access to information of equivalent value, while providing an easier method of recordkeeping for facility operators.

In the past there has been confusion regarding the appropriate state and local personnel to contact in the event of a spill or other emergency. Therefore, this NPRM proposes to add a requirement that the names and telephone numbers of state and local officials be included in the list of names and addresses currently required under § 154.310(a)(7). This would require the facility owners to determine who the appropriate state and local officials to contact are in advance, so that time will not be wasted in the event of an emergency. Also, this NPRM proposes to require that the name and telephone number of the ''qualified individual'' listed in the facility response plan required by 33 CFR 154.1026 be included. This is also vital information in the event of an emergency.

Currently, § 154.310(a)(16) requires that the operations manual include the maximum relief valve setting for each transfer system. This rule proposes that the Maximum Allowable Working Pressure (MAWP) also be recorded. This revision is necessary because of proposed changes to § 154.500 which would no longer require that each hose assembly have a MAWP of 150 pounds per square inch. Recording of the MAWP will ensure that tests conducted under 33 CFR 156.170 are conducted using the correct MAWP for the transfer piping system being tested.

Section 154.320 Operations Manual: Amendment

Currently, under § 154.320(a)(1), facility operators have 14 days to respond to a notice from the COTP regarding any inadequacies in the operations manual. Industry has indicated that 14 days is an insufficient amount of time to respond to a COTP's request for amendments to the operations manual. This NPRM proposes a 45 day response period starting from the date of the COTP's notice. Also, § 154.320(a)(1) provides that the COTP shall notify the facility operator of any amendment required or adopted, and that such amendment becomes effective 30 days after the facility operator receives notice. This NPRM proposes to delay the effective date of such amendments until 60 days after notification of the facility operator.

Section 154.500 Hose Assemblies

In the past there has been confusion regarding the maximum allowable working pressure (MAWP) to be used for the testing requirements in 33 CFR 156.170. Part of this confusion was caused by the fact that a minimum (MAWP) was specified for hose assemblies. This forced industry to test their hose assemblies, and usually their piping systems, at a minimum of 225 pounds per square inch. It is more reasonable for the MAWP to be based on the actual design of the transfer system, rather than a pre-specified number. The proposed changes to this section would eliminate a minimum burst pressure and MAWP for hose assemblies. With this revision, industry could develop their tests and inspection criteria based on the actual needs of their systems, and avoid unnecessary expense testing to a level higher than that of their systems' designs.

Section 154.520 Closure Devices

Under the current regulations, industry must have enough valves to blank off a transfer hose, even when it is stored, unless it is new and unused. The proposed change would clarify that such hoses must be blanked off during transfer. Also, the revisions would allow for treating a hose that is cleaned of product in the same manner as a new, unused hose.

Section 154.530 Small Discharge Containment

Experience reveals that many small spills occur during the coupling and uncoupling of transfer hoses, and from coupled joints. Present regulations require containment around manifold areas, but do not specifically require containment around those areas where coupled hoses may cross or are uncoupled or coupled. Therefore, a paragraph is proposed to be added to § 154.530 that would require that fixed or portable containment be placed under each hose connection during coupling, uncoupling, and transfer. Comments on the viability and costs of this proposed revision are solicited.

Section 154.540 Discharge Removal

The current regulations require that facilities have a means to safely and quickly remove oil and hazardous material from the containment required by § 154.530. To provide greater specificity, this NPRM proposes that facilities must have a means to remove discharged oil or hazardous material from the containment within one hour.

Section 154.545 Discharge Containment Equipment

This NPRM proposes to add a paragraph to § 154.545 that would specify that equipment required to be retained under this section may be used in the planning requirements of the facility response plan required by subpart F.

Section 154.560 Communications

This NPRM proposes to revise § 154.560 to require that only intrinsically safe radios that have been marked accordingly by the manufacturer of the radio may be used to meet the requirements of § 154.560(a). This requirement would help to ensure that appropriate communications equipment is used. Also, the references included in § 154.560(e) regarding the definition of ''intrinsically safe'' are incorrect. Instead of the current references, the NPRM requires that a qualified testing laboratory, such as Underwriters Laboratories, certify that a radio is intrinsically safe and is marked accordingly. In most cases, radios used by facilities already meet the requirements of this proposed regulation.

Section 154.710 Persons in Charge: Designation and Qualification

Numerous spills have been caused by the inattention or poor training of the person in charge at some facilities. Therefore, it is proposed that the facility operator must certify that the person in charge has completed a training program that has been approved by the Captain of the Port, in accordance with revised § 154.710(c) and (d). This revision is intended to ensure that the person in charge has received the basic training necessary to properly operate transfer equipment and has a thorough understanding of the hazards involved in a transfer of oil or hazardous materials, and what his duties are relative to that operation in the event of emergency. The proposed requirement would, however, allow facility operators the flexibility to develop their own training program, appropriate to the needs and operation of their facility. The list of those persons certified would be kept with the operations manual.

Comments are solicited from industry on what specific basic training requirements should be required for the person in charge, what established industry training already exists to ensure their competence, and the cost of such training.

Additionally, there has been confusion as to where the person in charge is to be during the transfer, as required by 33 CFR 156.120(t)(1). This NPRM adds the requirement that the person in charge is to be in visual sight of the transfer system from the time a hose connection is completed, until the time when the connection is broken.

Given the importance of the person in charge, it is also proposed that this section apply to mobile transfer facilities.

Section 154.735 Safety Requirements

This NPRM proposes that § 154.735 be revised to abolish the current ''hot work permit'' program which is cumbersome and obsolete. Under the current program a permit must be obtained from the Captain of the Port, prior to conducting welding or hot work at a facility. A new provision is proposed to be added which would place responsibility for the safety of all hot work at the facility, and the vessels moored to it, on the facility's owner and operator.

Currently, § 154.735(s) provides that tank cleaning or gas freeing operations conducted by the facility on vessels carrying oil residues or mixtures must be conducted in accordance with specified sections of the International Safety Guide for Oil Tankers and Terminal(s) (ISGOTT). Experience with use of the ISGOTT standards has revealed that, particularly in reference to barges, some of the ISGOTT provisions are problematic. A provision would be added to allow facility owners or operators to request authorization from the COTP, in accordance with § 154.107, to follow an alternative method of compliance based on sound industry practices. An example of guidelines that could be approved for use by the COTP are the ''Safety Guidelines for Tank Vessel Cleaning Facilities'', First Ed., 1992, developed by the American Waterways Shipyard Conference. Copies of these guidelines may be obtained from American Waterways Shipyard Conference, 1600 Wilson Blvd., Suite 1000, Arlington, VA 22209.

The current regulations are vague regarding security at a facility. The proposed rule would require that access to the marine transfer area from the shoreside or waterside is limited to facility personnel, delivery and service personnel, Coast Guard personnel, and other authorized persons. It further proposes that these personnel have identification. These parameters are similar to those found in 33 CFR 127.703 and therefore should be better understood by both industry and inspection personnel.

Currently part 154 does not prohibit smoking. This NPRM would propose to limit smoking in the same manner as the provisions of 33 CFR 126.15(b). Most facilities already follow this standard.

This NPRM proposes to require that three way warning signs, similar to those required under 33 CFR 126.15(o)(2)(i), be displayed on the facility at the point of transfer, without obstruction, at all times on a fixed facility and during coupling, transfer operation, and uncoupling on a mobile facility. Many of the facilities previously covered by part 126 still have these warning signs. Both industry and Coast Guard personnel have suggested that these signs would be valuable for all facilities covered by 33 CFR part 154.

Section 154.740 Records

One of the primary goals of this rulemaking is to consolidate documents and descriptions of procedures and tests required by part 154 into one centralized location that would greatly facilitate inspections and ensure that this information is immediately available in the event of a spill or other emergency. Therefore, this NPRM proposes that the records required by this section, such as the Letter of Intent, Letter of Adequacy, person-in-charge qualifications, and the piping and hose tests be maintained in the same location as the operations manual but not as a part of the operations manual.

33 CFR Part 156

Conforming changes to certain sections of 33 CFR part 156 have been proposed as discussed below to ensure consistency with the changes proposed for part 154.

Section 156.120 Requirements for Transfer

This section is proposed to be revised to explicitly state that a transfer begins when a connection of any transfer hose or loading arm is made. At that point, all elements required to conduct a transfer must be in place. This revision is consistent with the proposed definition of ''transfer'' in § 154.105 and is intended to prevent an accidental spill from the transfer of oil or hazardous material before all protections required during a transfer are in place.

Section 156.160 Supervision by Person in Charge

To conform with the training requirements set forth in § 154.710, a provision is proposed to be added to § 156.160 to clarify that the person in charge must visually monitor the transfer, throughout the transfer.

Section 156.170 Equipment Tests and Inspections

Revisions are proposed to this section to complement the testing records required to be kept with the operations manual by § 154.720.

The revisions clarify that a static liquid pressure test is acceptable, and the test medium for transfer hoses is not required to be water. Those facilities in a caretaker status or that only transfer infrequently will now be required to test 30 days before their first transfer occurring more than one year from their last tests and inspections. This inspection schedule will allow a reduction in costs for facilities that transfer infrequently while still providing an appropriate level of environmental protection.

It would also be made clear that the COTP has the authority to allow alternative methods of compliance to the testing requirements in this section.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT has been prepared and is available in the docket for inspection or copying where indicated under **ADDRESSES.** The Evaluation is summarized as follows.

It is estimated that 2591 fixed and 539 mobile marine transportation related facilities will be affected by these regulations. Many of the proposed revisions are clarifying changes that will pose no additional costs on facilities presently in compliance with the regulations. For example, certain information previously kept separately would now be required to be kept in the same location as the operations manual but requires little additional information not already prescribed by some other regulation. Since this information is not required to be included in the operations manual no additional cost is incurred for review by the Coast Guard or the facility.

There are some new requirements associated with this NPRM. These requirements include a map showing the boundaries of the Coast Guard's jurisdiction (§ 154.310(a)(2)); additional requirements for mobile transfer facilities including standards for access by firefighting personnel, proper storage of hazardous material, sufficient fire extinguishers, rubbish containment, protective equipment, heating equipment placement, three way warning sign, electrical wiring and the ''person in charge requirements'' (§ 154.100(d)); a more extensive training and qualification program for persons in charge (§ 154.710(c)); containment under each hose connection during coupling, uncoupling, and transfer (§ 154.530(a)(3)); and three way warning signs (§ 154.735(v)).

However, other proposed revisions lessen the burden on industry in such areas as the use of the material safety data sheets rather than maintaining this information separately (§ 154.310(a)(5)); deletion of the requirement that transfer hoses have a minimum maximum allowable working pressure of 150 psi (§ 154.500(b)); and the deletion of the requirement for a facility to obtain a hot work permit (§ 154.735(l)).

Comments are requested on the cost of the small discharge containment proposed by § 154.530(a)(3); the additional requirements for mobile facilities proposed by § 154.100(d); and the training and qualification program for persons in charge proposed by § 154.710(c) and the overall cost of all of the proposed regulations to consumers. Comments are also solicited on the cost saving from deleting the requirement that transfer hoses have a minimum, maximum allowable working pressure of 150 psi (§ 154.500(b)).

In consideration of the additions and deletions to part 154 and 156 it is estimated that the annual net cost to all facilities, would be $7,665,971, where captial costs are incurred over a five year period.

The overriding benefit to industry and the Coast Guard of the proposed rules would be the establishment of rules that are easier to understand and that would therefore facilitate and foster industry compliance, leading to a higher level of environmental protection.

The direct monetary benefit of increased protection would come from the reduction of spills resulting from facility operations. These proposed regulations are designed to achieve an overall reduction of oil and hazardous materials spilled into the water from facilities by 20%. The weighted average of the annual volume of bulk oil and hazardous material spilled from 1987–1991 from facilities was 436,147 gallons. The estimated costs of spill cleanup, third party damages, and natural resource damages resulting from this volume totals $8,722,940. A 20% reduction will give an annual benefit of $1,744,588.

Comparing the monetary benefits of the proposed provisions against the compliance cost to industry, the annual cost of the regulations is estimated to be $5,921,383.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The majority of facilities are owned by large corporations. The new requirements proposed by this NPRM, measured against the proposed relief from other requirements currently in effect, will result in a negligible cost increase for facilities that presently comply with part 154.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposal will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposal will economically affect it.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection-of-information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposal contains new collection-of-information requirements in the following sections: § 154.310,

§ 154.710 and § 154.560. The following particulars apply:

DOT No: 2115.

OMB Control No.: 2115–0078.

Administration: U.S. Coast Guard.

Title: Changes to regulations covering Facilities Transferring Oil or Hazardous Materials in Bulk.

Need for information: It is proposed that information presently kept separately, now be kept in the same location as the operations manual by § 154.740. However, little new information is required and since it is proposed that the information be kept with the operations manual, not in it, no additional review requirements are proposed. Maintaining all records in one location where it is readily assessable will encourage facility owners and operators to be better prepared and thereby help to prevent spills and accidents resulting from improper procedures. Also, consolidation of the information with the operations manual will assist Coast Guard enforcement personnel in performing their duties in an efficient and effective manner. Section 154.710 would require a facility to submit a training program for persons in charge to the COTP for review and approval. Training programs are necessary to ensure the competency of the personnel filling this critical position. The proposal allows facility operators the flexibility of designing a program that meets their needs.

Proposed use of information: To determine regulatory compliance.

Frequency of response: Occasional and annual.

Burden estimate: 7,258.

Respondents: 3,130 operators of bulk oil and hazardous material transfer facilities.

Form(s): Not applicable.

Average burden hours per respondent: 1.9

The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under **ADDRESSES**.

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The Coast Guard intends to preempt State and local law only to the extent that compliance with the State law would preclude compliance with these proposed requirements.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that preparation of an Environmental Impact Statement is not necessary. An Environmental Assessment and a draft Finding of No Significant Impact are available in the docket for inspection or copying where indicated under **ADDRESSES.**

The majority of the proposed changes are administrative in nature and involve the maintenance of records and descriptions of procedures to be retained in the operations manual. Other proposed revisions involve changes in equipment or procedures that are designed to enhance environmental protection by attempting to prevent spills of oil and hazardous materials from bulk liquid facilities or minimize the effects of such occurrences. Therefore, these revisions should have only a positive affect upon the environment.

List of Subjects

33 CFR Part 154

Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR parts 154 and 156 as follows:

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIALS IN BULK

1. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321 (j)(1)(C), (j)(5), (j)(6) and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46. Subpart F is also issued under 33 U.S.C. 2735.

Subpart A—General

2. In § 154.100, paragraph (a) is revised and a new paragraph (d) is added to read as follows:

§ 154.100 Applicability.

(a) This part applies to each facility that is capable of transferring oil or hazardous material, in bulk, to or from a vessel, where the vessel has a total capacity, from a combination of all bulk products carried, of 250 barrels or more. This part does not apply to the facility when it is in a caretaker status.

* * * * *

(d) The following sections of this part apply to mobile facilities:

(1) Section 154.107 Alternatives.

(2) Section 154.108 Exemptions.

(3) Section 154.110 Letter of intent.

(4) Section 154.120 Facility examinations.

(5) Section 154.300 Operations manual: General.

(6) Section 154.310 Operations manual: Contents. Paragraphs (a)(2) through (a)(7), (a)(9), (a)(12), (a) (14) through (17), (a) (20) through (24), (c), and (d).

(7) Section 154.320 Operations manual: Amendment.

(8) Section 154.325 Operations manual: Letter of adequacy.

(9) Section 154.500 Hose assemblies. Paragraphs (a)(1), (b)(1), (c), (d) (1) through (3), and (e) (1) through (4).

(10) Section 154.530 Small discharge containment. Paragraphs (a) (1) through (2), and (d).

(11) Section 154.545 Discharge containment equipment.

(12) Section 154.550 Emergency shutdown.

(13) Section 154.560 Communications.

(14) Section 154.570 (c) and (d) Lighting.

(15) Section 154.700 General.

(16) Section 154.710 Persons in charge: Designation and qualification.

(17) Section 154.730 Persons in charge: Evidence of designation.

(18) Section 154.735 Safety requirements. Paragraphs (a) through (d), (f) through (g), (i), (j) (1) through (2), (k) (1) through (2), (l) through (m), (o) through (q), (r) (1) through (3), (s), and (u) through (v).

(19) Section 154.740 Records. Paragraphs (a) through (f).

(20) Section 154.750 Compliance with operations manual.

3. In § 154.105, the following definition *Caretaker status* is added in alphabetical order, and the definitions of *Facility,* and *Transfer* are revised, to read as follows:

§ 154.105 Definitions.

* * * * *

Caretaker status denotes a facility where all piping, storage tanks, and related equipment is completely free of oil or hazardous material; that has been certified as being gas free; where piping terminating near any body of water has been blanked; and where the letter of adequacy has been suspended by the COTP upon request of the facility.

* * * * *

Facility means either an onshore or offshore facility and includes, but is not limited to, structures, equipment, and appurtenances thereto, used or capable of being used to transfer oil or hazardous material to or from a vessel or public vessel. Also included are facilities that tank clean or strip and any floating structure that is an intricate part of the facility's operation. A facility includes Federal, State, municipal, and private facilities.

* * * * *

Transfer means any movement of oil or hazardous material to, from, or within a vessel by means of pumping, gravitation, or displacement. A transfer is considered to begin when all connections are made so that such movement is possible, regardless of when the actual movement begins.

* * * * *

4. In § 154.107, paragraph (b) is revised to read as follows:

§ 154.107 Alternatives.

* * * * *

(b) The COTP takes final approval or disapproval action on the request, submitted in accordance with paragraph (a) of this section, in writing, within 60 days of receipt of the request.

5. In § 154.110, paragraph (b)(1) is revised to read as follows:

§ 154.110 Letter of intent.

* * * * *

(b) * * *

(1) The names, addresses, and telephone numbers of the facility operator and the facility owner;

* * * * *

Subpart B—Operations Manual

6. In § 154.310, paragraphs (a)(2), (a)(5), (a)(7), (a)(16) and (a)(22) are revised and paragraph (a)(23) is added to read as follows:

§ 154.310 Operations manual: Contents.

(a) * * *

(2) A physical description of the facility including a map of the facility, drawn to scale, showing the boundaries of the facility, mooring areas, transfer locations, control stations, wharfs, the extent and scope of piping subject to the tests required by § 156.170(c)(4) of this chapter, and the locations of safety equipment;

* * * * *

(5) A copy of the Material Safety Data Sheet for each product transferred at the facility;

* * * * *

(7) The names and telephone numbers of the qualified individual identified under § 154.1026 and the Coast Guard, State, local, and other personnel who may be called by the employees of the facility in an emergency.

* * * * *

(16) The maximum allowable working pressure (MAWP) of each loading arm, transfer pipe system, and hose assembly required to be tested by § 156.170 of this chapter, including the maximum relief valve setting (or maximum system pressure when relief valves are not provided) for each transfer system;

* * * * *

(22) Statements explaining that each hazardous materials transfer hose is marked with either the name of each product which may be transferred through the hose or with letters, numbers or other symbols representing all such products and the location in the operations manual where a chart or list of symbols used and a list of the compatible products which may be transferred through the hose can be found for consultation before each transfer; and

(23) For facilities that tank clean or strip, a description of their procedures.

* * * * *

7. In § 154.320, paragraph (a)(1) is revised to read as follows:

§ 154.320 Operations manual: Amendment.

(a) * * *

(1) The COTP will notify the facility operator in writing of any inadequacies in the operations manual. The facility operator may submit written information, views, and arguments regarding the inadequacies identified, and proposals for amending the manual, within 45 days from the date of the COTP notice. After considering all relevant material presented, the COTP shall notify the facility operator of any amendment required or adopted, or the COTP shall rescind the notice. The amendment becomes effective 60 days after the facility operator receives the notice, unless the facility operator petitions the Commandant to review the COTP's notice, in which case its effective date is delayed pending a decision by the Commandant. Petitions to the Commandant must be submitted in writing via the COTP who issued the requirement to amend the operations manual.

* * * * *

Subpart C—Equipment Requirements

8. In § 154.500, paragraphs (a) and (b) are revised to read as follows:

§ 154.500 Hose assemblies.

* * * * *

(a) The minimum design burst pressure for each hose assembly must be at least four times the sum of the pressure of the relief valve setting (or four times the maximum pump pressure when no relief valve is installed) plus the static head pressure of the transfer system at the point where the hose is installed.

(b) The maximum allowable working pressure (MAWP) for each hose assembly must be more than the sum of the pressure of the relief valve setting (or the maximum pump pressure when no valve is installed) plus the static head pressure of the transfer system at the point where the hose is installed.

* * * * *

9. Section 154.520 is revised to read as follows:

§ 154.520 Closure devices.

(a) Except as provided in paragraph (b) of this section, each facility to which this part applies must have enough butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the COTP to blank off the ends of each hose or loading arm that is not connected for the transfer of oil or hazardous material. Such hoses must be blanked off during the transfer of oil or hazardous material.

(b) New, unused hose, and hose that has been cleaned and is gas free, is exempt from the requirements of paragraph (a) of this section.

10. In § 154.530, paragraph (a) is revised and paragraph (e) is added to read as follows:

§ 154.530 Small discharge containment.

(a) Except as provided in paragraphs (c), (d) and (e) of this section, each facility to which this part applies must have fixed catchments, curbing, or other fixed means to contain oil or hazardous material discharged in at least—

(1) Each hose handling area (that area on the facility that is within the area traversed by the free end of the hose or loading arm when moved from its normal stowed or idle position into a position for connection);

(2) Each hose connection manifold area; and

(3) Under each hose connection during coupling, uncoupling, and transfer.

* * * * *

(e) Fixed or portable containment may be used to meet the requirements of paragraph (a)(3) of this section.

11. Section 154.540 is revised to read as follows:

§ 154.540 Discharge removal.

Each facility to which this part applies must have a means to safely

remove discharged oil or hazardous material, within one hour of its release, from the containment required by § 154.530 without discharging the oil or hazardous material into the water.

12. In § 154.545, paragraph (e) is added to read as follows:

§ 154.545 Discharge containment equipment.

* * * * *

(e) Equipment and procedures maintained to satisfy the provisions of this chapter may be utilized in the planning requirements of subpart F of this part.

13. In § 154.560, paragraph (e) is revised to read as follows:

§ 154.560 Communications.

* * * * *

(e) Portable radio devices used to comply with paragraph (a) of this section during the transfer of flammable or combustible liquids must be marked as intrinsically safe by the manufacturer of the device and certified as intrinsically safe by a national testing laboratory or other certification organization approved by the Commandant.

Subpart D—Facility Operations

14. In § 154.710, paragraphs (c) and (d), introductory text, (d)(7) and (d)(8) are revised and paragraph (d)(9) is added to read as follows:

§ 154.710 Persons in charge: Designation and qualification.

* * * * *

(c) That person has completed a training program, established by the facility operator and approved by the Captain of the Port in accordance with §§ 154.720(a)(23) and 154.325, that provides the person with the knowledge and training necessary to properly operate the transfer equipment at that facility, perform the duties described in paragraph (d) of this section, follow the procedures required by this part, and fulfill the duties required of a person in charge during an emergency, except that for new facilities, the Captain of the Port may authorize alternative experience and training requirements and;

(d) The facility operator must certify that the person in charge has the knowledge and skills necessary to—

* * * * *

(7) Follow local discharge reporting procedures;

(8) Carry out the facility's response plan for discharge reporting and containment; and

(9) Visually observe transfers continuously throughout the transfer operations to ensure compliance with the procedures required by this part and be immediately available to the transfer personnel.

15. In § 154.735, the introductory text, paragraphs (l), and (s) through (t) are revised and paragraphs (u) through (w) are added to read as follows:

§ 154.735 Safety requirements.

Each operator of a facility to which this part applies shall ensure that the following safety requirements are met at the facility:

* * * * *

(l) All welding or hot work conducted at the facility, or on any vessel moored to the facility, is the responsibility of the facility owner and operator.

* * * * *

(s) Tank cleaning or gas freeing operations conducted by the facility on vessels carrying oil residues or mixtures shall be conducted in accordance with sections 8.1, 8.2, 8.3, and 8.5 of the International Safety Guide for Oil Tankers and Terminals (ISGOTT). Except that—

(1) Prohibitions in ISGOTT against the use of recirculated wash water do not apply if the wash water is first processed to remove product residues;

(2) The provision in ISGOTT section 8.2.10 concerning flushing the bottom of tanks after every discharge of leaded gasoline does not apply;

(3) The provision in ISGOTT section 8.2.11 concerning the removal of sludge, scale, and sediment does not apply if personnel use breathing apparatus which protect them from the tank atmosphere; and

(4) Upon the request of the facility owner or operator in accordance with § 154.107, the COTP may allow the use of alternative standards to ISGOTT if the COTP determines that the alternative standards provide an equal level of protection to the ISGOTT standards.

(t) Guards shall be stationed, or equivalent controls acceptable to the COTP shall be used, to detect fires, report emergency conditions, and ensure that access to the marine transfer area from the shoreside and waterside is limited to—

(1) Personnel who work at the facility including persons assigned for transfer operations, vessel personnel, and delivery and service personnel in the course of their business;

(2) Coast Guard personnel;

(3) Other Federal, State, or local governmental personnel; and

(4) Other persons authorized by the operator.

(u) Except for those specified in paragraphs (t)(1) and (2) of this section, no person is to be allowed into the marine transfer area unless that person is identified by a facility-issued identification card or other identification card displaying his or her photograph, or is an escorted visitor displaying an identifying badge.

(v) Smoking shall be prohibited at the facility except that facility owners or operators may authorize smoking in designated areas if—

(1) The designated smoking areas are in accordance with local ordinances and regulations;

(2) Signs are conspicuously posted marking such authorized smoking areas; and

(3) ''No Smoking'' signs are conspicuously posted elsewhere on the facility.

(w) Warning signs shall be displayed on the facility at the point of transfer, without obstruction, at all times for fixed facilities and for mobile facilities during the coupling, transfer operation, and uncoupling. The warning signs shall conform to 46 CFR 151.45–2(e)(1) or 46 CFR 153.955.

16. In § 154.740, the introductory text and paragraph (b) are revised to read as follows:

§ 154.740 Records.

Each facility operator shall maintain in the same location as the operations manual and make available for examination by the COTP:

* * * * *

(b) The name of each person designated as a person in charge of transfer operations at the facility and certification that the person in charge has completed the training requirements of § 154.710;

* * * * *

PART 156—OIL AND HAZARDOUS RING OIL OR HAZARDOUS MATERIALS IN BULK

17. The authority citation for part 156 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1) (C) and (D); sec. 2, E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46. Subpart B also issued under 46 U.S.C. 3715(b).

Subpart A—Oil and Hazardous Material Transfer Operations

18. In § 156.120, the introductory paragraph is revised to read as follows:

§ 156.120 Requirements for transfer.

A transfer is considered to begin when a physical connection of any transfer hose or loading arm is made and no person shall conduct an oil transfer operation unless—

* * * * *

19. In § 156.160, paragraph (c) is revised to read as follows:

§ 156.160 Supervision by person in charge.

* * * * *

(c) No person shall transfer oil or hazardous material to or from a vessel unless each person in charge can visually observe the transfer operation continuously throughout the transfer and each person in charge is immediately available to the transfer personnel.

20. In § 156.170, paragraphs (c)(1)(iv) and (f)(1) are revised, paragraph (f)(2) is redesignated as (f)(3) and revised and new paragraphs (f)(2) and (h) are added to read as follows:

§ 156.170 Equipment tests and inspections.

* * * * *

(c) * * *

(1) * * *

(iv) Hoses not meeting the requirements of paragraph (c)(1)(i) of this section, may be acceptable after a static liquid pressure test is successfully completed in the presence of the COTP.

* * * * *

(f) The frequency of the tests and inspections required by this section must be—

(1) For active facilities, annually or within 30 days of the first transfer conducted past one year from the date of the last tests and inspections;

(2) For a facility in caretaker status, within 30 days of the first transfer after the facility is removed from caretaker status; and

(3) For vessels, annually or as part of the biennial and mid-period inspections.

* * * * *

(h) Upon the request of the owner or operator, the COTP may allow alternative methods of compliance to the testing requirements of paragraph (c) of this section if the COTP determines that the alternative methods provide an equal level of protection.

Dated: February 14, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–4405 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–14–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 266 and 268

[SW–FRL–5157–8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is extending the comment period for the proposed rule on standards for the management and use of slag residues derived from HTMR treatment of K061, K062, and F006 wastes, which appeared in the **Federal Register** on December 29, 1994 (see 59 FR 67256). This extension of the comment period is provided to allow commenters an opportunity to finalize their data gathering efforts and comments to the Agency's proposal.

DATES: EPA will accept public comments on this proposed decision until April 14, 1995. Comments postmarked after the close of the comment period will be stamped ''late.''

ADDRESSES: The public must send an original and two copies of their comments to EPA RCRA Docket Number F–94–SRTP–FFFFF, room 2616 (Mail Code 5305), 401 M Street SW., Washington, DC 20460. The docket is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, except on Federal holidays. Call (202) 260–9327 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (703) 412–9810. For technical information concerning this notice, contact Narendra Chaudhari, Office of Solid Waste (Mail Code 5304), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–4787.

SUPPLEMENTARY INFORMATION:

I. Background

On December 29, 1994, EPA proposed to conditionally allow residual materials (''slags'') resulting from the high temperature metal recovery (HTMR) treatment of specified hazardous wastes (*i.e.*, electric arc furnace dust, steel finishing spent pickle liquor, and electroplating sludges) to be used in road construction and as an anti-skid/deicing material on road surfaces. These slags are generated by HTMR units processing hazardous wastes solely for metal recovery pursuant to § 266.100(c)—in essence, devices processing particular hazardous wastes with high recoverable metal content, minimal hazardous organic constituents, and low BTU. EPA's proposal was based on the results of a risk assessment conducted for these HTMR slags. See 59 FR 67256 for a more detailed explanation of the Agency's proposed action. Of course, until this proceeding is concluded, EPA has made no final determination that any of these slag dispositions are safe.

On January 17 and January 24, 1995, the Agency received requests from two commenters to extend the comment period. Basically, these commenters are seeking additional time to thoroughly evaluate all aspects of the risk assessment used by EPA to support the proposed rule and also to prepare written comments based on their evaluations. Among the issues raised are whether the slags' total metal concentrations are adequately characterized, and whether risk to sensitive populations was adequately considered (see RCRA docket for the proposed rule). The Agency considered these commenters' requests and has decided to extend the comment period until April 14, 1995.

One issue not discussed in EPA's proposal is whether legitimate recycling is occurring (and, accordingly, whether § 266.20 even applies to these dispositions of the slags). See 59 FR 48026 (September 19, 1994). Such a determination typically involves a case-by-case consideration, and the agency has enumerated relevant factors which ordinarily play a part in that analysis. See, *e.g.*, 53 FR 17606 (May 17, 1988). EPA made no such determination in the proposal, and does not intend to do so in this proceeding.

The public comment period for the proposed rule was originally scheduled to end on February 13, 1995. This notice extends the comment period for the proposed rule to allow commenters an opportunity to finalize their data gathering efforts and responses to the Agency's proposed decision.

Dated: February 9, 1995.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 95–4289 Filed 2–22–95; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 700 and 723

[OPPTS–50596C; FRL–4939–2]

RIN 2070–AC14

Premanufacture Notification and Exemptions; Notification of Technical Workshops

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of technical workshops.

SUMMARY: EPA will hold technical workshops on the proposed revisions of the Toxic Substances Control Act (TSCA) section 5 premanufacture notification (PMN) regulations and exemptions for chemicals in quantities of 1,000 kilograms or less and for polymers, which were published in the **Federal Register** of February 8, 1993. EPA is conducting the workshops at the request of the Synthetic Organic Chemical Manufacturers Association and the Chemical Manufacturers Association to provide an opportunity for interested persons to become familiar with the technical provisions of the regulations which will affect the manufacture of new chemical substances. The workshops will address the eligibility criteria and other technical aspects of the proposed polymer exemption and low volume exemption rules, the ''two percent'' rule for polymers, and procedures for developing and submitting Chemical Abstracts names for new chemical substances.

DATES: The technical workshops will be held on March 14 and 21, 1995, from 12:30 p.m. to 5 p.m. in Washington, DC.

ADDRESSES: The March 14, 1995 meeting will be held at the Environmental Protection Agency, Education Center, 401 M St., SW., Washington, DC 20460. The March 21, 1995 meeting will be held at the General Services Administration, Regional Office Building Auditorium, Rm. 1041, First floor, National Capital Region, 7th and D Sts., SW., Washington, DC 20407.

FOR FURTHER INFORMATION CONTACT: James B. Willis, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551, Fax: (202) 554–5603. Persons wishing to attend the workshops should contact the office listed above and provide their name, organization, preferred meeting date, and a daytime telephone number.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 8, 1993, EPA published its proposed amendments to the PMN regulations, exemptions for chemicals in quantities of 1,000 kilograms or less (58 FR 7646), exemption for polymers (58 FR 7679), and an amendment to the expedited process for issuing SNURs (58 FR 7676). A public hearing on the proposed regulations was held on April 26 and 27, 1993, in Washington, DC. EPA expects to promulgate final regulations in the near future. The regulations would become effective 60 days following publication in the **Federal Register**.

List of Subjects in Parts 700 and 723

Environmental protection, Chemicals, Hazardous materials, Premanufacture notification, Reporting and recordkeeping requirements, Significant new use.

Dated: February 16, 1995.

Joseph A. Carra,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 95–4473 Filed 2–22–95; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 12

[CGD 94–029]

RIN 2115–AE94

Modernization of Examination Methods

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the rules that require Coast Guard-administered written examinations for merchant marine license and unlicensed rating applicants to remove references to ''written'' examinations and to broaden the scope of those authorized to perform the testing of applicants. These changes reflect the Coast Guard's efforts to develop alternative media testing and the use of private and public sector testing services for examination of these applicants. The development of more effective and modernized testing of applicants for merchant marine licenses and unlicensed ratings will enhance the safety of the maritime environment.

DATES: Comments must be received on or before May 24, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–029), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Spears, Jr., Project Manager, Office of Marine Safety, Security, and Environmental Protection (G–MVP–3), (202) 267–0224.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 94–029) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8 by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Mr. Robert S. Spears, Jr., Project Manager, Office of Marine Safety, Security, and Environmental Protection, and Ms. Helen Boutrous, Project Counsel, Office of Chief Counsel.

Background and Purpose

Currently, Coast Guard regulations require that applicants for merchant

marine licenses and unlicensed ratings pass written examinations. During the latter part of 1993, the Coast Guard conducted focus group meetings and discussions which addressed the future of Coast Guard licensing. Specifically, the group looked at ways to improve and modernize merchant mariner examinations. Although the focus group was composed entirely of military and civilian Coast Guard members, maritime industry representatives are participating in the implementation of focus group report recommendations.

The ''Licensing 2000 and Beyond'' Focus Group Report (November, 1993), a copy of which is available in the public docket for this rulemaking [94–029] where indicated under **ADDRESSES** above, recommends that the Coast Guard's Marine Licensing Program adopt new methods of verifying competency, including practical demonstrations and the use of simulators. Practical demonstrations and simulators would provide more effective means of testing the skills of the applicants by requiring proper actions and reactions during real-time, real-world scenarios. Electronic methods of examination are employed by private and public sector organizations. There is increasing use of ''Third or Fourth Party'' testing systems that maximize the significant benefits new technology offers. The Focus Group Report defined a ''Third Party'' as one who trains or teaches the mariner, and a ''Fourth Party'' as someone, other than the Coast Guard or a Third Party trainer, who administers a test or makes a subjective judgement about the competency of an individual applicant. The Coast Guard is exploring the possibility of implementing electronic testing methods and the use of ''Third-'' or ''Fourth-Party'' testing services.

However, 46 CFR 10.205, 10.207, 10.901, 12.05–9, 12.10–5, 12.15–9, and 12.20–5, specify that applicants pass written (or oral) examinations. Because the Coast Guard is considering the use of other proven methods of proficiency testing which could significantly improve a very critical aspect of the Coast Guard's qualification system, this final rule removes the word ''written'' from the regulations governing merchant marine examinations and makes minor revisions to reflect the possible use of private and public sector testing services.

By a later notice in the **Federal Register**, the Coast Guard will provide results of its efforts to modernize the examinations and will describe the new examination methods before they are implemented.

Discussion of Proposed Rules

This NPRM proposes to remove the word ''written'' from the regulations pertaining to Coast Guard administered examinations for merchant marine license and raise of grade of license applicants (46 CFR 10.205(i)(1), 10.207(d)(1), 10.217(a)(1),(2), and 10.901(a)), and for unlicensed rating applicants (46 CFR 12.05–9(a) and (b), 12.10–5(a) and (b), 12.15–9(a) and (c), and 12.20–5). Also, minor revisions are proposed which would allow the Coast Guard Officer in Charge, Marine Inspection (OCMI) to authorize the testing of applicants through use of private and public sector testing services. These revisions reflect the Coast Guard's efforts to develop more modern, efficient, and effective examination methods.

Sections 12.05–9(b), 12.10–5(a), 12.15–9(a), and 12.20–5 regarding examinations for able seaman, lifeboatman, qualified member of the engine department and tankerman, respectively, continue to require that the examinations be conducted in the English language. This requirement continues to be necessary to ensure that personnel in these critical positions will sufficiently understand orders that could come under the stress of an emergency situation. The ability to understand orders under such conditions could make the critical difference in life-threatening situations.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) [44 FR 11040 (February 26, 1979)]. The Coast Guard expects no economic impact from this rule, and a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The revisions made reflect the Coast Guard's efforts to improve and modernize examination methods for mariners. The revisions would result in no additional costs to the industry.

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. This proposal would place no additional costs on the public. Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no new collection-of-information requirements under the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*].

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment. The authority to develop and administer examinations for merchant marine license and document applicants has been committed to the Coast Guard by Federal statutes. The Coast Guard does not expect this proposal to raise any preemption issues, however, the Coast Guard does intend to preempt State and local actions on the same subject matter.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. The proposal is an administrative matter within the meaning of paragraph 2.B.2.l. of Commandant Instruction M16475.1B that clearly has no environmental impact.

List of Subjects

46 CFR Part 10

Reporting and recordkeeping requirements, schools, Seamen.

46 CFR Part 12

Reporting and recordkeeping requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard proposes to amend 46 CFR parts 10 and 12 as follows:

PART 10—LICENSING OF MARITIME PERSONNEL

1. The authority citation for part 10 continues to read as follows:

Authority: 31 U.S.C. 9701, 46 U.S.C. 2103, 7101, 7106, 7107; 49 CFR 1.45, 1.46; § 10.107 also issued under the authority of 44 U.S.C. 3507.

2. In § 10.205, paragraph (i)(1) is revised to read as follows:

§ 10.205 Requirements for original licenses and certificates of registry.

* * * * *

(i) *Professional Examination.* (1) When the applicant's experience and training are found to be satisfactory and the applicant is eligible in all other respects, the OCMI authorizes the examination of the applicant in accordance with the following requirements:

(i) Applicants for deck or engineer licenses limited to vessels not exceeding 500 gross tons, and licenses limited to uninspected fishing industry vessels, may request an oral-assisted examination in lieu of any written or otherwise textual examination(s). If there are textual questions these applicants have difficulty reading and understanding, the oral-assisted examination shall be offered. Any license based on oral-assisted examination is limited to the specific route and type of vessel upon which the majority of service was obtained.

(ii) The instructions for administration of examinations and the lists of subjects for all licenses are contained in subpart I of this part. A record indicating the subjects covered is placed in the applicant's license file.

* * * * *

3. In § 10.207, paragraph (d)(1) is revised to read as follows:

§ 10.207 Requirements for raise of grade of license.

* * * * *

(d) *Professional Examination.* (1) When an applicant's experience and training for raise of grade are found to be satisfactory and he or she is eligible in all other respects, the OCMI authorizes the examination of the applicant. Oral-assisted examinations may be administered in accordance with § 10.205(i)(1). A record indicating the subjects covered is placed in the applicant's license file. The general instructions and list of subjects are contained in subpart I of this part.

* * * * *

4. In § 10.217, the second sentences of paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 10.217 Examination procedures and denial of licenses.

(a)(1) * * * For a Coast Guard administered examination, the examination fee set out in § 10.109 must be paid prior to taking the first examination section. * * *

(2) * * * For a Coast Guard administered examination, the examination fee set out in § 10.109 must be paid prior to taking the first examination section. * * *

* * * * *

5. In § 10.901, paragraph (a) is revised to read as follows:

§ 10.901 General provisions.

(a) An applicant for any license listed in this part must pass examinations on the appropriate subjects listed in this subpart, except as noted in § 10.903(b).

* * * * *

PART 12—CERTIFICATION OF SEAMEN

6. The authority citation for part 12 continues to read as follows:

Authority: 31 U.S.C. 9701, 46 U.S.C. 2103, 2110, 7301, 7302; 49 CFR 1.46.

7. In § 12.05–9, paragraph (a) and the introductory language of paragraph (b) are revised to read as follows:

§ 12.05–9 Examination and demonstration of ability.

(a) Before an applicant is certified as able seaman, he or she shall prove to the satisfaction of the Coast Guard by oral or other means of examination and by actual demonstration, his or her knowledge of seamanship and the ability to carry out effectively all the duties that may be required of an able seaman, including those of a lifeboatman. The applicant shall demonstrate that he or she—

(1) Has been trained in all the operations connected with the launching of lifeboats and liferafts, and the use of oars and sails;

(2) Is acquainted with the practical handling of boats; and

(3) Is capable of taking command of the boat's crew.

(b) The examination, whether administered orally or by other means, shall be conducted only in the English language and shall consist of questions regarding:

* * * * *

8. In § 12.10–5, paragraph (a) and the introductory language of paragraph (b) are revised to read as follows:

§ 12.10–5 Examination and demonstration of ability.

(a) Before a lifeboatman's certificate may be granted, he or she shall prove to the satisfaction of the Coast Guard by oral or other means of examination and by actual demonstration, his or her knowledge of seamanship and the ability to carry out effectively all the duties that may be required of an able seaman, including those of a lifeboatman. The applicant will demonstrate that he or she—

(1) Has been trained in all the operations connected with the launching of lifeboats and liferafts, and the use of oars and sails;

(2) Is acquainted with the practical handling of boats; and

(3) Is capable of taking command of the boat's crew.

(b) The examination, whether administered orally or by other means, shall be conducted only in the English language and shall consist of questions regarding:

* * * * *

9. In § 12.15–9, the first sentence of paragraph (a), and paragraph (c) are revised to read as follows:

§ 12.15–9 Examination requirements.

(a) An applicant for certification as a qualified member of the engine department in the ratings of oiler, watertender, fireman, deck engineer, refrigeration engineer, junior engineer, electrician, and machinist shall be examined orally or by other means and only in the English language on the subjects listed in paragraph (b) of this section. * * *

* * * * *

(c) An applicant for certification as a qualified member of the engine department in the ratings of pumpman shall, by oral or other examination, demonstrate sufficient knowledge of the subjects peculiar to that rating to satisfy the Officer in Charge, Marine Inspection, that he or she is qualified to perform the duties of that rating.

* * * * *

10. In § 12.20–5, the first sentence is revised to read as follows:

§ 12.20–5 Examination requirements.

Any applicant for certification as tankerman must prove to the satisfaction of the Coast Guard by oral or other examination conducted only in the English language that he or she is familiar with the general arrangement of cargo tanks, suction and discharge pipelines and valves, cargo pumps and cargo hose, and has been properly trained in the actual operation of cargo pumps, all other operations connected with the loading and discharging of cargo, and the use of fire-extinguishing equipment. * * *

Dated: February 16, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–4406 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–14–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CI Docket No. 95–6, FCC 95–24]

Practice and Procedure

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FCC proposes to amend its regulations regarding forfeitures by adding a note incorporating guidelines for assessing forfeitures. This action is being taken in response to a decision by the United States Court of Appeals for the District of Columbia which vacated the Commission's 1993 Forfeiture Policy Statement because the Court found it should have been subject to Notice and Comment rulemaking proceedings. The Commission is requesting comments on the advantages or disadvantages of adopting forfeiture guidelines, and on the reasonableness of proposed base forfeiture amounts applicable to violations in the various services.

DATES: All comments must be received by March 27, 1995. Reply comment period April 17, 1995.

ADDRESSES: Comments must be submitted be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Magalie Salas, (202) 418–1150, or Ana Curtis, (202) 418–1160, Compliance and Information Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, adopted January 13, 1995, and released on February 10, 1995. The complete text of this Commission action is available for copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C., 20554. The complete text of this Notice of Proposed Rulemaking may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS), 2100 M Street, NW, Suite 140, Washington, D.C. 20037, telephone number (202) 857–3800.

Summary of Notice of Proposed Rulemaking

1. The Commission is proposing forfeiture guidelines which would be used to aid the Commission in determining the appropriate range of forfeitures for various offenses, ensure treatment of similarly situated offenders and provide clearer guidance to the public regarding the forfeitures that can be expected in response to specific violations.

2. If adopted, § 1.80 of the Communication's rules would be amended to include a note incorporating the 1993 version of the Commission's Forfeiture Policy Statement, see Policy Statement, Standards for Assessing Forfeitures, 6 FCC Rcd 4695 (1991), recon. denied, 7 FCC Rcd 5339 (1992), revised, 8 FCC Rcd 6215 (1993).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Penalties.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–4330 Filed 2–22–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 68

[CC Docket No. 94–102: DA 95–141]

Ensuring Compatibility With Enhanced 911 Emergency Calling Systems

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time for reply comments.

SUMMARY: By Order adopted February 1, 1995, the Commission granted a request for extension of time of the reply comment period in this proceeding concerning enhanced 911 emergency calling systems. This action was taken as a result of motions filed by the Personal Communications Industry Association (PCIA) and the Association of Public-Safety Communications Officials-International, Inc. (APCO). Intended effect of action is to develop a more complete record.

DATES: Reply comments are due on or before March 17, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alan A. Thomas, Domestic Services Branch, Common Carrier Bureau, telephone (202) 634–1802.

SUPPLEMENTARY INFORMATION: This is a summary to two Motions for Extension of Time for filing reply comments to the Commission's Notice of Proposed Rule Making (NPRM) in CC docket No. 94–102, released October 19, 1994 [59 FR 54878, November 2, 1994.] The comment date was January 9, 1995, and the original reply comment date was February 8, 1995. The Commission noted that extension of time are not routinely granted; however, the public safety issues in this proceeding are obvious and significant. Given the over 1500 pages already filed, the Commission agreed that it would be in the public interest to extend the time in which to file reply comments.

Federal Communications Commission.

Kathleen M.H. Wallman,

Cheif, Common Carrier Bureau.

[FR Doc. 95–4331 Filed 2–22–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition to List the Alexander Archipelago Wolf as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list the Alexander Archipelago wolf (*Canis lupus ligoni*) under the Endangered Species Act, as amended. After review of all available scientific information, the Service finds that listing this species is not warranted at this time.

DATES: The finding announced in this document was made on February 15, 1995.

ADDRESSES: Comments and materials concerning this petition should be sent to U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99503. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

Janet Hohn, Assistant Regional Director, Ecological Services (see **ADDRESSES** section) (telephone 907/786–3544).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding within 12 months of the date of the receipt of a valid petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority.

On December 17, 1993, the Service received a petition dated December 13, 1993, from the Biodiversity Legal Foundation, Eric Holle and Martin J. Berghoffen, to list the Alexander Archipelago wolf (*Canis lupus ligoni*). A 90-day finding was made by the Service that the petition presented substantial information indicating that the requested action may be warranted. The 90-day finding was announced on May 20, 1994 (59 FR 26476). A status review was initiated on May 20, 1994, and the public comment period was open between May 20 and October 1, 1994.

The Service has reviewed the petition, the literature cited in the petition, other available literature and information, and consulted with biologists and researchers familiar with the Alexander Archipelago wolf. On the basis of the best scientific and commercial information available, the Service finds the petition is not warranted at this time.

In the 90-day finding the Service recognized the petitioners concerns for the long-term survival of the Alexander Archipelago wolf; however, the best available information indicates that the subspecies' population is currently stable. The Alexander Archipelago wolf's range lies almost entirely on lands managed by the Tongass National Forest. The U.S. Forest Service is evaluating its land management practices through the development of interim management guidelines to maintain viable populations of native wildlife, and considering long-term management actions through revision of the Tongass National Forest Land and Resource Management Plan. The Service believes that there is opportunity to manage for the long-term viability of the Alexander Archipelago wolf through the implementation of interim guidelines and the revised Tongass Land and Resource Management Plan. However, it is clear by our analysis that without significant changes to the existing Tongass National Forest Land and Resource Management Plan, the long-term viability of the Alexander Archipelago wolf is seriously imperiled. The Alexander Archipelago wolf will therefore be retained on the Service's list as a category 2 candidate species. If additional data become available, the Service may reassess the listing priority or the need to list this species.

Authority

The authority for this section is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: February 15, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95–4421 Filed 2–22–95; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register

Vol. 60, No. 36

Thursday, February 23, 1995

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

Forest Service

Little Wolf Fire Recovery; Kootenai National Forest, Lincoln County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Little Wolf Fire burned over 15,000 acres of Kootenai National Forest System lands, Flathead National Forest System lands and Plum Creek Timber Company lands in August of 1994. The Forest intends to prepare an Environmental Impact Statement (EIS) to assess and disclose the environmental effects of opportunities designed to recover economic value of burned timber, reduce fuel accumulations, reforest unstocked lands, rehabilitate existing sediment sources, improve hydrologic conditions in affected watersheds, and protect long-term soil productivity. These objectives would be accomplished through salvage harvest of fire-killed timber; reforestation of severely burned areas; fuels reduction in harvested and unharvested areas; drainage improvement and revegetation of road surface, cuts and fill slopes on existing roads; providing for immediate and long-term recruitment of instream large woody material; and revegetation in riparian areas within the Little Wolf decision area. The Little Wolf decision area is located approximately 35 air miles southeast of Libby, Montana.

The proposal's actions to salvage fire-killed trees, reduce fuels, reforest burned areas, construct temporary roads, restore drainage and vegetation on existing road surface, cuts and fill slopes, restrict road access and implement watershed recovery projects are being considered together because they represent either connected or cumulative actions as defined by the Council on Environmental Quality (40 CFR 1508.25). The EIS will tier to the Kootenai National Forest Land and Resource Management Plan and Final EIS of September 1987, which provides overall guidance for achieving the desired future condition of the area.

DATES: Written comments and suggestions should be received on or before March 27, 1995.

ADDRESSES: The Responsible Official is Robert L. Schrenk, Forest Supervisor, Kootenai National Forest. Written comments and suggestions concerning the scope of the analysis should be sent to Lawrence A. Froberg, District Ranger, Libby Ranger District, 12557 US Highway 37, Libby, Montana, 59923.

FOR FURTHER INFORMATION CONTACT: Jeff Scussel, Planning Staff, Libby Ranger District. Phone: (406) 293–7773.

SUPPLEMENTARY INFORMATION: During the night of August 14–15, 1994, a lightning storm started 207 fires on the Kootenai National Forest in northwest Montana. Several fires ranging in size from less than one acre to almost 5000 acres occurred on the Libby Ranger District. The Little Wolf Fire Recovery EIS is being prepared in response to conditions resulting from the 4700 acres of the Little Wolf Fire that is within the Kootenai National Forest. An interdisciplinary team is using an ecosystem based approach to assess the fire affects and identify management opportunities that could be implemented to move the postfire landscapes toward a desired ecological condition.

Burn intensities on National Forest System lands in the Little Wolf Fire were mostly stand replacing. Within the fire perimeter on the Libby Ranger District, approximately 1848 acres burned at high intensity (average 90% to 95% tree mortality), 845 burned at moderate intensity (average 70% to 75% mortality), and 237 acres burned at low intensity (average 30% mortality). The fires burned in the upper end of the Little Wolf Creek drainage.

The Little Wolf decision area contains approximately 4700 acres within the Kootenai National Forest in Lincoln County, Montana. All of the proposed projects are located in the Little Wolf drainage. The legal location of the decision area is as follows: Sections 7, 8, 17 and 18, of Township 29 North, Range 25 West; Sections 1, 2, 3, 10, 11, 12, 13, and 14 of Township 29 North, Range 26 West; and Sections 34, 35 and 36 of Township 30 North, Range 26 West; Principle Montana Meridian. The land in and adjacent to the decision area is within federal ownership under the jurisdiction of the Forest Service or Plum Creek Timber Company lands.

Proposed Action: The purposes of the project are to recover valuable timber products from trees burned by wildfires that occurred in 1994 (while maintaining ecological processes); to enhance watershed recovery: and improve big game and grey wolf security habitat as timely as possible and to reduce fuel loading. The Forest Service proposes to harvest approximately 7 million board feet or timber by salvaging fire-killed timber and imminently dead trees on approximately 841 acres of forest land outside riparian protection areas. Only trees that were killed, or are expected to die as a result of the fire, would be harvested. The proposal includes prescribed burning of about 42 acres, excavator piling on 160 acres of harvested areas to reduce natural and activity fuels and an additional 20 acres of grapple piling in unharvested areas to reduce natural fuels. An estimated 685 acres of proposed salvage units would be planted with conifer seedlings to help meet desired conditions for species diversity and 80 acres of annual rye and native shrubs would be planted in riparian areas for watershed restoration. The Forest Service proposal also includes approximately 1.8 miles of temporary road construction, of which 1.2 miles would be constructed using low impact snow road construction and would be completely rehabilitated and recontoured. The remaining .6 miles of temporary road would be ripped and seeded. Drainage improvement activities (such as surface ripping, drainage structure improvement, and seeding) would be implemented on all roads within National Forest System lands, (approximately 7 miles), with the intent of restoring natural drainage and reducing sediment. These roads will be needed for future management access, and would remain a part of the permanent transportation system. Additional road access restrictions in cooperation with Plum Creek Timber Company are proposed to provide adequate security areas for big game and grey wolf. Additional projects to improve watershed recovery, reforestation of severely burned areas not proposed for salvage, fuel reduction

in areas not proposed for salvage, and repair of damaged hiking trails would be accomplished if adequate funds are available.

Due to the high level of tree mortality in proposed harvest units, most harvested area would retain green tree numbers similar to clearcut with reserves or seed-tree silvicultural methods. Although the numbers would be similar, the green tree retention would not be evenly distributed but would be in islands, stringers or groups where they exist. Only those live trees which must be cut to facilitate logging fire-killed trees would be harvested. In addition to the live trees that would be retained, a minimum of 3–5 high quality, large diameter snags per acre would be retained in all harvested areas if available. Timber harvest would be done by skyline, cable, or winter tractor, and designed to result in minimal ground disturbance, risk of erosion, and compaction.

The Kootenai National Forest Land and Resource Management Plan provides overall management objectives in individual delineated management areas (MA's). The decision area contains three MA's: 12, 13, and 18. Briefly described, MA 12 is managed to maintain or enhance the summer-ranger habitat effectiveness for big-game species and produce a programmed yield of timber. MA 13 is managed to provide the special habitat necessary for old growth dependent wildlife. MA 18 is managed to protect existing vegetation as establishing coniferous regeneration is determined to be difficult. Timber salvage and fuels reduction is proposed in MA 12 and MA 18.

Preliminary Issues: Several preliminary issues of concern have been identified by the Forest Service. These issues are briefly described below:

- Water quality—Streams in the decision area have been impacted by past management and the Little Wolf Fire. How would the proposed action affect water yield, sediment production, stream stability, and recovery from past impacts?
- Timber Supply—An estimated 16 million board feet of timber on National Forest System lands was killed in the Little Wolf Fire. Much of this fire-killed timber will quickly lose its commercial value due to rapid deterioration. To what extent does the proposed action recover the commercial value of fire-killed timber to help meet local and national needs?
- Grey Wolf—The decision area lies within grey wolf habitat. How would the proposal maintain and enhance grey wolf habitat, and contribute to recovery efforts?
- Old Growth—An estimated 240 acres of designated old growth was destroyed by intense, stand replacing wildfire. What options are available to manage for suitable levels of old growth habitat in the decision area?
- Fisheries—Little Wolf contains fisheries habitat and resident fish populations, including Eastern Brook trout, Rainbow trout, Redside Shiner and an undetermined species of sculpin. How would the proposed action affect fisheries habitat and populations?

Forest Plan Amendment: The Kootenai National Forest Land and Resource Management Plan has specific management direction for the Little Wolf decision area. The Little Wolf proposed action is designed to maintain or improve resource conditions and move towards achieving desired ecological conditions, and is consistent with the goals and objectives of the Forest Plan. Prior to making a NEPA decision, a thorough examination of all standards and guidelines of the Forest Plan would be completed and, if necessary, plan exceptions or amendments would be addressed in the EIS.

Decisions To Be Made: The Kootenai National Forest Supervisor will decide the following:

Should dead and imminently dead trees within fire areas be harvested and if so how and where,

What amount, type, and distribution of watershed restoration projects, including road restoration, would be implemented, what burned areas need to be replanted, what areas need fuel reduction treatment, how and where will replacement old growth be designated, what road access restrictions would be implemented to provide security for big game and the grey wolf, and if Forest Plan exception or amendments are necessary to proceed with the Proposed Action within the decision area.

Public Involvement and Scoping: An open house will be scheduled in March to provide an opportunity for the public to review the proposed action. Consultation with appropriate State and Federal agencies has been initiated. Preliminary effects analysis indicated that the wildfires may significantly affect the quality of the human environment, and fire recovery activities have the potential to both intensify and reduce effects. These potential effects prompted the decision to prepare an EIS for the Little Wolf Fire Recovery.

This environmental analysis and decision making process will enable additional interested and affected people to participate and contribute to the final decision. Public participation will be requested at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies, and other individuals or organizations who may be interested in or affected by the proposed projects. This input will be used in preparation of the draft and final EIS.

The scoping process will include:

- Identifying potential issues.
- Identifying major issues to be analyzed in depth.
- Exploring additional alternatives which will be derived from issues recognized during scoping activities.
- Identifying potential environmental effects of this project and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

The analysis will consider a range of alternatives, including the proposed action, no action, and other reasonable action alternatives.

Estimated Dates for Filing: The draft Little Wolf Fire Recovery EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by June, 1995. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register.** The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register.**

The final EIS is scheduled to be completed by September, 1995. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewer's Obligations: The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official: Robert L. Schrenk, Forest Supervisor, Kootenai National Forest, 506 US Highway 2 West, Libby, MT 59923 is the Responsible Official. I have delegated the responsibility to prepare the Little Wolf Fire Salvage and Restoration Environmental Impact Statement to Lawrence A. Frobert, District Ranger, Libby Ranger District. As the Responsible Official I will decide which, if any, of the proposed projects will be implemented. I will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations.

Dated: February 13, 1995.

Robert L. Schrenk,

Forest Supervisor,

[FR Doc. 95–4344 Filed 2–22–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

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

Agency: Bureau of Export Administration.

Title: Encryption Software Marketing Survey.

Agency Form Number: None.

OMB Approval Number: None.

Type of Request: New Collection –– prompt review requested.

Burden: 450 hours.

Number of Respondents: 150.

Avg Hours Per Response: 3 hours.

Needs and Uses: Commerce is surveying encryption software producers to evaluate the impact of U.S. export controls on the international competitiveness of the U.S. industry. BXA will share this information with the Interagency Working Group on Encryption and Telecommunications Policy. This report will assist the Administration in determining what, if any, changes should be made in export controls affecting encryption software.

Affected Public: Businesses or other for–profit institutions.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: February 16, 1995

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–4380 Filed 2–22–95; 8:45 am]

BILLING CODE 3510–CW–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Current Population Survey – June 1995 Marital History and Fertility Supplement.

Agency Approval Number: 0607–0610.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Burden: 5,035 hours.

Number of Respondents: 57,000.

Avg Hours Per Response: 5.3 minutes.

Needs and Uses: The Current Population Survey (CPS) is a survey conducted in a sample of approximately 57,000 households monthly throughout the United States. Data on demographic and labor force characteristics are collected from a sample of households which represent the U.S. population. The Bureau of the Census uses the data to compile monthly averages of household size and composition, age, education, ethnicity, marital status and various other characteristics at the U.S. level. The Bureau of Labor Statistics also uses the data in its monthly calculations of employment and unemployment. The basic monthly questionnaire is periodically supplemented with additional questions which address specific needs. The marital history and fertility supplement provides data on marital stability and fertility and childbearing characteristics of female household members by various demographic characteristics. The data collected from this supplement are used primarily by government and private analysts to project future population growth, to analyze child spacing patterns and marital stability, and to assist policymakers in making decisions that are affected by changes in family size and composition. Questions on marital history have been asked in the CPS every 5 years since 1975. We have collected data on fertility and birth expectations in the CPS annually since 1971 (with the exception of 1989, 1991, and 1993).

Affected Public: Individuals or households.

Frequency: See above.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: February 16, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–4375 Filed 2–22–95; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Advance Monthly Retail Sales Survey.

Form Number(s): B–104(92).

Agency Approval Number: 0607–0104.

Type of Request: Extension of a currently approved collection.

Burden: 3,363.

Number of Respondents: 3,363.

Avg Hours Per Response: 5 minutes.

Needs and Uses: The Bureau of the Census conducts the Advance Monthly Retail Sales Survey to collect monthly sales data from a national sample of retail establishments on a timely basis in order to provide an early indication of changes in current retail trade activity at the United States level. Policy makers such as the Federal Reserve Board need to have the most timely estimates in order to anticipate economic trends and act accordingly. The Bureau of the Census releases the advance sales estimates 9 days after the end of the data month in a press release called ''Advance Monthly Retail Sales Report.'' Without these early estimates, the next available measure of retail sales is the ''preliminary'' estimate released about 40 days after the data month. Other users of the advance sales estimates include the Council of Economic Advisors, Bureau of Economic Analysis, Federal Reserve Board, other government agencies, and businesses.

Affected Public: Businesses or other for–profit organizations.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: February 16, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–4374 Filed 2–22–95; 8:45 am]

BILLING CODE 3510–07–F

International Trade Administration

[A–412–810]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by a manufacturer/exporter, United Engineering Steels Limited (UES), the Department of Commerce (the Department) is conducting the first administrative review of the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products (lead and bismuth steel) from the United Kingdom (U.K.). The review covers one manufacturer/exporter, UES, and entries of the subject merchandise into the United States during the period September 28, 1992 through February 28, 1994. We have preliminarily determined that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States price (USP) and the FMV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 23, 1995.

FOR FURTHER INFORMATION CONTACT: Nooshen Amiri or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On March 4, 1994, the Department published in the **FEDERAL REGISTER** (59 FR 10368) a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order on lead and bismuth steel from the U.K. (58 FR 15324). On March 31, 1994, a manufacturer/exporter, UES, requested that we conduct an administrative review in accordance with section 353.22(a) of the Department's regulations (19 CFR 353.22(a)). We published the notice of initiation of the antidumping duty administrative review on April 15, 1994 (59 FR 18099), covering the period September 28, 1992 through February 28, 1994. The Department has now conducted the review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

The products covered by this review are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1 (f)). except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50;7214.60.00.10, 00.30, 00.50; and 7228.30.80.00. HTSUS subheadings are provided for convenience and Customs purposes. The written product description remains dispositive.

This review covers sales of the subject merchandise manufactured by UES and entered into the United States during the period September 28, 1992 through February 28, 1994.

United States Price

The Department used purchase price (PP), as defined in section 772 of the Act, in calculating USP for UES because all sales were made directly to unrelated parties prior to importation into the United States. USP was based on packed, delivered prices to customers in the United States. We made deductions, where applicable, for cash discounts, rebates, foreign inland freight, FOB charges in the U.K., ocean freight, marine insurance, U.S. Customs duties and merchandise processing fees, harbor maintenance fees, brokerage and handling charges, and U.S. inland freight charges. We also made an adjustment for invoice corrections (billing adjustments) made after shipment. While UES's shipments to the Untied States are transported by a related carrier, British Steel Shipping,

UES established that the related carrier charges UES arm's-length rates. Therefore, we used actual ocean freight rates reported.

We adjusted USP for value-added taxes (VAT) in accordance with our practice as outlined in *Silicomanganese from Venezuela, Preliminary Determination of Sales at Less Than Fair Value,* 59 FR 31204 (June 17, 1994). No other adjustments were claimed or allowed.

We used the date of shipment as the date of sale for both U.S. sales and home market sales because a substantial percentage of both U.S. orders and home market orders were significantly amended subsequent to the original purchase order, and the price and quantity were set on the date of shipment.

Foreign Market Value

In calculating FMV for UES, the Department used home market sales or constructed value (CV), as defined in section 773 of the Act.

To determine whether there were sufficient sales of lead and bismuth steel in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales to the volume of third country sales, in accordance with section 773(a)(1) of the Act. We found that sales in the home market constituted a sufficient basis for FMV, in accordance with 19 CFR 353.48(a).

Many of UES's home market sales were made to related customers. In order to determine whether sales to related parties might be appropriate to use as the basis of FMV, the Department compares prices of those sales to prices to unrelated parties, on a model-by-model basis. When possible, the Department uses unrelated party sales at the same level of trade as the related party sales for this comparison. UES did not have sales to unrelated customers in the home market at the same level of trade and in similar quantities as those to related customers. In the home market, UES sold to related cold finishers and unrelated resellers. Home market sales to related cold finishers were generally large quantity sales, while home market sales to unrelated resellers were generally small quantity sales. In the U.S. market, UES sold to unrelated cold finishers in large quantities.

UES claimed that its home market sales to related finishers were made at arm's-length prices, and that any price differences among customers reflect market factors and the fact that high-volume, long-term customers are able to negotiate lower prices than smaller customers, related or not. In support of its argument, UES submitted a comparison of related prices with unrelated prices, allegedly showing that UES's related-party prices satisfy the Department's customary arm's-length test. UES also submitted an analysis of prices to a party that was acquired by UES during the period of review, in support of its contention that relationship does not determine price levels. Finally, UES submitted a number of sample invoices it issued to an unrelated third-country customer, which it claimed was comparable in size and purchase volume with UES's major related home market customers, to show that its related-party prices were market-based.

Petitioner, Inland Steel Bar Company, asserted that home market sales to related parties were not made on an arm's-length basis and that UES's analysis did not take into account all customer rebates and discounts. Petitioner further asserted that UES failed to perform its arm's-length test on a model-specific basis. Regarding the comparison of prices paid by a party before it was acquired by UES with the prices paid after it was acquired, petitioner claimed that the comparison was inapposite, as market pricing conditions changed significantly since the company was acquired, and home market prices increased for all customers. Regarding UES's comparison of prices in a third-country market with prices to related customers in the home market, petitioner claimed that prices charged by UES in third countries have no bearing on this review because market conditions in third countries vary from those in the home market.

We agree with petitioner that differences in market conditions across countries or time periods could invalidate certain of UES's analyses. We further agree with petitioner that UES's analysis of data from this review fails to provide an accurate assessment of whether its related-party sales were made at arm's length because it did not account for certain rebates and it did not perform its arm's-length test on a model group-by-model group basis.

For these reasons, we used the only information that was available in the record, we compared related-customer sales with unrelated-customer sales on a model group-by-model group basis regardless of level of trade. When sales to related customers were made at arm's-length prices, we included them in the calculation of FMV. UES made no claim for an adjustment due to differences in quantities. We invite comments on the issue of how to perform an arm's-length test in cases such as this, where home market sales to related and unrelated customers are made at different levels of trade and in different quantities.

In accordance with 19 CFR 353.58 and 353.55, we compared U.S. sales to home market sales made at the same level of trade, and in similar commercial quantities, where possible. That is, we compared U.S. sales of 25 metric tons (MT) or more with home market sales of 25 MT or more, and U.S. sales of less than 25 MT with home market sales of less than 25 MT, because surcharges apply to home market sales of less than 25 MT, but not to home market sales of 25 MT or more. Quantity surcharges do not apply to any U.S. sales.

Because the Department found sales at less than their cost of production (COP) during the less-than-fair-value (LTFV) investigation, in accordance with our standard practice, we found reasonable grounds to believe or suspect that UES had made sales at prices below its COP in the home market during the period of review (POR). Thus, in accordance with section 773(b) of the Act, we investigated whether UES had home market sales that were made at less than their COP over an extended period of time, and in substantial quantities during this POR.

To determine whether home market prices were below the COP, we calculated the COP based on the sum of UES's cost of materials, fabrication, general expenses, and packing, in accordance with 19 CFR 353.51(c). We made the following adjustments to UES's reported costs: (1) we increased cost of manufacturing for labor-related expenses; and (2) we increased general and administrative expenses for costs attributed to discontinued operations. The latter were part of UES's general and administrative expenses that UES had failed to include in its reported costs. We compared home market selling prices, net of movement charges, rebates, and invoice corrections, to each product's COP. We found that certain sales were made at prices below the COP.

To determine whether the below-cost sales were made in substantial quantities over an extended period of time, we applied our following standard practice. If over 90 percent of a UES's sales of a given model were at prices above the COP, we did not disregard any below-cost sales because we determined that the below-cost sales were not made in substantial quantities over an extended period of time. If between 10 and 90 percent of UES's sales of a given model were at prices above the COP, we disregarded only the below-cost sales, if we found that these

had been made over an extended period of time. Where we found that more than 90 percent of a UES's sales were at prices below the COP over an extended period of time, we disregarded all sales for that model and calculated FMV based on CV.

To determine if sales below cost were made over an extended period of time, we compared the number of months in which sales below cost had occurred for a particular model to the number of months in which the model was sold. If the model was sold in three or fewer months, we did not find that below-cost sales were made over an extended period of time unless there were sales below cost of that model in each month. If a model was sold in more than three months, we did not find that below-cost sales were made over an extended period of time unless there were sales below cost in at least three of the months in which the model was sole. *See, e.g., Tapered Roller Bearings from Japan, Final Results of Antidumping Duty Administrative Review,* 58 FR 64720 (Dec. 9, 1993). *See also Antifriction Bearings from France, et al., Preliminary Results of Antidumping Duty Administrative Review, 59 FR 9463 (Feb. 28, 1994).*

For those models for which there was an adequate number of sales at prices above the COP, we based FMV on home market prices to related and unrelated purchasers, in accordance with 19 CFR 353.45(a). We used prices to related purchasers only if such prices were made at arm's length (see arm's-length discussion above). We calculated FMV based on packed, delivered prices. We made deductions, where appropriate, for rebates and invoice corrections. Pursuant to section 773(a)(4)(B) of the Act, and 19 CFR 353.56(a)(2), we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses, warranty expenses, warehousing expenses, inland freight, and commissions. We also made a circumstance-of-sale adjustment for differences in credit insurance expenses. Credit insurance charges for U.S. sales were assessed on a sale-by-sale basis, while in the home market, a single amount was charged for insurance, regardless of the level of sales. We therefore preliminarily determine as we determined in the final determination of sales at LTFV for this case, that credit insurance is a direct expense in the U.S. market, and an indirect expense in the home market. Accordingly, we made this adjustment by adding the amount of credit insurance assessed on each U.S. sale to the FMV. When commissions were paid on the U.S. sale and not on the home market sale, we made an adjustment for indirect selling expenses in the home market to offset the commissions in the U.S. market.

Because the home market prices were reported net of VAT, we added to the home market price the amount of VAT incurred on each individual home market sale.

Where appropriate, we made further adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with 19 CFR 353.57.

Petitioner argued against using differences in ''residuals,'' or trace elements, as a criterion in determining whether home market merchandise was most similar to merchandise sold to the United States. However, product differences due to residuals are commercially significant and not incidental, as they are designed into the product. Therefore, we continued to consider residuals in model matching, as we did in the LTFV investigation of this case.

For those models without an adequate number of sales made at prices above the COP, in accordance with section 773(b) of the Act, we based FMV on CV. We calculated the CV based on the sum of the cost of materials, fabrication, general expenses, U.S. packing cost, and profit, in accordance with section 773(e) of the Act. We adjusted UES's CV data in the same manner as we adjusted its COP data as discussed above. In accordance with section 773(e)(1)(B)(i) of the Act, we included in CV the greater of the company's reported general expenses or the statutory minimum of ten percent of the cost of manufacture (COM). For profit we used the actual profit earned by UES where the actual figure was higher than the statutory minimum of eight percent of the sum of COM and general expenses, or the statutory minimum of eight percent where the actual profit was lower, in accordance with section 773(e)(1)(B)(ii) of the Act. We made circumstance-of-sale adjustments, where appropriate, for differences in direct selling expenses, including credit, credit insurance, warranty, inland freight, and policy stock warehousing.

No other adjustments were claimed or allowed.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act, we verified information provided by respondent by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following dumping margin exists for the period September 28, 1992 through February 28, 1994.

Manufacturing/exporter	Period of review	Margin
United Engineering Steels Ltd. (UES)	9/28/92–2/28/94	4.03

Any interested party may request a hearing within 10 days of publication of this notice. Any hearing will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the publication date of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will publish a notice of the final results of this administrative review, which will include the result of its analysis of issues raised in any such case briefs.

The following deposit requirements shall be effective for all shipments of the subject merchandise that are entered, or withdrawn from warehouse for consumption, on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed company shall be those rates established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate shall be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 25.82 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement will result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 15, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95–4456 Filed 2–22–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–583–815]

Notice of Amended Final Determination and Antidumping Duty Order: Certain Welded Stainless Steel Pipe From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 23, 1995.

FOR FURTHER INFORMATION CONTACT: John Beck, Office of Antidumping Duty Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3464.

Scope of Order

The merchandise subject to this amended final determination and antidumping duty order is welded austenitic stainless steel pipe (WSSP) that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A–312. The merchandise covered by the scope of the investigation also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A–312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines and paper process machines.

Imports of WSSP are currently classifiable under the following HTSUS subheadings: 7306.40.1000, 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5065, and 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of this investigation is limited to welded austenitic stainless steel pipes. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Background

On November 4, 1992, the Department of Commerce made its final determination that certain WSSP from the Republic of Korea (Korea) were being sold at less than fair value (57 FR 53693, November 12, 1992).

On October 7, 1993, the CIT, in *Federal-Mogul Corp. and the Torrington Co. v. United States*, 834 F. Supp. 1391 (CIT 1993) (*Federal-Mogul*), rejected the Department's methodology for calculating an addition to United States price (USP) under section 772(d)(1)(C) of the Tariff Act of 1930, as amended (the Act), to account for taxes that the exporting country would have assessed on the merchandise had it been sold in the home market. The CIT held that the addition to USP under section 772(d)(1)(C) of the Act should be the result of applying the foreign market tax rate to the price of the United States merchandise at the same point in the chain of commerce that the foreign market tax was applied to foreign market sales. *Federal-Mogul*, 834 F. Supp. at 1397.

On November 18, 1993, the CIT, in *Avesta Sheffield, Inc., et al. v. United States*, Slip Op. 93–217, Court No. 93–01–00062 remanded the final determination of WSSP from Korea to the Department for recalculation. In *Avesta*, the CIT remanded the Department's final determination to recalculate foreign market value (FMV) with no circumstance of sale adjustment for value added tax and to reconsider the Department's VAT U.S. price methodology for Sammi Metal Products Co., Ltd. and Pusan Steel Pipe Co., Ltd. (Slip Op. 93–217 at 17).

Final Remand Results

In accordance with the *Avesta* and *Federal-Mogul* decisions, we conformed our tax methodology to the instructions of the CIT, and adjusted U.S. price for tax by multiplying the Korean tax rate by the price of the U.S. merchandise at the point in the U.S. chain of commerce that is analogous to the point in the Korean chain of commerce at which the Korean government applies the consumption tax.

In this investigation, the tax levied on the subject merchandise in Korea is 10 percent. We calculated the appropriate tax adjustment to be 10 percent of the price of the U.S. merchandise reflected on the invoice at the time of sale (which, in this case, is the point in the U.S. chain of commerce that is analogous to the point in the Korean market chain of commerce at which the Korean government applies the consumption tax). We then added this amount to the U.S. price. We also calculated the amount of the tax adjustment that was due solely to the inclusion of expenses in the original tax base that are later deducted from the price to calculate USP (*i.e.*, 10 percent of the sum of any adjustments, expenses and charges that were deducted from the price of the U.S. merchandise). We reduced this tax adjustment to take into account the adjustment to U.S. price for duty drawback (*i.e.*, 10 percent of the duty drawback amount that was excluded from the tax base). We deducted this amount after all other additions and deductions had been made. By making this additional tax adjustment, we avoid a distortion that would cause the creation of a dumping margin even when pre-tax dumping is zero.

We included in FMV the amount of the consumption tax collected in the Korean home market. We also calculated the amount of the tax that was due solely to the inclusion of expenses in the original tax base that are later deducted from home market price to calculate FMV (*i.e.*, 10 percent of the sum of any adjustments, expenses, charges, and offsets that were deducted from the home market price). We deducted this amount after all other additions and deductions were made. By making this additional tax adjustment, we avoid a distortion that would cause the creation of a dumping margin even when pre-tax dumping is zero. In addition, we calculated a re-adjustment of the amount of tax to take into account the amount of packing expenses added to FMV (*i.e.*, 10 percent of the packing expenses).

Final Results of Redetermination

On June 14, 1994, the CIT affirmed our redetermination (Slip Op. 94–99). In accordance with that affirmation, we are amending the final determination of sales at less than fair value and antidumping duty order. In accordance with section 736 of the Act, the Department will direct Customs to require, on entries of WSSP from Korea entered, or withdrawn, from warehouse for consumption on or after the date of this notice, at the same time as importers would normally deposit estimated duties, the following cash deposits:

Manufacturer/producer/exporter	Margin percentage
Pusan Steel Pipe Co., Ltd.	2.67
Sammi Metal Products Co., Ltd.	7.92
All Others	7.00

If entries of WSSP from Korea entered on or after June 25, 1994, the effective date of the CIT's decision, are liquidated without review pursuant to 19 CFR 353.22(e), the Department will direct Customs to liquidate such entries in accordance with these rates.

This notice constitutes the amended final determination and antidumping duty order with respect to welded stainless steel pipe from the Republic of Korea. Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This amended final determination and order is published in accordance with sections 735(a) and 736(a) of the Act and 19 CFR 353.20(a)(4) and 353.21.

Dated: February 16, 1995.

Barbara R. Stafford,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95–4457 Filed 2–22–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–840]

Notice of Postponement of Preliminary Antidumping Duty Determination: Manganese Metal From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: February 23, 1955.

FOR FURTHER INFORMATION CONTACT: Cameron Werker (202–482–3874), Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, D.C. 20230.

POSTPONEMENT OF PRELIMINARY DETERMINATION:

On November 28, 1994, the Department of Commerce (''the Department'') initiated the antidumping duty investigation of manganese metal from the People's Republic of China (PRC) (59 FR 61869, December 2, 1994). The notice of initiation incorrectly reported the date of the preliminary determination as April 27, 1995. The correct date is April 17, 1995.

On December 27, 1994, the U.S. International Trade Commission determined that there is a reasonable indication that a U.S. domestic industry is threatened with material injury by reason of imports of manganese metal from the PRC (60 FR 146–147, January 3, 1995).

Information available to the Department indicates that there may be many producers/exporters of the subject merchandise. Further, although requested, the PRC government has not yet identified those PRC exporters that sold manganese metal to the United States during the period of investigation. The Department is still attempting to identify these PRC companies. This process of identifying all PRC producers/exporters of the subject merchandise during the POI requires that we determine that this investigation is extraordinarily complicated and that additional time is necessary to make the preliminary determination. Furthermore, the respondent parties in this investigation have thus far cooperated with the requests of the Department. Therefore, pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), we are postponing our preliminary determination in this investigation until no later than June 6, 1995.

This notice is published pursuant to section 733(c)(2) of the Act, as amended, and 19 CFR 353.15(d).

Dated: February 15, 1995.

Barbara R. Stafford

Deputy Assistant Secretary for Investigations.

[FR Doc. 95–4458 Filed 2–22–95; 8:45 am]

BILLING CODE 3510–DS–P

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On February 8, 1995 Cinsa, S.A. de C.V. filed a First Request for Panel Review with the U.S. Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping determination review made by the International Trade Administration in the administrative review respecting Porcelain-on-Steel Cookware from Mexico. This determination was published in the **Federal Register** on January 9, 1995 (60 FR 2378) and Amended on February 8, 1995 (60 FR 7521). The NAFTA Secretariat has assigned Case Number USA–95–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the U.S. Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on February 8, 1995, requesting panel review of the final antidumping duty administrative review described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is March 10, 1995);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the

final determination may participate in the panel review by filing a Notice of Appearance in accordance with rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is March 27, 1995); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: February 17, 1995.

Caratina L. Alston,

Deputy U.S. Secretary NAFTA Secretariat.

[FR Doc. 95–4459 Filed 2–22–95; 8:45 am]

BILLING CODE 3510–GT–M

National Oceanic and Atmospheric Administration

SUBJECT: National Weather Service Modernization and Associated Restructuring.

ACTION: Notice.

SUMMARY; On November 4, 1994, the Department of Commerce requested comments identifying service areas where it is believed that current weather services may be degraded as existing radars are decommissioned or as field offices are closed, consolidated, automated or relocated during the modernization of the National Weather Service (59 FR 55254). Appendix 1 to the November 4, 1994 notice contained Study Guidelines which specified the procedures the Secretary of Commerce will follow during modernization of the National Weather Service with respect to the identified areas of concern.

Today's notice lists the areas of concern that were identified as a result of the comments that were received, briefly describes the remaining steps in the process, and reiterates the modernization actions that are prohibited in an identified area of concern until the process described in the Study Guidelines is completed. Appendix 1 to this notice contains the complete Study Guidelines.

FOR FURTHER INFORMATION CONTACT: Julie Scanlon at 301–713–1413 or Nick Scheller at 301–713–0454.

SUPPLEMENTARY INFORMATION: Public Comments Received: Over 67,000 written comments were received during the 60 day public comment period which closed on January 3, 1995. Written comments were in the form of letters, postcards, facsimile transmissions, electronic mail messages, and signed petitions. The Secretary of Commerce appreciates the thoughtful and valuable inputs on the National Weather Service and its modernization program that were contained in the comments. All such comments have been forwarded to the National Academy of Sciences' National Research Council (NRC) for consideration during their study on the adequacy of planned NEXRAD radar coverage and the effect of field office consolidation. A number of late comments were also received, i.e., postmarked after January 3, 1995. These late comments have been forwarded to the NRC for whatever consideration they may choose to give them.

Areas of Concern: Under the provisions of the Study Guidelines, a single timely comment was sufficient to establish an area as an area of concern. The areas of concern identified are listed below.

Areas of Concern

WSO Asheville, NC
WSO Astoria, OR
WSO Athens, GA
WSO Baton Rouge, LA
WSO Cape Hatteras, NC
WSO Caribou, ME
WSO Charlotte, NC
WSO Chattanooga, TN
WSO Colorado Springs, CO
WSO Del Rio, TX
WSO Elkins, WV
WSO Erie, PA
WSO Evansville, IN
WSO Fort Smith, AR
WSO Fort Wayne, IN
WSO Grand Island, NE
WSO Greensboro, NC
WSO Harrisburg, PA
WSO Huntsville, AL
WSO International Falls, MN
WSO Kalispell, MT
WSO Key West, FL
WSO Lexington, KY
WSO Montgomery, AL
WSO Redding, CA
WSO South Bend, IN
WSO Toledo, OH
WSO Wichita Falls, TX
WSO Williston, ND
WSO Wilmington, DE
WSO Hondo, TX
central Oregon/central Washington

Generally, areas of concern are denoted by National Weather Service Offices (WSO) and extend throughout the pre-modernization geographical area for which what WSO was responsible for providing weather services. One area is denoted by a National Weather Service Meteorological Observatory (WSMO) and extends throughout the area for which the existing radar operated by that WSMO provides coverage. The final area of concern listed is identified as central Oregon/central Washington. The concerns expressed for this area was not about any specific existing radar or weather office, but rather about the general adequacy of NEXRAD coverage in central Oregon and central Washington under the planned NEXRAD network.

Remaining Steps in the Process: The NRC will continue the study it began in October 1994 under an amendment to the National Oceanic and Atmospheric Administration contract #50–DGNW–0–00041. This study is an independent scientific assessment of proposed NEXRAD radar coverage and consolidation of field offices in terms of the ''no degradation of services'' requirement of Public Law 102–567, and in light of public comments received. The NRC will also establish criteria for identifying service areas where the decommissioning of existing radars could degrade services. The NRC will document its findings and recommendations in a report to the Secretary of Commerce. The contractually specific date for delivery of this report is May 17, 1995. The Study Guidelines' due date of 180 days for delivery of this report could not be achieved by the NRC.

The Secretary of Commerce will then apply the NRC's criteria, and other applicable criteria previously approved by the NRC pursuant to the Weather Service Modernization Act, to the above identified areas of concern, and taking into account public comments received, will identify where actions to decommission a radar, or to close, consolidate, relocate, or automate a field office are not likely to satisfy the ''no degradation of services'' requirement of Public Law 102–567. The Secretary of Commerce will document any recommended adjustments to the National Weather Service modernization plan for these areas of concern to ensure ''no degradation of services'' in a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The estimated time frame for delivery of this report is fall 1995.

Prohibited Actions in an Area of Concern: Until the above process is completed and a 30-day grace period from the date of the Secretary of Commerce's report to Congress has elapsed, there will be no decommissioning of any existing radar; or closure, consolidation, relocation, or automation certification at any of the weather offices identified as areas of concern as listed above.

Dated: February 17, 1995.

D. James Baker,

Under Secretary for Oceans and Atmosphere.

Appendix 1—Study Guidelines

Section 1

(a) Modernization of the NWS is essential to public safety and should proceed without unnecessary delay.

(b) The WSMA establishes procedures that assures that the modernization of the NWS will not result in the degradation of weather services currently provided to the public but these procedures do not provide for the independent review of decisions until shortly after the actual event; and

(c) It is appropriate to review the adequacy of the Nation's overall NEXRAD coverage, to ensure a solid scientific and technical basis for the decision-making process, and to assure meaningful participation by the public.

Section 2

The purposes of this document are to provide the fullest opportunity for public participation in the modernization process without unduly delaying this process; and to ensure, through the application of independent scientific criteria that weather services provided in each service area will not be degraded as obsolete radars are decommissioned or as field offices are closed, consolidated, relocated or automated.

Section 3

The definitions contained in section 702 of the WSMA shall apply to the terms in this document. In addition, the term ''area of concern'' means a service area identified in a timely public comment in response to the **Federal Register** notice required by section 4 of this document.

Section 4

Within 30 days the Secretary shall publish a notice in the **Federal Register** requesting comments on service areas where it is believed that current weather services may be degraded as existing radars are decommissioned or as field offices are closed, consolidated, automated or relocated. The notice shall allow 60 days for the submission of comments. Persons submitting comments shall state the basis for their belief as fully as possible, and shall include a description of local weather characteristics (including unique weather phenomena) and weather related concerns which involve a substantial threat to public safety which they believe affect the weather services provided in areas of concern. All comments received by the Secretary shall be provided promptly to the NRC.

Section 5

(a) Within 30 days the Secretary shall contract with the NRC, or amend an existing contract as necessary, to conduct an independent scientific assessment of proposed NEXRAD radar coverage and consolidation of Field Offices in terms of ''no degradation of services'' and to establish criteria for identifying service areas where the decommissioning of existing radars could degrade service to affected users.

(b) Within 180 days, but not earlier than 60 days after the close of the comment period provided in the **Federal Register** notice of Section 4, the NRC shall furnish to the Secretary the assessment and criteria required by subsection (a) together with recommendations regarding the need and timing for any future independent studies by the NRC.

Section 6

(a) After receipt of the NRC report, the Secretary shall apply the NRC criteria and other applicable criteria previously approved by the NRC pursuant to the WSMA to areas of concerns and, taking into account the comments received in response to the **Federal Register** notice of Section 4, identify those where he/she believes that actions to decommission a radar or to close, consolidate, relocate, automate a field office noted in the current version of the NIP are not likely to satisfy the requirements of the WSMA. The Secretary shall report the results of his/her review to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. If the Secretary believes that additional radars are needed to satisfy the requirements of the WSMA, he/she shall also identify the number and location of the radars needed.

(b) Submission of a report under this section shall not relieve the Secretary from the requirement of Section 706(b) of the WSMA to certify no degradation of service when he/she restructures a field office. If the field office is located in an area of concern, the Secretary shall provide all comments relating to that area of concern received pursuant to Section 4 to the MTC during the certification process.

Section 7

(a) The Secretary shall not close, consolidate, relocate, or automate any field office or decommission any NWS radar until the public has had an opportunity to identify areas of concern.

(b) Regardless of the contents of the most recent NIP, the Secretary shall not decommission a radar or close, consolidate, automate or relocate a field office in an area of concern unless—

(1) The Secretary has reported to the Congress as provided in section 6 that he/she believes that the action contemplated would not result in a degradation of service; and

(2) 30 days have expired from the date the report was submitted to Congress.

[FR Doc. 94–4443 Filed 2–22–95, 8:45 am]

BILLING CODE 3510–12–M

[I.D. 020895A]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for a scientific research permit (P580).

SUMMARY: Notice is hereby given that Ms. Carol Anne Conway, 407 Garces Drive, San Francisco, CA 94132, has applied in due form for a permit to import blue whale (*Balaenoptera musculus*) tissue samples from Newfoundland, Canada, for purposes of scientific research.

DATES: Written comments must be received on or before March 27, 1995.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Southwest Region, 501 W. Ocean Boulevard, Long Beach, CA 90802–4213 (310/980–4001).

Written data or views, or requests for a public hearing on this request, should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

The applicant proposes to import blue whale samples from Canada. The samples are to be used in a study of the sexual composition of the blue whale population off the western coast of the United States using molecular genetic techniques. Since the Canadian samples are from ice-entrapped animals for which the sex was visually determined, they will be used as positive controls for the genetic technique. Samples from live populations off the western coast were collected under another permit (No. 675), and subsamples will be provided to the applicant by the permittee.

Dated: February 16, 1995.

P.A. Montanio,

Acting Director, Office of Protected Resources National Marine Fisheries Service.

[FR Doc. 95–4370 Filed 2-22-95; 8:45 am]

BILLING CODE 3510-22-F

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COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Time and Location of Hearing on Integration of the Textile and Clothing Sectors Into the World Trade Organization

February 16, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice of the time and location of the public hearing on integration.

FOR FURTHER INFORMATION CONTACT: Julie Carducci, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3588.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Uruguay Round Agreement on Textiles and Clothing (ATC), approved by Congress as part of the Uruguay Round Agreements Act, provides for the integration of the textiles and clothing sectors into the World Trade Organization.

On January 30, 1995, the Committee for the Implementation of Textile Agreements (CITA) published a Federal Register notice (60 FR 5625) announcing the proposed list of products for integration in the second and third phases of the integration. CITA requested interested parties to submit comments on the proposed list, and announced a hearing to address any significant issues related to the second and third phases of the integration. The notice informed interested parties of the deadlines, given below, for participating in the hearing and submitting written testimony.

The hearing will be held from 10 a.m. to 1 p.m. on March 20, 1995 in the Main Hearing Room at the International Trade Commission, 500 E Street, SW., Washington, DC. Parties wishing to participate in the hearing should contact Julie Carducci, (202) 482–3588; fax (202) 482–0858, no later than February 23, 1995 to arrange for their appearance. The time available for individual presentations will be based on the number of participants attending the hearing. Note there will be reasonable time limits on parties' participation in the hearing.

Written testimony and other comments to be presented at the hearing must be submitted to the Chairman of CITA on or before March 2, 1995. Submissions in triplicate may be addressed to the Chairman, Committee for the Implementation of Textile Agreements, room 3001, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

All information submitted in response to this notice will be available for public inspection at the same address. Protection of proprietary or business confidential information from disclosure is limited to the requirements of the Freedom of Information Act (5 U.S.C. 552). Therefore, if a participant deems it necessary to submit information intended to be business confidential, the information must be designated as such and accompanied by a non-confidential version. Information designated business confidential will be protected from disclosure only to the extent required by law.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–4455 Filed 2–22–95; 8:45 am]

BILLING CODE 3510–DR–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Civilian Community Corps Advisory Board Meeting

AGENCY: Corporation for National Community Service.

ACTION: Notice of meeting.

SUMMARY: The Corporation for National and Community Service, gives notice under Public Law 92–463 (Federal Advisory Committee Act), that it will hold a meeting of the Civilian Community Corps (CCC) Advisory Board. The board advises the Director of the CCC concerning the administration of the program and assists in the development and administration of the Corps. This meeting of the Board will discuss the progress to date and future direction of the program. The meeting will be open to the public up to the seating capacity of the room.

DATES: March 7, 1995, 6:00pm–9:00pm; March 8, 1995, 9:00 am–5:00pm.

ADDRESSES: Crystal City Doubletree Hotel, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: To assure adequate accommodation, contact Ms. Carla Sims, Protocol Officer, CCC at 1201 New York Avenue, NW., Washington, DC 20525; (202) 606–5000 ext. 179 or (202) 606–5000 (TDD) prior to March 7, 1995.

Donald L. Scott,

Director, NCCC.

[FR Doc. 95–4462 Filed 2–22–95; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Department of the Navy

Correction to Notice of Public Hearings for the Draft Environmental Impact Statement for the Disposal and Reuse Naval Hospital Long Beach, Long Beach, CA

Correction is hereby made to paragraph seven, first sentence of the Notice of Public Hearing for the Draft Environmental Impact Statement (DEIS) for the disposal and reuse of Naval Hospital Long Beach, California that appeared in the **Federal Register** on February 14, 1995 (60 FR 8345). The sentence should read: ''In the interest of available time, each speaker will be asked to limit their oral comments to three minutes''.

Dated: February 16, 1995.

M.D. Schetzsle,

Lt., JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–4423 Filed 2–22–95; 8:45 am]

BILLING CODE 3810–FF–P

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel will meet on March 16, 1995, from 9:00 a.m. to 4:00 p.m. The meeting will be held at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to conduct discussions on strategies for an uncertain future to include current intelligence, wargaming, and current Navy Staff hedging strategies. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Timothy J. Galpin, Assistant for CNO Executive Panel Management, 4401 Ford Avenue, Suite 601, Alexandria, VA 22302-0268, Phone: (703) 756-1205.

Dated: February 16, 1995.

L. R. McNees,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95-4424 Filed 2-22-95; 8:45 am]

BILLING CODE 3810-FF-F

DEPARTMENT OF ENERGY

Finding of No Significant Impact Proposed Remedial Action at Two Uranium Processing Sites Near Slick Rock, CO

AGENCY: Department of Energy.

ACTION: Finding of no significant impact.

SUMMARY: The U.S. Department of Energy (DOE) has prepared an environmental assessment (EA) (DOE/EA–0339) of the proposed remedial action at two uranium processing sites near Slick Rock in San Miguel County, Colorado. These sites contain radioactively contaminated materials that would be removed and stabilized at a remote location. Based on the information and analyses in the EA, the DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), as amended. Therefore, preparation of an environmental impact statement is not required, and the DOE is issuing this Finding of No Significant Impact (FONSI).

ADDRESSES: Single copies of the ea are available from: Charles Cormier, Uranium Mill Tailings Remedial Action Acting Project Manager, U.S. Department of Energy, Uranium Mill Tailings Remedial Action Project Office, 2155 Louisiana NE, Suite 4000, Albuquerque, New Mexico 87110 (505) 845–4628.

FOR FURTHER INFORMATION ON THE NEPA PROCESS, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–25 U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

The Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978, Public Law (PL) 95–604, authorized the DOE to perform remedial action at two uranium processing sites near Slick Rock, Colorado, to reduce the potential health effects from the radioactive materials at the sites and at vicinity properties associated with the processing sites. The U.S. Environmental Protection Agency (EPA) promulgated standards for the UMTRCA in Title 40, Code of Federal Regulations, Part 192 (40 CFR Part 192). These standards contain measures to control the contaminated materials and to protect groundwater quality. Remedial action at the Slick Rock sites must be performed in accordance with these standards and with the concurrence of the U.S. Nuclear Regulatory Commission (NRC) and the state of Colorado.

Site Descriptions

The Slick Rock uranium processing sites consist of the Union Carbide and North Continent sites. The Union Carbide processing site is approximately 2 road miles northwest of the unincorporated town of Slick Rock in San Miguel County, Colorado. The North Continent processing site is approximately 1 road mile east of the Union Carbide site. Both sites are on the west bank of the Dolores River in the floodplain, and the nearest residence to either site is approximately 0.3 air mile. Both the Union Carbide and North Continent sites are privately owned. Almost all the land surrounding the processing sites is administered by the Bureau of Land Management (BLM) and is used for livestock grazing. County Roads S8, S9, and 10R traverse the area of the processing sites and connect with State Highway 141 approximately 0.75 road mile south of the North Continent site.

Contaminated materials at the Union Carbide and North Continent processing sites cover approximately 55 and 12 acres, respectively. There are also 17 acres of contaminated materials across the Dolores River from the Union Carbide site. The contaminated materials consist of the uranium mill tailings from the uranium ore processing operations, soils beneath the tailings, and windblown and waterborne contamination from the tailings. The total volume of contaminated materials at both processing sites is estimated to be 618,300 cubic yards. In addition, approximately 2500 cubic yards of contaminated materials at four nearby properties (vicinity properties) are associated with the processing sites.

The proposed Burro Canyon disposal site is approximately 5 road miles east of the Slick Rock processing sites via County Roads S8 and 10R and State Highway 141. The site is above the 1000-year floodplain of the Dolores River. The disposal site is on land administered by the BLM and used primarily for livestock grazing. The town of Slick Rock is approximately 2 air miles southwest of the disposal site.

Proposed Action

The proposed remedial action is relocation of the contaminated materials from the Slick Rock processing sites to the Burro Canyon disposal site. At the disposal site, the contaminated materials would be stabilized in a partially below grade disposal cell and covered with approximately 5 feet of earth and rock. The disposal cell would cover approximately 12 acres and the final disposal site would cover approximately 57 acres. The final disposal site would be permanently transferred from the BLM to the DOE, and any future use of the disposal site would be precluded. Approximately 178 acres at the Burro Canyon site would be used for the disposal cell, final disposal site, and temporary construction facilities. Soil excavated at the disposal site would be used to construct the disposal cell; any remaining soil would be left at the disposal site, graded, and reseeded. Ground water at the disposal site would be protected by the claystones and mudstones in the geological formations below the disposal site. These natural foundation materials would inhibit any downward migration of contaminated water from the contaminated materials. The disposal cell cover system would inhibit infiltration of rainfall and runoff through the disposal cell.

After remedial action, the Slick Rock processing sites would be backfilled with clean fill material, recontoured to promote surface drainage, and revegetated. The processing sites would then be released for any uses consistent with existing land use controls. The DOE will evaluate the need for ground water compliance at the processing sites during the Uranium Mill Tailings Remedial Action (UMTRA) Ground Water Project.

The proposed remedial action includes the application of supplemental standards to approximately 17 acres of BLM-administered land across the Dolores River from the Union Carbide processing site. This area contains riparian habitat, and there is no access

to the area. Cleaning up this area would result in the destruction of riparian habitat and would be very costly because it would be necessary to construct a temporary bridge across the Dolores River. Furthermore, without the cleanup, the long-term health impacts to individuals and the general public residing in the vicinity of the area would be negligible. If this application of supplemental standards were approved by the NRC and the state of Colorado, the contamination in this area would not be cleaned up.

The remedial action would require the use of earthen and rock materials. Earthen materials would be obtained from the Disappointment Valley borrow site on BLM-administered land that is used primarily for livestock grazing. This borrow site is approximately 7 road miles east of the Slick Rock processing sites and 4.4 road miles southeast of the Burro Canyon disposal site. Approximately 65 acres would be temporarily disturbed at the Disappointment Valley borrow site, and the borrow site would be restored in accordance with the Free Use Permit issued by the BLM. Rock materials would be obtained from the Dolores River borrow site, which is on privately owned land that is used for pasture and growing hay. This borrow site is just north of the Dolores River, midway between the Slick Rock processing sites. Approximately 25 acres would be temporarily disturbed at the Dolores River borrow site and would be restored in accordance with the land use agreement negotiated between the DOE and the land owner.

The contaminated materials and borrow materials would be transported by truck between the processing, disposal, and borrow sites along County Roads S8 and 10R, State Highway 141, and a new 0.5-mile haul road from State Highway 141 to the Burro Canyon disposal site. Approximately 0.25 mile of County Road S8 crosses the southern portion of the Union Carbide processing site and would be temporarily relocated approximately 400 feet south, to allow cleanup of the processing site. Most of the land crossed by County Roads S8, S9, and 10R and the new haul road is administered by the BLM, and the use of these roads for the proposed remedial action would be authorized by rights-of-way issued by the BLM.

Remedial action is scheduled to take 19 months with two winter shutdown periods of 5 months each (mid-November to mid-April). It is estimated that the remedial action would require an average work force of 100 workers and would cost $7.5 million.

Environmental Impacts

The EA for the Slick Rock UMTRA Project sites assesses the environmental impacts that may result from the proposed remedial action and proposes mitigative measures that would reduce the severity of the impacts. This FONSI is based on the information and analyses in the EA, which are summarized below.

Supplemental Standards

The proposed remedial action includes the application of supplemental standards to one area east of the Dolores River opposite the Union Carbide processing site. If this application of supplemental standards were approved by the NRC and state of Colorado, this area would not be cleaned up. Additional areas at and adjacent to the Slick Rock processing sites may be considered for the application of supplemental standards.

Air Quality

The proposed action would have temporary minimal impacts to air quality. None of the impacts are expected to violate air quality regulations. The most important air pollutant created by the remedial action would be uncontrolled fugitive dust. Much of the fugitive dust would be produced along County Roads S8, S9, and 10R and the haul road to the Burro Canyon disposal site. An Air Pollution Emissions Notice and Emission Permit would be obtained from the state of Colorado prior to the beginning of the remedial action.

This permit would require the implementation of a dust control plan that would include measures such as covering haul trucks, treating haul roads and disturbed areas with water or chemical additives, limiting speeds on unpaved haul roads, and stopping work during windy periods. A monitoring plan to ensure that air quality standards are not exceeded would be developed by the remedial action contractor and must be approved by the state of Colorado and San Miguel County before any ground-disturbing activities are initiated.

Health Effects Related to Radiation

The proposed action would have a long-term positive impact on health by controlling and stabilizing the source of radiation. It is estimated that the proposed 19-month remedial action would result in 0.0004 total excess health effects for the general public. No action at the processing sites would result in an estimated total of 0.0001 excess health effects for the general public during the same 19 months; however, the increased risk of excess health effects would continue for thousands of years without remedial action. It is estimated that 5 years of no action at the processing sites would result in 0.0003 excess health effects for the general public. In addition, continued dispersion or unauthorized removal and use of the contaminated materials could result in greater excess health effects than those estimated for no action. The 19 months of remedial action would result in a calculated total of 0.0015 excess health effects for remedial action workers. Environmental monitoring would be performed at the processing and disposal sites and radiological control measures would be implemented to ensure that the public health is adequately and appropriately protected in accordance with DOE Order 5400.5, Radiological Protection of the Public and the Environment. Radiological exposures of remedial action workers would be controlled in accordance with DOE Order 5480.11, Radiation Protection for Occupational Workers. Operational measures that include wetting the work area, covering haul trucks, or temporarily stopping work during high winds would be implemented to reduce airborne radioactive particulate matter concentrations to below harmful levels.

Surface Water

No adverse impacts to surface water quality would occur. Cleanup of contaminated materials at the Slick Rock processing sites would result in surface disturbance; surface water runoff from disturbed areas could be contaminated. In addition, contaminated wastewater would be generated by activities such as equipment washing. The remedial action design includes the construction of drainage and erosion controls, including lined wastewater retention ponds and silt fences or berms, to prevent the discharge of contaminated water from the sites. Appropriate drainage and erosion controls would also be used at the disposal and borrow sites to prevent or minimize erosion and any associated surface water impacts. Excavation of the North Continent site would be scheduled for the dry summer months to reduce the impact caused by precipitation and runoff. The DOE would comply with all applicable state of Colorado storm water regulations. After remedial action, surface water runoff would not cause erosion of the disposal cell and transport contaminants into local surface waters because erosion-control features such as limiting the topslope of the disposal cell and the placement of rock erosion

protection are designed to withstand long-term erosive forces. Disturbed areas would be graded to promote drainage and would be revegetated when remedial actions are complete.

Ground Water

The proposed action would have a positive effect on ground water below the processing site by removing the source of contaminants. No impacts are expected to ground water below the disposal cell. The disposal cell at the Burro Canyon site is designed to control radioactive and nonradioactive contaminants in compliance with the EPA's proposed ground water protection standards. The protection of human health and the environment at the Burro Canyon disposal site would be ensured by a combination of design features and advantageous hydrogeologic conditions. There is no existing or potential use of ground water in the uppermost aquifer in the immediate vicinity of the Burro Canyon site because sustainable amounts of ground water are not available from the aquifer. The cleanup and/or control of existing ground water contamination at the Union Carbide and North Continent processing sites will be evaluated during the ground water compliance phase of the UMTRA Project.

Flora and Fauna

Flora and fauna would be affected directly and indirectly by the proposed remedial action. Direct effects would include the loss of habitat, loss of less-mobile wildlife species, and displacement of other wildlife species. Indirect effects would arise from increased fugitive dust, noise levels, and human activity. The duration of the direct effects would depend on the restoration of disturbed areas. Indirect effects would continue for the duration of the remedial action or less.

Mitigative measures to protect bighorn sheep that could be killed accidentally by haul trucks would be speed limits and driver education. Removal of water from the Dolores River would be limited to amounts that would be protective of fish and wildlife that require an adequate flow in the river.

Mineral Resources and Soils

No impacts to mineral resources would occur. Temporary impacts to soils would occur during the proposed action. Disturbed soils would undergo restoration after remedial activities are complete. Topsoils would be excavated, stored, and then replaced during restoration. A loss of mining claims on the proposed Burro Canyon disposal site would occur. The DOE would compensate valid claim holders to the extent required by law.

Threatened and Endangered Species

Impacts to fish and their critical habitat would occur as a result of the proposed action. The use of water from the Dolores River for remedial action would cause a net depletion of approximately 150 acre-feet of water in the upper Colorado River basin. This has resulted in a ''may affect'' determination for the endangered Colorado squawfish, humpback chub, bonytail chub, and razorback sucker and their critical habitat. These determinations required formal consultation with the FWS, which resulted in the identification of mitigation consisting of a one-time payment of $11.98 per acre-foot of water based on an average annual use. The funds would be used to improve conditions for endangered fish species.

The southwestern willow flycatcher has been proposed as threatened and endangered. This bird species was not present in the area of the Slick Rock processing sites in 1990, 1991, and 1994, but potential habitat for this species does occur at the sites. A survey for this species would be conducted prior to the remedial action. If it is determined that the southwestern willow flycatcher nests at or near areas that may be disturbed by the remedial action, formal consultations with the FWS would be initiated and a mitigation plan would be prepared. Similarly, surveys were conducted at the proposed disposal site for black-footed ferrets; none were found.

Floodplains and Wetlands

During the proposed remedial action at the Slick Rock processing sites, contaminated materials would be removed from the 100-year floodplain of the Dolores River. Approximately 28 and 13 acres would be disturbed within the 100-year floodplain at the Union Carbide and North Continent sites, respectively. After the remedial action, the disturbed areas would be backfilled with clean fill material to approximate the original 100-year floodplain. However, the man-made ground elevations of the tailings pile at the Union Carbide site would not be reestablished, which would increase the area of the 100-year floodplain at the site by approximately 7 acres. Remedial action at the North Continent site would not increase the size of the 100-year floodplain.

Flooding is not a hazard at the Burro Canyon disposal site. The site is above the 100-year floodplain of the Dolores River and is 60 feet higher in elevation than the closest intermittent drainage area. Remedial action activities at the Dolores River borrow site probably would occur within the 100-year floodplain of the Dolores River. Upon completion of the remedial action, the disturbed area at the Dolores River borrow site would be restored, but the area of the 100-year floodplain at the borrow site would be slightly increased. Remedial action activities at the Disappointment Valley borrow site would not occur within a 100-year floodplain.

The proposed remedial action would disturb riparian plant communities along the Dolores River. Approximately 42 acres of riparian plant communities would be disturbed at the Union Carbide and North Continent processing sites. It was determined that 10 acres of these riparian plant communities meet the USACE definition of a wetland. These wetlands are regulated by the USACE through its Section 404 Permit process, and the DOE would mitigate remedial action impacts to wetlands as determined by this process. Approximately 17 acres of riparian plant communities across the Dolores River from the Union Carbide site are contaminated but are not proposed for cleanup during the remedial action by the application of supplemental standards. The application of supplemental standards to the other 42 acres of riparian plant communities at the Union Carbide and North Continent sites would not be feasible due to the relatively high levels of contamination in these areas.

The no action alternative would leave the contaminated materials in the floodplain and wetland areas of the Dolores River and continue to adversely impact the floodplains and wetlands by not controlling the source of contamination. The proposed action involves action within the floodplain and wetland areas. Based on the Floodplain/Wetlands Assessment, the DOE has determined that there is no practical alternative to the proposed activities in the floodplain and wetlands areas and that the proposed remedial action has been designed to minimize potential harm to or within the floodplain and wetland areas.

The Floodplain/Wetlands Assessment in the EA and this Floodplain Statement of Findings were prepared pursuant to Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands, and 10 CFR Part 1022, Compliance With Floodplain/Wetlands Environmental Review Requirements. Mitigation measures to reduce impacts to floodplain disturbance would be to backfill disturbed areas with clean fill

material to approximate the original 100-year floodplain. However, the man-made ground elevations of the tailings pile at the Union Carbide site would not be reestablished, which would increase the area of the 100-year floodplain at the processing site by approximately 7 acres. Remedial action at the North Continent site would not increase the size of the 100-year floodplain.

Historical and Cultural Resources

Two cultural resource sites, one near the Union Carbide processing site and the other near the Burro Canyon disposal site, are not expected to be affected by remedial action activities. Both of these cultural resource sites would be fenced and avoided during remedial action, and the site near the Union Carbide processing site would be further protected by a barrier to shield against dust, rocks, and exhaust fumes. If any additional cultural resources are identified during the remedial action (e.g., subsurface resources), work would stop in the area of the cultural resources, and the appropriate state and Federal agencies would be consulted to determine the significance of and protection for the resources. The Ute Mountain, Southern, and Northern Ute Tribes were also consulted to determine whether the proposed remedial action would impact any tribal cultural use areas. No impacts were identified.

Land Use

The remedial action would result in the temporary and permanent disturbance of approximately 335 acres of land. This would result in the temporary and permanent loss of grazing forage at the Slick Rock processing sites, Burro Canyon disposal site, and Dolores River and Disappointment Valley borrow sites. The DOE would mitigate the temporary and permanent loss of grazing forage in accordance with land-use agreements negotiated with affected grazing lessees and private landowners.

The final restricted Burro Canyon disposal site would encompass approximately 57 acres, and any future use of this area would be precluded. After remedial action, the Slick Rock processing sites would be released for any use consistent with existing land-use controls.

Six unpatented mining claims exist within the proposed permanent withdrawal area. The DOE would compensate valid claim holders to the extent required by law.

Socioeconomics

The remedial action impacts on employment, housing, community services, and the economy would be minimal due to the short duration of the remedial action and the relatively small number of workers required. These impacts would be expected to be distributed among numerous nearby and more distant communities; consequently, no single community would be affected substantially by the remedial action. The wages and salaries paid to remedial action workers and expenditures for equipment, materials, and supplies would have direct, positive impacts on the economies of San Miguel, Dolores, and Montezuma Counties. The local economies also would benefit indirectly as these wages, salaries, and expenditures are respent locally on other goods and services. Direct and indirect expenditures would generate tax revenues that would be available to local and state government use.

Transportation

The remedial action would increase the traffic volume on County Roads S8, T11 and State Highway 141. A portion of County Road S8 would be relocated to allow cleanup of the Union Carbide processing site. These roads and highway would be improved as necessary, and other mitigative measures (e.g., trained flag persons and temporary warning signs) would be implemented as required to mitigate the potential traffic hazards. After remedial action, these roads and highway would be returned to their original locations and conditions. The public would be restricted from access to County Roads S9 and 10R and a private disposal site access road off T11 during remedial action, which is expected to last 19 months.

Alternative to the Proposed Action

No Action Alternative

The no action alternative would consist of leaving the contaminated materials in their present conditions and locations at the Slick Rock processing sites. The contaminated materials would continue to be exposed to erosion, and eventual erosion of the contaminated materials would result in the transport of contaminants into the Dolores River. The processing sites and adjacent areas would remain unusable. The contaminated materials would also be susceptible to unauthorized removal and use by humans, which could cause more widespread contamination and increased public health hazards. The no action alternative is not a legal alternative for the DOE and would not satisfy the requirements of the UMTRCA (PL 95–604).

Alternatives Considered and Rejected

The DOE's analysis of disposal site alternatives encompassed technical, environmental, and cost factors, as well as the risks associated with each alternative. Alternatives evaluated but rejected were 1) stabilization of the mill tailings in place at the processing sites, 2) stabilization of the mill tailings at other locations near the processing sites, and 3) colocating the mill tailings at other uranium mill tailings sites. The first alternative was rejected because the major portion of the tailings would be stabilized in the flood plain of the Dolores River and water resources protection would be inadequate. The second was rejected due to the other sites' proximity to ground water. The third was rejected because the cost of disposal would result in significant increases in cost by a factor of two and six, respectively, over the cost of disposal at Burro Canyon.

Determination

Based on the information and analyses in the EA, the DOE has determined that the proposed remedial action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the NEPA. Therefore, the preparation of an environmental impact statement is not required.

Signed in Albuquerque, New Mexico, this 27th day of January, 1995.

Bruce G. Twining,

Manager.

[FR Doc. 95–4428 Filed 2–22–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Nuclear Energy

Nuclear Energy Financial Assistance Program for University Reactor Sharing

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Nuclear Energy (NE), U.S. Department of Energy (DOE), hereby announces that invitations have been sent to all U.S. colleges and universities with a licensed, operating nuclear reactor that have an interest in making their reactor facility available to other educational institutions.

The objectives of the program are to provide opportunities needed by educational institutions, without these facilities, for research, education and training of their faculty and students in the nuclear sciences and technology. The grants are used to offset costs of

materials, irradiation services, technical services, etc., incurred by the host university. Each grantee is responsible for announcing the availability of the reactor sharing program to other educational institutions in their geographical region.

DATES: The deadline date for applications is March 24, 1995.

ADDRESSES: Four copies of the application should be submitted to: U.S. Department of Energy, Office of Nuclear Energy, Office of Policy and Management, Information and Contract Management Branch, NE–133, Washington, D.C. 20585.

The application should be signed on the cover sheet by the person initiating the application and by the authenticating university official.

Telephone inquiries requesting information concerning this solicitation should be directed to Mr. E. G. Tourigny (301) 903–3679.

Completed applications delivered by U.S. Postal Service Express Mail, any commercial mail delivery service, or when handcarried by the applicant must be submitted to: U.S. Department of Energy, Office of Nuclear Energy, Office of Policy and Management, Information and Contract Management Branch, NE–133, 19901 Germantown Road, Germantown, Maryland 20874.

Anyone interested in more detailed information may write to the address below:

U.S. Department of Energy, Office of Nuclear Energy, Facilities Division, Technical Support Branch, NE–443, Washington, D.C. 20585 or call Area Code 301–903–3679.

SUPPLEMENTARY INFORMATION: The Reactor Sharing Program derives its statutory authority from the Department of Energy Organization Act, Public Law 95–91, which was enacted to provide for the development of technologies and processes to reduce total energy consumption and enhance energy production. The purpose of this program is to increase the availability of university nuclear reactor facilities to nonreactor owning colleges or universities and other educational institutions—(user institutions). This is accomplished by providing grants to reactor-owning universities (host institutions). These grants provide funds against which reactor operating costs may be charged when the facilities are utilized by regionally affiliated user institutions for student instruction or for student or faculty research. Under this program, allowable reactor operating costs are restricted to the categories delineated below under the heading, Financial Arrangements.

The objectives of the program are to strengthen nuclear science and engineering instruction in the curricula of the nonreactor owning colleges and universities, as well as to provide research opportunities and to enable the application of nuclear analytical techniques by faculty and students in the sciences. University reactors are extremely versatile neutron sources and research facilities; thus the availability of a nuclear reactor contributes particularly and significantly to research and educational opportunities at both the graduate, undergraduate and precollege levels. DOE anticipates that approximately $500,000 will be available from the Office of Nuclear Energy for support of these activities during Fiscal Year 1995.

In accordance with 10 CFR–600.7(b)(1), eligibility for these grants is restricted to U.S. colleges and universities with nuclear reactor facilities because they have a unique opportunity to enable other institutions to participate in important aspects of the Nation's nuclear science and engineering educational programs.

Individual award amounts will be determined by a DOE proposal review panel and will be based on (1) availability of the reactor to outside users, (2) the type of reactor sharing activities and the number of students and/or faculty traditionally served by the proposer, and (3) evidence of interest on the part of potential user institutions to utilize the proposer's facility during the proposed grant period. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this invitation. Negotiation, award, and administration will be in accordance with the DOE Financial Assistance Policy.

General Information

Institutional Eligibility

Any educational institution within the United States which operates a research or training reactor is eligible to submit a new award or renewal application to participate in the University Reactor Sharing Program. In evaluating applications, preference is given to institutions that can show an affiliation with a substantial number of regional educational institutions who have indicated interest in using the applicant's reactor facility, or who have used the facilities during the previous grant year.

User Institutions

User institutions eligible for participation in the program are primarily educational institutions such as universities and colleges, junior colleges, technical and community colleges, high schools and junior high schools. User groups or individuals affiliated with the host institution are not eligible for assistance under this program. Also excluded are research activities undertaken by an educational institution for which grant or contract funding is provided by other sources. The selection and scheduling of user institution participants is the responsibility of the host institution.

Scope of Program Projects

The projects may range from tours/demonstrations, experiments, workshops and seminars for middle and high school groups to faculty research projects and M.S./Ph.D. thesis or dissertation research. Reactor utilization may range from simple service irradiations and analytical support to basic research studies requiring the facilities' most sophisticated equipment.

Financial Arrangements

Duration of Grants

Funds for the University Reactor Sharing Program will be provided through an assistance grant with host institutions. Charges may be made against grant funds for services rendered to user institutions. The terms of a grant normally will be one year, subject to modifications and renewals.

Reimbursable Costs

Costs for reimbursement are limited to: (1) Payments for irradiation services not to exceed the established, published schedule of the host institution, (2) payments for use of the reactor and related facilities based upon established rates of the host institution, (3) costs of technical assistance furnished by the host institution for conduct of studies by a user institution, and (4) costs of materials and supplies consumed in user institution projects. Charges should not be made to the grant for costs that are already incurred as part of the normal operating expenses of the facility. Laboratory apparatus and instrumentation are not eligible items for reimbursement. Indirect or overhead costs are not allowed. Costs for individual or group travel or subsistence are normally not allowed or encouraged; exceptions are permitted, under unusual circumstances, with the approval of the project director.

Reports

An annual report summarizing activities supported under the grant is required from the host institution. *This report is due within 90 days after the*

end of the grant period. The report should contain specific information in the format shown below.

University: _____ Telephone Number: _____
Project Director: _____ Reactor Type: _____
Grant Number: _____ Power Level: _____
Location: _____

Participating institution	Principal investigator	No. of student/faculty involved	Description of project/program	Reactor sharing support
XXXXX	XXXXX	(Indicate Academic Level)	(Thirty words or less)	XXXX

It is requested that standard size (8 ½ x 11) paper be used.

Application Preparation

An application should include at least the following items.

1. A statement of the relative availability of the reactor to outside users.
2. An assessment on a regional basis of the colleges, universities or precollege institutions that can be served by the proposing institution's reactor facility.
3. Evidence of interest on the part of potential or former user institutions which contain brief statements of interest and plans for utilizing the applicant's reactor facility during the proposed grant period.
4. Applications must include a completed Standard Form 424, ''Application for Federal Assistance''; a 424A, ''Budget Information''; and 424B, ''Assurances,'' as well as the Drug-Free Workplace, Debarred, and Lobbying Certifications.

Terry R. Lash,

Director, Office of Nuclear Energy.

[FR Doc. 95–4429 Filed 2–22–95; 8:45 am]

BILLING CODE 6450–01–P

Office of the Secretary

Strategic Alignment Initiative; Notice of Open Meeting

AGENCY: U.S. Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: The Steering Committee for the Department of Energy (DOE) Strategic Alignment Initiative, studying the organizational structure and staffing resources of the Department, will hold an open meeting on March 1, 1995.

DATES: March 1, 1995, 8:30 a.m.—5:00 p.m., at the Omni Shoreham Hotel, 2500 Calvert St., N.W., Washington, DC, (202) 234–0700.

FOR FURTHER INFORMATION CONTACT: Peter Richards or Howard Landon, Strategic Alignment Team, (202) 673–3804.

SUPPLEMENTARY INFORMATION: In December 1994, the Secretary of Energy announced a four month effort to realign the organizational structure, functions, and financial and human resources of the Department. Planning for this effort began with the release of DOE's Strategic Plan in April 1994.

A team of DOE employees, is reviewing the functions and activities of the Department. The team will recommend a more efficient organizational structure that supports the business lines identified in the Strategic Plan. The review draws on private sector experience to eliminate low-priority work, reduce layers of management, and streamline the workforce.

The employee team will present progress reports to the Steering Committee at the March 1 meeting.

Tentative Agenda Items

- Opening Remarks—Secretary Hazel O'Leary.
- Overview and Progress Reports.
- Public Comment Period.

PUBLIC PARTICIPATION: Persons wishing to speak should pre-register at the door. Speakers will be accommodated on a first-come basis to the extent time allows. To ensure that as many persons as possible have the opportunity to speak, a time limitation may be used.

Archer L. Durham,

Assistant Secretary for Human Resources and Administration.

[FR Doc. 95–4609 Filed 2–21–95; 1:20 pm]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP95–102–001]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 16, 1995.

Take notice that on February 13, 1995, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Tariff, First Revised Volume No. 1, the following tariff sheets:

Effective February 1, 1995

Substitute Fifth Revised Seventh Revised Sheet No. 10
Substitute Fifth Revised Fourth Revised Sheet No. 11
Substitute Third Revised First Revised Sheet No. 11.1
Substitute First Revised First Revised Sheet No. 15
Substitute First Revised First Revised Sheet No. 16

Effective March 1, 1995

Substitute Sixth Revised Seventh Revised Sheet No. 10
Substitute Sixth Revised Fourth Revised Sheet No. 11
Substitute Fourth Revised First Revised Sheet No. 11.1

and;

a revised Statement in compliance with the provisions in Docket No. RP95–102 as directed in the ''Order Accepting and Suspending Tariff Sheets Subject to Refund and Conditions'' issued January 27, 1995 (70 FERC 61,088).

Texas Gas states that the filing contains a revised statement reflecting:

(1) The aggregate amount of Gas Supply Realignment Costs incurred and allocated to be collected during the twelve-month period November 1, 1993, through October 31, 1994, from Rate Schedule IT; and

(2) The aggregate amount of Gas Supply Realignment Costs deemed collected during the same period by Texas Gas under Rate Schedule IT, as determined pursuant to Section 33.3(g) of the General Terms and Conditions of Texas Gas's FERC Gas Tariff, First Revised Volume No. 1.

Additionally, the filing reflects an Interruptible Revenue Credit Adjustment which proposes to reduce base rates under Rate Schedules FT, NNS, and SGT, effective February 1, 1995.

Texas Gas states that copies of the instant filing are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests

should be filed on or before February 24, 1995. 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–4353 Filed 2–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–163–000]

CNG Transmission Corporation Complainant v. Tennessee Gas Pipeline Company Respondent; Notice of Complaint

February 16, 1995.

Take notice that on February 13, 1995, CNG Transmission Corporation (CNG) filed a complaint against Tennessee Gas Pipeline Company (Tennessee).

CNG states that by letter dated and faxed October 5, 1994, Tennessee notified CNG that effective for gas flow at 7:00 a.m. CST, on October 6, 1994, that Tennessee would no longer accept nominations on CNG's Service Package #3919 for delivery to non-CNG delivery points (i.e., secondary delivery points) in Tennessee's Zone 4 and/or 5, unless CNG agreed in writing to pay Tennessee's maximum applicable rates for secondary point deliveries into Tennessee's Zone 4 and/or Zone 5.

CNG states that in CNG's Order No. 636 restructuring proceeding, parties, including Tennessee, entered into a settlement agreement, filed March 31, 1993, and accepted by the Commission by orders issued July 16, September 17, and December 16, 1993, in Docket No. RS92–14–000, *et al.* As part of the Restructuring Settlement, CNG agreed to assign to its firm customers the portion of CNG's pre-existed capacity on Tennessee from the production area to a pooling point located in Tennessee's Zone 3; CNG retained control of the firm capacity on Tennessee from that same pooling point in Zone 3 downstream to Tennessee's Zones 4 and 5. The Restructuring settlement expressly provided that CNG retained the downstream portion of its pre-existing capacity on Tennessee to enable CNG to facilitate dispatching and no-notice deliveries to CNG's customers.

CNG states that in a meeting held in Washington, D.C., on November 7, 1994, CNG and Tennessee requested the Commission's Enforcement Task Force to provide an informal opinion regarding the immediate dispute. The Enforcement Task Force affirms CNG's position that the language of the Restructuring settlement gives CNG a contractual guarantee of the incremental rate for service to all of CNG delivery points (both primary and secondary) in Zones 4 and 5. As the explicit language of the settlement states, the incremental reservation charge is established as the maximum reservation charge for all service from Zone 3 to Zone 4 or Zone 5, whether CNG uses primary or secondary delivery points.

CNG states that Tennessee has rejected the informal opinion of the Enforcement Task Force, and subsequent efforts by CNG and Tennessee to negotiate a settlement of the dispute have failed.

Comments by Tennessee on the complaint, as well as motions to intervene or protests should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 27, 1995. CNG or any other party that wants to file reply comments must file those reply comments on or before March 6, 1995. 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 complaint are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–4355 Filed 2–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–161–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 16, 1995.

Take notice that on February 13, 1995, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, proposed to be effective March 15, 1995:

First Revised Sheet No. 215

Northern states that its filling is to revise Section 7, ''Liability of Parties'', of the General Terms and Conditions of its Tariff.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests must be filed on or before February 24, 1995. Protests will be considered by the Commission in determining the appropriate 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.

Lois D. Cashell,

Secretary.

[FR Doc. 95–4356 Filed 2–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–160–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 16, 1995.

Take notice that on February 13, 1995, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet, with an effective date of March 15, 1995:

Second Revised First Revised Sheet No. 230

Texas Gas herein modifies Section 33.3(f) of its General Terms and Conditions in order to clarify the original intent of this provision, while complying with the Commission's interpretation and rulings as stated in its January 27, 1995, Order.

Texas Gas states that copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers 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, N.E., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 24, 1995. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–4357 Filed 2–22–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of December 12 Through December 16, 1994

During the week of December 12 through December 16, 1994, the decisions and orders summarized below were issued with respect to applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Request for Exception

Olympic Oil Co., Inc., 12/14/94, LEE–0160

Olympic Oil Co., Inc. (Olympic) filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the ''Resellers'/Retailers' Monthly Petroleum Product Sales Report.'' Olympic claimed that it should be relieved of the requirement because it had been filing the form since January 1993 and because the task took the firm's limited office staff over four hours to complete each month. In considering this request, the DOE found that Olympic was not suffering gross inequity or serious hardship. Accordingly, on October 24, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. Neither Olympic nor any other party filed an Objection to that Proposed Decision and Order, so the DOE issued it in final form.

Refund Applications

Garrison Fuel Oil of L.I., Inc., 12/12/94, RF272–92317

The DOE issued a Decision and Order concerning the Application for Refund of a claimant in the Subpart V crude oil overcharge refund proceeding. The DOE determined that the applicant resold the refined petroleum products that formed the basis of its application and thus passed on the costs of any overcharges to its customers. The DOE concluded that the claimant had not shown that it was injured by any of the overcharges associated with the gallons that it purchased. Accordingly, the DOE denied the Application for Refund.

Texaco Inc./D & B Texaco, 12/14/94, RF321–20008, RF321–2009

Donald Maile requested refunds based on purchases of Texaco products made by two service stations that he operated. Mr. Maile's estimates of the outlets' purchases were based only on his memory of his businesses, and the DOE relied instead on information obtained from Texaco; in one case, the purchase volume provided by Texaco was much lower than Mr. Maile's estimate. In addition, the evidence submitted strongly suggested that Mr. Maile's businesses were operated as partnerships. Accordingly, the DOE issued a Decision granting Mr. Maile one-half of the refund due to each station.

Texaco Inc./H&R Texaco Station, 12/13/94, RR321–168

The DOE issued a Decision and Order concerning a Motion for Reconsideration filed by Howell and Richard Sumrall in the Texaco Inc. special refund proceeding on behalf of H&R Texaco Station (H&R), a reseller located in Evansville, Indiana. A refund previously had been granted for purchases made by the station from 1972 through January 1977. However, it came to the attention of the DOE that this refund was incorrectly based on a time period during which the Sumralls did not operate the station. In the Motion, the Sumralls satisfactorily documented the time period during which they operated the station and established that the correct refund amount was in excess of the previously received refund amount. The total amount of the additional refund granted to the Sumralls in this Decision was $579 ($404 principal plus $175 interest).

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Lowell O. Volden	RF304–13926	12/12/94
Atlantic Richfield Company/Rice Brothers Service	RF304–15451	12/13/94
Avis Rent A Car	RF272–93539	12/14/94
Bellmawr Borough School Dist. et al	RF272–79811	12/13/94
Bjorklund Trucking Inc	RC272–276	12/15/94
Blackwell Cooperative Elevator Association et al	RF272–94767	12/13/94
Chatham County Board of Education et al	RF272–94931	12/14/94
Enron Corp./Jayson's Bottle Gas	RF340–111	12/12/94
Frankston Reliance Gas Co., Inc	RF340–121	
Gulf Oil Corporation/Leo J. Ketchell, Inc	RF300–14544	12/14/94
Hefley Trucking Co. et al	RF272–84988	12/13/94
Kentucky Transfer Line, Inc., et al	RF272–96127	12/14/94
Texaco Inc./Charles H. Fortinberry et al	RF321–6754	12/15/94
Texaco Inc./Crestwood Service et al	RF321–19335	12/15/94
Texaco Inc./Gold Beach Texaco et al	RF321–20269	12/15/94
Texaco Inc./Goodyear Tire & Rubber Company et al	RF321–20607	12/13/94
Texaco Inc./National Steel Corporation et al	RF321–20800	12/15/94
Texaco Inc./Tipton's Service Station et al	RF321–12779	12/13/94
Union Camp Corporation	RF272–95151	12/14/94
Union Camp Corporation	RF272–95162	

Dismissals

The following submissions were dismissed:

Name	Case No.
A.R. Fuels, Inc	RF321–20370
Alaska Aerofuel, Inc	LEE–0129
American Synthetic Rubber Corporation	RF321–20788

Name	Case No.
Apex Management	RF321–12882
Apex Management	RF321–12886
Arcal Energy	RF321–19776
Carolina Freight Carriers Corp	RF321–20367
Commonwealth Propane Co	RF321–20689
Curtis Beard	RF321–14019
East Irondequoit Central Schools	RF272–94795
Francis E. Behrens, Jr	RF304–13308
Gateway Texaco	RF321–12659
GCO Minerals Company	RF321–20822
Gebbie's	RF321–19778
Green's Transport Co., Inc	RF304–13549
Hewlett-Woodmere UFSD	RF272–82414
Ila Mae Welch	RF321–20160
Indiana Bell Telephone Co., Inc	RF321–20371
Interstate Brands Corp	RF321–20368
Jersey Central Power & Light Company	RF321–20787
Kinderhook Central School District	RF272–95678
Lakeside Texaco	RF321–20405
Midwest Petroleum Company	RF321–20450
Munir A. Malik	VFA–0014
Munir A. Malik	VFA–0013
Paul Kelm Arco Service	RF304–14717
Quik Start Food & Texaco	RF321–12872
Teter's Texaco	RF321–20017
The John Stapf Corporation	RF300–18648
Vin's Service	RF321–20806
West End Texaco	RF321–20161

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: February 14, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–4426 Filed 2–22–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders During the Week of December 19 through December 23, 1994

During the week of December 19 through December 23, 1994 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

E.O. Smelser, 12/21/94, VFA–0011

E.O. Smelser filed a Motion for Reconsideration of the denial by the Office of Hearings and Appeals of his previous Freedom of Information Act (FOIA) Appeal. In his original FOIA request, Mr. Smelser had requested copies of computer tapes for databases created under a grant program which the DOE had funded. In considering the Motion, the OHA found that Mr. Smelser did not introduce any new evidence or changed circumstances that would warrant granting the motion for reconsideration. Accordingly, the Motion was denied.

Requests for Exception

Bender Oil Company, 12/19/94, LEE–0150

Bender Oil Company (Bender) filed an Application for Exception from the provisions of the Energy Information Administration (EIA) reporting requirements in which the firm sought relief from filing Form EIA–782B, entitled ''Resellers'/Retailers' Monthly Petroleum Product Sales Report.'' The DOE determined that Bender did not meet the standards for exception relief because it was not experiencing a serious hardship or gross inequity as a result of the reporting requirements. Accordingly, exception relief was denied.

Berreth Oil, Inc., 12/20/94, LEE–0093

Berreth Oil, Inc. (Berreth) filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the ''Resellers'/Retailers' Monthly Petroleum Product Sales Report,'' and Form EIA–821, the ''Annual Fuel Oil and Kerosene Sales Report.'' In considering this request, the DOE found that the firm was not suffering a gross inequity or serious hardship. On July 25, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. No Notice of Objections to the Proposed Decision and Order was filed at the Office of Hearings and Appeals of the DOE within the prescribed time period. Therefore, the DOE issued the Proposed Decision and Order in final form, denying Berreth's Application for Exception.

Personnel Security Hearing

Albuquerque Operations Office, 12/22/94, VSO–0001

The Office of Hearings and Appeals issued the first Hearing Officer Opinion addressing the continued eligibility of an individual for access authorization under the newly amended provisions of 10 C.F.R. Part 710, ''Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.'' After carefully considering the record in view of the standards set forth in 10 C.F.R. Part 710, the Hearing Officer found that the individual had engaged in criminal behavior which tended to show that she was not honest, reliable, or trustworthy, and that she had omitted significant information from a Questionnaire for Sensitive Positions. The Hearing Officer also found that there were no mitigating

factors present in the case which can overcome the security concerns raised by the Department of Energy. Accordingly, the Hearing Officer found that the individual's access authorization, which had been suspended, should not be restored.

Refund Applications

Hunt-Wesson, Inc., Hunt-Wesson, Inc., Waterloo Industries, Aristokraft, Inc., Playtex Products, 12/23/94, RF272–73865, RD272–73865, RF272–97916, RF272–97941, RF272–98638

The DOE issued a Decision and Order concerning Application for Refund submitted in the Subpart V crude oil refund proceeding by four former affiliates of Beatrice Co., Inc. Hunt-Wesson, Inc., Waterloo Industries, Aristokraft, Inc., and Playtex Products. The four applicants were found to have been affiliated with Arrowhead Drinking Water Company (Arrowhead) on August 7, 1986. Arrowhead had filed in the Surface Transporters Stripper Well proceeding. In doing so, Arrowhead had executed a waiver and release waiving its rights and the rights of its affiliates on August 7, 1986, to receive crude oil overcharge refunds. Accordingly, the DOE denied these four Applications for Refund. Because the DOE denied these Applications, the DOE also dismissed as moot a Motion for Discovery filed by a consortium of States and two Territories to Hunt-Wesson, Inc.'s Application for Refund.

Texaco Inc./Carlton Hills Texaco, Harry's Texaco, 12/23/94, RF321–20424, RF321–21044

Dale Fuller filed an Application for Refund in the Texaco, Inc. special refund proceeding on behalf of a retail outlet located on Carlton Hills Boulevard in Santee, California. Mr. Fuller's claimed dates of ownership conflicted with the dates claimed by Harry Orsulak, in Case No. RF321–18438, redesignated Case No. RF321–21044, and another applicant Mitchel Carter, in Case No. RF321–9802, both of whom had previously received refunds for purchases made by that outlet. The OHA determined that Mr. Orsulak was not entitled to the refund which he received for purchases made by the Carlton Hills outlet beginning in March 1973. In addition, the OHA determined that Mr. Fuller was eligible for a refund for the purchases made from March 1973 through November 1976, when Mr. Carter assured operation of the outlet. The OHA issued a Supplemental Decision and Order, granting Mr. Fuller's Application for Refund for the period March 1973 through November 1976, and instructing Mr. Orsulak to repay his refund.

Texaco Inc./Guttman Oil Company, 12/20/94, RF321–17026

Guttman Oil Company (Guttman) filed an Application for Refund in the Texaco Inc. special refund proceeding. Rather than accept $50,000, the maximum refund under the medium-range presumption of injury, Guttman attempted to show that it was injured in its purchases of Texaco products. With respect to motor gasoline, Guttman sought a refund of 43 percent of the volumetric amount based upon a claim that it absorbed that percentage of the overcharges. Guttman sought an above-volumetric refund with respect to its diesel fuel purchases based upon a disproportionate overcharge.

The DOE rejected Guttman's contention that lower than historical profit margins in its resale of motor gasoline implied that it was injured. The DOE noted that Guttman's profit margin analysis showed little more than its bank calculations and that depressed profit margins could have resulted from causes unrelated to the price it paid Texaco for product.

The DOE agreed with Guttman that it had sustained a disproportionate overcharge based upon the findings of a Remedial Order that had been issued to Texaco concerning diesel fuel transactions. The DOE, however, found that Guttman's calculation of banked costs had to be adjusted to take into account the findings in another Remedial Order that had been issued to it. A revised bank calculation showed that in September 1975, Guttman had a bank of unrecovered product costs of $1,949, but that subsequent to that month the firm had a sufficient bank to justify the overcharge claims. This indicated that the firm had passed through to its customers all but $1,949 of the diesel fuel overcharges that occurred through September 1975. The DOE found that Guttman had absorbed $67,095 in diesel fuel overcharges between September 1975 and June 1976, and that Guttman was entitled to pre-settlement interest (for the period between the date of the overcharge and the date Texaco paid the settlement to DOE) on this amount. Since the Texaco consent order settled the alleged violations at a fraction of their value, the DOE reduced the resulting overcharge amount to 57.5 percent (the ratio of the consent order amount to the total overcharges that had been alleged by DOE). Guttman was accordingly granted a refund of $160,645, plus interest that has accrued on this amount since the Texaco funds were placed in an escrow account.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

A–1 Truck & Trailer Rentals, Inc	RC272–267	12/20/94
Al Tech Specialty Steel Corp. et al	RF272–93541	12/20/94
Atlantic Richfield Company/John Pellegrino Arco et al	RF304–14707	12/19/94
Burnup & Sims, Inc. et al	RF272–92013	12/19/94
City of Athens, Texas et al	RF272–85535	12/21/94
Gloucester County, NJ et al	RF272–96502	12/21/94
Gulf Oil Corporation/Chicot Implement Co. et al	RF300–18845	12/19/94
Gulf Oil Corporation/Sherman Foundry, Inc. et al	RF300–21525	12/20/94
Gulf Oil Corporation/U.S. Radium Corporation et al	RF300–21605	12/21/94
Gulf Power Company	RF272–93556	12/23/94
Duke Power Company	RF272–93569	
Halltown Paperboard Company	RF272–67486	12/21/94
Richmond County et al	RF272–95512	12/20/94
Shawano-Greshan Sch. Dist. et al	RF272–80955	12/23/94
Shell Oil Company/Silver Port Shell	RF315–3393	12/20/94
Stratton Equity Coop Co. et al	RF272–92372	12/23/94
Texaco Inc./Art & Jim's Texaco Service et al	RF321–20808	12/20/94
Texaco Inc./Crowley Texaco et al	RF321–20204	12/23/94
Texaco Inc./Don Fortunati's Texaco et al	RF321–20408	12/20/94
Texaco Inc./Don's Service Station et al	RF321–12545	12/23/94

Texaco Inc./Landry & Martin Oil Co., Inc	RF321–20444	12/20/94
Texaco Inc./Maverick Oil Co	RF321–19887	12/20/94
Maverick Oil Co	RF321–19888	
Maverick Oil Co	RF321–19889	
Maverick Oil Co	RF321–19890	
Maverick Oil Co	RF321–19891	
Maverick Oil Co	RF321–19892	
Texaco Inc./Walker's Service Station et al	RF321–12775	12/23/94

Dismissals

The following submissions were dismissed:

Name	Case No.
72nd Street Association	RF272–77810
Ambassador Towne House Associates	RF272–77814
C.W. Faust & Sons	RF272–94798
Central School District #1	RF272–96535
Gracie Towne House	RF272–77856
Morton Pickman	RF272–77826
Orleans County Hwy. Dept.	RF272–96534
Pepperidge Farm, Inc.	RF272–93551
Rocky Flats Field Office	VSO–0006
Salt Lake County, UT	RF272–96642
Savannah Electric and Power Co.	RF321–20919
Sunnyside Shell	RF321–8231
Tanner's Shell	RF315–9719
Ten East Housing Company	RF272–77825
The Pillsbury Company	RF321–20776
Thelma Realty	RF272–77848
University Associates	RF272–77812

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: February 15, 1995.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

[FR Doc. 95–4427 Filed 2–22–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5160–2]

Notice of Open Meeting of the Brownfields Redevelopment Workgroup of the Environmental Financial Advisory Board on March 27–28, 1995

The Brownfields Redevelopment Workgroup of the Environmental Financial Advisory Board (EFAB) will hold an open meeting on financing brownfields redevelopment. The meeting is scheduled for March 27–28, 1995 in Capital Room II of the Westin Hotel Indianapolis located at 50 South Capitol Street, Indianapolis, Indiana, 46204. The March 27 session will begin at 1:00 p.m. and adjourn at 5:00 p.m. The March 28 session will run from 8:30 a.m. to 4:00 p.m.

EFAB is a federally chartered advisory board that provides analysis and advice to the U.S. Environmental Protection Agency (EPA) on environmental finance issues. The purpose of this workgoup meeting is to gather information and facilitate discussion on barriers and incentives to the redevelopment of abandoned industrial or commercial sites (known as ''brownfields'') in Indianapolis and other cities. Several invited speakers will make presentations and the public is welcome, but seating is limited. The meeting will serve as an opportunity for the workgroup to address issues raised and begin development of model financing options that can be tested at brownfield pilot sites.

The meeting is being held in cooperation with the City of Indianapolis at the request of Mayor Stephen Goldsmith, who is an EFAB member. Representatives from the Indiana Department of Environmental Management and the U.S. Environmental Protection Agency have been invited. Parties who wish to attend the meeting are encouraged to contact Ms. Amy Mack of the Indianapolis Department of Public Works, Environmental Resources Management Division, at (317) 327–2288. The EFAB staff contacts for the meeting are Time McProuty at (202) 260–8436 and Eugene Pontillo at (202) 260–6044.

Dated: February 15, 1995.

George Ames, Acting Director,

Resource Management Division.

[FR Doc. 95–4468 Filed 2–22–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5157–6]

Public Meeting of the Sanitary Sewer Overflows Dialogue

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) is convening a public meeting of the Sanitary Sewer Overflows (SSOs) dialogue on March 9 and 10, 1995. The meeting has several purposes: (1) to discuss goals, objectives and desired outcomes for the SSO policy dialogue, such as ensuring national consistency and adequate municipal investment in collection system operation and maintenance; (2) to report on information needs to support an evaluation of the costs and benefits of selected policy options as well as identify other information needs associated with developing other products; (3) to provide an overview of

the Agency's approach to enforcement; (4) to identify and discuss the appropriateness of nonregulatory and regulatory tools available for addressing reporting of SSOs, collection system evaluations, sewer design, collection system operation and maintenance, and system rehabilitation; and (5) to discuss how watershed concepts could be incorporated into SSO efforts. The meeting is open to the public without need for advance registration.

DATES: The Dialogue will be held on March 9 and 10, 1995. On the 9th, the meeting will begin at approximately 9 a.m. EST and run until about 5 p.m. On the 10th, the meeting will run from about 9 a.m. until completion.

ADDRESSES: The Dialogue will be held at the Sheraton Suites Hotel, 801 Asaph Street, Alexandria, VA 22314. The hotel telephone number is (703) 836–4700.

FOR FURTHER INFORMATION CONTACT: Kevin Weiss of EPA's Office of Wastewater Management, at (202) 260–9524.

Dated: February 13, 1995.

Michael Cook,

Director Office of Wastewater Management, Designated Federal Official.

[FR Doc. 95–4290 Filed 2–22–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5158–9]

RIN–2060–AE61

Federal Radiation Protection Guidance for Exposure of the General Public

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period for proposed recommendations.

SUMMARY: In response to several requests, EPA is extending the comment period for thirty (30) days on the proposed recommendations for the new guidance to Federal agencies in their formulation of regulations and conduct of programs for the protection of the general public from exposure to ionizing radiation.

DATES: The comment period originally given in the previous notice on Friday, December 23, 1994 (59 FR 66414), has been extended for thirty (30) days. Written comments in response to this notice must be received on or before March 31, 1995, to be ensured full consideration.

ADDRESSES: Written comments (in duplicate) should be submitted to: Central Docket Section (6102J), Room M1500 at Waterside Mall, Attn: Docket No. A–83–41, U.S. Environmental Protection Agency, Washington, DC 20460. The docket section is open to the public between 8:00 am to 5:00 pm on weekdays.

FOR FURTHER INFORMATION CONTACT: Allan C.B. Richardson, Deputy Director for Federal Guidance, or Eleanor Thornton, Program Analyst, Criteria and Standards Division, Office of Radiation and Indoor Air (6602J), U.S. EPA, Washington, DC 20460, telephone (202) 233–9213; FAX (202) 233–9629 concerning this extension.

SUPPLEMENTARY INFORMATION: This notice does not effect the public hearing dates as noted in the previous notice issued December 23, 1994, (59 FR 66414). All other aspects of this rulemaking remains the same.

Dated: February 15, 1995.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 95–4469 Filed 2–22–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5159]

Ecological Risk Assessment Issue Paper Reports

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: This notice announces the availability of two reports on ecological risk assessment. An EPA Risk Assessment Forum report entitled ''Ecological Risk Assessment Issue Papers'' (EPA/630/R–94/009) contains nine papers on topics relevant to ecological risk assessment as described in EPA's ''Framework for Ecological Risk Assessment'' (EPA/630/R–92/001). The issue papers were peer reviewed at a workshop in August 1994. Workshop comments are contained in the report ''Peer Review Workshop Report on Ecological Risk Assessment Issue Papers'' (EPA/630/R–94/008), along with identification of cross-cutting issues, future research needs, and suggestions for possible structures for a future EPA ecological risk assessment guideline. Both reports provide useful source materials of EPA's first Agency-wide ecological risk assessment guideline.

ADDRESSES: To obtain a single copy of either report, interested parties should contact the ORD Publications Office, CERI, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, Tel: (513) 569–7562, FACS: (513) 569–7566. Please provide your name and mailing address, and request the document by the title and EPA number.

FOR FURTHER INFORMATION CONTACT: Dr. William van der Schalie, U.S. Environmental Protection Agency (8101), 401 M Street, S.W., Washington, DC, 20460, Telephone (202) 260–6743.

SUPPLEMENTARY INFORMATION: The nine issue papers in the report ''Ecological Risk Assessment Issue Papers'' (EPA/630/R–94/009) are part of a long-term effort to develop an Agency-wide ecological risk assessment guideline for EPA. Preliminary work on the guideline began in 1989 and has resulted in the publication of an ecological risk assessment Framework Report and two volumes of ecological assessment case studies. The issue papers, which were authored by experts outside of EPA, are the next step in the guideline development process. Many of the issue paper topics correspond directly to sections of EPA's ecological risk assessment framework (conceptual model development, characterization of exposure, effects characterization, and risk integration methods), while other focus on cross-cutting issues (ecological significance, biological stressors, ecological recovery, uncertainty, and ascertaining public values in ecological risk assessment).

The issue papers were peer reviewed at a workshop in August 1994. The report from this workshop, ''Peer Review Workshop Report on Ecological Risk Assessment Issue Papers'' (EPA/630/R–94/008), includes recommendations for revising the draft issue papers, identification of cross-cutting issues and future research needs, and suggestions for possible structures for a future EPA ecological risk assessment guideline. The issue papers were revised prior to publication based on workshop discussions.

The issue paper set, along with the Framework Report, case studies, and other materials, provide scientific and technical information that will help bridge the gap between the preliminary Framework Report and the first Agency-wide ecological risk assessment guideline document now being written.

Dated: January 24, 1995.

Joseph K. Alexander,

Acting Assistant Administrator for Research and Development.

[FR Doc. 95–4470 Filed 2–22–95; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–400091; FRL–4936–9]

Federal Compliance With Right-to-Know Laws and Pollution Prevention Requirements; Notice of Federal Facility Workshops

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a series of 3–day workshops for Federal agencies' personnel on the requirements of Presidential Executive Order (EO) 12856 ''Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements.'' The workshop is targeted at all Federal agency personnel responsible for compliance with the provisions of EO 12856. It consists of a series of presentations covering the requirements of EO 12856 and the applicable sections of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and the Pollution Prevention Act. After an overview of EO 12856 and EPCRA section 302–312 provisions, the course focuses on the EPCRA section 313 Toxic Chemical Release Inventory (TRI). A variety of hands-on exercises using the TRI reporting Form R and associated guidance materials are used to help participants understand the TRI reporting process.

DATES: The Federal facility workshops will be held on the following dates in the following locations:

March 15–17, 1995, in Arlington, VA
March 21–23, 1995, in Atlanta, GA
April 4–6, 1995, in Dallas, TX
April 10–13, 1995, in Denver, CO
April 18–20, 1995, in Seattle, WA
April 25–27, 1995, in Kansas City, KS
May 2–4, 1995, in Boston, MA
May 8–10, 1995, in San Francisco, CA
May 16–18, 1995, in Edison, NJ
May 23–25, 1995, in Chicago, IL

FOR FURTHER INFORMATION CONTACT: Eileen Fesco, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 703–218–2709, Fax: 703–934–9740. The Agency continues to provide training, known as Train-the-Trainer courses to private sector industries covered under EPCRA section 313. For information on these trainings in your area, contact the EPCRA Information Hotline (5101), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 1–800–535–0202.

SUPPLEMENTARY INFORMATION: Registration will be taken on a first-come-first-served basis until 2 weeks prior to the start of each workshop. Persons who should consider attending are Federal facility staff responsible for implementing Executive Order 12856 and consulting firms who may be advising Federal facilities on EPCRA compliance. There is limited space available for each workshop. To register, contact by either telephone, fax, or in writing, the person listed under **FOR FURTHER INFORMATION CONTACT.** Notification will be sent to each applicant regarding their acceptance for the training session. There is no registration fee for this training. If there is insufficient interest in any of the workshops, they may be canceled. The Agency bears no responsibility for attendees' decision to purchase nonrefundable transportation tickets or hotel accommodation reservations.

List of Subjects

Environmental protection.

Dated: February 15, 1995.

Joseph A. Carra,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 95–4474 Filed 2–22–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

February 9, 1995.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0496.

Title: ARMIS Operating Data Report, FCC Report 43–08.

Expiration Date: 11/30/97.

Estimated Annual Burden: 8,000 total annual hours; 160 hours per response.

Description: ARMIS Operating Data Report, FCC Report 43–08, is one of several reports comprising the automated reporting system. It is an annual report which consists of statistical schedules previously contained in FCC Form M which are needed by the Commission to monitor network growth, usage, and reliability. The information contained in the automated reports provides the necessary detail to enable the Commission to fulfill its regulatory responsibilities.

OMB Control No.: 3060–0438.

Title: Transmittal Sheet for Cellular Applications for Unserved Areas, FCC Form 464.

Expiration Date: 11/30/97.

Estimated Annual Burden: 3,320 Total annual hours; .166 (10 minutes) hours per response.

Description: FCC Form 464 is designed to facilitate application intake and other processing functions by serving as a cover sheet to the application. The applicant must certify on the form that the application is complete in every respect and contains all the information required by the Commission's cellular rules. The information is used by the Commission to determine whether the applicant is qualified legally, technical, and financially to be licensed as a cellular operator. FCC Form 464 has been updated to reflect the new expiration date. The January 1995 edition of the form is available for public use. The previous edition of the form (10/94) is acceptable until further notice.

OMB Control No.: 3060–0484.

Title: Amendment of Part 63 of the Commission's Rules to Provide for Notification by Common Carriers of Service Disruptions—Section 63.100.

Expiration Date: 06/30/96.

Estimated Annual Burden: 1040 total annual hours; 5 hours per response.

Description: In the *Second Report and Order,* in CC Docket No. 91–273, released August 1, 1994, the Commission amended 47 CFR Section 63.100 to expand the present telephone service outage reporting requirements. The reporting requirements provide the Commission with a systematic means for receiving prompt notice and allow the Commission to perform detailed analysis of significant telecommunications service outages. The amendments will improve the Commission's ability to monitor the reliability of the telephone networks locally, regionally and nationally. The Commission will also be able to determine whether carriers are aware of and are implementing recommended industry ''best practices'' applicable to outages experienced by their networks, the extent to which these best practices are effective in reducing telephone service outages and whether any additional best practices need to be formulated.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–4390 Filed 2–22–95; 8:45 am]

BILLING CODE 6712–01–F

[WT Docket No. 95–11; DA 95–171]

Designation of Amateur License Renewal Application for Hearing

AGENCY: Federal Communications Commission.

ACTION: Hearing designation order.

SUMMARY: This Order designates the application of Herbert L. Schoenbohm to renew his amateur radio station license (KV4FZ) and his Amateur Extra Class operator license for hearing on the basis of a criminal conviction.

FOR FURTHER INFORMATION CONTACT: Thomas D. Fitz-Gibbon, Enforcement Division, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, DC 20554; or telephone (202) 418–0693.

SUPPLEMENTARY INFORMATION:

1. This is a summary of the Order adopted February 6, 1995, and released February 15, 1995. The complete text of this Order may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

2. The Order asserted that Mr. Herbert L. Schoenbohm has applied for renewal of his amateur service station and operator licenses.

3. The Order asserted further that, in *Government v. Schoenbohm*, No. Crim: 1991/0108 (D.V.I. Dec. 30, 1992), Mr. Schoenbohm was convicted in the U.S. District Court for the District of the Virgin Islands (District Court) of violating 18 U.S.C. § 1029(a)91) (fraudulent use of counterfeit access device); and that, on appeal, the U.S. Court of Appeals for the Third Circuit affirmed Mr. Schoenbohm's conviction. *United States v. Schoenbohm*, No. 93–7516 (Third Circuit July 22, 1994).

4. The Order alleged that, in view of the criminal conviction described above, Mr. Schoenbohm apparently lacks the requisite qualifications for a renewal of his amateur service licensee.

5. The Order designated Mr. Schoenbohm's application for hearing before an Administrative Law Judge and at a time and location determined by the order of the Chief Administrative Law Judge released on February 2, 1995, upon the following issues:

(a) To determine whether, in light of the conviction described above, Herbert L. Schoenbohm is qualified to renew his amateur service licenses.

(b) To determine, in light of the foregoing issue, whether granting Herbert L. Schoenbohm's application would serve the public interest, convenience and necessity.

6. The Order placed the burden of proceeding with the introduction of evidence and the burden of proof upon the respondent as to all issues.

Federal Communications Commission.

Robert H. McNamara,

Acting Chief, Private Radio Division.

[FR Doc. 95–4386 Filed 2–22–95; 8:45 am]

BILLING CODE 6712–01–M

Addendum to Report 2051, Released 1/13/95; Additional Petition for Reconsideration of Action in Rulemaking Proceeding: MM Docket No. 92–266 and MM Docket No. 93–215

Date: February 15, 1995.

Engle Broadcasting has demonstrated that the following Petition for Reconsideration was timely filed at the FCC on January 5, 1995. Consequently, it should have appeared on Public Notice on January 13, 1995 with nine other timely filed Petitions for Reconsideration on MM Docket No. 92–266 and MM Docket No. 93–215. Since it was omitted from that public notice, a new filing period for Oppositions to this Petition for Reconsideration will be established.

This Petition for Reconsideration have been filed and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to these petitions must be filed on or before March 10, 1995. See Section 1.4(b) (1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Implementation of Section of The Cable Television Consumer Protection and Competition Act of 1992—Rate Regulations (MM Docket No. 92–266 and MM Docket No. 93–215).

Number of Petition Filed: 1

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–4329 Filed 2–22–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Advisory Committee for National Urban Search and Rescue Response System

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, 5 U.S.C. App.), announcement is made of the following committee meeting:

Name: Advisory Committee for the National Urban Search and Rescue Response System.

Date of Meeting: March 17, 1995.

Place: Fair Oaks Holiday Inn, 11787 Lee Jackson Memorial Highway, Fairfax, Virginia 22033.

Time: 8:30 a.m.–5 p.m.

Proposed Agenda: The committee will be briefed on the program update, disaster activities, strategic plan, equipment cache, task force activation rotational schedule, additional task force positions, and restructuring of the Advisory Committee. An ethics briefing will also occur.

The meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. All members of the public interested in attending should contact Mark Russo at 202–646–2701.

Minutes of the meeting will be prepared and will be available for public viewing at the Federal Emergency Management Agency, Operations Division, 500 C Street SW., Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: February 16, 1995.

Richard W. Krimm,

Associate Director, Response & Recovery Directorate.

[FR Doc. 95–4413 Filed 2–22–95; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Stine Family Partnership; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) 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, or to engage in such an activity. Unless otherwise noted, these 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 March 8, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Stine Family Partnership, Grand Island, Nebraska; to become a bank holding company by acquiring 57.58 percent of the voting shares of United Nebraska Financial Co., Grand Island, Nebraska, and thereby indirectly acquire United Nebraska Bank, Grand Island, Nebraska.

In connection with this application, Applicant also has also applied to acquire Burwell Insurance Agency, Inc., Burwell, Nebraska, which is an existing subsidiary of United Nebraska Financial Co., and thereby engage in acting as agent for the sale of general insurance in a town of less than 5,000, pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 16, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95-4352 Filed 2-22-95; 8:45 am]

BILLING CODE 6210-01-F

Old Second 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 March 17, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Old Second Bancorp, Inc., Aurora, Illinois; to acquire 100 percent of the voting shares of Bank of Sugar Grove, Sugar Grove, Illinois.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Golden Bancshares, Inc., Golden, Illinois; to acquire 100 percent of the voting shares of Maurice L. Quinn Properties, Inc., Northbrook, Illinois, and thereby indirectly acquire Brown County State Bank, Mount Sterling, Illinois.

2. Lima Bancshares, Inc., Lima, Illinois; to acquire at least 81.11 percent of the voting shares of Wemple State Bank, Waverly, Illinois.

3. NC Bancorp, Inc., Shepherdsville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Nelson County Banking Company, Bardstown, Kentucky, a *de novo* bank.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Star Valley State Bank, Inc., Afton, Wyoming; to become a bank holding company by acquiring 100 percent of the voting shares of Star Valley State Bank, Afton, Wyoming (in organization).

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Farmington Bancorp, Seattle, Washington, and Farmington Finance Corporation, Hong Kong; to become bank holding companies by acquiring 100 percent of the voting shares of Farmington Finance State Bank, Farmington, Washington.

Board of Governors of the Federal Reserve System, February 16, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95-4351 Filed 2-22-95; 8:45 am]

BILLING CODE 6210-01-F

Marshall & Iisley Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition,

conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 8, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Marshall & Iisley, Milwaukee, Wisconsin; to acquire a 50 percent interest in a newly formed company and thereby engage *de novo* in the marketing of data processing and transmission services, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 16, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95-4350 Filed 2-22-95; 8:45 am]

BILLING CODE 6210-01-F

Fifth Third Bancorp, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have 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.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than March 8, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Fifth Third Bancorp, Cincinnati, Ohio; to acquire Falls Financial, Inc., Cuyahoga, Falls, Ohio, and indirectly acquire Falls Savings Bank, FSB, Cuyahoga, Falls, Ohio, and thereby engage in operating a savings and loan association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Old National Bancorp, Evansville, Indiana; to acquire Citizens National Life Insurance Corporation, Tell City, Indiana, and thereby engage in underwriting credit life, accident and health insurance, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire through its subsidiary Norwest Mortgage, Inc. Des Moines, Iowa, the mortgage servicing rights from Barclays American/Mortgage Corporation, Charlotte, North Carolina, and thereby engage in mortgage servicing activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 16, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95-4349 Filed 2-22-95; 8:45 am]

BILLING CODE 6210-01-F

Swiss Bank Corporation, Basel, Switzerland; Application to Engage in Nonbanking Activities

Swiss Bank Corporation, Basel, Switzerland (Applicant) has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) (BHC Act) and 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to acquire and retain indirect ownership, control and power to vote up to 100 percent of the voting shares of Brinson Partners, Inc. (Brinson Partners) and Brinson Trust Company (Brinson Trust) and to thereby to engage in the following nonbanking activities: (1) providing investment and financial advisory services; (2) providing investment advice to nonaffiliated persons with respect to (A) the purchase and sale of financial futures contracts and options on such futures contracts as set forth in 12 CFR 225.25(b)(19), and (B) the purchase and sale of those futures contracts and options on futures contracts based on bonds, interest rates and stock and bond indexes that the Board has approved previously; and (3) providing trust company services. Applicant proposes to provide investment advice to clients directly and through limited partnerships, for which Brinson Partners would act as investment advisor and in some cases as general partner.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity which the Board, after due notice and opportunity for hearing, determines by order or regulation to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory standard requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the ''closely related to banking'' test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form.

National Courier Ass'n v. Board of Governors, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

The Board has previously approved, by regulation, providing investment and financial advisory services, 12 CFR 225.25(b)(4)(i)-(v) and (vi)(A)(1) and (2), providing investment advice to non-affiliated persons with respect to the purchase and sale of financial futures contracts and options on such futures contracts, 12 CFR 225.25(b)(19) and trust services, 12 CFR 225.25(b)(3). Applicant has stated that it would conduct these proposed activities subject to the requirements and limitations of the Board's Regulation Y.

The Board also has previously determined by order that the provision of investment advisory services with respect to financial futures and options on futures contracts on bonds, interest rates and stock and bond indexes is a permissible activity pursuant to Section 4(c)(8) of the BHC Act. *See* SR 93-27; *National Westminster Bank PLC*, 78 Federal Reserve Bulletin 953 (1992); *Manufacturers Hanover Corporation*, 76 Federal Reserve Bulletin 774 (1990); and *The HongKong and Shanghai Banking Corporation*, 76 Federal Reserve Bulletin 770 (1990). The Board has also approved the providing of investment advice through limited partnerships. *See Meridian Bancorporation*, 80 Federal Reserve Bulletin 736 (1994). Applicant proposes to comply with commitments similar to those relied on by the Board in *Meridian*, but seeks, in the alternative, a determination that Brinson Partners does not control the limited partnerships for purposes of the Bank Holding Company Act, or, if it is deemed to control the partnerships, ''grandfather'' treatment for four existing limited partnerships that Brinson Partners serves as general partner.

In order to satisfy the proper incident to banking test, section 4(c)(8) of the BHC Act requires the Board to find that the performance of the activities by Company 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 interest, or unsound banking practices. Applicant believes that the proposed activities will benefit the public by providing access by customers of Applicant to the institutional asset management experience and expertise of Brinson Partners and by permitting Applicant to draw on such experience and expertise to enhance its investment advisory products and services. Applicant believes that competition will be fostered by enhancing the ability of Applicant to compete in the asset management arena with sophisticated competitors as a result of the combination of Applicant's existing institutional asset management business with that of Brinson Partners and Brinson Trust. Applicant further believes that the proposal will not result in adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than March 8, 1995. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why 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.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, February 16, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95-4348 Filed 2-22-95; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 013095 AND 021095

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
The Foothill Group, Inc., Norfolk Shipbuilding & Drydock Corporation, Flagship Financial Corporation	95–0835	01/30/95
Cilluffo Associates, L.P., Stone & Webster, Incorporated, Stone & Webster, Incorporated,	95–0795	01/31/95
Cilluffo Associates, L.P., GRC International, Inc., GRC International, Inc.	95–0796	01/31/95
AT&T Corp., GFC Financial Corporation Greyhound Financial Corporation	95–0881	01/31/95
BASF Aktiengesellschaft, The Boots Company, The Boots Company (USA) Inc.	95–0830	02/01/95
Value Health, Inc., Group Hospitalization and Medical Services, Inc., Health Management Strategies International, Inc.	95–0832	02/01/95
Sears, Roebuck and Co., Federated Department Stories, Inc., Stern's Department Stores, Inc.	95–0834	02/01/95
E. I. DuPont de Nemours and Company, Amoco Corporation, Amoco Production Company	95–0859	02/01/95
Amoco Corporation, E. I. DuPont de Nemours and Company, Conoco, Inc.	95–0860	02/01/95
Kidd, Kamm Equity Partners, L.P., Irving and Audrey Gronsky, Bristol Foods, Inc.	95–0896	02/01/95

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 013095 AND 021095—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Harbour Group Investments III, L.P., DelCorp Incorporated, DelCorp Incorporated	95–0901	02/01/95
Penn Virginia Corporation, United Meridian Corporation, UMC Petroleum Corporation	95–0903	02/01/95
Philipp Holzmann, A.G., Costain Group PLC, The Dolet Hills Mining Venture	95–0905	02/01/95
North Shore Regional, Health System, Huntington Hospital, Huntington Hospital	95–0822	02/03/95
Archer-Daniels-Midland Company, Archer-Daniels—Midland Company, Independent Soy Processors Company	95–0895	02/03/95
USF&G Corporation, Victoria Financial Corporation, Victoria Financial Corporation	95–0897	02/03/95
La-Z Boy Chair Company, England/Corsair, Inc., England/Corsair, Inc.	95–0912	02/03/95
Siemens Aktiengesellschaft, Pyramid Technology Corporation, Pyramid Technology Corporation	95–0913	02/03/95
Corporate Express, Inc., G. Lynn Shostack, Joyce International, Inc.	95–0926	02/03/95
HBE Corporation, Barclays PLC, Pawnee-Daytona Inc.	95–0965	02/03/95
Logicon, Inc., Harnischfeger Industries, Inc., Syscon Corporation	95–0920	02/06/95
Corning Incorporated, Corning BioPro Inc., Corning BioPro Inc	95–0928	02/06/95
United Healthcare Corporation, Luis A. Salgado Torres, Group Sales and Service of Puerto Rico, Inc.	95–0958	02/06/95
Molex Incorporated, Mod-Tap W Corp., Mod-Tap W Corp.	95–0886	02/07/95
Alma Energy Corp., Unocal Corporation, Union Oil Company of California	95–0932	02/07/95
The Horne Family Voting Trust, Anderson Family Trust, Anderson-Barrows Metals Corporation	95–0943	02/07/95
Pharmacia AB, Ms. Jacqueline Hoefer, Hoefer Scientific Instruments	95–0756	02/09/95
Mallinckrodt Group Inc., The Procter & Gamble Company, J. T. Baker Inc.	95–0737	02/10/95
Coats Viyella Plc, BACE Manufacturing, Inc., BACE Manufacturing, Inc.	95–0918	02/10/95
Ronald O. Perelman, Abex Inc., Abex Inc.	95–0929	02/10/95
The News Corporation Limited, SCS Communications, Inc., Westview Press, Inc.	95–0944	02/10/95
Ashland Oil, Inc., Mr. Ira L. Morris and Mrs. Betty Sue Morris, Waco Oil & Gas Co., Inc.	95–0949	02/10/95
Vincent J. Ryan, James F. Knott, National Business Archives, Inc.	95–0955	02/10/95
VIAG AG, AmeriQuest Technologies, Inc., AmeriQuest Technologies, Inc.	95–0956	02/10/95
Beverly Enterprises, Inc., Pharmacy Management Services, Inc., Pharmacy Management Services, Inc.	95–0960	02/10/95
Pennzoil Company, Limited Liability Company, Limited Liability Company	95–0961	02/10/95
The Brooklyn Union Gas Company, Limited Liability Company, Limited Liability Company	95–0962	02/10/95
Phillips-Van Heusen Corporation, Crystal Brands, Inc. (Debtor-In-Possession), Crystal Brands, Inc. (Debtor-In-Possession)	95–0963	02/10/95
Precision Castparts Corp., Columbus II Limited Partnership, Quamco, Inc.	95–0970	02/10/95
William Herbert Hunt Trust Estate, Texaco Inc., Texaco Exploration and Production Inc.	95–0978	02/10/95
National Gaming Corp., Part-A-Dice Gaming Corporation, Par-A-Dice Gaming Corporation	95–0980	02/10/95
Sonat Inc., Hardy Oil & Gas PLC (a Britishcompany), Hardy Holdings, Inc.	95–0993	02/10/95

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–4396 Filed 2–22–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Availability of Draft U.S. Public Health Service Recommendations for HIV Counseling and Testing for Pregnant Women

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service (PHS), Department of Health and Human Services.

ACTION: Notice of availability and request for comments.

SUMMARY: This notice announces the availability for review and comment of a draft document entitled ''U.S. Public Health Service Recommendations for HIV Counseling and Testing for Pregnant Women.'' The document was prepared by CDC staff in collaboration with other internal PHS and external consultants.

DATES: To ensure consideration, written comments on this draft document must be received on or before April 10, 1995.

ADDRESSES: Requests for copies of the draft recommendations must be submitted to the CDC National AIDS Clearinghouse, P.O. Box 6003, Rockville, MD 20849–6003, telephone (800) 458–5231. Written comments on the draft document should be sent by mail or facsimile to the Technical Information Activity, Division of HIV/AIDS, National Center for Infectious Diseases, Centers for Disease Control and Prevention, Mailstop E–49, 1600 Clifton Road, NE., Atlanta, GA 30333, facsimile (404) 639–2007, for receipt by April 10, 1995.

FOR FURTHER INFORMATION CONTACT: Technical Information Activity, Division of HIV/AIDS, National Center for Infectious Diseases, Centers for Disease Control and Prevention, Mailstop E–49, Atlanta, GA 30333.

SUPPLEMENTARY INFORMATION: In February 1994, the National Institutes of Health announced interim results from AIDS Clinical Trial Group (ACTG) protocol 076 indicating that zidovudine (ZDV) therapy administered to a select group of HIV-infected pregnant women and their newborns reduced the risk of perinatal HIV transmission by approximately two thirds. In April 1994, provisional recommendations for the use of ZDV therapy in HIV-infected pregnant women and their newborns were published. In June 1994, representatives from Federal and nonfederal health agencies and other organizations attended a meeting in Bethesda, Maryland, to discuss development of U.S. Public Health Service recommendations to prevent perinatal HIV transmission and the implications of those recommendations for HIV treatment, counseling, and HIV testing. In August 1994, the U.S. Public Health Service published recommendations for ZDV therapy to reduce the risk of perinatal transmission of HIV (also available from the CDC

National AIDS Clearinghouse, telephone (800) 458–5231).

The draft recommendations for HIV counseling and voluntary testing for pregnant women have been developed to provide a framework to enable pregnant women to know their HIV infection status; advise HIV-infected pregnant women of ways to prevent perinatal, sexual, and other transmission of HIV; facilitate appropriate follow up for HIV-infected women and their infants; and assist uninfected pregnant women in identifying methods to reduce their risk of acquiring HIV infection.

Dated: February 15, 1995.

Jack Jackson,

Acting Director, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–4368 Filed 2–22–95; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

[Docket No. 88N–0319]

Home Specimen Collection Kit Systems Intended for Human Immunodeficiency Virus (HIV–1 and/or HIV–2) Antibody Testing; Revisions to Previous Guidance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revising its previous guidance for the approval of home specimen collection kit systems intended for the detection of antibodies to Human Immunodeficiency Virus type 1 (HIV–1), that was published in the **Federal Register** of February 17, 1989, and July 30, 1990.

DATES: Submit written comments by April 10, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary Gustafson, Center for Biologics Evaluation and Research (HFM–370), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–2012.

SUPPLEMENTARY INFORMATION:

I. Background

FDA announced in the **Federal Register** of February 17, 1989 (54 FR 7279), the scheduling of an open public meeting and invited written comments on blood collection kits and home test kits designed to detect HIV–1 antibody. The document listed five factors that the agency was applying to the review of applications for premarket approval of blood collection kits labeled for HIV–1 antibody testing. At that time, FDA believed that blood collection kits labeled for HIV-related testing should be restricted to professional use in a health care environment. On April 6, 1989, FDA held an open public meeting to obtain comments on the issues related to applications for premarket approval of blood collection kits labeled for HIV–1 antibody testing. Comments also were solicited on kits for home collection and home testing of blood for evidence of HIV–1 infection.

In the **Federal Register** of July 30, 1990 (55 FR 30982), FDA announced the availability of a letter to firms and individuals who previously had asked FDA about the potential marketing of blood collection kits labeled for HIV–1 testing. In that document, which included the full text of the letter, FDA indicated its willingness to accept investigational device exemptions (IDE's) and to review applications for blood collection kits for HIV–1 testing intended for home use, but did not revise the list of factors, previously set forth in the February 17, 1989, **Federal Register** (54 FR 7279) document, that the agency would consider in evaluating the safety and effectiveness of specimen collection kits.

In light of scientific and technological developments and the changing nature of the HIV epidemic, FDA announced in the **Federal Register** of June 9, 1994 (59 FR 29814), that the agenda for FDA's Blood Products Advisory Committee meeting, scheduled for June 21 and 22, 1994, would include a discussion of issues related to home specimen collection kits labeled for HIV antibody testing, and that the discussion would reexamine FDA's approach to evaluating the safety and effectiveness of such kits. More than 60 members of the public, including potential product sponsors, academicians, physicians, clergy, HIV counselors, and representatives of various interest groups, made public presentations before the Blood Products Advisory Committee prior to the committee's discussion of these issues. Most of the advisory committee members believed that the potential benefits of over-the-counter (OTC) home specimen collection kits outweighed the potential risks.

II. The Revision

In this document, FDA is revising the previous guidance for blood sample collection kits labeled for HIV antibody testing set forth in the February 17, 1989, **Federal Register** document and in the July 30, 1990, **Federal Register** document. This revised guidance addresses only OTC products intended for the home collection of specimens (including blood and non-blood based specimens) for HIV antibody testing (including HIV–1 and/or HIV–2), and supersedes prior guidance about such home specimen collection kits. This revised guidance does not address professional use specimen collection kits for HIV testing or kits for home testing of specimens for evidence of HIV infection.

After significant consideration, including discussion at two public meetings, FDA has concluded that OTC home specimen collection kit system for HIV testing may be approvable. Each premarket approval application (PMA) for an OTC home specimen collection kit system labeled for HIV–1 and/or HIV–2 antibody testing will be evaluated for safety and effectiveness based on the proposed intended use. In general, sponsors should include information on the following points:

(1) Appropriate preclinical studies and clinical trials conducted under an approved IDE should validate all technical aspects of the home specimen collection and testing system and demonstrate the reproducibility, sensitivity, and specificity of test results in comparison with an approved, professional use system for the collection and testing of blood or any other appropriately validated specimen. Field trials should be conducted in a population likely to resemble the intended market for the collection kit. Lay comprehension of the instructions and educational materials, the ability of individual consumers to accurately identify whether the test is applicable to them, adequacy of home collection and shipment of the specimen by consumers, the adequacy of pretest and post-test counseling, and the ability of consumers to take appropriate followup action when indicated should be addressed. Safe handling and transport of the specimen and safe disposal of potentially hazardous materials also should be demonstrated. Sponsors additionally should document adequate quality assurance related to product manufacture, testing of the specimen (including laboratory proficiency controls) in a laboratory that is in compliance with the Clinical Laboratories Improvement Act of 1988 (CLIA), maintenance of test records, and a system for reporting of adverse events or device failures.

(2) The testing for all specimens collected using the home specimen collection kits should include the use of

a licensed screening test for HIV–1 and/or HIV–2 antibodies and, for those specimens testing repeatedly reactive by the screening test, the use of a licensed, more specific test (e.g., Western blot, immunofluorescence assay, or comparable test). Both the screening and confirmatory tests should be validated and labeled for use on the particular home specimen collection kit system specimens.

(3) Results of testing should be reported to test subjects by persons appropriately trained in HIV notification and counseling. Counseling of persons with confirmed positive test results should include referral to medical and social support services in the area where the person lives.

(4) The sponsor should also consider the gathering and reporting of demographic data as appropriate. In addition, the sponsor should discuss proposals for appropriate postmarketing studies to assess the public health impact of OTC home specimen collection kit systems for HIV testing.

FDA approval of a PMA would be based upon a finding that information and data submitted in the PMA demonstrate the safety and effectiveness of the home specimen collection kit system (including counseling), and that facility inspections (including any dedicated testing and counseling sites) demonstrate compliance with current good manufacturing practices for medical devices.

This document represents current agency guidance on OTC products intended for the home collection of specimens (including blood and non-blood based specimens) for HIV antibody testing. Other guidance may be developed over time in response to developing technology, public health concerns, consumer preferences, and product submissions.

A manufacturer who wishes to pursue the marketing of a home specimen collection kit system for HIV–1 and/or HIV–2 antibody testing is invited to consult with FDA about the information that should be included in the IDE and PMA submissions. For further information contact Mary Gustafson, Director, Division of Blood Applications, Center for Biologics Evaluation and Research, FDA, at 301–594–2012.

III. Request for Comments

Interested persons may, on or before April 10, 1995, submit to the Dockets Management Branch (address above) written comments regarding the modifications to this guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 15, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95–4465 Filed 2–22–95; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Institute of General Medical Sciences, Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Committee Name: National Institute of General Medical Sciences Special Emphasis Panel—Pharmacology.
Date: March 7.
Time: 9:30 a.m.—adjournment.
Place: Sheraton International Airport Hotel, Baltimore-Washington Airport, Baltimore, MD 20805.
Contact Person: Dr. Helen Sunshine, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS-13F, Bethesda, MD 20892-6200.
Purpose: To review and evaluate grant applications.

Committee Name: National Institute of General Medical Sciences, Special Emphasis Panel—Chemistry.
Date: March 8.
Time: 8:30 a.m.—adjournment.
Place: Plaza Hotel and Conference Center, 1900 E. Speedway Blvd., Tucson, AZ 85719.
Contact Person: Dr. Arthur Zachary, Scientific Review Administrator, 45 Center Drive, Room 1AS–13, Bethesda, MD 20892–6200.
Purpose: To review and evaluate grant applications.

Committee Name: National Institute of General Medical Sciences, Special Emphasis Panel—Pharmacology.
Date: March 11.
Time: 7 a.m.—adjournment.
Place: Radisson Hotel, Clayton, 7750 Carondelet, Clayton, MO 63105.
Contact Person: Dr. Irene Glowinski, Scientific Review Administrator, 45 Center Drive, Room 1AS–13J, Bethesda, MD 20892–6200.
Purpose: To review and evaluate grant applications.

Name of Committee: National Institute of General Medical Sciences, Special Emphasis Panel—Trauma and Burn.
Date: March 14.
Time: 9:30 a.m.—adjournment.
Place: Hyatt Regency Hotel, Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Dr. Bruce Wetzel, Scientific Review Administrator, 45 Center Drive, Room 1AS–19K, Bethesda, MD 20892–6200.
Purpose: To review and evaluate grant applications.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 522b(c)(6), title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS].

Dated: February 15, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–4339 Filed 12–22–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review Small Business Innovation Research Program grant applications.
Name of SEP: Behavioral and Neurosciences.
Date: March 15–16, 1995.
Time: 9:00 a.m.
Place: Renaissance Hotel, Washington, DC.
Contact Person: Dr. Anita Sostek, Scientific Review Administrator, 5333 Westbard Ave., Room 319C, Bethesda, MD 20892, (301) 594–7358

Purpose/Agenda: To review individual grant applications.
Name of SEP: Microbiological and Immunological Sciences.
Date: March 8, 1995.
Time: 10:00 a.m.
Place: NIH, Westwood Building, Room 403D, Telephone Conference.
Contact Person: Dr. Howard Berman, Scientific Review Administrator, 5333 Westbard Ave., Room 403D, Bethesda, MD 20892, (301) 594–7234.

Name of SEP: Microbiological and Immunological Sciences.
Date: March 9, 1995.
Time: 3:00 p.m.
Place: NIH, Westwood Building, Room 403D, Telephone Conference.

Contact Person: Dr. Howard Berman, Scientific Review Administrator, 5333 Westbard Ave., Room 403D, Bethesda, MD 20892, (301) 594–7234.

Name of SEP: Clinical Sciences.
Date: March 20, 1995.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Ms. Jo Pelham, Scientific Review Administrator, 5333 Westbard Ave., Room 349, Bethesda, MD 20892, (301) 594–7254.

Name of SEP: Clinical Sciences.
Date: March 21, 1995.
Time: 8:30 a.m.
Place: Holiday Inn, Bethesda, MD.
Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 5333 Westbard Ave., Room 219C, Bethesda, MD 20892, (301) 594–7130.

Name of SEP: Chemistry and Related Sciences.
Date: March 21, 1995.
Time: 2:00 p.m.
Place: NIH, Westwood Building, Room 335, Telephone Conference.
Contact Person: Dr. Edward Zapolski, Scientific Review Admin., 5333 Westbard Ave., Room 335, Bethesda, MD 20892, (301) 594–7302.

Name of SEP: Clinical Sciences.
Date: March 22, 1995
Time: 8:30 a.m.,
Place: Holiday Inn, Bethesda, MD.
Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 5333 Westbard Ave., Room 219C, Bethesda, MD 20892, (301) 594–7130.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or 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/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 94.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 15, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–4338 Filed 2–22–95; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting President's Cancer Panel

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, March 28, 1995 at the National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6.

This meeting will be open to the public on March 28, 1995 from 8 a.m. to approximately 5 p.m. The topic will be: The Human Genome Project.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Ms. Nora Winfrey, (301–496–1148), in advance of the meeting.

Dr. Maureen O. Wilson, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 4A34, National Institutes of Health, Bethesda, Maryland 20892 (301/496–1148) will provide a roster of the Panel members and substantive program information upon request.

Dated: February 15, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–4337 Filed 2–22–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Behavioral and Neurosciences.
Date: March 8, 1995.
Time: 8:30 a.m.
Place: OMNI Shoreham Hotel, Washington, DC.
Contact Person: Dr. Joseph Kimm, Scientific Review Administrator, 5333 Westbard Ave., Room 309, Bethesda, MD 20892, (301) 594–7257.

Name of SEP: Biological and Physiological Sciences.
Date: March 9, 1995.
Time: 2:30 p.m.
Place: NIH, Westwood Building, Room 418A, Telephone Conference.
Contact Person: Dr. Anne Clark, Scientific Review Administrator, 5333 Westbard Ave., Room 418A, Bethesda, MD 20892, (301) 594–7115.

Name of SEP: Multidisciplinary Sciences.
Date: March 9, 1995.
Time: 1:00 p.m.
Place: NIH, Westwood Building, Room 2A11, Telephone Conference.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 5333 Westbard Ave., Room 2A11, Bethesda, MD 20892, (301) 594–7276.

Name of SEP: Behavioral and Neurosciences.
Date: March 14, 1995.
Time: 12:30 p.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Herman Teitelbaum, Scientific Review Admin., 5333 Westbard Ave., Room 321, Bethesda, MD 20892, (301) 594–7245.

Name of SEP: Clinical Sciences.
Date: March 16, 1995.
Time: 8:30 a.m.
Place: NIH, Westwood Building, Room 203B, Telephone Conference.
Contact Person: Dr. H. M. Stiles, Scientific Review Administrator, 5333 Westbard Ave., Room 203B, Bethesda, MD 20892, (301) 594–7194.

Name of SEP: Biological and Physiological Sciences.
Date: March 22, 1995.
Time: 2:30 p.m.
Place: NIH, Westwood Building, Room 349, Telephone Conference.
Contact Person: Dr. Everett Sinnett, Scientific Review Admin., 5333 Westbard Ave., Room 349, Bethesda, MD 20892, (301) 594–7220.

Name of SEP: Microbiological and Immunological Sciences.
Date: March 27, 1995.
Time: 2:00 p.m.
Place: NIH, Westwood Building, Room 238, Telephone Conference.
Contact Person: Dr. Martin Slater, Scientific Review Admin., 5333 Westbard Ave., Room 238, Bethesda, MD 20892, (301) 594–7176.

Name of SEP: Biological and Physiological Sciences.
Date: March 28, 1995.
Time: 10:00 a.m.
Place: NIH, Westwood Building, Room 349, Telephone Conference.
Contact Person: Dr. Everett Sinnett, Scientific Review Admin., 5333 Westbard Ave., Room 349, Bethesda, MD 20892, (301) 594–7220.

Name of SEP: Chemistry and Related Sciences.
Date: March 28, 1995.
Time: 1:30 p.m.
Place: NIH, Westwood Building, Room 349, Telephone Conference.
Contact Person: Dr. Gopa Rakhit, Scientific Review Administrator, 5333 Westbard Ave., Room 349, Bethesda, MD 20892, (301) 594–7166.

Name of SEP: Multidisciplinary Sciences.
Date: April 6–7, 1995.
Time: 9:00 a.m.
Place: Marriott Hotel, Dulles, VA.
Contact Person: Dr. Harish Chopra, Scientific Review Admin., 5333 Westbard Ave., Room 2A18A, Bethesda, MD 20892, (301) 594–7342.

Name of SEP: Microbiological and Immunological Sciences.
Date: April 11, 1995.
Time: 10:00 a.m.

Place: NIH, Westwood Building, Room 353, Telephone Conference.

Contact Person: Dr. Anthony Chung, Scientific Review Admin., 5333 Westbard Ave., Room 353, Bethesda, MD 20892, (301) 594–7338.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or 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/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 15, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–4336 Filed 2–22–95; 8:45 am]

BILLING CODE 4140–01–M

Ad Hoc Review Committee for the Recombinant DNA Advisory Committee; Notice of Meeting

Notice is hereby given of a meeting of the *Ad Hoc* Review Committee for the Recombinant DNA Advisory Committee on March 8, 1995, at the National Institutes of Health, Building 31C, 6th Floor, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20892, starting at approximately 9 a.m. to adjournment at approximately 5 p.m. The meeting will be open to the public to discuss three major topics for review: (1) domain and mandate of the Recombinant DNA Advisory Committee; (2) composition of the Recombinant DNA Advisory Committee; and (3) Recombinant DNA Advisory Committee's review of human gene transfer protocols. Members of the public wishing to speak at this meeting may be given such opportunity at the discretion of the Chair.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, Suite 323, National Institutes of Health, 6006 Executive Boulevard, MSC 7052, Bethesda, Maryland 20892–7052, Phone (301) 496–9838, FAX (301) 496–9839, will provide materials to be discussed at this meeting, roster of committee members, and substantive program information. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Wivel in advance of the meeting. A summary of the meeting will be available at a later date.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines.* In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: February 15, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

FR Doc. 95–4335 Filed 2–22–95; 8:45 am]

BILLING CODE 4140–01–M

Social Security Administration

1994–95 Advisory Council on Social Security; Meeting

AGENCY: Social Security Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces a meeting of the 1994–95 Advisory Council on Social Security (the Council).

DATES: Friday, March 10, 1995, 8:30 a.m. to 5:00 p.m. and Saturday, March 11, 1995, 9:00 a.m. to 12:00 noon.

ADDRESSES: The National Rural Electric Cooperative Association (NRECA), 1800 Massachusetts Avenue, NW, Washington, DC 20036, (202) 857–9500.

FOR FURTHER INFORMATION CONTACT: By mail—Dan Wartonick, 1994–95 Advisory Council on Social Security, Room 624D, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201; By telephone—(202) 205–4861; By telefax—(202) 205–4879.

SUPPLEMENTARY INFORMATION:

I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every 4 years. The Council examines issues affecting the Social Security Old-Age, Survivors, and Disability Insurance (OASDI) programs, as well as the Medicare program and impacts on the Medicaid program, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

- Social Security financing issues, including developing recommendations for improving the long-range financial status of the OASDI programs;
- General program issues such as the relative equity and adequacy of Social Security benefits for persons at various income levels, in various family situations, and various age cohorts, taking into account such factors as the increased labor force participation of women, lower marriage rates, increased likelihood of divorce, and higher poverty rates of aged women.

In addressing these topics, the Secretary suggested that the Council may wish to analyze the relative roles of the public and private sectors in providing retirement income, how policies in both sectors affect retirement decisions and the economic status of the elderly, and how the disability insurance program provisions and the availability of health insurance and health care costs affect such matters.

The Council is composed of 12 members in addition to the chairman: Robert Ball, Joan Bok, Ann Combs, Edith Fierst, Gloria Johnson, Thomas Jones, George Kourpias, Sylvester Schieber, Gerald Shea, Marc Twinney, Fidel Vargas, and Carolyn Weaver. The chairman is Edward Gramlich.

The Council met previously on June 24–25 (59 FR 30367), July 29, 1994 (59 FR 35942), September 29–30 (59 FR 47146), October 21–22 (59 FR 51451), November 18–19 (59 FR 55272), January 27 (60 FR 3416) and February 10–11 (60 FR 5433).

II. Agenda

The following topics will be presented and discussed:

• Report on Trends and Issues in Retirement Saving;

• Report on Assumptions and Methods used in projecting the financial status of the Social Security Trust Funds;

• Alternative measures for taxing Social Security Benefits;

• Outline of options/issues relating to mandatory/voluntary ''second pillar'' arrangements; and

• Overview of tax policy issues affecting voluntary retirement saving.

The meeting is open to the public to the extent that space is available. Interpreter services for persons with hearing impairments will be provided. A transcript of the meeting will be available to the public on an at-cost-of duplication basis. The transcript can be ordered from the Executive Director of the Council. (Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.803, Social Security-Retirement Insurance; 93.805, Social Security-Survivors Insurance.)

Dated: February 13, 1995.

David C. Lindeman,

Executive Director, 1994–95 Advisory Council on Social Security.

[FR Doc. 95–4397 Filed 2–22–95; 8:45 am]

BILLING CODE 4190–29–P

1994–95 Advisory Council on Social Security; Meeting

AGENCY: Social Security Administration, HHS.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces Public Meetings to be held by the 1994–95 Advisory Council on Social Security (the Council).

DATES: Wednesday, March 8, 1995, 9:00 a.m. to 5:00 p.m. and Thursday, March 9, 1995, 9:00 a.m. to 5:00 p.m.

ADDRESSES: The National Rural Electric Cooperative Association (NRECA), 1800 Massachusetts Avenue, NW, Washington, DC, 20036, (202) 857–9500.

FOR FURTHER INFORMATION CONTACT: By mail—Dan Wartonick, 1994–95 Advisory Council on Social Security, Room 624D, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201; By telephone—(202) 205–4861; By telefax—(202) 205–4879.

SUPPLEMENTARY INFORMATION:

I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every 4 years. The Council examines issues affecting the Social Security Old-Age, Survivors, and Disability Insurance (OASDI) programs, as well as the Medicare program and impacts on the Medicaid program, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

• Social Security financing issues, including developing recommendations for improving the long-range financial status of the OASDI programs;

• General program issues such as the relative equity and adequacy of Social Security benefits for persons at various income levels, in various family situations, and various age cohorts, taking into account such factors as the increased labor force participation of women, lower marriage rates, increased likelihood of divorce, and higher poverty rates of aged women.

In addressing these topics, the Secretary suggested that the Council may wish to analyze the relative roles of the public and private sectors in providing retirement income, how policies in both sectors affect retirement decisions and the economic status of the elderly, and how the disability insurance program provisions and the availability of health insurance and health care costs affect such matters.

The Council is composed of 12 members in addition to the chairman: Robert Ball, Joan Bok, Ann Combs, Edith Fierst, Gloria Johnson, Thomas Jones, George Kourpias, Sylvester Schieber, Gerald Shea, Marc Twinney, Fidel Vargas, and Carolyn Weaver. The chairman is Edward Gramlich.

The Council met previously on June 24–25 (59 FR 30367), July 29, 1994 (59 FR 35942), September 29–30 (59 FR 47146), October 21–22 (59 FR 51451), November 18–19 (59 FR 55272), January 27 (60 FR 3416) and February 10–11 (60 FR 5433).

II. Agenda

The Council will consider views and comments from the public on the following subjects:

• Achieving long-term stability in financing the Social Security program including possible increases in contribution rates;

• Changing the normal and early retirement ages and other approaches to lowering benefits;

• Ensuring adequate retirement income and determining the role of private pensions and savings; and

• Ensuring equitable treatment under Social Security for dependents, disabled, survivors as well as retirees.

The agenda items are subject to change as priorities dictate.

The meeting is open to the public to the extent that space is available. Public officials, representatives of professional and advocacy organizations, concerned citizens, and Social Security and SSI recipients may speak and submit written comments on the issues considered by the Council. Interpreter services for persons with hearing impairments will be provided.

In order to ensure that as many speakers as possible are given the opportunity to speak in the time allotted for public comment, each person will be limited to a maximum of 5 minutes. Because of the time limitations, individuals are requested to present comments in their order of importance. A written copy of comments should be prepared and presented to us, preferably in advance of the meeting. To ensure our full understanding and consideration of all of each speaker's concerns, we welcome written comments that provide a detailed and elaborative discussion of the subjects presented orally, as well as further written comments on other issues not presented orally. Persons unable to attend the meeting also may submit written comments. Written comments will receive the same consideration as oral comments.

To request to speak, please telephone the Council at the information contact shown above, and provide the following: (1) Name; (2) business or residence address; (3) telephone or fax number (including area code) during normal working hours; and (4) capacity in which presentation will be made; i.e., public official, representative of an organization, or citizen. For planning purposes, we will appreciate receiving requests to speak 7 days before the date of the meeting.

A transcript of the meeting will be available to the public on an at-cost-of duplication basis. The transcript can be ordered from the Executive Director of the Council. (Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.803, Social Security-Retirement Insurance; 93.805, Social Security-Survivors Insurance.) The transcript and all written submissions will become part of the record of these meetings.

Dated: February 13, 1995.

David C. Lindeman,

Executive Director, 1994–95 Advisory Council on Social Security.

[FR Doc. 95–4398 Filed 2–22–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–95–3889]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 14, 1995.

David S. Cristy,

Acting Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Single Family Deficiency Judgment Demand Letters

Office: Housing

Description Of The Need For The Information And Its Proposed Use: Debt Collections Letters are the initial and subsequent demand letters used by HUD to collect monies on delinquent property improvement and manufactured housing loans assigned to the Federal Government after the lender has exhaused its efforts and is submitting a claim for a loan reimbursement.

Form Number: None

Respondents: Individual or Households

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	1,258		1		1		1,258

Total Estimated Burden ours: 1,258

Status: Extension, no changes

Contact: Anne Baird-Bridges, HUD (202) 755–7570; Joseph F. Lackey, Jr., OMB (202) 395–7316.

Date: February 9, 1995.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Agreement to Avoid Judgment

Office: Housing

Description Of The Need For The Information And Its Proposed Use: Form HUD–56145 is used by HUD to obtain information on the debtor's ability to pay the debt in full; the ability to pay in installments; and/or justification for a compromise in given cases of Title I Home Improvement and Mobile Home Loans.

Form Number: HUD–56145

Respondents: Individual or Households

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–56145	1,258		1		1		1,258

Total Estimated Burden Hours: 1,258

Status: Extension, no changes

Contact: Anne Baird-Bridges, HUD (202) 755–7570; Joseph F. Lackey, Jr., OMB (202) 395–7316.

Date: February 9, 1995.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Repayment Agreement

Office: Housing

Description Of The Need For The Information And Its Proposed Use: Form HUD–56146 will be used by the debtor to indicate agreement to repay a HUD insured loan.

Form Number: HUD–56146

Respondents: Individuals or Households

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–56147	1,258		1		1		1,258

Total Estimated Burden Hours: 1,258

Status: Extension, no changes

Contact: Anne Baird-Bridges, HUD, (202) 755–7570; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: February 4, 1995.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Confession of Judgment Note
Office: Housing
Description Of The Need For The Information And Its Proposed Use: Adequate case maintenance is essential for establishing the legal debt. The Debt Servicing Representative obtains a written repayment agreement and the written agreement shall be accompanied by a Confession of Judgment Note (HUD–56147). These forms should be filed in the official case binder.
Form Number: HUD–56147
Respondents: Individuals or Households
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–56147	1,258		1		1		1,258

Total Estimated Burden Hours: 1,258
Status: Extension, no changes
Contact: Anne Baird-Bridges, HUD, (202) 755–7570; Joseph F. Lackey, Jr., OMB, (202) 395–7316.
Dated: February 4, 1995.

[Docket No. R–95–1754; FR–3481–N–02]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collection the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: February 14, 1995.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Secretary of HUD's Regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (FR–3481)
Office: Housing
Description Of The Need For The Information And Its Proposed Use: Under P.L. 102–550, the Secretary of HUD must collect information to monitor performance under, and ensure accomplishment of Fannie Mae's and Freddie Mac's mortgage purchase activities and the collection of information related to the violations of the Fair Housing Act and Equal Credit Opportunity Act.
Form Number: None
Respondents: Businesses or Other For-Profit
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	2		9.5		66		1,250

Total Estimated Burden Hours: 1,250

Status: New

Contact: Stephanie Smith, HUD (202) 708–0579; Joseph F. Lackey, Jr., OMB (202) 395–7316.

Date: February 14, 1995.

[FR Doc. 95–4363 Filed 2–22–95; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–95–3737; FR–3659–N–03]

Public and Indian Housing Drug Elimination Program; Announcement of Funding Awards for FY 1994

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA)

for Public and Indian Housing Drug Elimination Program. This announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Malcolm E. Main, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, room 4116, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1197. A telecommunication device for hearing or speech impaired persons (TDD) is available at (202) 708–0850. [These are not toll-free telephone numbers.]

SUPPLEMENTARY INFORMATION: The Drug Elimination Program is authorized under chapter 2, subtitle C, title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 *et. seq.*), as amended by section 581 of the National Affordable Housing Act of 1990, (Pub. L. 101–625, approved November 28, 1990), and Section 161 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992).

The Fiscal Year 1994 competition was announced in a NOFA published in the **Federal Register** on April 1, 1994 (59 FR 15575). The NOFA announced the availability of $231,978,631 for use in eliminating drug-related crime. Applications were scored and selected for funding based on criteria contained in the Notice.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the names and addresses of the housing authorities which received funding under this NOFA, and the amount of funds awarded to each. This information is provided in Appendix A to this document.

Dated: February 16, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS

Funding recipient (name and address)	Amount approved
Program Name: FY 1994 Public and Indian Housing Drug Elimination Program (PHDEP) Statute: Public Law 100–690, November 18, 1988	
Housing Authority of the City of Bridgeport, 150 Highland Ave., Bridgeport, CT 06604–3503	$732,250
Housing Authority of the City of Waterbury, 70 Lakewood Road, Waterbury, CT 06704–2498	224,400
Housing Authority of the City of Danbury, P.O. Box 86, Danbury, CT 06813–0086	121,200
Housing Authority of the Town of Stratford P.O. Box 344, Stratford, CT 06497–6911	119,100
Housing Authority of the City of Middletown, 40 Broad St., Middletown, CT 06457–3249	125,819
Housing Authority of the Town of Greenwich, P.O. Box 141, Greenwich, CT 06836–6620	93,000
Housing Authority of the City of Meriden, P.O. Box 911, Meriden, CT 06451	145,500
Housing Authority of the Town of East Hartford, 546 Burnside Ave., East Hartford, CT 06108	141,662
Housing Authority of the City of Norwalk, P.O. Box 508, Norwalk, CT 06854–0508	247,500
Housing Authority of the City of New Haven, P.O. Box 1912, New Haven, CT 06509	879,250
Housing Authority of the City of Ansonia, 75 Central Street, Ansonia, CT 06401–2042	80,700
Housing Authority of the City of Bristol, P.O. Box 918, Bristol, CT 06011–0918	165,900
Housing Authority of the City of Stamford, P.O. Box 1376, Stamford, CT 06904–1376	300,000
Housing Authority of the City of New Britain, 34 Marimac Rd., New Britain, CT 06053–2699	242,000
Housing Authority of the City of New London, P.O. Box 119, New London, CT 06320–0119	67,500
West Haven Housing Authority, 15 Glade St., West Haven, CT 06516–2607	175,378
Somerville Housing Authority, 30 Memorial Road, Somerville, MA 02145	131,100
Chelsea Housing Authority, 54 Locke Street Chelsea, MA 02150–2209	105,000
Worcester Housing Authority, 40 Belmont Street, Worcester, MA 01605	300,000
Taunton Housing Authority, 30 Olney Street, Taunton, MA 02780–4197	97,800
New Bedford Housing Authority, P.O. Box A–2081, New Bedford, MA 02741–2081	412,500
Lynn Housing Authority, 174 So. Common St., Lynn, MA 01905–2513	139,200
Gloucester Housing Authority, P.O. BOX 1599, Gloucester, MA 01931–1599	30,000
Springfield Housing Authority, P.O Box 1609, Springfield, MA 01101–1609	292,900
Lawrence Housing Authority, 353 Elm Street, Lawrence, MA 01842	300,000
Cambridge Housing Authority, 270 Green Street, Cambridge, MA 02139–3360	460,250
Fall River Housing Authority, P.O. Box 989, Fall River, MA 02722–0989	426,750
Brockton Housing Authority, P.O. Box 240, Brockton, MA 02403	240,600
Lowell Housing Authority, P.O. Box 60, Lowell, MA 01853–0060	414,450
Boston Housing Authority, 52 Chauncy Street, Boston, MA 02111–2302	3,113,500
Chicopee Housing Authority, 128 Meetinghouse Road, Chicopee, MA 01013–1896	81,872
Portland Housing Authority, 14 Baxter Boulevard, Portland, ME 04101–4935	300,000
Dover Housing Authority, 62 Whittier Street, Dover, NH 03820–2994	137,400
Nashua Housing Authority, 101 Major Drive, Nashua, NH 03060–4783	198,600
Manchester Housing & Redevelopment Authority, 198 Hanover St., Manchester, NH 03104–6125	299,542
Providence Housing Authority, 100 Broad Street, Providence, RI 02903–4129	619,620
Pawtucket Housing Authority, 214 Roosevelt Ave., Pawtucket, RI 02862–1303	298,750
Woonsocket Housing Authority, 679 Social Street, Woonsocket, RI 02895–3251	300,000
Newport Housing Authority, One York Street, Newport, RI 02840–1212	300,000
Neptune Housing Authority, 1810 Alberta Ave., Neptune, NJ 07753–4817	103,500
Plainfield Housing Authority, 510 East Front Street, Plainfield, NJ 07060–1443	140,700
Perth Amboy Housing Authority, P.O. Box 390, Perth Amboy, NJ 08862–0390	226,200
North Bergen Housing Authority, 6121 Grand Ave., North Bergen, NJ 07047–5436	293,100
Millville Housing Authority, P.O. Box 803, 122 E. Main, Millville, NJ 08332–0803	141,000
Salem Housing Authority, 205 Seventh St., Salem, NJ 08079–1040	77,400
Hightstown Housing Authority, 131 Rogers Ave., Hightstown, NJ 08520–3725	30,000
Edison Housing Authority, Willard Dunham Drive, Edison, NJ 08837–3560	47,400

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

Funding recipient (name and address)	Amount approved
New Brunswick Housing Authority, P.O. Box 110, New Brunswick, NJ 08903–1368	168,300
Orange Housing Authority, 340 Thomas Blvd., Orange, NJ 07050–4121	158,700
Newark Housing Authority, 57 Sussex Ave., Newark, NJ 07103–3992	2,658,750
Asbury Park Housing Authority, 1000½ Third Ave., Asbury Park, NJ 07712–3847	176,100
Passaic Housing Authority, 333 Passaic Street, Passaic, NJ 07055–5896	207,300
Elizabeth Housing Authority, 688 Maple Ave., Elizabeth, NJ 07202–2690	417,250
Wildwood Housing Authority, P.O. Box 1379, Wildwood, NJ 08260–6135	51,000
Camden Housing Authority, 517 Market St., Camden, NJ 08102–1293	582,250
Atlantic City Housing Authority, P.O. Box 1258, Atlantic City, NJ 08404–7549	500,645
Trenton Housing Authority, 875 New Willow St., Trenton, NJ 08638–0000	473,500
Rahway Housing Authority, 165 East Grand Ave., Rahway, NJ 07065–5491	82,500
Carteret Housing Authority, 96 Roosevelt Ave., Carteret, NJ 07008–2490	75,600
West New York Housing Authority, 6100 Adams Street, West New York, NJ 07093–1537	212,400
Long Branch Housing Authority, P.O. Box 336, Long Branch, NJ 07740–0336	190,500
Jersey City Housing Authority, 400 U.S. Hwy. 1, Jersey City, NJ 07306–6731	938,430
Vineland Housing Authority, 191 Chestnut Avenue, Vineland, NJ 08360–5499	200,000
Glassboro Housing Authority, 737 Lincoln Blvd., Glassboro, NJ 08028–0563	54,000
Irvington Housing Authority, 624 Nye Ave., Irvington, NJ 07111–2302	202,200
East Orange Housing Authority, 160 Halsted St., East Orange, NJ 07018–4228	136,800
Paterson Housing Authority, 160 Ward St., Paterson, NJ 07505–1998	537,000
Bridgeton Housing Authority, 110 E. Commerce St., Bridgeton, NJ 08302–2606	135,000
Bayonne Housing Authority, 50 E. 21st Street, Bayonne, NJ 07002–3761	338,000
Woodbridge Housing Authority, 10 Bunns Lane, Woodbridge, NJ 07095–1726	167,100
Hoboken Housing Authority, 400 Harrison Street, Hoboken, NJ 07030–6299	336,250
Municipal Housing Authority of the City of Utica, 509 Second Street, Utica, NY 13501–2450	296,250
Niagara Falls Housing Authority, 744 Tenth Street, Niagara Falls, NY 14301–1852	261,300
Elmira Housing Authority, 346 Woodlawn Avenue, Elmira, NY 14901–1397	149,700
Buffalo Municipal Housing Authority, 300 Perry Street, Buffalo, NY 14204–2299	1,247,000
Troy Housing Authority, 1 Eddy's Lane, Troy, NY 12180–1498	313,750
Syracuse Municipal Housing Authority, 516 Burt Street, Syracuse, NY 13202–3999	617,750
Albany Housing Authority, 4 Lincoln Square, Albany, NY 12202–1637	434,500
Watervliet Housing Authority, 2400 Second Avenue, Watervliet, NY 12189–2746	91,800
Amsterdam Housing Authority, 52 Division Street, Amsterdam, NY 12010–4002	79,500
Municipal Housing Authority of Schenectady, 375 Broadway, Schenectady, NY 12305–2595	300,000
Rochester Housing Authority, 140 West Avenue, Rochester, NY 14611–2744	614,750
Municipal Housing Auth. for the City of Yonkers, P.O. Box 35, Yonkers, NY 10710–0035	637,750
New York City Housing Authority, 250 Broadway, New York, NY 10007–2516	38,827,377
Port Chester Housing Authority, P.O. Box 347, Port Chester, NY 10573–0347	102,000
Town of Hempstead Housing Authority, 760 Jerusalem Ave., Uniondale, NY 11553–2929	327,250
Kingston Housing Authority, 202 Flatbush Ave., Kingston, NY 12401–2630	39,300
Long Beach Housing Authority, 500 Centre Street, Long Beach, NY 11561–2099	113,000
Newburgh Housing Authority, P.O. Box 89, Newburgh, NY 12550–3601	40,500
Freeport Housing Authority, 3 Buffalo Ave., Freeport, NY 11520–4098	108,300
Poughkeepsie Housing Authority, P.O. Box 630, Poughkeepsie, NY 12601–0632	108,000
Greenburgh Housing Authority, 9 Maple Street, White Plains, NY 10603–2623	73,800
Monticello Housing Authority, 76 Evergreen Drive, Monticello, NY 12701–1630	29,400
Peekskill Housing Authority, 807 Main Street, Peekskill, NY 10566–2028	84,600
Village of Hempstead Housing Authority, 260 Clinton Street, Hempstead, NY 11550–5599	108,600
New Rochelle Municipal Housing Authority, 50 Sickles Avenue, New Rochelle, NY 10801–4029	162,900
D.C. Department of Public and Assisted Housing, 1133 N. Capitol St. NE., Washington, DC 20002–7599	2,872,000
Wilmington Housing Authority, 400 Walnut Street, Wilmington, DE 19801	645,000
Delaware State Housing Authority, 18 The Green, Dover, DE 19903	121,200
Dover Housing Authority, 1266–76 White Oak Rd., Dover, DE 19901–3437	75,240
Anne Arundel County Housing Authority, P.O. Box 817, Glen Burnie, MD 21060–2817	300,000
Housing Authority of the City of Annapolis, 1217 Madison Street, Annapolis, MD 21403	292,000
Housing Authority of Baltimore City, 400 East Fayette St., Baltimore, MD 21202	4,373,826
St. Michaels Housing Authority, P.O. Box 296, St. Michaels, MD 21663	22,500
Housing Authority of Frederick, 209 Madison Street, Frederick, MD 21701	136,800
Housing Opportunity Commission, Montgomery County, 10400 Detrick Avenue, Kensington, MD 20895	322,000
York Housing Authority, P.O. Box 1963, York, PA 17405	300,000
Reading Housing Authority, 400 Hancock Blvd., Reading, PA 19611	402,500
Wilkes-Barre Housing Authority, Lincoln Plaza, Wilkes-Barre, PA 18702–5198	250,000
Lancaster Housing Authority, 333 Church Street, Lancaster, PA 17602–4253	167,896
Harrisburg Housing Authority, P.O. Box 3461, Harrisburg, PA 17105–9713	433,500
Allentown Housing Authority, 1339 Allen Street, Allentown, PA 18102–2143	343,432
Bethlehem Housing Authority, 645 Main Street, Bethlehem, PA 18018–3845	300,000
Bucks County Housing Authority, P.O. Box 1329, Doylestown, PA 18901–0967	194,400
Chester Housing Authority, 1010 Madison Street, Chester, PA 19013–4210	426,750
Cumberland County Housing Authority, 114 N. Hanover St., Carlisle, PA 17013–2407	59,700
Pittsburgh Housing Authority, 200 Ross St., Pittsburgh, PA 15219–2068	1,974,280
Johnstown Housing Authority, P.O. Box 419, Johnstown, PA 15907	285,854

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

Funding recipient (name and address)	Amount approved
Fayette County Housing Authority, P.O. Box 1007, Uniontown, PA 15401	418,500
Lawrence County Housing Authority, P.O. Box 988, New Castle, PA 16103	279,300
Erie Housing Authority, 606 Holland Street, Erie, PA 16501–1285	464,500
Beaver County Housing Authority, 300 State Avenue, Beaver, PA 15009–1798	482,750
Fairfax County Redevelopment & Housing Authority, 3700 Pender Drive, Fairfax, VA 22030–7444	284,100
Alexandria Redevelopment & Housing Authority, 600 N. Fairfax St., Alexandria, VA 22314–2094	250,000
Petersburg Redevelopment & Housing Authority, P.O. Box 311, Petersburg, VA 23804–0311	143,881
Cumberland Plateau Regional Housing Authority, P.O. Box 1328, Lebanon, VA 24266–1328	92,700
Suffolk Redevelopment & Housing Authority, P.O. Box 3079, Suffolk, VA 23439	139,800
Chesapeake Redevelopment & Housing Authority, P.O. Box 1304, Chesapeake, VA 23327–1304	120,600
Norfolk Redevelopment & Housing Authority, P.O. Box 968, Norfolk, VA 23501–0968	1,034,750
Richmond Redevelopment & Housing Authority, P.O. Box 26887, Richmond, VA 23261–6887	1,109,015
Bristol Redevelopment & Housing Authority, 650 Quarry Street, Bristol, VA 24201–4390	144,300
Portsmouth Redevelopment & Housing Authority, P.O. Box 1098, Portsmouth, VA 23705–1098	476,500
Hampton Redevelopment & Housing Authority, P.O. Box 280, Hampton, VA 23669–0280	298,800
Newport News Redevelopment & Housing Authority, P.O. Box 77, Newport News, VA 23607–0077	498,198
Charlottesville Redevelopment & Housing Authority, P.O. Box 1405, Charlottesville, VA 22902–1405	112,200
Waynesboro Redevelopment & Housing Authority, P.O. Box 1138, Waynesboro, VA 22980–0821	51,000
Housing Authority of the City of Charleston, P.O. Box 86, Charleston, WV 25321–0086	392,250
Housing Authority of the City of Clarksburg, 916 W. Pike Street, Clarksburg, WV 26301–2250	97,800
Housing Authority of the City of Parkersburg, 1901 Cameron Avenue, Parkersburg, WV 26101–9316	42,600
Jefferson County Housing Authority, 2100 Walker Chapel, Fultondale, AL 35068	152,700
Housing Authority of the City of Jacksonville, 100 Roebuck Manor, Jacksonville, AL 36265	45,000
Housing Authority of the Birmingham District, P.O. Box 55906, Birmingham, AL 35255–5906	1,679,125
Mobile Housing Board, P.O. Box 1345, Mobile, AL 36633–1345	1,045,250
Housing Authority of the City of Auburn, 931 Booker Street, Auburn, AL 36830	127,200
Housing Authority of the City of Piedmont, P.O. Box 420, Piedmont, AL 36272–0420	63,000
Housing Authority of the City of Foley, 302 Fourth Ave., Foley, AL 36535	25,800
Housing Authority of the City of Greenville, P.O. Box 521, Greenville, AL 36037–0521	59,700
Housing Authority of the City of Dothan, P.O. Box 1727, Dothan, AL 36302–1727	201,000
Housing Authority of the City of Jasper, P.O. Box 582, Jasper, AL 35501–0582	101,700
Housing Authority of the City of Montgomery, 1020 Bell St., Montgomery, AL 36104	651,500
Anniston Housing Authority, P.O. Box 2225, Anniston, AL 36202–2225	223,500
Housing Authority of the City of Bessemer, P.O. Box 1390, Bessemer, AL 35020	300,000
Tuscaloosa Housing Authority, P.O. Box 2281, Tuscaloosa, AL 35403–2281	297,429
Housing Authority of the City of Phenix City, P.O. Box 338, Phenix City, AL 36868–0338	280,500
Fairfield Alabama Housing Authority, P.O. Box 352, Fairfield, AL 35064–0352	86,400
Housing Authority of the City of Troy, P.O. Drawer 289, Troy, AL 36081–0321	129,600
Housing Authority of the City of Prichard, P.O. Box 10307, Prichard, AL 36610	128,700
Housing Authority of the City of Ozark, P.O. Box 566, Ozark, AL 36361–0566	129,900
Housing Authority of the City of Decatur, P.O. Box 878, Decatur, AL 35602	236,400
Greater Gadsden Housing Authority, P.O. Box 1219, Gadsden, AL 35902–1219	300,000
Selma Housing Authority, P.O. Box S, Selma, AL 36701	181,500
Housing Authority of the Town of York, P.O. Box 9, York, AL 36925–0009	26,400
Florence Housing Authority, 303 N. Pine St., Florence, AL 35630	198,000
Housing Authority of the City of Huntsville, P.O. Box 486, Huntsville, AL 35804–0486	466,250
Dade County HUD, 1401 NW. 7th Street, Miami, FL 33125	2,792,500
Tampa Housing Authority, 1514 Union Street, Tampa, FL 33607	300,000
Housing Authority of the City of Sarasota, 1300 Sixth Street, Sarasota, FL 34236	168,300
Ocala Housing Authority, 1415 NE. 32nd Terrace, Ocala, FL 34470	95,100
Housing Authority of the City of Cocoa, P.O. Box 540338, Merritt Island, FL 32954–0338	132,000
Tallahassee Housing Authority, 2940 Grady Road, Tallahassee, FL 32312–2398	188,700
Housing Authority of the City of Key West, P.O. Box 2476, Key West, FL 33040–2476	177,000
Housing Authority of the City of Titusville, P.O. Box 540338, Merritt Island, FL 32954–0338	75,600
Hialeah Housing Authority, 70 East 7th Street, Hialeah, FL 33010–4465	372,000
Palatka Housing Authority, 400 N. 15th Street,. Palatka, FL 32077	144,000
Alachua County Housing Authority, 636 N.E. First St., Gainesville, FL 32601	82,500
Housing Authority of the City of Orlando, 300 Reeves Court, Orlando, FL 32801–3199	425,750
DeLand Housing Authority, 300 Sunflower Circle, DeLand, FL 32724–5556	59,700
Housing Authority of the City of Daytona Beach, 118 Cedar Street, Daytona Beach, FL 32114–4904	300,000
Housing Authority of the City of Lakeland, P.O. Box 1009, Lakeland, FL 33802–1009	209,700
Riviera Beach Housing Authority, 2014 West 17th Court, Riviera Beach, FL 33404	46,800
Panama City Housing Authority, 804 E. 15th Street, Panama City, FL 32405	135,000
Gainesville Housing Authority, P.O. Box 1468, Gainesville, FL 32602	189,300
Housing Authority of the City of Ft. Pierce, 707 N. 7th St., Ft. Pierce, FL 34950	238,360
Housing Authority of the City of Fort Lauderdale, 437 S.W. 4th Avenue, Fort Lauderdale, FL 33315	266,100
Housing Authority of the City of Ft. Myers, 4224 Michigan Avenue, Ft. Myers, FL 33916	291,600
Housing Authority of the City of St. Petersburg, P.O. Box 12849, St. Petersburg, FL 33733–2849	265,800
Monroe County Housing Authority, P.O. Box 2476, Key West, FL 33040	15,000
Area Housing Commission, P.O. Box 18370, Pensacola, FL 32523–8370	216,900

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

Funding recipient (name and address)	Amount approved
Housing Authority of New Smyrna Beach, P.O. Box 688, New Smyrna Beach, FL 32170–0688	37,800
Broward County Housing Authority, 1773 N. State Road 7, Lauderhill, FL 33313	232,800
Housing Authority of the City of Bremen, P.O. Box 776, Bremen, GA 30110–2160	33,600
Housing Authority of the City of Moultrie, P.O. Box 1048, Moultrie, GA 31768	98,400
Housing Authority of the City of Warner Robins, P.O. Box 2048, Warner Robins, GA 31099–2048	133,200
Housing Authority of the City of Valdosta, P.O. Box 907, Valdosta, GA 31601	162,300
Housing Authority of the City of College Park, 1908 West Princeton, College Park, GA 30337–2418	126,300
Housing Authority of the City of Tifton, P.O. Box 12, Tifton, GA 31794–0012	107,700
Housing Authority of the City of Covington, P.O. Box 1367, Covington, GA 30209–1367	84,000
Housing Authority of the City of Douglas, P.O. Box 917, Douglas, GA 31533	122,700
Housing Authority of the City of Calhoun, 111–F South Fair St., Calhoun, GA 30701–2369	75,000
Housing Authority of the City of Savannah, P.O. Box 1179, Savannah, GA 31402–1179	650,233
Housing Authority of the City of Elberton, 12 North McIntosh St., Elberton, GA 30635–1552	55,500
Housing Authority of the City of Eatonton, P.O. Box 3700, Eatonton, GA 31024–0072	34,200
Housing Authority of the City of Canton, 1 Shipp Street, Canton, GA 30114–2813	45,600
Housing Authority of the City of Waycross, P.O. Box 1407, Waycross, GA 31502–1407	163,795
Housing Authority of the City of Albany, P.O. Box 485, Albany, GA 31702–0485	298,200
Housing Authority of the City of Augusta, P.O. Box 3246, Augusta, GA 30901	693,500
Housing Authority of the City of Athens, P.O. Box 1469, Athens, GA 30603–1469	318,000
Housing Authority of the City of Monroe, P.O. Box 550, Monroe, GA 30655–0550	161,700
Housing Authority of the City of Decatur, P.O. Box 1627, Decatur, GA 30031–1627	294,600
Housing Authority of the City of Hartwell, 500 W. Franklin Pl., Hartwell, GA 30643–0745	53,700
Housing Authority of the City of Rome, P.O. Box 1428, Rome, GA 30161–2737	300,000
Housing Authority of the City of Dublin, P.O. Box 36, Dublin, GA 31040	165,000
Housing Authority of the City of Lawrenceville, 502 Glenn Edge Drive, Lawrenceville, GA 30245	63,600
Housing Authority of the City of Newton, P.O. Box 247, Camilla, GA 31730	12,000
Housing Authority of the City of Gainesville, P.O. Box 653, Gainesville, GA 30503–0653	134,500
Housing Authority of the City of Macon, P.O. Box 4928, Macon, GA 31208–4928	543,250
Housing Authority of the County of Fulton, 10 Park Place, S.E., Atlanta, GA 30303	153,300
Housing Authority of the City of Winder, P.O. Box 505, Winder, GA 30680–0505	95,700,
Housing Authority of the City of Camilla, P.O. 247, Camilla, GA 31730–0247	137,400
Housing Authority of the City of Carrollton, P.O. Box 627, Carrollton, GA 30117–0627	84,000
Housing Authority of the City of Atlanta, 739 W. Peachtree, NE., Atlanta, GA 30365	3,205,750
Housing Authority of the City of Columbus, P.O. Box 630, Columbus, GA 31993	534,250
Housing Authority of the City of Royston, P.O. Box 86, Royston, GA 30662–0066	44,000
Housing Authority of the City of Brunswick, P.O. Box 1118, Brunswick, GA 31521–1118	182,100
Housing Authority of the City of Eastman, P.O. Box 100, Eastman, GA 31023–0100	65,700
Housing Authority of Richmond, P.O. Box 447, Richmond, KY 40475	100,500
Housing Authority of Morgantown, P.O. Box 628, Morgantown, KY 42261	54,000
Housing Authority of Fulton, 200 N. Highland Dr., Fulton, KY 42041	56,904
Housing Authority of Bowling Green, P.O. Box 116, Bowling Green, KY 42101	157,068
Housing Authority of Paducah, 2330 Ohio St., Paducah, KY 42002	300,000
Housing Authority of Lexington, 635 Ballard Street, Lexington, KY 40508	415,500
Housing Authority of Covington, 2940 Madison Ave., Covington, KY 41015	288,600
Housing Authority of Hopkinsville, P.O. Box 437, Hopkinsville, KY 42240	95,500
Housing Authority of Frankfort, 590 Walter Todd Dr., Frankfort, KY 40601	71,528
Housing Authority of Louisville, 420 South Eighth St., Louisville, KY 40203	1,460,000
Housing Authority of the City of Oxford, P.O. Box 488, Oxford, MS 38655	53,400
Housing Authority of the City of Tupelo, P.O. Box 3, Tupelo, MS 38802–0003	122,100
Housing Authority of the City of Holly Springs, P.O. Box 550, Holly Springs, MS 38635	27,000
Mississippi Regional Housing Authority No. VIII, P.O. Box 2347, Gulfport, MS 39505–2347	450,500
Housing Authority of the City of Natchez, 160 St. Catherine St., Natchez, MS 39120	88,500
Housing Authority of the City of Clarksdale, P.O. Box 908, Clarksdale, MS 38614	88,800
Housing Authority of the City of Meridian, P.O. Box 870, Meridian, MS 39302–0870	299,600
Mississippi Regional Housing Authority No. IV, P.O. Box 1051, Columbus, MS 39703–1051	106,190
Housing Authority of the City of Columbus, P.O. Box 648, Columbus, MS 39703–0648	144,000
City of Albemarle, Dept. of Housing, P.O. Drawer 1367, Albemarle, NC 28002	60,000
Housing Authority of the City of Asheville, P.O. Box 1898, Asheville, NC 28802	364,915
Asheboro Housing Authority, P.O. Box 609, Asheboro, NC 27204	60,000
Chapel Hill Dept. of Housing & Community Develop., 317 Caldwell Street, Chapel Hill, NC 27516	92,878
City of Concord, Department of Housing, P.O. Box 308, Concord, NC 28026	45,600
Housing Authority of the City of Charlotte, P.O. Box 36795, Charlotte, NC 28236	962,154
Housing Authority of the City of Durham, P.O. Box 1726, Durham, NC 27702	420,715
Elizabeth City Housing Authority, P.O. Box 1485, Elizabeth City, NC 27906	98,060
Fairmont Housing Authority, P.O. Box 661, Fairmont, NC 28340	15,000
Fayetteville Metropolitan Housing Authority, P.O. Box 2349, Fayetteville, NC 28302	300,000
Housing Authority of the City of Goldsboro, P.O. Box 1403, Goldsboro, NC 27533	300,000
Housing Authority of the City of Greensboro, P.O. Box 21287, Greensboro, NC 27420	608,750
Hamlet Housing Authority, P.O. Box 1188, Hamlet, NC 28345	69,000
Housing Authority of the City of High Point, P.O. Box 1779, High Point, NC 27261	337,000
Maxton Housing Authority, P.O. Box 126, Maxton, NC 28364	27,000

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

Funding recipient (name and address)	Amount approved
Housing Authority of the City of Lumberton, P.O. Drawer 709, Lumberton, NC 28359	218,400
Housing Authority of the City of New Bern, P.O. Box 1486, New Bern, NC 28563	173,700
Housing Authority of the City of Rocky Mount, P.O. Box 4717, Rocky Mount, NC 27803	229,500
Housing Authority of the City of Raleigh, P.O. Box 28007, Raleigh, NC 27611	519,250
Rowan County Housing Authority, 121 W. Council St., Salisbury, NC 28144	60,000
Smithfield Housing Authority, P.O. Box 1058, Smithfield, NC 27577	61,500
Selma Housing Authority, 711 Lizzie St., Selma, NC 27576	54,900
Sanford Housing Authority, P.O. Box 636, Sanford, NC 27331	139,200
Housing Authority of the City of Salisbury, P.O. Box 159, Salisbury, NC 28145	166,800
Williamston Housing Authority, P.O. Box 709, Williamston, NC 27892	44,700
Housing Authority of the City of Winston-Salem, 901 Cleveland Ave., Winston-Salem, NC 27101	540,750
Housing Authority of the City of Wilmington, P.O. Box 899, Wilmington, NC 28402	430,250
City of Hickory Public Housing Authority, P.O. Box 2927, Hickory, NC 28603	93,300
Housing Authority of the City of Greenville, P.O. Box 1426, Greenville, NC 27835–1426	213,600
Redevelopment Commission of the Town of Tarboro, P.O. Box 1144, Tarboro, NC 27886	57,900
Housing Authority of the City of Laurinburg, P.O. Box 1437, Laurinburg, NC 28353	141,600
Monroe Housing Authority, P.O. Box 805, Monroe, NC 28111–0805	61,800
Lincolnton Housing Authority, P.O. Box 753, Lincolnton, NC 28093	73,900
Morganton Housing Authority, P.O. Box 1053, Morganton, NC 28680–1053	75,000
Puerto Rico Public Housing Administration, P.O. Box 363188, San Juan, PR 00936–3188	14,289,750
Cheraw Housing Authority, P.O. Drawer 969, Florence, SC 29503–0969	208,794
Anderson Housing Authority, 1335 East River St., Anderson, SC 29624–2908	71,100
Spartanburg Housing Authority, P.O. Box 2828, Spartanburg, SC 29306	394,750
City of Charleston Housing Authority, 20 Franklin Street, Charleston, SC 29401–6907	351,087
Greenville Housing Authority, P.O. Box 10047, Greenville, SC 29603–0047	292,501
York Housing Authority, Post Office Box 687, York, SC 29745–0687	37,200
Conway Housing Authority, 2303 Leonard Avenue, Conway, SC 29527–4515	72,000
Columbia Housing Authority, 1917 Harden Street, Columbia, SC 29204–4307	285,000
Knoxville's Community Development Corporation, P.O. Box 3550, Knoxville, TN 37927	993,500
Chattanooga Housing Authority, P.O. Box 1486, Chattanooga, TN 37401–1148	724,540
Johnson City Housing Authority, P.O. Box 59, Johnson City, TN 37605–0059	225,300
Cleveland Housing Authority, P.O. Box 2846, Cleveland, TN 37311–2846	129,200
Franklin Housing Authority, P.O. Box 304, Franklin, TN 37065–0304	91,200
McMinnville Housing Authority, 301 Hardaway Street, McMinnville, TN 37110	128,390
Springfield Housing Authority, P.O. Box 398, Springfield, TN 37172–0398	122,665
Gallatin Housing Authority, P.O. Box 1923, Gallatin, TN 37066–1923	104,000
Clarksville Housing Authority, P.O. Box 603, Clarksville, TN 37041–0603	152,598
Metropolitan Development & Housing Agency, P.O. Box 846, Nashville, TN 37202–0846	1,591,750
Dyersburg Housing Authority, P.O. Box 824, Dyersburg, TN 38025–0824	157,756
Jackson Housing Authority, P.O. Box 3188, Jackson, TN 38303–0188	300,000
Memphis Housing Authority, P.O. Box 3664, Memphis, TN 38103–0664	1,741,759
Virgin Islands Housing Authority, P.O. Box 7668, St. Thomas, VI 00801–7668	1,086,500
Seminole Tribe of Florida, 3101 North 63rd Avenue, Hollywood, FL 33024	133,800
Cook County Housing Authority, 59 E. Van Buren Street, Chicago, IL 60605	545,500
Joliet Housing Authority, P.O. Box 2519, Joliet, IL 60434–2519	300,000
Housing Authority City Bloomington, 104 E. Wood, Bloomington, IL 61701–6768	189,900
St. Clair County Housing Authority, 100 N. 48th ST., Belleville, IL 62223	300,000
Alexander County Housing Authority, 100 The Riverview, Cairo, IL 62914	171,093
Waukegan Housing Authority, 200 S. Utica Street, Waukegan, IL 60085	134,000
Housing Authority City Danville, P.O. Box 312, Danville, IL 61834–0312	215,400
Randolph County Housing Authority, 214 Opdyke Street, Chester, IL 62233	66,300
Madison County Housing Authority, 1609 Olive Street, Collinsville, IL 62234	255,000
Freeport Housing Authority, 10 N. Galena, Freeport, IL 61032–4302	135,900
Decatur Housing Authority, 1808 E. Locust Street, Decatur, IL 62521–1409	262,500
Springfield Housing Authority, 200 N. 11th St., Springfield, IL 62703–1004	363,000
Rockford Housing Authority, 330 15th Ave., Rockford, IL 61108	525,500
Jackson County Housing Authority, 300 N. 7th St., Murphysboro, IL 62966	238,984
Kankakee County Housing Authority, P.O. Box 1289, Kankakee, IL 60901–1289	105,900
Chicago Housing Authority, 22 W. Madison Street, Chicago, IL 60602	9,920,000
LaSalle County Housing Authority, P.O. Box 782, Ottawa, IL 61350–0782	282,000
Rock Island City Housing Authority, 111 20th St., Rock Island, IL 61201–8827	181,800
Peoria Housing Authority, 100 S. Sherican Rd., Peoria, IL 61605–3905	486,540
Housing Authority East St. Louis, 700 N. 20th St., East St. Louis, IL 62205	586,500
Hammond Housing Authority, 7329 Columbia Circle, Hammond, IN 46324–2819	177,500
Gary Housing Authority, 578 Broadway, Gary, IN 46402–1986	621,500
Muncie Housing Authority, 409 East First Street, Muncie, IN 47302–2495	184,884
South Bend Housing Authority, P.O. Box 11057, South Bend, IN 46634–0057	256,800
Evansville Housing Authority, P.O. Box 3605, Evansville, IN 47735	297,549
Fort Wayne Housing Authority, P.O. Box 13489, Fort Wayne, IN 46809–3489	233,400
East Chicago Housing Authority, P.O. Box 498, East Chicago, IN 46312–0498	243,000
Indianapolis Housing Authority, 410 North Meridian, Indianapolis, IN 46204–1790	673,129

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

Funding recipient (name and address)	Amount approved
Pleasant Point Passamaquoddy Reserv. Housing Auth., P.O. Box 339, Perry, ME 04667	42,000
Pontiac Housing Commission, 132 Franklin Blvd., Pontiac, MI 48341	238,500
Saginaw Housing Commission, 2811 Davenport St., Saginaw, MI 48602–3747	289,200
Ecorse Housing Commission, 266 Hyacinth Street, Ecorse, MI 48229–1699	60,000
Flint Housing Commission, 3820 Richfield Road, Flint, MI 48506–2616	300,000
Ypsilanti Housing Commission, 601 Armstrong Drive, Ypsilanti, MI 48197–5224	65,400
Inkster Housing Commission, 4500 Inkster Road, Inkster, MI 48141–1871	255,930
Port Huron Housing Commission, 905 Seventh Street, Port Huron, MI 48060–5399	132,000
Muskegon Heights Housing Commission, 615 East Hovey Ave, Muskegon Heights, MI 49444	106,500
Albion Housing Commission, P.O. Box 630, Albion, MI 49224	65,378
Benton Harbor Housing Commission, 925 Buss St., Benton Harbor, MI 49022	107,400
Lansing Housing Commission, 310 Seymour Avenue, Lansing, MI 48933	257,900
Sault Ste. Marie Tribal Housing Authority, 2218 Shunk Road, Sault Ste. Marie, MI 49783	84,900
Saginaw Chippewa Housing Authority, 2451 Nish-Na-Be-Anong Rd., Mt. Pleasant, MI 48858	32,100
Public Housing Agency of the City of Saint Paul, 480 Cedar Street, St. Paul, MN 55101–2240	1,058,500
Rochester Housing Authority, 2116 Campus Drive SE., Rochester, MN 55904–4744	26,700
Minneapolis PHA in and for the City of Minneapolis, 1001 Washington Ave., Minneapolis, MN 55401–1043	1,086,802
Housing & Redevelopment Authority of Duluth, P.O. Box 16900, Duluth, MN 55816–0900	300,000
White Earth Reservation Housing Authority, P.O. Box 418, White Earth, MN 56591	105,600
Mississippi Band of Choctaw Indians, P.O. Box 6010 Choctaw Bra., Philadelphia, MS 39350	205,500
Qualla Housing Authority, P.O. Box 1749, Cherokee, NC 28719–1749	300,000
North Carolina Indian Housing Authority, P.O. Box 2343, Fayetteville, NC 28302	76,200
Dayton Metropolitan Housing Authority, 400 Wayne Avenue, Dayton, OH 45410–1106	1,119,500
Butler Metropolitan Housing Authority, P.O. Box 357, Hamilton, OH 45012–0357	312,500
Zanesville Metropolitan Housing Authority, 863 Durban Drive, Zanesville, OH 43701	200,100
Springfield Metropolitan Housing Authority, 437 East John, Springfield, OH 45505	265,800
Youngstown Metropolitan Housing Authority, 131 Boardman Street, Youngstown, OH 44503–1329	510,962
Cuyahoga Metropolitan Housing Authority, 1441 W. 25th Street, Cleveland, OH 44113–3101	2,957,750
Lucas Metropolitan Housing Authority, P.O. Box 477, Toledo, OH 43692–0477	806,250
Akron Metropolitan Housing Authority, 180 West Cedar St., Akron, OH 44307–2546	1,398,000
Trumbull Metropolitan Housing Authority, 1977 Niles Road, Warren, OH 44484–5197	360,308
Lorain Metropolitan Housing Authority, 1600 Kansas Avenue, Lorain, OH 44052–2602	345,750
Jefferson Metropolitan Housing Authority, 815 N. Sixth Avenue, Steubenville, OH 43952–1847	242,100
Stark Metropolitan Housing Authority, 1800 W. Tuscarawas, Canton, OH 44708–4997	622,043
Superior Housing Authority, 1219 North Eighth St., Superior, WI 54880–6699	122,410
Ho-Chunk Housing Authority, P.O. Box 546, Tomah, WI 54660	45,300
Oneida Housing Authority, P.O. Box 68, Oneida, WI 54155	77,400
Lac du Flambeau Chippewa Housing Authority, P.O. Box 187, Lac du Flambeau, WI 54538–0187	97,283
Menominee Tribal Housing Authority, P.O. Box 459, Keshena, WI 54135–0459	137,000
Housing Authority of the City of Camden, Box 39, Camden, AR 71701–0039	162,000
Housing Authority of the City of Conway, 335 S. Mitchell, Conway, AR 72032	45,900
Housing Authority of the City of Forrest City, Box 997, Forrest City, AR 72335–0997	135,000
Housing Authority of the City of Fort Smith, 2100 North 31st St., Fort Smith, AR 72904–6199	134,521
Housing Authority of the City of Hot Springs, Box 1257, Hot Springs, AR 71901–1257	110,969
Housing Authority of the City of Little Rock, 1000 Wolfe Street, Little Rock, AR 72202	411,000
Housing Authority of the City of North Little Rock, Box 516, North Little Rock, AR 72115–0516	300,000
Housing Authority of the City of Texarkana, 110 Bramble Courts, Texarkana, AR 75502	120,900
Sac & Fox Housing Authority of Missouri, Route 1, Box 97, Unit 12, Reserve, KS 66434	11,400
Housing Authority of St. James Parish, P.O. Box 280, Lutcher, LA 70071–0280	95,400
Housing Authority of DeRidder, P.O. Box 387, DeRidder, LA 70634–0387	35,700
Housing Authority of Lake Charles, P.O. Box 1206, Lake Charles, LA 70602–1206	199,000
Housing Authority of New Orleans, 918 Cardonlet St., New Orleans, LA 70130	3,446,642
Housing Authority of Rapides Parish, 119 Boyce Gardens, Boyce, LA 71409	53,000
Housing Authority of Natchitoches Parish, P.O. Box 255, Natchitoches, LA 71458–0255	27,600
Housing Authority of Lafourche Parish, P.O. Drawer 499, Raceland, LA 70394–0499	82,800
Housing Authority of the City of Natchitoches, P.O. Box 754, Natchitoches, LA 71457–0754	121,194
Housing Authority of Morgan City, P.O. Box 2393, Morgan City, LA 70381–2393	95,390
Housing Authority of Bogalusa, 1015 Union Avenue, Bogalusa, LA 70427–1113	91,520
Housing Authority of Monroe, P.O. Box 1194, Monroe, LA 71201–1194	380,500
Housing Authority of Ruston, P.O. Drawer 1283, Ruston, LA 71270–1283	90,000
Housing Authority of East Baton Rouge Parish, 4546 North Street, Baton Rouge, LA 70806–3422	296,972
Housing Authority of Patterson, P.O. Box 329, Patterson, La 70392–0329	31,700
Housing Authority of the City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103–1293	300,000
Housing Authority of the City of Las Cruces, 926 S. San Pedro St., Las Cruces, NM 88001	95,700
Housing Authority of the City of Alamogordo, P.O. Box 336, Alamogordo, NM 88310–0336	66,000
Housing Authority of the City of Las Vegas, P.O. Box 179, Las Vegas, NM 87701–0179	111,600
Housing Authority of the City of Santa Fe, P.O. Box 4039, Santa Fe, NM 87502–4039	138,300
Housing Authority of the City of T or C, 108 South Cedar, Truth or Consequence, NM 87901	30,000
Housing Authority of the County of Santa Fe, 52 Camino de Jacobo, Santa Fe, NM 87501–9203	66,000
Oklahoma City Housing Authority, 1700 NE Fourth St., Oklahoma City, OK 73117	785,500
Housing Authority of the City of Hugo, P.O. Box 727, Hugo, OK 74743–0727	67,800

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

Funding recipient (name and address)	Amount approved
Housing Authority of the City of McAlester, P.O. Box 819, McAlester, OK 74501–0819	82,200
Housing Authority of the City of Tulsa, P.O. Box 6369, Tulsa, OK 74148–0369	649,093
Kiowa Tribe, P.O. Box 369, Carnegie, OK 73015	51,900
Absentee-Shawnee Housing, P.O. Box 425, Shawnee, OK 74802–0425	204,300
Cherokee Nation Housing Authority, P.O. Box 1007 Tahlequah, OK 74465–1007	645,000
Chickasaw Nation Housing Authority, P.O. Box 668 Ada, OK 74820–0668	486,500
Choctaw Nation Housing Authority, P.O. Box G Hugo, OK 74743	457,500
Delaware Housing Authority, #6 Delaware Acres, P.O.B 33, Chelsea, OK 74016–0334	9,975
Kaw Housing Authority, 9 Kanza Lane, P.O. Box 3, Newkirk, OK 74647–0371	23,100
Sac & Fox Housing Authority of Oklahoma, 201 N. Harrison, P.O.B 1252, Shawnee, OK 74801–1252	118,800
Comanche Housing Authority, P.O. Box 1671, Lawton, OK 73502–1671	111,000
Housing Authority of El Paso, P.O. Box 9895, El Paso, TX 79989–9895	1,368,832
Housing Authority of Fort Worth, P.O. Box 430, Fort Worth, TX 76101–0430	356,500
Housing Authority of Dallas, 3939 N. Hampton Rd., Dallas, TX 75212–0000	1,711,250
Housing Authority of Waco, P.O. Box 978, Waco, TX 76703–0978	265,500
Housing Authority of Waxahachie, 208 Patrick, Waxahachie, TX 75165–2918	31,200
Housing Authority of Lubbock, P.O. Box 2568, Lubbock, TX 79408–2568	156,300
Housing Authority of Denison, P.O. Box 447, Denison, TX 75020–0447	60,000
Housing Authority of McKinney, 1200 N. Tennessee, McKinney, TX 75069–9977	60,000
Housing Authority of Temple, P.O. Box 634, Temple, TX 76503–0634	97,800
Housing Authority of Paris, P.O. Box 688, Paris, TX 75461–0688	62,400
Housing Authority of Sherman, P.O. Box 2147, Sherman, TX 75091–2147	89,400
Housing Authority of Plano, 1581 Avenue ''K'', Plano, TX 75074–6231	15,000
Housing Authority of Slaton, P.O. Box 317, Slaton, TX 79364–0317	21,000
Housing Authority of Abilene, P.O. Box 60, Abilene, TX 79604–0060	63,900
Housing Authority of the City of Bay City, 3012 Sycamore, Bay City, TX 77414	147,614
Housing Authority of the City of Nacogdoches, 715 Summit, Nacogdoches, TX 75961	22,500
Housing Authority of the City of Baytown, 805 W. Nazro Street, Baytown, TX 77520	63,000
Housing Authority of the City of Beaumont, P.O. Box 1312, Beaumont, TX 77704–1312	227,400
Housing Authority of the City of Orange, P.O. Box 3107, Orange, TX 77631–3107	117,600
Housing Authority of the City of Texas City, 817 Second Ave. North, Texas City, TX 77590	39,000
Housing Authority of the City of Houston, 2640 Fountainview, Houston, TX 77057	1,011,000
Housing Authority of the City of Port Arthur, 920 DeQueen, Port Arthur, TX 77643–2295	106,800
Housing Authority of the City of Galveston, 920 53rd Street, Galveston, TX 77551–1099	348,500
Pharr Housing Authority, 211 W. Audrey, Pharr, TX 78577	109,500
Starr County Housing Authority, P.O. Box 50, Rio Grande City, TX 78582–0050	23,400
San Benito Housing Authority, P.O. Box 1950, San Benito, TX 78586–1950	90,000
Mission Housing Authority, 906 E. 8th Street, Mission, TX 78572	61,400
Corpus Christi Housing Authority, P.O. Box 7019, Corpus Christi, TX 78467–7019	474,724
San Antonio Housing Authority P.O. Drawer 1300, San Antonio, TX 78295–1300	1,986,000
Austin Housing Authority, P.O. Box 6159, Austin, TX 78762–6159	482,000
La Joya Housing Authority, P.O. Box 1409, La Joya, TX 78560–1409	9,400
Lawrence Housing Authority,1600 Haskell Avenue, Lawrence, KS 66044	102,900
Kansas City, Kansas Housing Authority, 1124 North 9th St., Kansas City, KS 66101–2197	520,800
Topeka Housing Authority, 215 E. 7th Street, Topeka, KS 66612	219,300
Saint Louis Housing Authority, 4100 Lindell Blvd., St. Louis, MO 63108–2999	1,594,750
Housing Authority of the City of Fulton, P.O. Box 814, Fulton, MO 65251–0814	59,700
Housing Authority of Saint Louis County, P.O. Box 23886, St. Louis, MO 63121–0580	261,000
Housing Authority of the City of Columbia, 301 N. Providence, Columbia, MO 65203–4091	218,700
Kansas City Housing Authority, 299 Paseo, Kansas City, MO 64106–2608	459,000
Omaha Housing Authority, 540 South 27th St., Omaha, NE 68105–1521	748,000
Housing Authority of the City and County of Denver, Bx 4305, Santa Fe Station, Denver, CO 80204	890,250
Housing Authority of the City of Pueblo, 1414 N. Santa Fe Ave., Pueblo, CO 81003	270,000
Helena Housing Authority, 812 Abbey Street, Helena, MT 59601	109,800
Chippewa Cree Housing Authority, P.O. Box 872, Box Elder, MT 59521	83,700
Crow Tribal Housing Authority, P.O. Box 99, Crow Agency, MT 59022	150,900
Blackfeet Housing Authority, P.O. Box 790, Browning, MT 59417	280,178
Turtle Mountain Housing Authority, P.O. Box 620, Belcourt, ND 58316	326,000
Cheyenne River Housing Authority, P.O. Box 480, Eagle Butte, SD 57625	284,100
Standing Rock Housing Authority, P.O. Box 484, Fort Yates, SD 58538	237,900
Sisseton-Wahpeton Housing Authority, P.O. Box 687, Sisseton, SD 57262	180,300
Rosebud Housing Authority, P.O. Box 69, Rosebud, SD 57570	300,000
Housing Authority of the County of Salt Lake, 1962 South 200 East, Salt Lake City, UT 84115	179,700
Housing Authority of Salt Lake City, 1776 S.W. Temple, Salt Lake City, UT 84115	191,100
Wind River Housing Authority, P.O. Box 327, Fort Washakie, WY 82514	167,700
Phoenix Housing Department, 830 E. Jefferson St., Phoenix, AZ 85034–2230	624,000
Pinal County Housing Department, 970 N. 11 Mile Corner Rd., Casa Grande, AZ 85222–9621	48,000
Nogales Housing Authority, P.O. Box 777, Nogales, AZ 85628–0777	53,000
Housing Authority of the City of Yuma, 1350 W. Colorado Street, Yuma, AZ 85364–1336	55,500
Chandler Housing and Redevelopment Division, 99 N. Delaware Street, Chandler, AZ 85225–5577	60,000
Glendale Community Housing Services Department, 6842 N. 61st Avenue, Glendale, AZ 85301–3199	46,500

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

Funding recipient (name and address)	Amount approved
Gila River Housing Authority, P.O. Box 251, Maricopa, AZ 85239	264,250
Navajo Housing Authority, P.O. Box 387, Window Rock, AZ 86515	995,916
Sacramento City Housing & Redevelopment Agency, P.O. Box 1834, Sacramento, CA 95812–1834	422,383
Sacramento County Housing & Redevelopment Agency, P.O. Box 1834, Sacramento, CA 95812–1834	290,493
Housing Authority of the County of San Joaquin, P.O. Box 447, Stockton, CA 95201	300,000
Housing Authority of the County of Santa Barbara, P.O. Box 397, Lompoc, CA 93438–0397	157,500
Housing Authority of the City of Santa Barbara, 808 Laguna Street, Santa Barbara, CA 93101–1590	143,100
San Diego Housing Commission, 1625 Newton Street, San Diego, CA 92113	317,000
Imperial Valley Housing Authority, 1401 D Street, Brawley, CA 92227	147,000
Community Development Commission, County of L. A., 2525 Corporate Place, Monterey Park, CA 91754	708,000
Housing Authority of the City of Calexico, 1006 E. 5th Street, Calexico, CA 92231	90,600
Housing Authority of the City of Los Angeles, P.O. Box 17157, Los Angeles, CA 90017	2,181,250
Housing Authority of the County of Kern, 525 Roberts Lane, Bakersfield, CA 93308–4799	299,100
Housing Authority of the City of Oxnard, 1470 Colonia Rd., Oxnard, CA 93030–3714	234,000
Housing Authority of the County of San Bernardino, 1053 N. ''D'' Street, San Bernardino, CA 92410–3854	299,988
City & County of San Francisco Housing Authority, 440 Turk Street, San Francisco, CA 94102	1,681,750
Housing Authority of the County of Monterey, 123 Rico Street, Salinas, CA 93907	192,834
Housing Authority of the County of Marin, P.O. Box 4282, San Rafael, CA 94913–4282	89,309
Oakland Housing Authority, 1619 Harrison Street, Oakland, CA 94612	824,756
Housing Authority of the County of Stanislaus, 1701 Robertson Road, Modesto, CA 95352–3958	191,128
Housing Authority of the County of Fresno, P.O. Box 11985, Fresno, CA 93776–1985	297,000
Housing Authority of the City of Fresno, P.O. Box 11985, Fresno, CA 93776–1985	300,000
Housing Authority of the County of Contra Costa, P.O. Box 2759, Martinez, CA 94553	267,628
Housing Authority of the City of Eureka, 735 West Everding, Eureka, CA 95503	59,400
Housing Authority of the City of Madera, 205 North 10th St., Madera, CA 93637	60,000
Northern Circle Indian Housing Authority, 694 Pinoleville Drive, Ukiah, CA 95482	54,000
State of Hawaii Housing Authority, P.O. Box 17907, Honolulu, HI 96817	1,315,750
Mescalero Apache Housing Authority, P.O. Box 176, Mescalero, NM 88340	127,200
Northern Pueblos Housing Authority, P.O. Box 3502, Pojoaque, NM 87501	147,000
Housing Authority of the City of Las Vegas, P.O. Box 1897, Las Vegas, NV 89125	641,250
Housing Authority of the City of Reno, 1525 East Ninth St., Reno, NV 89512–3012	215,100
Housing Authority of the County of Clark, 5390 E. Flaminggo Rd, Las Vegas, NV 89122–5308	254,700
Tlingit-Haida Regional Housing Authority, P.O. Box 32237, Juneau, AK 99803	102,620
Interior Regional Housing Authority, 828 27th Avenue, Fairbanks, AK 99701	135,000
Housing Authority of the City of Salem, P.O. Box 808, Salem, OR 97308–0808	101,100
Housing Authority of the County of Clackamas, 13950 S. Gain, Oregon City, OR 97045	169,667
Housing Authority of Portland, 135 SW. Ash, Portland, OR 97204	668,500
Siletz Indian Housing Authority, P.O. Box 549, Siletz, OR 97380	16,172
Umatilla Indian Housing Authority, P.O. Box 1658, Pendleton, OR 97801	70,200
King County Housing Authority, 5455 65th South, Seattle, WA 98188–2583	777,750
Housing Authority of the City of Bremerton, P.O. Box 631, Bremerton, WA 98337	174,600
Spokane Housing Authority, West 55 Mission St, Spokane, WA 99201–2044	27,000
Kitsap County Consolidated Housing Authority, 9265 Bayshore Dr., Silverdale, WA 98383	37,800
Housing Authority of the City of Tacoma, 1728 East 44th St., Tacoma, WA 98404–4699	364,250
Housing Authority of the City of Seattle, 120 6th Avenue North, Seattle, WA 98109	1,629,750
Makah Tribe Indian Housing Authority, P.O. Box 88, Neah Bay, WA 98357	54,300
Southern Puget Sound Indian Housing Authority, S.E. 11 Squaxin Drive, Shelton, WA 98584	99,600
Yakima Nation Indian Housing Authority, 611 South Camas Ave., Wapato, WA 98951–1499	204,300
Total Dollars Awarded	228,884,574
Total Number of Grant Awards = 520	

Office of the Secretary—Office of Lead-Based Paint Abatement and Poisoning Prevention

[Docket No. N–95–3891; FR–3883–N–01]

Task Force on Lead-Based Paint Hazard Reduction and Financing; Open Meeting

AGENCY: Office of Lead-Based Paint Abatement and Poisoning Prevention, HUD.

ACTION: Notice of open meetings.

SUMMARY: The Task Force was established by the Secretary pursuant to section 1015 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The charter of the Task Force was approved July 14, 1993.

The Task Force includes individuals representing the Department of Housing and Urban Development; the Farmers Home Administration; the Department of Veterans Affairs; the Federal Home Loan Mortgage Corporation; the Federal National Mortgage Association; the Environmental Protection Agency; employee organizations in the building and construction trades industry; landlords; tenants; primary lending institutions; private mortgage insurers; single-family and multifamily real estate interests; nonprofit housing developers; property liability insurers; public housing agencies; low-income housing advocacy organizations; national, State, and local lead-poisoning prevention advocates and experts; and community-based organizations located in areas with substantial rental housing. These members were selected on the basis of personal experience and expert knowledge. Three committees were established by the Task Force members; (1) Finance Committee; (2) Liability Committee; and (3) Implementation Committee. The members of these

committees are members of the Task Force.

DATES: The last Task Force Meeting will be held on March 13, 14, & 15, 1995 from 9:00 a.m. to 5:00 p.m. at the Georgetown University Conference Center, located at 3800 Reservoir Road NW., Washington, DC 20057, telephone number (202) 687–3242.

ADDRESSES: Members of the public are invited to provide written material to: Ruth Wright, Task Force Staff Director, Department of Housing and Urban Development, 451 7th Street SW., Room B–133, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Ruth Wright, Task Force Staff Director, Department of Housing and Urban Development, 451 7th Street SW., Room B–133, Washington, DC 20410; telephone (202) 755–1805. The TTD numbers are (202) 708–9300 or 1–800–877–8339. (Except for the a ''800'' number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The previous Task Force Committee meetings were held on November 15 & 16, 1994 in Chicago, Illinois. An announcement will be published in the **Federal Register** at least 15 days before each meeting. All meetings will be open to the public, with limited seating available on a first-come, first-served basis.

The mandate of the Task Force is to make recommendations to the Secretary of HUD and the Administrator of the Environmental Protection agency (EPA) concerning:

(1) Incorporating the need to finance lead-based paint hazard reduction into underwriting standards;

(2) Developing new loan products and procedures for financing lead-based paint hazard evaluation and reduction activities;

(3) Adjusting appraisal guidelines to address lead safety;

(4) Incorporating risk assessments or inspections for lead-based paint as a routine procedure in the origination of new residential mortgages;

(5) Revising guidelines, regulations, and educational pamphlets issued by the Department of Housing and Urban Development and other Federal agencies relating to lead-based paint poisoning prevention;

(6) Reducing the current uncertainties of liability related to lead-based paint in rental housing, by clarifying standards of care for landlords and lenders and by exploring the ''safe harbor'' concept;

(7) Increasing the availability of liability insurance for owners of rental housing and certified contractors and establishing alternative systems to compensate victims of lead-based paint poisoning; and

(8) Evaluating the utility and appropriateness of requiring both risk assessments or inspections and notification to prospective lessees of rental housing.

Authority: 42 U.S.C. 4852a, 4852b.

Dated: February 13, 1995.

Ronald J. Morony,

Acting Director, Office of Lead-Based Paint Abatement and Poisoning Prevention.

[FR Doc. 95–4364 Filed 2–22–95; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–95–3890; FR 3882–N–01]

Privacy Act of 1974; Notice of a Computer Matching Program

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of a Computer Matching Program—HUD and Department of Veterans Affairs (DVA).

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' the Department of Housing and Urban Development (HUD) is issuing a public notice of its intent to conduct a computer matching program with the Department of Veterans Affairs (DVA) to utilize a computer information system of HUD, the Credit Alert Interactive Voice Response System (CAIVRS), with DVA's debtor files. This match will allow prescreening of applicants for loans or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Federal Government for HUD or DVA direct or guaranteed loans. Before granting a loan, the lending agency and/or the authorized lending institution will be able to interrogate the CAIVRS debtor file which contains the Social Security Numbers (SSNs) of HUD's delinquent debtors and defaulters and defaulted debtor records from the Departments of Veterans Affairs, Education, Agriculture, and the Small Business Administration, and verify that the loan applicant is not in default or delinquent on direct or guaranteed loans of participating Federal programs of either agency. Authorized users place a telephone call to the system. The system provides a recorded message followed by a series of instructions, one of which if a requirement for the SSN of the loan applicant. The system then reports audibly whether the SSN is related to delinquent or defaulted Federal obligations. As a result of the information produced by this match, the authorized users may not deny, terminate, or make a final decision of any loan assistance to an applicant, until an officer or employee of such agency has independently verified such information.

EFFECTIVE DATE: Computer matching is expected to begin at least 40 days from the date this computer matching notice is published, provided no comments are received which would result in a contrary determination. It will be accomplished 18 months from the beginning date.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR PRIVACY ACT INFORMATION CONTACT: Jeanette Smith, Departmental Privacy Act Officer, 451 7th Street SW., Room 4178, Washington, DC 20410, telephone number (202) 708–2374. (This is not a toll-free number).

FOR FURTHER INFORMATION RECIPIENT AGENCY CONTACT: Mary C. Felton, Control and Analysis Division, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone number (202) 708–4256.

FOR FURTHER INFORMATION FROM SOURCE AGENCY CONTACT: Dan Osendorf, Director, VA Debt Management Center, Bishop Henry Whipple Federal Building, One Federal Drive, Ft. Snelling, MN 55111, telephone number (612) 725–1841. [These are not toll-free numbers.]

Reporting

In accordance with Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988, as amended, and Office of Management and Budget Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public;'' copies of this Notice and report, in duplicate, are being provided to the

Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget.

Authority

The matching program may be conducted pursuant to Pub. L. 100–503, ''The Computer Matching and Privacy Protection Act of 1988,'' as amended, and Office of Management and Budget (OMB) Circulars A–129 (Managing Federal Credit Programs) and A–70 (Policies and Guidelines for Federal Credit Programs). One of the purposes of all Executive departments and agencies—including HUD—is to implement efficient management practices for Federal credit programs. OMB Circulars A–129 and A–70 were issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Act of 1950, as amended; the Debt Collection Act of 1982, as amended; and, the Deficit Reduction Act of 1984, as amended.

Objectives To Be Met by the Matching Program

The matching program will allow DVA access to a system which permits prescreening of applicants for loans or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Government. In addition, HUD will be provided access to DVA debtor data for prescreening purposes.

Records To Be Matched

HUD will utilize its system of records entitled HUD/DEPT–2, *Accounting Records.* The debtor files for HUD programs involved are included in this system of records. HUD's debtor files contain information on borrowers and coborrowers who are currently in default (at least 90 days delinquent on their loans); or who have any outstanding claims paid during the last three years on Title II insured or guaranteed home mortgage loans; or individuals who have defaulted on Section 312 rehabilitation loans, or individuals who have had a claim paid in the last three years on a Title I loan. For the CAIVRS match, HUD/DEPT–2, System of Records, receives its program inputs form HUD/DEPT–28, Property Improvement and Manufactured (Mobile) Home Loans—Default; HUD/DEPT–32, Delinquent/Default/Assigned Temporary Mortgage Assistance Payments (TMAP) Program; and HUD/CPD–1, Rehabilitation Loans-Delinquent/Default.

The DVA will provide HUD with debtor files from two systems of records: 58VA 21/22/28, Compensation, Pension, Education and Rehabilitation Records-VA; and 55VA26, Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records-VA. HUD is maintaining DVA's records only as a ministerial action on behalf of DVA, not as a part of HUD's HUD/DEPT–2 system of records. DVA's data contain information on individuals who have defaulted on their guaranteed loans. The DVA will retain ownership and responsibility for their systems of records that they place with HUD. HUD serves only as a record location and routine use recipient for DVA's data.

Notice Procedures

As a condition of matching, HUD has made modifications to the loan application forms for the participating programs to expand the Privacy Act statements on the individual application forms in the notation ''that the information provided by the applicant can be used for computer matching purposes and to collect debts owed to the Federal government.'' Any deficiencies as to direct notice procedures to the individual for the matching program are cured by the indirect or constructive notice that will be afforded to the subjects when the public notice of the proposed match is published by HUD in the Federal Register as required by subsection (e)(12) of the Privacy Act.

Categories of Records/Individuals Involved

The debtor records include these data elements: SSN, claim number, program code, and indication of indebtedness. Categories or records include: Records of claims and defaults, repayment agreements, credit reports, financial statements, and records of foreclosures. Categories of individuals include: Former mortgagors and purchasers of HUD-owned properties manufactured (mobile) home and home improvement loan debtors who are delinquent or in default on their loans, and rehabilitation loan debtors who are delinquent or in default on their loans.

Period of the Match

Matching will begin at least 40 days from the date copies of the signed (by both Data Integrity Boards) are sent to both Houses of Congress or at least 30 days from the date this Notice is published in the **Federal Register**, whichever is later, providing no comments are received which could result in a contrary determination.

Issued at Washington, DC February 6, 1995.

Marilynn A. Davis,

Assistant Secretary for Administration.

[FR Doc. 95–4361 Filed 2–22–95; 8:45 am]

BILLING CODE 4210–32

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; AA–6978–A; 5–00163]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Kootznoowoo Incorporated, for approximately 1,015 acres. The lands involved are on Prince of Wales Island, Alaska.

Copper River Meridian, Alaska

T. 77 S., R. 87 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Ketchikan Daily News.* Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until March 27, 1995 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of Gulf Rim Adjudication.

[FR Doc. 95–4373 Filed 2–22–95; 8:45 am]

BILLING CODE 4310–JA–P

[CO–017–1610–00]

Notice of Extension of Public Comment Period and List of Proposed Areas of Critical Environmental Concern

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of extension of public comment period and list of proposed areas of critical environmental concern.

SUMMARY: The Bureau of Land Management, White River Resource Area, Meeker, Colorado, is extending its public comment period for the Draft White River Resource Management Plan and Environmental Impact Statement (RMP/EIS). The comment period for the draft RMP/EIS will now end on March 31, 1995, instead of February 10, 1995. Thirteen new areas of critical environmental concern (ACECs) are being considered for designation in the draft RMP/EIS under one or more of the alternatives. The time period for commenting on the thirteen proposed ACECs will end on April 24, 1995.

DATES: Comments on the draft RMP/EIS will be accepted until March 31, 1995. Comments on the eleven proposed ACECs will be accepted until April 24, 1995.

ADDRESSES: Address for written comments: Bureau of Land Management, White River Resource Area, P.O. Box 928, Meeker, CO 81641; FAX 303–878–5757.

FOR FURTHER INFORMATION CONTACT: Joann Graham, RMP Team Leader, Bureau of Land Management, White River Resource Area, Meeker, CO 81641; Telephone 303–878–3601; Fax 303–878–5717.

SUPPLEMENTARY INFORMATION: Following is a description of the thirteen ACECs being considered for designation in the draft RMP/EIS under one or more alternatives.

1. South Cathedral Bluffs—Addition (1,010 acres). Contains sensitive plants and remnant vegetation associations. No surface occupancy (NSO) stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in the approved RMP and record of decision (ROD).

2. Raven Ridge-Addition (1,890 areas). Contains candidates threatened and endangered (T/E) plants, sensitive plants, paleontological values, fragile soils. No surface occupancy (NSO) stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in the approved RMP and ROD.

3. Ryan Gulch (1,440 acres). Contains T/E plants. Controlled surface use (CSU) stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in the approved RMP and ROD.

4. White River Riparian (950 acres). Contains important biologically diverse plant communities. Bald eagle roosts, federally-listed Colorado River squawfish below Taylor Draw Dam. CSU stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in a travel management plan prepared following publication of the approved RMP and ROD. Pending publication of a travel management plan, motorized vehicle travel is limited to existing roads and trails.

5. Coal Oil Rim (3,210 acres). Small aspen clones and other biologically diverse plant communities, riparian habitats. CSU stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in the approved RMP and ROD.

6. Moosehead Mountain (8,940 acres). Contains important biologically diverse plant communities, riparian habitats, and cultural resources. No surface occupancy (NSO) stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in the approved RMP and ROD.

7. Oil Spring Mountain (18,260 acres). Contains spruce-fir and important biologically diverse plant communities.

CSU stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in a travel management plan prepared following publication of the approved RMP and ROD. Pending publication of a travel management plan, motorized vehicle travel is limited to existing roads and trails.

8. Black's Gulch (800 acres). Contains paleontological values. No surface occupancy (NSO) stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in the approved RMP and ROD.

9. Coal Draw (1,840 acres). Contains paleontological values. No surface occupancy (NSO) stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in the approved RMP and record of decision.

10. East Douglas Creek (47,610 acres). Contains important biologically diverse plant communities, riparian habitat, and federal candidate Colorado River cutthroat trout habitat. CSU stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in travel management plan(s) prepared after publication of the approved RMP and ROD. Pending publication of a travel management plan(s), motorized vehicle travel is limited to existing roads and trails.

11. Duck Creek (3,430 acres) Contains T/E plants and cultural resources. Duck Creek wickiup site (3 acres) within Duck Creek ACEC NSO for surface-disturbing activities. The remainder of the ACEC proposed for CSU stipulation. Stipulations could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in the approved RMP and ROD.

12. North Cathedral Bluffs (5,730 acres). Contains sensitive plants, scenic values. CSU stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in travel management plan(s) prepared

following publication of the approved RMP and ROD. Pending publication of a travel management plan(s), motorized vehicle travel is limited to existing roads and trails.

13. Texas-Missouri-Evacuation Creek (22,510 acres). Contains abundant cultural resources. CSU stipulation area for surface-disturbing activities. Stipulation could be exempted, modified, or waived by the Area Manager under certain conditions. Motorized vehicle travel limited to designated roads and trails. Roads and trails would be designated in a travel management plan prepared following publication of the approved RMP and ROD. Pending publication of a travel management plan, motorized vehicle travel is limited to existing roads and trails.

Scott Wintemute,

Acting District Manager.

[FR Doc. 95–4452 Filed 2–22–95; 8:45 am]

BILLING CODE 4310–SB–M

[AZ-026–05–1430–10; AZA–29011; 5–00162]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Arizona

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice

SUMMARY: The following public lands in Maricopa County, Arizona have been examined and found suitable for classification for lease or conveyance to the State of Arizona, Department of Administration, under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The State of Arizona proposes to use the lands for a correctional facility.

Gila and Salt River Meridian, Arizona

T. 2 S., R. 3 W.,
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Sec. 8, all;
Sec. 17, all;
Sec. 18, lots 1 to 4, inclusive, E½, E½W½.
T. 2 S., R. 4 W.,
Sec. 11, lots 1, 4, 5 and 8;
Sec. 12, lot 1, E½, SW¼, E½NW¼, SW¼NW¼;
Sec. 13, all;
Sec. 14, lots 1, 4, 5 and 8.
Containing 3,958.96 acres.

The lease and conveyance will be processed if found to be in the public interest and in compliance with current and ongoing BLM land use planning. The State of Arizona will be required to submit an environmental impact statement which the BLM will review and then make a final determination as to the suitability of the lease and conveyance.

The lease/patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

4. Those rights for transmission line purposes granted to Arizona Public Service Company by Right-of-Way Numbers AZAR–004861 and AZA–9002.

5. Those rights the grazing permittee, Art Arnold, may have to continue his current grazing use for two years from receipt of a cancellation notice. (Grazing Record No. 022304)

For detailed information concerning this action, contact Hector Abrego or Angela Mogel, at the office of the Bureau of Land Management, Lower Gila Resource Area, 2015 West Deer Valley Road, Phoenix, Arizona, (602) 780–8090.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a correctional facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision or any other factor not directly related to the suitability of the land for a correctional facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: February 15, 1995.

David J. Miller,

Associate District Manager.

[FR Doc. 95–4372 Filed 2–22–95; 8:45 am]

BILLING CODE 4310–32–P

[CA–066–1430–01; CACA–13781]

Realty Actions; Sales; Leases; Etc.: California; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification for Lease and Conveyance, California—Correction to Volume 49 of the Federal Register, pages 19418 and 19419, dated Monday, May 7, 1994. Partial Termination of Classification.

SUMMARY: This notice will correct the legal description from San Bernardino Meridian, San Diego County, California, T. 12 S., R. 1 E., Sec. 29: NE¼NW¼, to:

San Bernardino Meridian, San Diego County, California

T. 12 S., R. 1 E.,
Sec. 29: NW¼NW¼

This parcel of public land was classified but not included in the above notice in the Federal Register, and is included at this time:

San Bernardino Meridian, San Diego, County, California

T. 12 S., R. 1 W.,
Sec. 25: SE¼

BLM made the decision to issue the R&PP lease under CACA–13781; however, the application was for conveyance. All the lands in this R&PP were classified as suitable for lease and conveyance. The conveyance was not addressed in the above-mentioned Federal Register Notice, and is included at this time.

1. This action partially terminates the above-mentioned Notice which classified these public lands as suitable for recreation and public purposes—San Bernardino Meridian, San Diego County, California, T. 12 S., R. 1 W., Sec. 27: NE¼NE¼, containing 40 acres, more or less.

2. At 10:00 a.m. on March 27, 1995, the lands described in paragraph 1 will be opened to operation of the public land laws subject to valid existing rights and the provisions of applicable law.

FOR FURTHER INFORMATION CONTACT: Verla Harle, Realty Specialist, Palm Springs-South Coast Resource Area, (619) 251–4849.

Dated: February 9, 1995.

Lucia Kuizon,

Acting District Manager, California Desert.

[FR Doc. 95–4559 Filed 2–22–95; 8:45 am]

BILLING CODE 4310–40–M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Fort Worth Zoological Park, Ft. Worth, TX, PRT–798968

The applicant requests a permit to import two captive-born female Asian elephants (*Elephas maximus*) from African Lion Safari, Cambridge, Ontario, Canada, for the purpose of enhancement of propagation and survival of the species through captive-breeding and conservation education.

Applicant: Mark D. Rohde, Kentwood, MI, PRT–788774

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by M.G. Wienand, ''Longwood'', Republic of South Africa, for the purpose of enhancement of survival of the species.

Applicant: Texas A & M University, College Station, TX, PRT–796331

The applicant requests a permit to import blood samples taken from 250 wild and captive Galapagos tortoise (*Geochelone elephantopus*), in Australia, Bermuda, Ecuador, New Zealand, Singapore, and Tahiti for the purpose of scientific research to enhance the survival of the species.

Applicant: Michel C. Bergerac, New York, NY, PRT–796661

The applicant requests a permit to import the sport-hunted trophy of one male (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by E.V. Pringle, ''Huntely Glen'', Bedford, Republic of South Africa for the purpose of enhancement of survival of the species.

Applicant: Exotic Feline Breeding Compound, Inc., Rosamond, CA, PRT–79877

The applicant request a permit to import 1 captive-born female Chinese leopard (*Panthera pardus japonensis*) from Menagerie Du Jardin Des Plantes, Paris, France for the purpose of enhancement of the survival of the species through propagation.

Applicant: North Gulf Oceanic Society, Homer, AK, PRT–796751

The applicant request a permit to export a total of 40 skin tissue samples taken from wild humpback whale (*Megaptera novaeangliae*). Samples were taken by biopsy dart in Prince William Sound, Alaska, for the purpose of scientific research to enhance the survival of the species.

Applicant: Gilda Cristiani, Sarasota, FL, PRT–690576

The applicant requests a permit to export and re-import one male and two female captive-bred leopards (*Panthera pardus*) and one male captive-bred snow leopard (*Panthera uncia*) for the purpose of enhancement of the survial of the species through conservation education.

Applicant: Stephen Hall, St. Louis, MO, PRT–796988

The applicant requests a permit to purchase in interstate commerce two hatchling radiated tortoise (*Geochelone radiata*) for the purpose of enhancement of the propagation of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 17, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–4420 Filed 2–22–95; 8:45 am]

BILLING CODE 4310–55–M

Notice of Receipt of Applications for Approval

The following applicants have applied for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to Section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Applicant: Victor J. Hardaswick, Centerville, SD. The applicant wishes to amend his approved cooperative breeding program to include two additional subspecies of Northern Goshawk: *Accipiter gentilis buteoides and Accipiter gentilis albidus.* The applicant wishes to be an active participant in this program with three other private individuals. The South Dakota Raptor Trust maintains responsibility for the oversight of the program.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420C, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420C, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 16, 1995.

Susan Lieberman,

Chief Branch of Operations Office of Management Authority.

[FR Doc. 95–4419 Filed 2–22–95; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation 337–TA–367]

Certain Facsimile Machines and Components Thereof; Notice of Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial

determination from the presiding administrative law judge in the above captioned investigation terminating the following respondent on the basis of a settlement agreement: Samsung Electronics, Co, Ltd. and Samsung Electronics America, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on February 13, 1995.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205–1802. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, S.W., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

By order of the Commission.

Issued: February 13, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–4431 Filed 2–22–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 701–TA–363 & 364 (Final) and 731–TA–711–715 (Final)]

OCTG From Argentina, Austria, Italy, Japan, and Korea

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final countervailing duty investigation and final antidumping investigations and scheduling of the ongoing countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution and scheduling of countervailing duty investigation No. 701–TA–363 (Final) and antidumping investigations Nos. 731–TA–711–715 (Final) under sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b) and 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Argentina, Austria, Italy, Japan, and Korea of oil country tubular goods (OCTG),[1] provided for in subheadings 7304.20, 7305.20, and 7306.20 of the Harmonized Tariff Schedule of the United States. The Commission also gives notice of the schedule to be followed in the ongoing countervailing duty investigation regarding imports of OCTG from Italy (inv. No. 701–TA–364 (Final)), which the Commission instituted effective December 2, 1994 (60 F.R. 2983, January 12, 1995).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: January 23, 1995 (inv. No. 701–TA–364 (Final)) and January 30, 1995 (invs. Nos. 731–TA–711–715 (Final)).

FOR FURTHER INFORMATION CONTACT: Douglas Corkran (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background.—The subject investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. § 1671b) are being provided to manufacturers, producers, or exporters in Austria of OCTG and that imports of OCTG from Argentina, Austria, Italy, Japan, and Korea are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). These investigations were requested in petitions filed on June 30, 1994, by Bellville Tube Corp. (Bellville, TX); IPSCO Steel, Inc. (Camanche, IA); Koppel Steel Corp. (Beaver Falls, PA); Maverick Tube Corp. (Chesterfield, MO); North Star Steel Ohio (Youngstown, OH); U.S. Steel Group (Pittsburgh, PA); and USS/Kobe Steel Co. (Lorain, OH).

Participation in the investigations and public service list.—Any person having already filed an entry of appearance in the countervailing duty investigation on OCTG from Italy is considered a party in the antidumping investigations. Any other persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these final investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than twenty-one (21) days after

[1] For the purposes of these investigations, OCTG are hollow steel products of circular cross-section. These products include oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether or not conforming to American Petroleum Institute (''API'') or non-API specifications, whether finished or unfinished (including green tubes). This investigation does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium.

the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in these investigations will be placed in the nonpublic record on June 14, 1995, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on June 27, 1995, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 20, 1995. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 22, 1995, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigations as possible any requests to present a portion of their hearing testimony in camera.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is June 21, 1995. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is July 6, 1995; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before July 6, 1995. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: February 17, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–4430 Filed 2–22–95; 8:45 am]

BILLING CODE 7020–02–P

Possible Modifications to the International Harmonized System Nomenclature

AGENCY: International Trade Commission.

ACTION: Request for proposals to amend the international Harmonized System nomenclature.

SUMMARY: The Commission is soliciting proposals from interested parties and agencies to amend the international Harmonized Commodity Description and Coding System (Harmonized System), including the rules of interpretation, section and chapter notes and the texts of the headings and subheadings, with a view to keeping the System current with changes in technology and trading patterns. Specific proposals in this connection will be reviewed by the Commission staff for potential submission to the Customs Co-operation Council, now known as the World Customs Organization (WCO), in Brussels, Belgium.

EFFECTIVE DATE: February 10, 1995.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs & Trade Agreements (O/TA&TA) (telephone (202) 205–2592) or Holm J. Kappler, Deputy Director (O/TA&TA) ((202) 205–2598), U.S. International Trade Commission, Washington, D.C. 20436.

BACKGROUND: Beginning with its 11th Session in March, 1995, the HS Review Sub-Committee of the WCO will initiate its second major review of the Harmonized System. Administered by the WCO, the Harmonized System provides the basis for the customs tariff and statistical nomenclatures of all major trading countries of the world, including the United States.

The Harmonized System was established by an international convention, which, *inter alia*, provides that the System should be kept up-to-date in the light of changes in technology and patterns of international trade.

The Commission, the U.S. Customs Service and the Bureau of the Census have been assigned responsibilities for the development of U.S. technical proposals related to the Harmonized System under section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3010). As indicated in a 1988 notice issued by the United States Trade Representative (USTR) (53 FR 45646 of Nov. 10, 1988), the Commission is the lead agency in considering proposals for amendments to the Harmonized System that are intended to ensure that the System is kept abreast of changes in technology and patterns of international trade.

REQUESTS FOR PROPOSALS: In accordance with the USTR notice, the Commission is seeking proposals for specific modifications to the Harmonized System (including the rules of interpretation, section and chapter notes and the texts of the headings and subheadings) that will further the above goals. *No proposals for changes to the national-level provisions (which include U.S. 8-digit subheadings, statistical annotations and rates of duty) will be considered by the Commission as a part of this review.* Interested parties, associations and government agencies should submit specific language for proposed amendments to the Harmonized System together with appropriate descriptive comments and, to the extent available, trade data.

As part of this review, the Commission particularly invites proposals concerning the following matters:

—The separate identification in the HS of waste products of environmental concern,
—The separate identification of dangerous or toxic chemicals,
—The deletion of HS headings or subheadings with low trade volume,
—The identification of new products important in international trade,
—The simplification of the HS, e.g., by the elimination of classification provisions which are difficult to administer.

WRITTEN SUBMISSIONS: Interested parties, including other Federal agencies, are invited to submit written proposals concerning this review of the Harmonized System. Proposals must be

submitted by not later than *May 15, 1995*, in order to be considered by the Commission. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E St. S.W., Washington, D.C. 20436.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

By order of the Commission.

Issued: February 14, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–4432 Filed 2–22–95; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 94–67]

Barry S. Gleken, D.M.D.; Denial of Application

On June 27, 1994, the Deputy Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Barry S. Gleken (Respondent), of Methuen, Massachusetts, proposing to deny his application for a DEA Certificate of Registration, as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated, *inter alia*, on Respondent's lack of authorization to handle controlled substances in the Commonwealth of Massachusetts. 21 U.S.C. 824(a)(3). The Order to Show Cause also alleged that Respondent's registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) based on a number of other allegations, including that Respondent materially falsified his present application by indicating that he was currently authorized to handle controlled substances in the state he was proposing to operate, when, in fact, he was not so authorized.

The Order to Show Cause was sent to Respondent by registered mail. Respondent, through counsel, timely filed a request for a hearing. On August 18, 1994, the Government filed a motion for summary disposition based upon documentation that Respondent did not possess a valid Massachusetts Controlled Substances Registration and that such a registration was necessary before DEA could issue Respondent a registration to handle controlled substances in the Commonwealth of Massachusetts.

Respondent filed a response which did not deny that Respondent was not currently authorized to handle controlled substances in Massachusetts. Respondent, however, urged the administrative law judge to recommend that Respondent be allowed to withdraw his application without prejudice and that no further action be taken by DEA. Respondent maintained that such action be taken because he intended to apply for a Massachusetts Controlled Substances Registration in the future.

Respondent, in support of his response, asserted that Massachusetts recently enacted regulations requiring all dentists to be registered with the State Department of Health for authorization to handle controlled substances and that Respondent had just become aware of this requirement.

On September 6, 1994, in his opinion and recommended decision, the administrative law judge found that Respondent was not currently authorized to handle controlled substances in Massachusetts. The administrative law judge also found that Respondent wanted to properly apply for a Massachusetts registration, thereby eliminating the ''procedural'' defect to obtaining a DEA registration. Consequently, he concluded that no prejudice would accrue to DEA if Respondent were allowed to withdraw his application rather than denying the application based upon his lack of state authorization to handle controlled substances in Massachusetts. The administrative law judge recommended that Respondent be permitted to withdraw his application without prejudice.

On September 26, 1994, the Government filed exceptions to the opinion and recommended decision of the administrative law judge, contending that Respondent's application should be denied based upon the lack of state authorization rather than allowing Respondent to voluntarily withdraw his application. The Government argued in the alternative, that the Deputy Administrator remand the case back to the administrative law judge to allow the Deputy Assistant Administrator, Office of Diversion Control, to decide whether to permit Respondent to withdraw his application, as provided under 21 CFR 1301.37 and 28 CFR 0.104 Appendix to Subpart R, Section 7(a). Respondent did not file a response to the Government exceptions.

The Deputy Administrator finds that, pursuant to 28 CFR 0.104 Appendix to Subpart R, Section 7(a), it is within the discretion of the Deputy Assistant Administrator, Office of Diversion Control, to permit Respondent to withdraw his application after an Order to Show Cause has been filed. However, the Deputy Administrator has concluded that rather than remand the matter for consideration of a withdrawal of the application, the application should be denied based on Respondent's current lack of authorization to handle controlled substances in Massachusetts.

As detailed in the Order to Show Cause, Respondent is alleged to have committed numerous wrongful acts, one of which is the falsification of the present application. Permitting the withdrawal of this application would be prejudicial to the Government and potentially the public. It would eliminate an important factor, the alleged falsification of an application, which should be considered in determining whether future applications should be granted.

The Deputy Administrator finds that Respondent does not currently have state authority to handle controlled substances in the Commonwealth of Massachusetts, the state in which he proposes to be registered with the DEA. The Deputy Administrator concludes that the DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without State authority to handle controlled substances. *See* 21 U.S.C. 823(f). The Deputy Administrator and his predecessors have consistently so held. *See Howard J. Reuben, M.D.*, 52 FR 8375 (1987); *Ramon Pla, M.D.*, Docket No. 86–54, 51 FR 41168 (1986); *Dale D. Shahan, D.D.S.*, Docket No. 85–57, 51 FR 23481 (1986); and cases cites therein. Since there is no disagreement that Respondent was not currently authorized to handle controlled substances in Massachusetts when he filed his application, the Deputy Administrator concludes that the Government's motion for summary disposition should be granted.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104

hereby orders that the application for a DEA Certificate of Registration, submitted by Barry S. Gleken, D.M.D., be, and it is hereby denied. This order is effective February 23, 1995.

Dated: February 16, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–4334 Filed 2–22–95; 8:45 am]

BILLING CODE 4410–09–M

Federal Bureau of Investigation

Implementation of The Communications Assistance for Law Enforcement Act

AGENCY: Federal Bureau of Investigation, Justice.

ACTION: Notice.

SUMMARY: The Federal Bureau of Investigation (FBI) is providing notice of initial steps being taken to implement, on behalf of the Attorney General, certain provisions in the Communications Assistance for Law Enforcement Act.

FOR FURTHER INFORMATION CONTACT:

Telecommunications Industry Liaison Unit, (TILU), FBI, 1–800–551–0336.

SUPPLEMENTARY INFORMATION: On October 25, 1994, the President signed into law the Communications Assistance for Law Enforcement Act (Pub. L. 103–414) (the Act). This law requires telecommunications carriers, as defined in the Act, to ensure law enforcement's ability, pursuant to court order or other lawful authorization, to intercept communications notwithstanding advanced telecommunications technologies.

Under the Act, certain implementation responsibilities are conferred upon the Attorney General. The Attorney General has, pursuant to an Attorney General Order, as codified at 28 CFR 0.85(o), delegated responsibilities set forth in the Act to the Director, FBI, or his designee. The Director, FBI, has designated personnel in the Engineering Section, Information Resources Division, to carry out these responsibilities.

To effectively implement this law, the Engineering Section has established the Telecommunications Industry Liaison Unit (TILU) to specifically address the responsibilities set forth in the Act. TILU personnel will respond to questions and inquiries concerning this Act, and act as the designated contact point for facilitating communication with the telecommunications industry.

Definition of ''Telecommunications Carrier''

The Act defines a ''telecommunications carrier'' as any ''person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire'' (section 102(8)(A)), and includes any ''person or entity engaged in providing commercial mobile service, (as defined in section 332(d) of the Communications Act of 1934, as amended (47 U.S.C. 332(d))'' (section 102(8)(B)). This definition includes but is not limited to local exchange and interexchange carriers; competitive access providers; resellers, cable operators, utilities, and shared tenant services to the extent that they offer telecommunications services as common carriers for hire; cellular telephone companies; personal communications services (PCS) providers; satellite-based mobile communications providers; specialized mobile radio services (SMRS) providers, and enhanced SMRS providers; and paging service providers.

The definition does not include persons or entities insofar as they are engaged in providing information services such as electronic publishing and messaging services.

Capability Requirements

The Act requires telecommunications carriers to ensure that, within four years from the date of enactment, their systems have the capability to meet the assistance capability requirements as described in section 103 of the Act. A document entitled *Law Enforcement Requirements for the Surveillance of Electronic Communications,* clarifies the generic law enforcement assistance capability requirements set forth in the Act and gives additional guidance to telecommunications carriers. This document is available upon request from TILU.

Under section 107(a)(2) of the Act, a carrier will be deemed to be in compliance if it adheres to publicly available technical requirements, feature descriptions, or standards adopted by an industry association or standard-setting organization relevant to the Act. Telecommunications carriers may also develop their own solutions. In any case, carriers must meet the requirements set forth in section 103 of the Act. If no such technical requirements or standards are issued, or if they are challenged as being deficient, upon petition, the Federal Communications Commission (FCC) has authority to develop them through a rule making.

Notice of Maximum and Actual Capacity Requirements

Within one year after enactment, the Attorney General is required to publish in the **Federal Register**, and to provide to appropriate telecommunications industry associations and standard-setting organizations, notice of the estimated electronic surveillance capacity requirements as of October 24, 1998, as well as the estimated maximum capacity required to accommodate such surveillance thereafter.

Compliance, Payment, Enforcement, Exemption, Extensions, Consultation, Systems Security, Cooperation

The mandated compliance with the requirements set forth in section 103 of the Act is affected by a number of interrelated factors, including whether the Attorney General is required to, and has agreed to, pay for needed modifications; whether the equipment, facility, or service was deployed on or before January 1, 1995; and whether such modifications are reasonably achievable under criteria set forth in the Act. Under certain circumstances, telecommunications carriers also may petition regulatory authorities to adjust changes, practices, classifications, and regulations to recover costs expended for making needed modifications. Unexcused noncompliance can lead to civil enforcement actions by the Attorney General and imposition of civil fines. The Act also includes provisions for exemption, extension of the compliance date, consultation with industry, and systems security. In addition, it requires telecommunications transmission and switching equipment manufacturers, as well as providers of telecommunications support services, to cooperate with telecommunications carriers in achieving the required capacities and capabilities.

Commerce Business Daily Notice

The FBI Telecommunications Contracts Audit Unit will issue a Notice in the *Commerce Business Daily* soliciting comments from the telecommunications industry concerning cost accounting procedures and other rules regarding payment procedures and criteria.

Dated: February 16, 1995.

Louis J. Freeh,

Director.

[FR Doc. 95–4376 Filed 2–22–95; 8:45 am]

BILLING CODE 4410–02–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) Audit of the National Drug Intelligence Center.

(2) None. Office of Inspector General, United States Department of Justice.

(3) Primary = Federal Government, Other = State, Local or Tribal Government. Information is requested in other to determine: 1. Customers satisfaction with NDIC reports, and 2. Customers opinions of the quality of NDIC reports. The results of the survey will be a factor in the auditors' assessment of the efficiency and effectiveness of NDIC.

(4) 290 annual respondents but it is projected that only 58 will respond at .5 hours per response.

(5) 29 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: February 16, 1995.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 95–4360 Filed 2–22–95; 8:45 am]

BILLING CODE 4410–01–M

Office of Justice Programs

Office for Victims of Crime

[OJP (OVC) NO. 1003–F]

RIN 1121–AA21

Victims of Crime Act Victim Compensation Grant Program

AGENCY: Department of Justice, Office of Justice Programs, Office for Victims of Crime.

ACTION: Final program guidelines.

SUMMARY: The Office for Victims of Crime (OVC), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is publishing Final Program Guidelines to implement the victim compensation grant program as authorized by the Victims of Crime Act of 1984, as amended, 42 U.S.C. 10601, *et seq.* (hereafter referred to as VOCA).

EFFECTIVE DATE: February 23, 1995.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Hightower, Acting Director, State Compensation and Assistance Division, 633 Indiana Avenue NW., Washington, DC 20531; telephone number (202) 307–5947. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: VOCA provides Federal financial assistance to States for the purpose of compensating and assisting victims of crime, providing funds for training and technical assistance, and assisting victims of Federal crimes.

These Program Guidelines provide information on the administration and implementation of the VOCA victim compensation grant program as authorized in Section 1403 of VOCA, Public Law 98–473, as amended, codified at 42 U.S.C. 10603, and contain the following information: Summary of the Comments to the Proposed Program Guidelines; Background; Funding Allocation and Application Process; Program Requirements; Financial Requirements; Monitoring; and Suspension and Termination of Funding. The Guidelines are based on the experience gained and legal opinions rendered during the first nine years of the grant program and are in accordance with VOCA. These Final Program Guidelines are all inclusive. Thus, they supersede any Guidelines previously issued by OVC.

The Office of Justice Programs, Office for Victims of Crime, in conjunction with the Office of Policy Development, DOJ, and the Office of Information and Regulatory Affairs, OMB, has determined that this rule is not a ''significant regulatory action'' for purposes of Executive Order 12866 and, accordingly, this rule was not reviewed by the Office of Management and Budget (OMB).

In addition, these Guidelines will not have a significant economic impact on a substantial number of small entities; therefore, an analysis of the impact of these rules on such entities is not required by the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

The collection of information described in the Program Requirements section has been approved by the Office of Management and Budget (OMB) as required under the Paperwork Reduction Act, 44 U.S.C. 3504(h). (OMB Approval Number 1121–0014.)

Summary of the Comments to the Proposed Program Guidelines

On December 17, 1993, the Office for Victims of Crime (OVC) published proposed VOCA Victim Compensation Program Guidelines in the **Federal Register**, Vol. 58, No. 164, pages 66023 through 66028. These proposed Guidelines were published for the purpose of soliciting comments on the revised rules for the VOCA victim compensation grant program from all interested individuals and organizations. OVC received six letters from interested individuals and organizations and had conversations with many State VOCA compensation administrators. In total, over twenty-four different issues, questions, recommendations, and comments were received, which often reflected a variety of perspectives.

Respondents included individuals as well as representatives of State and national organizations concerned with various aspects of the implementation of State crime victims compensation benefits and the VOCA victim compensation grant program. The national organizations included the National Association of Crime Victim Compensation Boards (NACVCB) and

the National Indian Justice Center (NIJC). There were also comments submitted by four State VOCA compensation administrators.

In addition, on September 18, 1994, President Clinton signed into law the Violent Crime Control and Law Enforcement Act of 1994. This comprehensive anti-crime legislation contained a number of victim related provisions. The following four amendments to the Victims of Crime Act (VOCA) directly affect the VOCA victim compensation grant program:

(1) modification of the VOCA formula for distribution of the Crime Victims Fund dollars; (2) establishment of State compensation programs as the ''payors of last resort''; (3) authorization for use of up to 5 percent of VOCA victim compensation and assistance grant funds for administrative costs; and (4) requiring states to maintain previous level of funding support in administering the VOCA compensation grant program. The following paragraphs incorporate comments from the field and reflect new policy guidance from OVC.

OVC appreciates the time and effort each respondent invested in reading and commenting upon the proposed Guidelines. All comments were carefully considered in developing these Final Program Guidelines. As a result, OVC rewrote, deleted, and incorporated additional information to further clarify various sections of the Guidelines. Explanation of our resolutions and final determinations are presented in the following analysis of each of the modified sections.

A. Background

A number of respondents expressed concern that the current language of this section speaks only of reimbursement paid directly to crime victims when in fact many programs pay providers of services such as hospitals, physicians, dentists, and attorneys directly. Thus, we have revised the language in this section to provide that State crime victim compensation programs may use VOCA compensation grant funds to pay for eligible expenses to, or on behalf of, an eligible crime victim except for property damage and losses. We feel that this modification will address any ambiguity regarding payments made directly to providers of services on behalf of victims.

B. Availability of Funds

Since 1989, OVC has received questions regarding the obligation and expenditure of grant funds, particularly with regard to the grant period. In an attempt to address this issue, these Final Program Guidelines clarify that funds are available for obligation beginning October 1 of the year of the award through September 30 of the following Federal Fiscal Year (FFY). Thus, States are permitted to pay compensation claims retroactively from the start of the project period, even though the VOCA grant may not be awarded until later in the grant period.

C. Application Process

1. Eligible State Payment Certification. Each year States submit a Crime Victim Compensation Eligible State Payments Certification Form with their application for a Federal VOCA victim compensation grant award. The amount certified on this form is used by OVC to determine the amount of each eligible State's annual grant allocation. Previously, OVC required that the designated State certifying official was limited to the Governor, the Attorney General, or the Secretary of State. Since 1989, certifications of several States have been delayed because of this requirement, thus delaying grant awards to all States. In response, OVC now will accept the signature of the authorized individual within the agency designated by the Governor to administer the state compensation program on the annual certification of state payouts form. The NACVCB responded in support of the change and indicated that the modification will promote the timely implementation of the VOCA grant program.

2. Civil Rights Information. One respondent raised a concern regarding the collection of personal information such as race, national origin, gender, age, and handicap. Many States are prohibited from mandating that victims provide such information. Therefore, qualifying language has been added in the *Application Process* section of these Final Program Guidelines.

D. Program Requirements

1. State Eligibility Criteria. One respondent petitioned OVC to seek a legislative amendment to VOCA, which would allow for direct funding of compensation programs operated by tribal governments. Throughout the Legislative History of VOCA, Congress explicitly rejects the notion of funding separate programs to compensate crime victims because such action would result in duplication of effort. Rather, as a condition of eligibility for a VOCA crime victim compensation grant, a State must provide compensation to victims of Federal crime, including Native Americans, on the same basis as such program provides compensation to victims of State crimes. OVC must conform with the mandate of Congress on this matter.

Another respondent pointed out that the definition of ''State'' which is provided in VOCA did not appear in the proposed Guidelines. This omission was inadvertent, and the definition has been included in the Program Requirements section of these Final Program Guidelines.

2. Victim Cooperation with Law Enforcement. OVC received numerous inquiries concerning the VOCA provision which requires, as a condition of eligibility, that a program promote victim cooperation with the reasonable requests of law enforcement. The proposed Program Guidelines provided that a State may, at its discretion, impose reasonable requirements, but must, at a minimum, require that the victim report the crime to the ''appropriate law enforcement agency.'' Several programs have sought clarification as to the extent of discretion afforded States through this provision.

OVC is aware that in many jurisdictions, adult and child abuse reports may be filed with protective services agencies or may be filed with family or domestic courts. Hence, these Final Program Guidelines provide that States may utilize any of the following criteria to meet this VOCA Requirement or any other criteria the State believes is necessary to encourage victim cooperation with law enforcement and to verify that a crime occurred: a) require a victim to report the crime to the appropriate law enforcement agency; or b) require a victim to report the crime to an appropriate governmental agency, such as child and/or adult protective services, or family or juvenile court. In addition, for the purposes of meeting this VOCA program requirement States may accept the results of a medical evidentiary examination in lieu of a law enforcement report.

In assessing victim cooperation, State crime victim compensation programs are encouraged to carefully consider compelling health or safety reasons which may influence the extent of victim cooperation with law enforcement. Such considerations may include apprehension regarding personal safety, fear of retaliation, and intimidation by the offender or others.

3. Compensation for non-residents. With regard to the requirement that States offer compensation to non-residents who are victimized within their borders, and the requirement that States offer compensation to their own residents who are victimized in States without eligible compensation

programs, some respondents requested that the Guidelines specify that in both situations, claimants must meet the eligibility requirements of the applicable State statute. These Final Program Guidelines stipulate that claimants are eligible to apply for crime victim compensation from the State in which the crime occurred if the State's statutory eligibility requirements are met. However, if the State in which the crime occurred does not have an eligible compensation program, the crime victim should apply in the State in which he or she resides. Victim eligibility and the extent to which an eligible victim will be compensated are established by the respective State statute.

E. State Certification

In response to a request from one respondent, the definition of a ''compensable crime'' has been further defined to include not only crimes of violence but other crimes in which the victim suffers psychological or emotional trauma although there may not be any physical injury. While most State statutes explicitly define the crimes which will be covered under their program, questions have been raised as to whether certain crimes which involve emotional abuse, but did not involve physical injury, would be considered compensable under VOCA. Hopefully, this modification clarifies the type of crimes which may be considered compensable.

One respondent expressed concern regarding the availability of compensation for traditional healing and burial expenses. The respondent noted that there is great variation among the States as to the type and extent of expenses which are eligible for compensation. OVC appreciates the cultural and financial issues, as well as the need for each State to recognize and support various methods available and preferable to victims in their recovery and/or stabilizing their lives after a victimization. However, determinations as to the extent of benefits available to crime victims remains solely within the prerogative of each State. VOCA does not stipulate with any specificity the extent or any qualifying factors for the payment of expense categories.

In connection with the payment of forensic sexual assault examinations, one respondent recommended that clarification be given regarding inclusion of payments made for forensic sexual assault examinations in a State's certified payments. Specifically, the respondent suggested that the Guidelines advise that although the eligibility criteria for a VOCA compensation grant require that a victim report to local law enforcement, States may waive the reporting requirement in the following circumstances: (1) the primary purpose of the examination is to collect forensic evidence; (2) such payments are allowable under the State's statute or administrative rules; and (3) such payments are made from funds administered by the compensation program.

Guidelines for Crime Victim Compensation Grants

Background

In 1984, VOCA established the Crime Victims Fund (Fund) in the U.S. Treasury and authorized the Fund to receive deposits from fines and penalties levied on criminals convicted of Federal crimes. This Fund provides the source of funding for carrying out all of the activities mandated by VOCA.

OVC was established in 1984 as the Justice Department's chief advocate for America's crime victims. OVC's program activities are consistent with VOCA. These Final Program Guidelines address the specific program and financial requirements of the VOCA crime victim compensation grant program.

OVC makes annual VOCA crime victim compensation grants from the Fund to eligible States. The primary purpose of these grants is to supplement State efforts to provide financial assistance and reimbursement to crime victims throughout the Nation for costs associated with being a victim of a crime, and to encourage victim cooperation and participation in the criminal justice system. State crime victim compensation programs may use VOCA compensation grant funds to pay for eligible expenses provided by the State compensation statute except for property damage and property losses.

The 1994 amendments to VOCA made a number of changes affecting the crime victim compensation program. These amendments can be found in sections 1402(d) which describe the distribution of the Crime Victim Fund and section 1403 of VOCA, which describes the requirements and eligibility criteria for a VOCA victim compensation grant award.

For the first time since the inception of the State VOCA victim compensation program, States may use up to five percent of their grant award for administrative purposes. This provision will apply to State VOCA victim compensation grants for Federal Fiscal Year 1995. Guidance as to the conditions, limitations, and reporting requirements on the expenditure of administrative funds is set forth the *Availability of Funds* section of these Final Program Guidelines.

States have the responsibility for establishing guidelines and procedures for applying for crime victim compensation benefits which meet the minimal statutory requirements outlined in VOCA and the requirements in these Program Guidelines.

Funding Allocation and Application Process

A. Distribution of Crime Victim Fund

OVC administers the deposits made into the Fund for programs and services, as specified in VOCA. The amount of funds available for distribution each year is dependent upon the total deposits into the Fund in the preceding Federal Fiscal Year.

The Federal Courts Administration Act of 1992 removed the cap on the Fund, beginning with Federal Fiscal Year (FFY) 1993 deposits. This Act also eliminated the need for periodic reauthorization of VOCA and the Fund. Thus, under current legislation, the Fund will receive deposits indefinitely.

The Violent Crime Control and Law Enforcement Act of 1994 provides that the deposits into the Fund are to be distributed as follows:

1. The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter is available to the Administrative Office of United States Courts for administrative costs to carry out the functions of the judicial branch under Sections 3611 of Title 18, U.S. Code.

2. Of the next $10,000,000 deposited in the Fund a particular fiscal year,

a. 85 percent shall be available to the Secretary of Health and Human Services for grants under Section 4(d) of the Child Abuse Prevention and Treatment Act for improving the investigation and prosecution of child abuse cases;

b. 15 percent shall be available to the Director of the Office for Victims of Crime for grants under Section 4(d) of the Child Abuse Prevention and Treatment Act for Assisting Native American Indian Tribes in developing, establishing, and operating programs to improve the investigation and prosecution of child abuse cases.

3. The remaining Fund deposits are distributed as follows:

a. 48.5 percent is available for victim compensation grants;

b. 48.5 percent is available for victim assistance grant;

c. 3 percent is available for support of services to Federal crime victims and for demonstration, training, and technical assistance grants to eligible crime victim programs.

B. Availability of Funds

The Director of OVC will make an annual grant to eligible State crime victim compensation programs equal to 40 percent of the amounts awarded by the State program to victims of crime from State sources of revenue during the fiscal year preceding the year of deposits in the Fund (two years prior to the grant year). Note: Amounts paid to compensate victims for property damage or property loss can not be included in a state's certification for a VOCA victim compensation grant award. If the amount in the Fund is insufficient to award each State 40 percent of its prior year's compensation payout, Section 1403(a)(2) of VOCA provides that all States will be awarded the same reduced percentage of their prior year payout from the available funds.

Funds are available for expenditure throughout the FFY of award as well as in the next FFY. The FFY begins on October 1 and ends on September 30. State crime victim compensation programs may pay compensation claims retroactively from October 1, even though the VOCA grant may not be awarded until later in the grant period. Funds that are not obligated by the end of the grant period must be returned to the General Fund of the U.S. Treasury. Therefore, States are encouraged to monitor closely the expenditure of VOCA funds prior to the end of the grant period.

Administrative Costs

The Victims of Crime Act (VOCA) now allows up to five percent of VOCA crime victim compensation grant funds to be used for administering the state crime victim compensation grant program(s). It is in the State's discretion to use the allowable five percent for administration. However, any part of the allowable five percent which is not used for administrative purposes must be used for awards of compensation to crime victims.

The intent of this new provision of VOCA is to support and advance program administration in all operational areas including claims processing, staff development and training, public outreach, and program funding by supporting those activities that will improve program effectiveness and service to crime victims. If a state elects to use up to five percent of their VOCA compensation grant for administrative purposes, only those costs directly associated with administering the program, enhancing overall program operations, and ensuring compliance with Federal requirements, can be paid with limited administrative grant funds. Further, States must certify that VOCA funds used for administrative purposes will not be used to supplant State or local funds but will be used to increase the amount of State funds that would be available for administering the compensation program. For the purpose of establishing a baseline level of effort, States should maintain documentation as to the overall administrative commitment of the State prior to their use of VOCA administrative grant funds.

Allowable administrative costs include but are not limited to the following: program personnel, salary and benefits; travel costs for attendance at state, regional, and national compensation training conferences; computer equipment and support services; costs involved in the production and distribution of program brochures and posters, and other program outreach activities; professional fees for computer services and peer review of compensation claims; agency membership dues for victim compensation organizations; program enhancements such as toll-free numbers; special equipment and materials to facilitate service to persons with disabilities, and other reasonable costs directly related to administering a compensation program. Indirect costs expressed as a percentage of state-wide joint costs will not be considered as allowable.

Staff supported by 5% of the VOCA compensation administrative funds under the VOCA Crime Victim compensation grant must work directly for the compensation program in the same proportion as their level of support from VOCA grant funds. If the staff have other functions, the proportion of time working on the compensation program must be documented using some reasonable method at regular intervals such as time and attendance records on all funded staff which demonstrate the portion of staff time spent on compensation related activities. The documentation must provide a clear audit trail for the expenditure of grant funds.

Only staff activities directly related to compensation functions can be funded with VOCA administrative funds. Similarly, any equipment purchases or other expenditures charged to the VOCA compensation grant should only be charged proportionate to the percentage of time utilized by the compensation program.

Temporary or periodic personnel support, such as qualified peer reviewers for medical and mental health claims, and data processing support services are also allowable. These services may be obtained through contract using VOCA administrative funds.

Those States that elect to utilize administrative funds under the VOCA compensation grant, shall include with their annual application a general description of how the administrative funds will be used. This description should include an itemization of the state's projected expenditures for allowable administrative cost. A state may modify projections set forth in their application by providing OVC a revised description of their planned use of administrative funds in writing, subsequent to submitting their annual application. However, the revised description must be reviewed prior to the obligation of any Federal funds.

Those States that elect to utilize administrative funds under the VOCA crime victim compensation grant, shall include a narrative description of the impact of VOCA administrative funds with their annual performance report.

C. Application Process

Each year, OVC issues to each eligible State a Program Instruction and Application Kit, which contains the necessary forms and detailed information required to make application for VOCA crime victim compensation grant funds. The amount for which each State may apply is included in the Application Kit. States shall use the Standard Form 424, Application for Federal Assistance, and its attachments to apply for VOCA victim compensation grant funds. Applications for VOCA crime victim compensation grants may only be submitted by the State agency designated by the Governor to administer the VOCA grant.

Completed applications must be submitted on or before the stated deadline, as determined by OVC. If an eligible State fails to apply for its crime victim compensation allocation by the prescribed deadline, OVC will redistribute Federal VOCA crime victim compensation dollars to the VOCA victim assistance grant program as provided by Section 1404(a)(1) of VOCA (42 U.S.C. 10603 (a)(1)), assuming all states have received the statutorily prescribed 40% (percent) of their prior years payouts.

In addition to submission of the Application for Federal Assistance, States shall:

1. Specify their arrangements for complying with the provisions of Circular A–128 (Audits of State or Local Government.)

2. Submit Certifications Regarding Lobbying, Debarment, Suspension, and

Other Responsibility Matters; Drug-Free Workplace Requirements; Civil Rights Compliance, and any other certifications required by OJP and OVC. Additionally, States must complete a disclosure form specifying any lobbying activities that are conducted.

3. Submit a Crime Victim Compensation Eligible State Payments Certification Form which is furnished by OVC.

The amount certified on this Form is used by OVC to determine the annual Federal grant award to each eligible State in the following year. This form must be completed and signed by the authorized individual within the agency designated by the Governor to administer the VOCA crime victims compensation grant. For Further information concerning the State certification, see the Program Requirements section.

4. Submit the following assurances and information:

a. An assurance that the program will comply with all applicable nondiscrimination requirements;

b. An assurance that in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing, on the grounds of race, color, religion, national origin, sex, or disability against the program, the program will forward a copy of the finding to the Office of Justice Programs, Office for Civil Rights (OCR);

c. The name of the civil rights contact person who has lead responsibility in ensuring that all applicable civil rights requirements are met and who shall act as liaison in civil rights matters with OCR;

d. An assurance that programs will maintain information on crime victims receiving services by race, national origin, sex, age, and disabilities, where such information is voluntarily furnished by claimants. A State may, at its discretion, use the following language when soliciting claimant responses: ''The submission of information regarding race/ethnic background or disabilities is strictly voluntary. A decision to not supply this information will not affect your eligibility for compensation benefits without this information. However, this information is important. We use it to study the extent to which members of minorities and persons with disabilities are recipients of compensation benefits and to determine the extent to which outreach efforts should be enhanced to ensure access and services to these populations.''

Program Requirements

A. State Eligibility Criteria

The fundamental criteria for eligibility is the grantee must be an operational State-administered crime victim compensation program. The term ''State'' includes the District of Columbia, the Virgin Islands, and any other possession or territory of the United States. Although an authorized program that has not actually paid out compensation benefits would be technically eligible under Section 1403(b)(1) of VOCA, the program would not be entitled to a VOCA grant because it had not awarded any benefits that could be matched under Section 1403(a)(1). VOCA compensation grant funds may not be used as ''start-up'' funds for a new State program.

Section 1403 of VOCA prescribes the conditions and eligibility criteria related to crime victim compensation grants. In order for a State to meet or maintain eligibility for a crime victims compensation grant, it must satisfy the following eligibility requirements:

1. The program must be operated by a State and offer compensation to victims and survivors of victims of ''compensable crimes,'' including drunk driving and domestic violence. The term ''compensable crime'' means a crime, the victims of which are eligible for compensation under the State's eligible crime victim compensation program statute or rule. The range of expenses for which States may award crime victims compensation varies nationwide, although all States must award compensation for medical expenses, including mental health counseling and care; loss of wages; and funeral expenses.

2. The program must promote victim cooperation with the reasonable requests of law enforcement authorities. The States may impose such reasonable requirements as they see fit to promote this cooperation and to verify that a crime has occurred. Encouraging victims to cooperate with law enforcement and to report the crime is important to the effective functioning of the criminal justice system and to preventing further victimizations.

In assessing a victim's cooperation with law enforcement, State crime victim compensation programs are encouraged to consider carefully any compelling health or safety reasons that may influence the extent of victim cooperation with law enforcement. Such considerations might include concerns regarding personal safety and retaliation, as well as threats or intimidation of the victim by the offender or others.

3. The State must certify that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation or to administer the state crime victim compensation program.

The nonsupplantation provision is intended to assure that States use VOCA funds to augment, not replace, otherwise available State funding for crime victim compensation. More specifically, the States may not decrease their financial commitment to crime victim compensation solely because they are receiving VOCA funds for the same purpose.

4. The State, as to compensable crimes occurring within the State, must make compensation awards to victims who are non-residents of the State on the basis of the same criteria used to make awards to victims who are residents of such State.

This provision is intended to ensure that non-residents of a State, who are victimized in a State that has an eligible compensation program, are provided the opportunity to apply for and receive the same compensation benefits that are available to residents of the State. The provision of reciprocal agreements with certain other States or foreign countries will not suffice to meet this criteria. Eligibility for VOCA funds requires the State program to extend its coverage to all non-residents victimized in the State. Note: For the purposes of this provision, the term ''non-resident'' must, at a minimum, include anyone who is a resident in one State but victimized in another. A State may, at its discretion, broaden its definition of non-resident to include anyone victimized in the State regardless of whether the victim is a United States citizen.

5. The State must provide compensation to victims of Federal crimes occurring within the State on the same basis that such program provides compensation to victims of State crimes.

For example, a victim of a rape, occurring on a Federal installation or Indian reservation inside the State, must be afforded the same benefits that would be available to the victim if the rape were classified as a crime against the State. This provision is intended to cover those individuals victimized on military installations, national parks and highways, Native American reservations, and under other circumstances where Federal jurisdiction exists since there is no Federal compensation program which provides benefits to victims covered under Federal jurisdiction.

6. The State must provide compensation to residents of the State who are victims of crimes occurring

outside the State, if the crimes would be compensable crimes had they occurred inside that State and the crimes occurred in a State not having eligible crime victim compensation programs.

This provision is intended to cover those residents of a State who are victimized in a State which does not have a crime victim compensation program.

This requirement protects residents of a State who are victims of criminal violence in another State which does not have an eligible crime victims program for which the victim qualifies. In such instances, the victim would be eligible to apply for crime victim compensation from the State in which he or she resides. If a person from one State is victimized in another, which has an eligible compensation program, the State in which the crime was committed must offer compensation to the victim according to its own eligibility requirements and allowable expenses, without regard to the non-residence status of the victim.

7. Except pursuant to rules issued by the compensation program to prevent unjust enrichment of the offender, the State cannot deny compensation to any victim because of that victim's familial relationship to the offender, or because of the sharing of a residence by the victim and the offender.

Unjust enrichment, as the basis for denying crime victims compensation, must be based upon written rules issued by the State crime victims compensation program. ''Rules'' mean either written policies or directives developed and distributed by State crime victim compensation programs or rules adopted by legislative or administrative bodies. Such rules cannot have the effect of denying compensation to a substantial percentage of domestic violence victims. The rules relating to unjust enrichment should be applicable to all claims for compensation although it is recognized that domestic violence cases have the greatest potential for unjust enrichment.

In general, programs must balance the goals of making compensation benefits available to domestic violence victims and preventing unjust enrichment of offenders. State programs are strongly encouraged to work with domestic violence coalitions and representatives to this end.

In developing rules, the States are encouraged to consider the following:

a. Legal responsibilities of the offender to the victim under the laws of the State and collateral resources available to the victim from the offender. For example, legal responsibilities may include court-ordered restitution or requirements for spouse and/or family support under the domestic or marital property laws of the State. Collateral resources may include insurance or pension benefits available to the offender to cover the costs incurred by the victim as a result of the crime. As with other crime, victims of domestic violence should not be penalized when collateral sources of payment are not viable, e.g., when the offender refuses to, or cannot, pay restitution or other civil judgements within a reasonable period of time or when the offender otherwise impedes direct or third party (i.e., insurance) reimbursements.

b. Payments to victims of domestic violence which benefit offenders in only a minimal or inconsequential manner would not be considered unjust enrichment. To deny payments, in some instances, could serve to further victimize the claimant. For example, denial of medical or dental expenses solely because the offender has legal responsibility for the charges, but is unwilling, or unable to pay them, could result in the victim's inability to receive treatment.

c. Consultation with social services and other concerned governmental entities, as well as with private organizations that support and advocate on behalf of domestic violence victims.

d. The special needs of child victims of criminal violence especially when the perpetrator was the parent who may or may not have lived in the same residence.

8. The State must provide such other information and assurances as the Director of OVC may reasonably require.

9. If the compensation paid by an eligible crime victim compensation program would cover the costs that a Federal program, or a Federally financed State or local program, would otherwise pay such crime victim compensation program shall not pay that compensation; and the other program shall make its payments without regard to the existence of the crime victim compensation program.

B. State Certifications

Guidelines on amounts to be included as well as amounts to be excluded in a State's certification of payments of crime victims compensation from State funding sources are furnished below:

1. Program Revenue. States must report on the certification form all sources of State revenue available to the crime victims compensation program during the Federal Fiscal Year. In some instances, funds are made available to the crime victims compensation program from other departments or agencies, from supplemental appropriations, donations, or carried over from prior years appropriations. All State funds which are available during the Federal Fiscal Year should be reported. The amount of certified revenue, excluding VOCA funds, must meet or exceed the amount of certified payments to crime victims.

2. Amounts to be Included. The total amount to be certified by the State program must include only those amounts paid from State funding sources to or on behalf of crime victims during the Federal Fiscal Year (October 1 to September 30).

3. Compensable Expenses. The range of expenses for which States may award crime victims compensation varies nationwide, although all States must award compensation for medical expenses, including mental health counseling and care; loss of wages; and funeral expenses. Note: The term ''medical expenses'' includes, to the extent provided under the State crime victim compensation program statute, expenses for eyeglasses and other corrective lenses; dental services, devices, and prosthetic devices; and for services rendered in accordance with a method of healing recognized by the law of the State. ''Mental health counseling and care'' means the assessment, diagnosis, and treatment of an individual's mental and emotional functioning that is required to alleviate psychological trauma resulting from a compensable crime. Such intervention must be provided by a person who meets such standards as may be set by the State for victim mental health counseling and care.

Compensable expenses to be included in the annual certification must be authorized by State statute or rule, providing there is rule making authority in State law. States may include expenses, not specifically identified in VOCA, such as pain and suffering; crime scene clean up; replacement costs for clothing and bedding held as evidence; annuities for child victims for loss of support; medically-necessary building modification; medically-necessary devices; and attorney fees related to a victim's claim for compensation.

States may also include payments related to forensic sexual assault examinations, even if the victim did not report the crime to law enforcement if such payments are made from funds administered by the compensation program and are allowable under the state's statute or administrative rules.

4. Amounts to be excluded. States must exclude, in the certification, VOCA grant funds, compensation for

property losses or property damage, audit costs, personnel costs, and any other program administrative costs.

5. Applicable Credits. Any ''applicable credits'' must be deducted from the State certification. The term ''applicable credits'' refers to those receipts or reduction of expenditures, which offset or reduce expense items that are allocable to a particular crime victim compensation claim. Typical examples of applicable credits in State crime victims compensation programs include funds received through a State's subrogation interest in a claimant's civil law suit recovery, restitution, refunds, or other reimbursements. Refunds include amounts from overpayment, erroneous payments made to claimants, uncashed checks, etc. Additional guidance regarding applicable credits can be found in OMB Circular A–87, ''Cost principles for State and Local Governments.''

States must determine how to account for both the receipt and expenditure of restitution and refunds. Note: A State is not required to reduce its certified payment figure by the amount of restitution recoveries received by the State which are not directly related to the payment of crime victim compensation benefits, nor when such reimbursements were from payments to victims prior to receiving a VOCA award.

6. Recovery Costs. Expenses incurred by State compensation programs, which are directly attributable to the recovery of restitution, refunds, and other reimbursements, may be offset against the amount of income received from such reimbursements. Expenses directly attributable to recovery income shall be limited to the percentage of those salaries incurred by the State for employees whose primary responsibilities (not less than 75 percent of their time) are directly and specifically related to recovering restitution and other reimbursements. Recovery costs can not be claimed for employees whose salary is derived from Federal administrative grant funds.

7. There is no financial requirement that State compensation programs identify the source of individual payments to crime victims as either Federal or State dollars.

C. Incorrect Certifications

If it is determined that a State has made an incorrect certification of payments of crime victims compensation from State funding sources and a VOCA crime victim compensation grant is awarded in error, one of the following two courses of action will be taken:

1. In the event that an over certification comes to the attention of OVC or the Office of the Comptroller, OJP, the necessary steps will be taken to recover funds which were awarded in error. OVC does not have the authority to permit States to keep amounts they were not entitled to as a result of overcertification.

2. If a State under-certifies amounts paid to crime victims, OVC will not supplement payments to the State in a subsequent year to correct the State's error. Once OVC awards funds in a given FFY, there are no excess funds available to remedy errors of this nature.

D. Program Reporting Requirements

States receiving VOCA crime victims compensation grant funds are required to prepare an Annual Performance Report that is provided by OVC. The Report requests specific information about claims for compensation, such as types of crimes committed, including drunk driving and domestic violence, disposition of claims, and payments for compensable expenses. The Performance Report covers the Federal Fiscal Year ending September 30 and is due to OVC by December 30 of the same year.

E. Additional Requirements

1. Civil Rights—Prohibition of Discrimination for Recipients of Federal Funds. No person in any State shall, on the grounds of race, color, religion, national origin, sex, or disability be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any program or activity receiving Federal financial assistance, pursuant to the following statutes and regulations: Section 809(c), Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3789d, and Department of Justice Nondiscrimination Regulations, 28 CFR part 42, Subparts C, D, E, and G; Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; Subtitle A, Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, *et seq.*; and Department of Justice regulations on disability discrimination, 28 CFR part 35 and part 39; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681–1683; and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.*

2. Confidentiality of Research Information. Except as otherwise provided by law, no recipient of monies under VOCA shall use or reveal any research or statistical information gathered under this program by any person, and identifiable to any specific private person, for any purpose other than the purpose for which such information was obtained, in accordance with VOCA. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding. [See Section 14007(d) of VOCA, codified at 42 U.S.C. 10604(d)].

This provision is intended, among other things, to assure the confidentiality of information provided by crime victims to employees of VOCA-funded victim compensation programs. However, there is nothing in VOCA or its legislative history to indicate that Congress intended to override or repeal, in effect, a State's existing law governing the disclosure of information, which is supportive of VOCA's fundamental goal of helping crime victims. For example, this provision would not act to override or repeal, in effect, a State's existing law pertaining to the mandatory reporting of a suspected child abuse. See *Pennhurst State School and Hospital* v. *Halderman, et al.*, 451 U.S. 1 (1981).

Financial Requirements

As a condition of receiving a grant, States agree to insure adherence to the general and specific requirements as set forth in the ''Financial and Administrative Guide for Grants,'' OJP M71OO.1D (effective edition) and applicable OMB Circulars and Common Rules. This includes the maintenance of books and records in accordance with generally accepted government accounting principles. States further agree to identify state fiscal year and Federal cognizant audit agency. This section describes the payment of grant funds, termination of advanced funding; financial status reports, and audit requirements.

A. Audit Responsibilities for States

Pursuant to OMB Circular A–128 (Audits of State or Local Governments), States that receive $100,000 or more in Federal financial assistance in any fiscal year must have a single audit for that year. States receiving at least $25,000, but less than $100,000, in a fiscal year have the option of performing a single audit or an audit of the Federal program, as required by the applicable Federal laws and regulations. State and local governments receiving less than $25,000

in any fiscal year are exempt from audit requirements.

B. Audit Costs

Although under OMB Circular A–128 audit costs are generally allowable charges under Federal grants, audit costs incurred at the grantee (State) level are determined to be an administrative expense.

C. Financial Status Report for States

Financial Status Reports (269A) are required from all State agencies. A Financial Status Report shall be submitted to the Office of the Comptroller for each calendar quarter in which the grant is active. This Report is due even though no obligations or expenditures were incurred. Financial Status Reports shall be submitted to the Office of the Comptroller, by the State, within 45 days after the end of each calendar quarter. Calendar quarters end March 31, June 30, September 30, and December 31. A Final Financial Status Report is due 90 days after the end of the VOCA grant, no later than December 31.

D. Termination of Advance Funding

If the State grantee receiving cash advances by Letter of Credit or by direct Treasury check demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between cash advances and disbursement, OJP may terminate advance funding and require the State to finance its operations with its own working capital. Payments to the State will then be made by the direct Treasury check method, which reimburses the State for actual cash disbursements.

Monitoring

A. Office of the Comptroller/General Accounting Office/Office of the Inspector General

The Office of the Comptroller, the General Accounting Office, and the Office of the Inspector General conducts periodic reviews of the financial policies and procedures and records of VOCA States. Therefore, upon request, States must give authorized representatives the right to access and examine all records, books, papers, case files, or other documents related to the grant.

B. Office for Victims of Crime

Beginning with the FFY 1991 grant period, OVC implemented an on-site monitoring plan in which each State grantee is visited a minimum of once every three years. While on site, OVC personnel will review various documents and files such as (1) financial and program manuals and procedures governing the crime victim compensation grant program; (2) financial records, reports, and audit reports for the State grantee; (3) the State's compensation application, procedures, and guidelines for awarding compensation benefits; (4) a random sampling of victim compensation claim files; and (5) all other applicable State records and files.

Suspension and Termination of Funding

If, after notice and opportunity for a hearing, OVC finds that a State has failed to comply substantially with VOCA, the M7100.1D (effective edition), the Final Program Guidelines, or any implementing regulation or requirement, OVC may suspend or terminate funding to the State and/or take other appropriate action. At such time, States may request a hearing on the justification for the suspension and/or termination of VOCA funds.

Approved by:

Aileen Adams

Director, Office for Victims of Crime, Office of Justice Programs.

[FR Doc. 95–4417 Filed 2–22–95; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL INDIAN GAMING COMMISSION

Fee Rates

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1 (a)(3), that the National Indian Gaming Commission has adopted a preliminary annual fee rate of 0.6% (.006) for calendar year 1995. The rate shall apply to all assessable gross revenues (tier 1 and tier 2) from each class II gaming operation regulated by the Commission.

FOR FURTHER INFORMATION CONTACT: Cindy Altimus, National Indian Gaming Commission, 1850 N Street, NW., Suite 250, Washington, DC 20036; telephone 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating Class II gaming on Indian lands.

The regulations of the Commission (25 CFR Part 500) provide for a system of fee assessment and payment that is self-administered by the Class II gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, and report and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and this rate are effective for calendar year 1995. Therefore, all Class II gaming operations within the jurisdiction of the Commission are required to self-administer the provisions of these regulations and report and pay any fees that are due to the Commission before the end of the first quarter of 1995 (March 31), and quarterly thereafter.

Harold A. Monteau,

Chairman, National Indian Gaming Commission.

[FR Doc. 95–4463 Filed 2–22–95; 8:45 am]

BILLING CODE 7565–0–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued another periodic report to Congress on abnormal occurrences (AOs), ''Report to Congress on Abnormal Occurrences: July-September 1994'' (NUREG–0090, Vol. 17, No. 3).

Under the Energy Reorganization Act of 1974, which created NRC, an AO is defined as ''an unscheduled incident or event that the Commission (NRC) determines is significant from the standpoint of public health or safety.'' NRC has made a determination that an incident or event involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and by-product material is an AO.

This report addresses five AOs at NRC-licensed facilities. One involved a medical brachytherapy misadministration, two involved medical teletherapy misadministrations, one involved a medical sodium iodide misadministration, and one involved a medical sodium iodide event. One AO report submitted by an Agreement State is included. It involved the loss of management and procedural control of a radioactive source.

The report also contains updates of six AOs previously reported by NRC licensees and three AOs previously reported by Agreement State licensees. Two ''Other Events of Interest''

concerning nuclear power reactors are also reported. One involved the fracture of a frozen pipe at Dresden Unit 1 with a consequent release of water, and the other involved the possible deliberate exposure of a contract laborer to radiation at Quad Cities Nuclear Power Station.

Section 208 of the Energy Reorganization Act of 1974, as amended, also requires NRC to provide a wide dissemination of information relating to these reported occurrences. Descriptions of the NRC licensee AOs for the third quarter of calendar year 1994, are provided below and have been reported to Congress in NUREG–0090, Vol. 17, No. 3.

NRC Material and Medical Licensees

(Industrial Radiographers, Medical Institutions, Industrial Users, etc.)

94–15 Sodium Iodide Event at Welborn Memorial Baptist Hospital in Evansville, Indiana

The following information pertaining to this event is also being reported concurrently in the **Federal Register.** Appendix A (see General Criterion 1) of this report notes that a moderate exposure to, or release of, radioactive material licensed by or otherwise regulated by the Commission can be an abnormal occurrence.

Date and Place—March 9, 1994; Welborn Memorial Baptist Hospital, Inc.; Evansville, Indiana.

Nature and Probable Consequences—On May 16, 1994, the licensee reported to NRC that a pregnant patient was administered 185 megabecquerel (MBq) (5 millicurie [mCi]) of sodium iodide-131 (I–131) on March 9, 1994, as prescribed in the written directive for the treatment of Graves' disease (hyperthyroidism). The licensee did not know that the patient was pregnant at the time of the administration. On May 10, 1994, the licensee was informed by a private practice physician that the patient was 22-weeks pregnant at the time of treatment. As a result, the patient's fetus received an unintended radiation dose.

The patient was referred to the licensee with possible hyperthyroidism. To confirm the suspect condition, the licensee administered a 440.3 kilobecquerel (11.9 microcurie) I–131 capsule of the patient on March 7, 1994, and measured an 82-percent thyroid uptake over the ensuing 25 hours. The licensee stated that prior to administering the I–131 diagnostic capsule on March 7, 1994, the patient was questioned and informed both the treating physician and the nuclear medicine technologist administering the capsule that she was not pregnant. The licensee diagnosed the patient's condition as Graves' disease and the treating physician perscribed a 185 MBq (5 mCi) I–131 therapy treatment. On March 9, 1994, a 185 MBq (5 mCi) I–131 capsule was orally administered by one of the licensee's nuclear medicine technologists, as prescribed. Prior to the treatment on March 9, 1994, the technologist questioned the patient once more and was again informed by the patient that she was not pregnant.

Oak Ridge Institute for Science and Education calculated the fetal whole body and thyroid doses at NRC request. The fetal dose to the thyroid was calculated as 7,000–12,000 centigray (cGy) (7,000–12,000 rad), and the fetal whole body dose was calculated as 0.55 cGy (0.55 rad). Based on the calculated fetal dose there are a range of possible consequences, the most likely being no significant harm to the fetus. At NRC request, the Radiation Emergency Assistance Center/Training Site in Oak Ridge, Tennessee, contacted the licensee to discuss the dose assessment and potential fetal effects.

On May 10, 1994, a physician specializing in maternal fetal medicine, not affiliated with the licensee, discussed the incident with the licensee. The patient was informed of the exposure and possible consequences to the fetus by the material fetal specialist.

NRC Region III learned the patient was aware that she was being administered radioactive materials, and subsequent to the administration she realized she was pregnant. It should be noted that since this was not a misadministration, there was no requirement to notify the patient.

Cause or Causes—The principal cause for the event was licensee reliance on the patient's assurance of non-pregnancy. Licensee procedures do not require determination of pregnancy status through serum testing, or other appropriately documented means, for all female patients of child bearing age. The patient was apparently unaware of her pregnancy status at the time of I–131 administration on March 9, 1994.

Action Taken To Prevent Recurrence

Licensee—The licensee is in the process of developing internal policies which will address options for pregnancy status determination including serum pregnancy testing or suitable written proof, such as evidence of a hysterectomy. The legal implications and options for written proof of non-pregnancy are being evaluated by the licensee. Until policies have been finalized, the licensee plans to administer pregnancy tests to all female patients of child bearing age, unless appropriate proof of non-pregnancy is available as determined by the authorized user. For patients unwilling to undergo pregnancy testing, radiopharmaceuticals will not be administered and the authorized user will be consulted for the appropriate course of action.

NRC—NRC Region III conducted a safety inspection from May 18 through June 8, 1994, to review the circumstances surrounding the event and to evaluate aspects of the licensee's radiopharmaceutical Quality Management Program (Reg. 1). No regulatory violations associated with the event were identified. The licensee's procedure appears to have been followed in this specific case. NRC regulations do not include requirements for patient pregnancy verification prior to administration of radiopharmaceuticals. However, NRC is in the process of developing regulations which will address the administration of radiopharmaceuticals to breast feeding and pregnant patients.

94–16 Teletherapy Misadministration at Medical Center Hospital in Chillicothe, Ohio

The following information pertaining to this event is also being reported concurrently in the **Federal Register.** Appendix A of this report notes that a therapeutic dose that results in any part of the body receiving unscheduled radiation can be considered an abnormal occurrence.

Date and Place—July 21 and 22, 1994; Medical Center Hospital; Chillicothe, Ohio.

Nature and Probable Consequences—On July 27, 1994, the licensee reported that a patient received a radiation dose of approximately 300 centigray (cGy) (300 rad) to an unintended treatment site using a cobalt-60 teletherapy unit.

A patient was scheduled to receive 1400 cGy (1400 rad) in a series of seven treatments for cancer of the esophagus. Each of the treatments was to consist of two radiation exposures of 100 cGy (100 rad) each delivered from different angles. The first treatment was performed on July 21. Following the first of the to exposures during the second treatment on July 22, the technologist found inconsistencies in the angles of treatment documented in the written directive and in the patient simulation sheet. Upon further review, the licensee determined that the wrong treatment angles had been used during the first treatment and part of the second treatment.

As a result of the incorrect angles of exposure, the treatment site received only part of the prescribed dose and adjacent tissue received a higher does than intended. The licensee estimates a dose of 300 cGy (300 rad) to the unintended site. Under normal conditions, the unintended site would have received approximately 20–50 cGy (20–50 rad).

The treatment angles were corrected on the patient's chart, and the radiation dose was modified to compensate for the reduced dosage delivered in the initial treatments. The patient was informed and no adverse medical effects are expected.

The patient was notified verbally on July 26, 1994 and in writing as required by 10 CFR 35.33. According to the medical consultant, there will be no medical consequences as a result of the misadministration.

Cause or Causes—The error occurred because the simulated gantry angles had not been converted to the treatment unit gantry angles, and gantry angle conversion factors were not included in the licensee's treatment chart checks conducted by the technologists.

The root causes of the problem were discussed with the licensee on September 1, 1994, during an Enforcement Conference. The causes appeared to be the following: (1) Written procedures were not developed to address gantry angle conversions; (2) the technologists did not have an adequate understanding of the informal gantry angle conversion procedures; (3) the informal gantry angle conversion procedure was not part of the licensee's annual refresher training program; (4) technologists did not fully understand their responsibilities to resolve discrepancies in a treatment plan; and (5) gantry angle conversion factors were not included in the licensee's treatment chart checks conducted by the technologists.

Action Take To Prevent Recurrence

Licensee—The licensee's corrective actions included: (1) Revising the simulation data form to include a specific location to document the converted gantry angles; (2) initialing all angle conversions by the person performing the conversion, and having a second individual independently verify the conversions prior to treatment; (3) instructing the technologists to review all treatment information and to resolve any discrepancy prior to continuing treatment; (4) performing all future gantry angle conversions by the licensee rather than by the licensee's simulation contractor; and (5) conducting a review of past treatment plans back to 1988, with emphasis on those which did not identify any additional errors.

NRC—NRC Region III conducted an inspection on August 1, 1994, to review the circumstances surrounding the misadministration (Ref. 2). NRC also retained a medical consultant to review the case. An Enforcement Conference was held on September 1, 1994, to discuss the inspection findings and actions taken by the licensee. On September 20, 1994, NRC Region III issued a Notice of Violation with a Severity Level III (Severity Levels I through V range from the most significant to the least significant) violation with no civil penalty assessed. The licensee's corrective and preventive actions will be reviewed during the next NRC inspection of the licensed program.

94–17 Sodium Iodide Misadministration at St. Joseph Mercy Hospital in Pontiac, Michigan

The following information pertaining to this event is also being reported concurrently in the **Federal Register**. Appendix A of this report notes that administering a diagnostic dose of a radiopharmaceutical differing from the prescribed dose by more than 50 percent in which the event results in adverse health effects worse than expected for the normal range of exposures prescribed for the diagnostic procedure can be considered an abnormal occurrence.

Date and Place—July 26, 1994; St. Joseph Mercy Hospital; Pontiac, Michigan.

Nature and Probable Consequences—On July 27, 1994, the licensee reported to NRC that a misadministration occurred involving a patient receiving the wrong radiopharmaceutical for a diagnostic procedure.

The patient's referring physician requested a thyroid scan which involves administration of a standard prescription at St. Joseph Mercy Hospital of a 9.25 megabecquerel (MBq) (0.25 millicurie [mCi]) sodium iodide–123 (I–123) capsule. However, the licensee administered a 92.5 MBq (2.5 mCi) I–131 capsule. The amount of activity that was administered is normally used following removal of the thyroid to examine a patient for the spread of cancer from the thyroid through the body.

NRC retained a medical consultant to review the case. The medical consultant concluded that the resultant unnecessary dose to the patient's thyroid would result in a low, but finite, probability of hypothyroidism developing in the future. Also, there is a lifetime probability of developing radiation-induced thyroid cancer of 10 percent, including a risk of fatal thyroid carcinoma of approximately 1 percent. The licensee has arranged for the patient to be seen by a endocrinologist, and for repeat thyroid imaging with I–123 to be performed several months after the misadministration.

The patient was notified in person by the Radiation Safety Officer on July 27, 1994. Subsequently, the patient was also given a written report that was dated August 5, 1994.

Cause or Causes—Part of the cause of the misadministration was the lack of the treating physician's involvement in the patient's examination prior to the I–131 administration. The administrative staff and technologists failed to have the examination clarified by a treating physician with the referring physician prior to administration of the I–131. Causal factors for this event also included the failure of licensee management to ensure implementation of the licensee's written Quality Management Program. Contributing factors also appear to include deficiencies in training, and a failure to follow through on matters.

Action Taken To Prevent Recurrence

Licensee—The licensee took the following corrective actions: (1) Held a training session which included the Radiation Safety Officer, treating physicians and technologists; (2) instituted a limit on the number of individuals who will be involved in the use of I–131; and (3) required a written directive to be filled out and signed by a treating physician.

NRC—NRC Region III conducted an inspection on August 1, 1994, to review the misadministration (Ref. 3). A Conformatory Action Letter (CAL) was issued to the licensee on August 2, 1994, which described the commitments made by the licensee as to which actions will be taken prior to the administration of I–131. An Enforcement Conference was held on August 24, 1994, to discuss the inspection findings and actions taken by the licensee in response to the CAL.

In October 1994, NRC proposed an $8,000 fine against the licensee for violations of NRC requirements involved in a diagnostic procedure using radioactive iodine at the hospital. The violations involve: (1) Failure to have signed written directives by an authorized user prior to administration of I–131 in quantities greater than 1.11 MBq (0.03 mCi) on July 26, and in two previous instances where the I–131 was the intended radiopharmaceutical; (2) failure to have a clinical procedure for the proper administration of I–131 for

whole body scans; and (3) failure to provide proper instruction to the nuclear medicine staff. The licensee paid the civil penalty.

94–18 Multiple Teletherapy Misadministrations at Sinai Hospital in Detroit, Michigan

The following information pertaining to this event is also being reported concurrently in the **Federal Register**. Appendix A of this report notes that a therapeutic dose that results in any part of the body receiving unscheduled radiation can be considered an abnormal occurrence.

Date and Place—July 28 and August 3, 1994; Sinai Hospital; Detroit, Michigan.

Nature and Probable Consequences—On July 28, 1994, and August 3, 1994, misadministrations occurred on two separate patients when the licensee's therapists failed to verify correct teletherapy machine parameters prior to treatment.

Beginning on July 19, 1994, a patient was to received 4500 centigray (cGy) (4500 rad) in a series of 25 treatments to the left neck area. The first seven treatments were completed without incident. However, on the eighth treatment on July 28, one faction was set up using the wrong treatment angle. This resulted in a radiation dose of 90 cGy (90 rad) being received by the right shoulder and neck area instead of the left neck area.

Beginning July 5, 1994, another patient was to receive 5000 cGy (5000 rad) in a series of 25 treatments to the right shoulder area. The first 20 treatments were completed without incident. However, on the 21st treatment on August 3, the teletherapy unit was positioned using the wrong treatment angle. This resulted in a radiation dose of 100 cGy (100 rad) being received by the right lung area instead of the right shoulder area.

An NRC medical consultant reviewed both cases and concluded that no significant adverse side effects or tissue injury are expected.

Cause or Causes—The cause of both misadministrations was human errors by several of the licensee's therapists. The therapists failed to verify the collimator angle, the wedge setting, and the treatment site before administering the teletherapy dose to the patients.

Action Taken To Prevent Recurrence

Licensee—The corrective actions taken included: (1) Suspending all teletherapy treatments pending an internal investigation, and identification of appropriate corrective actions prior to re-start of the teletherapy treatments; (2) developing procedures which require independent verification of proper treatment parameters during patient set-up; and (3) installing a record-and-verify system on the teletherapy unit to ensure that all major treatment parameters are checked prior to a treatment.

NRC—NRC Region III conducted an inspection July 29 through August 12, 1994, to review the circumstances surrounding the two misadministrations (Ref. 4). NRC also retained a medical consultant to review the case. An Enforcement Conference was held on September 8, 1994, to discuss the inspection findings and actions taken by the licensee. On September 21, 1994, NRC Region III issued a Notice of Violation with a Severity Level III (Severity Levels I through V range from the most significant to the least significant) violation with no civil penalty assessed. The licensee's corrective and preventive actions will be reviewed during the next NRC inspection of the licensed program.

As required by 10 CFR 35.33(a), the licensee, for each misadministration, notified the referring physician and patient after the discovery of the incident and submitted a written report to the patient, including a statement that the report submitted to NRC Region III will be made available upon request.

94–19 Brachytherapy Misadministration Involving the Use of a Strontium-90 Eye Applicator at the University of Massachusetts Medical Center in Worcester, Massachusetts

The following information pertaining to this event is also being reported concurrently in the **Federal Register.** Appendix A (see Event Type 5 in Table A–1) of this report notes that a therapeutic dose that results in an actual dose less than 0.5 times the prescribed dose can be considered an abnormal occurrence. In addition, Criterion No. 11 under ''For All Licensees'' in Appendix A notes that a serious deficiency in management or procedural controls in major areas can be considered an abnormal occurrence.

Date and Place—July 29, 1994; University of Massachusetts Medical Center; Worcester, Massachusetts.

Nature and Probable Consequences—NRC Region I was notified on August 1, 1994, by the licensee of a brachytherapy misadministration involving the use of a strontium-90 (Sr-90) eye applicator. On July 29, 1994, a physician performed an ophthalmic treatment on a patient using a Sr-90 eye applicator without first removing the stainless steel mask from the source. Because of this oversight, the licensee estimated that the treatment site received 107 centigray (cGy) (107 rad) of radiation, rather than the 1250 to 2000 cGy (1250 to 2000 rad) that was intended. In addition, whereas the beta radiation from the eye applicator source only affects the surface of the eye, the bremsstrahlung radiation resulting from the interaction of the beta particles on the stainless steel mask is more penetrating. The patient returned on August 2, 1994, for the completion of the therapy to bring the total dose delivered within the originally prescribed range. The licensee expects that the clinical outcome of the misadministration will be inconsequential for the patient.

Cause or Causes—According to the licensee a combination of factors led to the misadministration: (1) Infrequent use of the ophthalmic applicator and the fact that its appearance with the mask is similar to its appearance with the mask removed; (2) the event occurred on a Friday afternoon and the stress of the week's work affected the alertness of the individuals involved; and (3) the most experienced physicists were not available, and a relatively inexperienced physicist prepared the source and was unaware that the source was equipped with a stainless steel mask.

Actions Taken to Prevent Recurrence

Licensee—The licensee is reviewing the feasibility of modifying the mask in some manner to make it more easily distinguished from the unmasked source. In addition, the licensee has employed two new radiation oncology physicians and a new chief physicist.

NRC—NRC conducted a special inspection on August 3, 1994. The inspector determined that the physician was assisted by a dosimetrist who had not previously been directly involved with the procedure. When the physician requested that the dosimetrist provide him with the eye applicator source in order to perform the treatment, the dosimetrist handed him the source with the stainless steel mask in place. The dosimetrist stated that she was unaware that the source was equipped with a mask and that the mask needed to be removed. The physician and other licensee staff stated that it is the assistant's responsibility, in this case the dosimetrist's responsibility, to remove the stainless steel mask from the source before handing the eye applicator to the physician. The treatment was administered by the physician with the mask in place. While cleaning the eye applicator later that same day, the licensee determined that the treatment had been performed with the mask in place. The licensee stated that the patient and the patient's physician were notified that there had been an

underdose and the patient returned on August 2, 1994, for the completion of the therapy. The patient was given a written report of the misadministration on August 9, 1994. The licensee submitted a report for the misadministration on August 10, 1994. NRC Region I has enlisted the services of a medical consultant to evaluate the clinical consequences of this misadministration and awaits his report.

A copy of NUREG–0090, Vol. 17, No. 3 is available for inspection or copying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, D.C. 20037, or at any of the nuclear power plant Local Public Document Rooms throughout the country.

Copies of this report (or any of the previous reports in this series), may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082. A year's subscription to the NUREG–0090 series publication, which consists of four issues, is also available.

Copies of the report may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Rockville, MD this 16th day of February, 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 95–4382 Filed 2–22–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–352 and 50–353]

In the Matter of: Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2); Exemption

I.

Philadelphia Electric Company (the licensee), is the holder of Facility Operating License Nos. NPF–39 and NPF–85, which authorize operation of the Limerick Generating Station (LGS), Units 1 and 2. The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now and hereafter in effect. The facilities consist of two boiling water reactors located in Montgomery County, Pennsylvania.

II

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J contains the leakage test requirements, schedules, and acceptance criteria for tests of the leak tight integrity of the primary reactor containment and systems and components which penetrate the containment. Sections II.H.4 and III.C.2 of Appendix J to 10 CFR Part 50 require leak rate testing of Main Steam Isolation Valves (MSIVs) at the calculated peak containment pressure related to the design basis accident, and Section III.C.3 requires that the measured leak rates be included in the combined local leak rate test results. The proposed deletion of the MSIV Leakage Control System (LCS), and proposed use of an alternate leakage pathway affects the description of an existing exemption which allows the leak rate testing of the MSIVs at a reduced pressure and the exclusion of the measured leakage from the combined local leak rate test results. The original exemption is contained in the LGS Safety Evaluation Report (SER) (NUREG–0991, and its Supplement 3).

By letter dated December 22, 1994, the licensee requested an exemption from the Commission's regulations. The subject exemption is from the requirements of 10 CFR Part 50, Appendix J, ''Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors,'' Sections II.H.4, III.C.2, and III.C.3, to allow alternative testing pressure and leakage limits for the MSIVs and to exclude MSIV leakage from the combined local leak rate test results after deletion of the LCS.

The staff issued for LGS, Units 1 and 2, the current exemption from 10 CFR Part 50, Appendix J, Sections II.H.4, III.C.2, and III.C.3, based on the conclusion that the LGS, Units 1 and 2, MSIV leak testing methods were acceptable alternatives to the requirements. This conclusion was included in the LGS SER (NUREG–0991, and its Supplement 3). The SER also described that in the event of a loss-of-coolant-accident (LOCA), the MSIV LCS will maintain a negative pressure between the MSIV and the effluent will be discharged into a volume where it will be processed by the standby gas treatment system before being released to the environment. The licensee had performed a radiological analysis based on an assumed leak rate limit of 11.5 standard cubic feet per hour (scfh), and the MSIVs were planned to be periodically tested to ensure the validity of the radiological analysis. The staff concluded that the current LGS testing procedure, where two valves on one steam line are tested simultaneously, between the valves, utilizing a reduced test pressure (i.e., half a peak containment pressure of 22 psig applied between the MSIVs) was acceptable. Also, the staff excluded the MSIV test leakage rate from the combined local leak rate because the MSIV leakage had been accounted for separately in the radiological analysis of the site.

By letter dated January 14, 1994, the licensee submitted a Technical Specifications (TS) amendment request for LGS, Units 1 and 2, which supports the planned modification to eliminate the MSIV LCS and utilize an alternate leakage pathway (main steam lines and condenser). This proposal is based on the Boiling Water Reactor Owners Group (BWROG) method summarized in General Electric Report NEDC–31858P, Revision 2, ''BWROG Report for increasing MSIV Leakage Rate Limits and Elimination of Leakage Control System.'' Therefore, the description of the MSIV LCS and the assumed MSIV leak rate are no longer accurate once the proposed TS modification is performed and implemented.

The licensee's January 14, 1994, TS (amendment) request states that a plant-specific radiological analysis has been performed in accordance with NEDC–31858P, Revision 2, to assess the effects of the proposed increase to the allowable MSIV leakage rate in terms of Main Control Room (MCR) and off-site doses following a postulated design basis LOCA. This analysis utilizes the hold-up volume of the main steam piping and condenser as an alternate method for treating MSIV leakage. The radiological analysis uses standard conservative assumptions for the radiological source term consistent with Regulatory Guide (RG) 1.3, ''Assumptions Used for Evaluating the Potential Radiological Consequences of a Loss-of-Coolant-Accident for Boiling Water Reactors,'' Revision 2, dated June 1974. The analysis results demonstrate that dose contributions from the proposed MSIV leakage rate limit of 100 scfh per MSIV, not to exceed 200 scfh for all four main steam lines, and considering the proposed deletion of the MSIV LCS, result in an acceptable increase to the LOCA doses previously evaluated against the regulatory limits for the off-site doses and MCR doses contained in 10 CFR Part 100, and 10 CFR Part 40, Appendix A, General Design Criteria (GDC) 19, respectively. The proposed calculated off-site and MCR doses resulting from a LOCA are the sum of the LOCA doses previously evaluated (currently described in the Updated Final Safety Analysis Report), and the additional doses calculated using the alternate MSIV leakage treatment method. The method of calculating the revised doses is conservative, since the LOCA doses

previously evaluated already include dose contributions from MSIV leakage at the maximum leakage rate currently permitted by the TS. Appendix 2 of Attachment 3 of the January 14, 1994, submittal shows the previously calculated doses and the new calculated doses resulting from the proposed changes.

The staff concluded that the current exemption was acceptable based on: The method of MSIV testing (i.e., 22 psig test pressure when applied between MSIVs on a single steam line); a radiological analysis that assumed a 11.5 scfh MSIV leak rate, and the licensee's commitment that the MSIVs would be periodically tested to ensure the validity of the radiological analysis (i.e., verify that the MSIV leakage rate during testing is accounted for separately in the radiological analysis of the site. The proposed changes do not affect the bases for the current exemption. The modification and implementing TS change request: Will not alter the procedure method of MSIV testing (i.e., test pressure will remain at 22 psig when applied between MSIVs) and are based on the results of a radiological analysis where the proposed leakage rate and the resulting doses are still within regulatory limits. Also, the MSIVs will be periodically tested to assure the validity of the analysis (i.e., verify that the proposed MSIV leakage rate assumed in the radiological analysis is not exceeded per proposed TS 3.6.1.2.c), and the MSIV leakage will still be accounted for separately in the radiological analysis of the site.

For the reasons set forth above, the NRC staff concludes that there is reasonable assurance that: The current MSIV leak testing method (i.e., test pressure of 22 psig when applied between MSIV) is an acceptable method; the proposed alternate MSIV leakage pathway (main steam lines and condenser), and the calculated doses obtained by performing radiological analysis (calculated using an MSIV leakage rate limit of 100 scfh per MSIV not to exceed 200 scfh for all four main steam lines) are within the limits of 10 CFR Part 100 and GDC 19. The staff finds it acceptable to continue to exclude the measured MSIV leakage rate from the combined local rate, since the leakage is accounted for separately and continues to meet the underlying purpose of the rule. Therefore, the staff finds the requested exemption presented in the licensee's December 22, 1994, submittal acceptable.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *,''

The underlying purpose of the rule is to assure that the total valve leakage is within the limits of 10 CFR Part 100 and GDC–19. The licensee's analysis has demonstrated that an adequate margin can be maintained even if leakage from the MSIV is considered separately and subject to a leakage restriction of 100 scfh per MSIV, not to exceed a total of 200 scfh for all four main steam lines.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR Part 50.12, an exemption is authorized by law and will not present an undue risk to the public health and safety, and that there are special circumstances present, as specified in 10 CFR 50.12(a)(2). An exemption is hereby granted from the requirements of Sections II.H.4, III.C.2(a), and III.C.3 of Appendix J to 10 CFR Part 50. The exemption allows (1) leakage testing of the MSIVs after deletion of the LCS, using a test pressure of 22 psig applied between MSIVs and a leakage rate limit of 100 scfh per MSIV, not to exceed 200 scfh for all main steam lines, and (2) exclusion of the measured MSIV leakage rate from the combined local leak rate.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (60 FR 7226).

The exemption is effective upon issuance and will be implemented prior to startup of Cycle 4 for LGS, Unit 2, and prior to startup of Cycle 7 for LGS, Unit 1.

Dated at Rockville, Maryland this 16th day of February 1995.

[FR Doc. 95–4383 Filed 2–22–95; 8:45 am]

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[Docket No. 50–353]

Philadelphia Electric Company; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 53 to Facility Operating License No. NPF–85 issued to Philadelphia Electric Company, which revised the Technical Specifications for operation of the Limerick Generating Station, Unit 2, located in Montgomery County, Pennsylvania.

The amendment is effective as of the date of issuance. The amendment modified the Technical Specifications to permit an increase in the allowable leak rate for main steam isolation valves (MSIV), and delete the MSIV leakage control system (LCS). The main steam drain lines and the main condenser would be utilized as an alternate MSIV leakage treatment system.

The application for the amendments 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 set forth in the license amendment.

Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on September 26, 1994 (59 FR 49089). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (60 FR 7226).

For further details with respect to the action see (1) the application for amendments dated January 14, 1994, and supplemented by letters dated August 1, October 25, December 13, December 22, 1994 (two submittals), and February 7, 1995 (2) Amendment No. 53 to License No. NPF–85, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at

the Pottstown Public library, 500 High Street, Pottstown, PA.

Dated at Rockville, Maryland, this 16th day of February 1995.

For the Nuclear Regulatory Commission.

Frank Rinaldi,

Project Manager, Project Directorate I–2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–4384 Filed 2–22–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–29343; License No. 29–19310–02 (Expired); EA 94–226]

Environmental Testing Laboratories, Inc., Philadelphia, Pennsylvania; Order Imposing a Civil Monetary Penalty

I

Environmental Testing Laboratories (ETL), Inc. (Licensee), is the holder of expired Byproduct Materials License No. 29–19310–02 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on July 31, 1986. The License authorized the possession and use of nickel–63 in plated sources or foils, not to exceed 15 millicuries per foil, in accordance with the conditions specified therein. The License expired on August 31, 1991.

II

ETL did not submit an application for renewal of the License under 10 CFR 30.37 prior to its expiration on August 31, 1991, nor did ETL notify the Commission, in writing under 10 CFR 30.36, of a decision not to renew the License 30 days prior to its expiration. Although Mr. Walter Holm, Jr., the Radiation Safety Officer, stated ETL's intentions in a letter dated May 15, 1991, to terminate the license, until January 24, 1995, ETL had not transferred the licensed material to an authorized recipient, nor had ETL applied for an NRC license.

On January 14, 1993, NRC Region I issued a Notice of Violation (NOV) at Severity Level IV to ETL, mailed to Mr. Walter Holm, for possession of byproduct material without a valid NRC license. The letter forwarding the NOV directed the Licensee to lace the byproduct material in secure storage, not to use the material, and promptly transfer the byproduct material to an authorized recipient. The Licensee did not respond to that NOV. In a June 7, 1994 letter, the NRC again reminded ETL of the need to respond to the NRC Notice of Violation. ETL did not respond. In addition, ETL did not respond to a telephone message left on October 26, 1994. On November 10, 1994, a written Notice of Violation and Proposed Imposition of Civil Penalty (Notice); Notification of Consideration of the Imposition of Daily Civil Penalties; and Order to Cease and Desist Use and Possession of Regulated Byproduct Material were served upon ETL. The Notice categorized the violation at Severity Level III since ETL had not transferred the material nor responded to the NOV issued on January 14, 1993. ETL has not responded in writing to the Notice, even though a response was required by December 10, 1994, and even though the NRC contacted ETL on January 3, 6 and 18, 1995, regarding submittal of a response. ETL has not responded to the Order to Cease and Desist as required. However, NRD, a sub-contractor of Perkin-Elmer (an authorized recipient) received the sealed source from ETL on January 24, 1995.

III

The NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated in the Notice, and that a penalty of $3,000 should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

ETL pay a penalty in the amount of $3,000 within 30 days of the date on this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville, MD 20852–2738.

V

ETL may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If ETL fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event ETL requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether ETL was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and

(b) Whether on the basis of such violations, this Order should be sustained.

Dated at Rockville, Maryland this 15th day of February 1995.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Appendix—Violations and Conclusion

On November 10, 1994, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued based on a review of communications (and associated documents) conducted between the NRC and Environmental Testing Laboratories, Inc. (ETL) between November 1991 and October 26, 1994. ETL has not responded to the Notice, even though a response was required by December 10, 1994, and even though NRC contacted ETL on January 3, 6 and 18, 1995, to remind them of need to respond. The violations set forth in the Notice, as well as the NRC conclusion on this matter, are as follows:

1. Restatement of Violations

A. 10 CFR 30.3 states, in part, that except for persons exempt as provided in 10 CFR Parts 30 and 150, no person shall possess or use byproduct material except as authorized in a specific or general license issued pursuant to the regulations in this chapter.

Contrary to the above, from January 14, 1993 through October 31, 1994, ETL has been in possession of byproduct material not authorized under a specific or general license, and ETL is not exempt as provided in 10 CFR Parts 30 and 150. (01013)

B. 10 CFR 30.36(b) requires, in part, that each licensee notify the Commission promptly, in writing, and request termination of the license when the licensee decides to terminate all activities involving materials authorized under the license.

10 CFR 30.36(c)(1) requires, in part, that if a licensee does not submit an application for license renewal under 10 CFR 30.37, the licensee shall, on or before the expiration date specified in the license, terminate use of byproduct material; properly dispose of byproduct material; submit a completed form NRC–314, which certifies information concerning the disposition of material; and conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey.

Contrary to the above, as of August 31, 1991, the NRC license issued to ETL expired and the licensee did not submit an application for license renewal nor did it

notify the Commission and request termination of its license, dispose of its byproduct material, submit a completed form NRC–314, and submit a report of the results of a survey of the premises where the licensed activities were carried out. (01023)

2. NRC Evaluation and Conclusion

ETL has failed to respond to the Notice. The November 14, 1993 letter accompanying the Notice provided a full explanation as to why a civil penalty was warranted in this matter. Absent a response from ETL, the NRC has no basis to retract the violations or withdraw the civil penalty. Since a response to the Notice was due by December 10, 1994, and ETL has not responded, despite several reminders, the NRC concludes that a civil penalty in the amount of $3,000 should be imposed.

[FR Doc. 95–4385 Filed 2–22–95; 8:45 am]
BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on March 9–11, 1995, in Conference Room T2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the Federal Register Notice on Wednesday, December 28, 1994 (59 FR 66977).

Thursday, March 9, 1995

8:30 A.M.–8:45 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 A.M.–10:30 A.M.: Proposed Final Amendment to 10 CFR Part 54, Nuclear Power Plant License Renewal (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed final amendment to 10 CFR Part 54.

Representatives of the industry will participate, as appropriate.

10:45 A.M.–12:00 Noon: Rulemaking to Obtain Equipment Reliability Data from Licensees (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed rule to obtain equipment reliability data from licensees.

Representatives of the industry will participate, as appropriate.

1:00 P.M.–2:30 P.M.: Decommissioning of Nuclear Power Reactors (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Nuclear Energy Institute regarding the proposed rule on decommissioning of nuclear power reactors.

2:30 P.M.–4:00 P.M.: Wolf Creek Event—Loss of Reactor Coolant Inventory During Shutdown (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the safety significance of the event at the Wolf Creek Nuclear Power Plant which involved loss of reactor coolant inventory during shutdown.

Representatives of the industry will participate, as appropriate.

4:15 P.M.–5:15 P.M.: Methods for Estimating (Seismic) Core-Damage Frequency from a Seismic Margin Analysis (Open)—The Committee will hear presentations by and hold discussions with the ACRS Fellow regarding the status of Committee activities in developing a methodology for estimating the core-damage frequency from seismic events, given that a plant has performed a seismic margin analysis. (This is part of the Committee's efforts to provide guidance and insights to the Commission for determining where the current population of operating plants, both individually and collectively, fall in relation to the safety goals.)

5:15 P.M.–6:30 P.M.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on certain matters considered during this meeting.

Friday, March 10, 1995

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 A.M.–9:30 A.M.: Kobe Earthquake (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the impact of the recent Kobe earthquake on nuclear power plants and other structures located in the vicinity of the earthquake.

9:30 A.M.–10:15 A.M.: Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business and internal organizational and personnel matters relating to the ACRS staff members.

A portion of this session may be closed to discuss matters that relate solely to internal personnel rules and practices of this Advisory Committee, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

10:30 A.M.–11:00 A.M.: Future ACRS Activities (Open)—The Committee will discuss topics proposed for consideration during future ACRS meetings.

11:00 A.M.–11:15 A.M.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses from the NRC Executive Director for Operations to ACRS comments and recommendations included in recent ACRS reports.

11:15 A.M.–12:00 Noon: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on certain matters considered during this meeting.

1:00 P.M.–3:15 P.M.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on certain matters considered during this meeting.

3:30 P.M.–3:45 P.M.: Subcommittee Activities (Open)—The Committee will hear a report by the Chairman of the ACRS Thermal Hydraulic Phenomena Subcommittee regarding the February 15–16, 1995 meeting.

3:45 P.M.–5:00 P.M.: New Research Needs (Open)—The Committee will discuss new research needs.

5:00 P.M.–6:30 P.M.: Strategic Planning (Open)—The Committee will discuss items that are of significant importance to the Committee and the Commission.

Saturday, March 11, 1995

8:30 A.M.–10:30 A.M.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of ACRS reports on certain matters considered during this meeting.

10:45 A.M.–11:45 A.M.: Strategic Planning (Open)—The Committee will continue to discuss items that are of significant importance to the Committee and the Commission.

11:45 A.M.–12:00 Noon: Miscellaneous (Open)—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and complete discussions of topics that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 5, 1994 (59 FR 50780). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only

during the open portions of the meeting, and questions may be asked only by members of the Committee, it consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director, Dr. John T. Larkins, at least five days before the meeting if possible, so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) P.L. 92–463 that it is necessary to close portions of this meeting noted above to discuss information that involves the internal personnel rules and practices of this Advisory Committee per 5 U.S.C. 552b(c)(2), and to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements an the time allotted therefore can be obtained by contacting the ACRS Executive Director, Dr. John T. Larkins (telephone 301–415–7361), between 7:30 A.M. and 4:15 P.M. EST.

Dated: February 17, 1995.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 95–4460 Filed 2–22–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for an Expedited Review of a Revised Information Collection Form RI 25–14

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for expedited review of a revised information collection. Form RI 25–14, Self-Certification of Full-Time School Attendance, is used to survey survivor annuitants who are between the ages of 18 and 22 to determine if they meet the requirements of Section 8341(a)(4)(c), and Section 8441, title 5, U.S. Code, to receive benefits as a student.

Approximately 14,000 Self-Certification of Full-Time School Attendance forms are completed annually; each requires approximately 12 minutes to complete, for a total public burden of 2,800 hours.

A copy of this proposal is appended to this notice.

DATES: Comments on this proposal should be received on or before February 28, 1995. OMB has been requested to take action no later than March 3, 1995.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Chief, Retirement and Insurance Group, Operations Support Division, U.S. Office of Personnel Management, 1900 E Street, NW. Room 3349, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT:

Mary Beth Smith-Toomey, Management Services Division, (202) 606–4025, Office of Personnel Management,

Lorraine A. Green,

Deputy Director.

BILLING CODE 6325–01–M

Form Approved:
OMB No. 3206-0032

United States
Office of Personnel Management
Retirement Programs
P.O. Box 956
Washington, D.C. 20044-0956

Information and Instructions for Completing the Self-Certification of Full-Time School Attendance

The retirement law provides for payment of a monthly annuity to unmarried sons and daughters who are: 1) age 18 to 22 and are full-time students in accredited schools **or** 2) age 18 or older and incapable of self-support because of a mental or physical disability that began before age 18 and is expected to continue for at least one year.

Use the enclosed form to apply for the student benefit. Do **not** use this form to apply for a student benefit if the son or daughter is disabled. Instead, write to OPM, Retirement Operations Center, Boyers, PA 16017 or call (202) 606-0500 to ask about a disabled child's benefit. We will send you the instructions you need to document the child's disability. Adult children who qualify are paid a benefit as long as they are disabled and are not married.

Full-time students must be taking sufficient courses to allow them to graduate within the minimum time which is considered normal for a full-time student of the school. For example, usually a college student must be enrolled for a minimum of 12 credit hours per semester to be considered a full-time student. If you need additional information about what is considered full-time attendance, please call us at (202) 606-0249.

A recognized educational institution for the purpose of these benefits is a school that: 1) has a faculty and requires study or training at the school; and 2) is accredited as an educational institution. Such schools are: high schools, trade schools, technical or vocational schools, colleges, junior colleges, universities, or similar educational institutions.

Not included as "recognized" or accredited educational institutions for purposes of receiving student benefits are: correspondence schools, elementary schools, the Government service academies such as the U.S. Naval Academy, or any training program where the trainee receives pay primarily as an employee, such as apprenticeship programs or the Job Corps.

Benefits (payments) must stop if the student:

1. dies,
2. marries,
3. discontinues full-time schooling,
4. enters military service on active duty,
5. enters any of the service academies,
6. transfers to a non-recognized school, or
7. attains age 22.

Students who attain age 22 during the school year (between September 1 and June 30) may receive benefits through the end of the month preceding the month in which full-time schooling stops or June 30, whichever occurs first.

Since you are the payee, you must notify us immediately if any one of these events occurs. If you are paid benefits after any of these events, you will be indebted to the retirement system and we will have to recover the money from you.

If you believe you are eligible to receive survivor benefits for a full-time student, complete the enclosed form after you read the back of this notice.

Privacy Act and Public Burden Statements

The Office of Personnel Management (OPM) administers the Civil Service Retirement System (Chapter 83, of title 5, U.S. Code) and the Federal Employees Retirement System (Chapter 84, title 5, U.S. Code.) The information requested on the enclosed form is needed to document a retirement benefit or claim. The information may be shared and is subject to verification, via paper, electronic media, or through the use of computer matching programs, with national, state, local or other charitable or social security administrative agencies in order to determine benefits under their programs, to obtain information necessary for determination or continuation of benefits from OPM, or to report income for tax purposes. It may also be shared and verified, as noted above, with law enforcement agencies when they are investigating a violation or potential violation of civil or criminal law. Provision of the information is voluntary; however, failure to supply all the requested information may delay or prevent action on the benefit or claim. Intentionally false statements and/or suspected illegal activities are reportable by us to appropriate law enforcement agencies.

We think this form takes an average 12 minutes per response to complete, including the time for reviewing instructions, getting the needed data, and reviewing the completed form. Send comments regarding our estimate or any other aspect of this form, including suggestions for reducing completion time, to the Office of Management and Budget, Paperwork Reduction Project (3206-0032), Washington, D.C. 20503.

Please Carefully Review The Example On The Reverse Side

Instructions for Completing the Enclosed Form

It Is Important That You Follow All Of The Instructions Below.

1. The enclosed form has been designed to allow your answers to be read using optical scanning equipment. Therefore, please use a pencil to blacken the ovals and circles. If you make a mistake, erase it completely and blacken the correct ovals and circles.*(Do **not** use a correction fluid on the enclosed form.)*

2. Complete the form as illustrated in the example below:

EXAMPLE

Item 10 of the form is reproduced here to illustrate how you should make your entries on this form. The example below illustrates how this question would be completed for a student whose school year ends or will end on June 7, 1996.

Write the month, day, and year in the boxes. If the month is June, enter JUN.

Blacken the corresponding circle below each box. For example, if the number is "0," blacken the circle with a "0" in it.

10. Enter the date this school attendance will end or ended. If the student plans to attend for the full school year, you should show the ending date of the full school year *(NOT the semester)*. This date must be later than the date shown in block 9.

Month	*Day*	*Year*
J U N	0 7	9 6

Month	Day	Year
○ JAN	● 0	0
○ FEB	1 1	1
○ MAR	2 2	2
○ APR	3 3	3
○ MAY	4	4
● JUN	5	5
○ JUL	6	●
○ AUG	●	7
○ SEP	8	8
○ OCT	9	9
○ NOV		
○ DEC		

3. Please review your entries to avoid delays in your payments due to errors or incomplete data.

4. **DO NOT** copy or duplicate this form. If you need another form, write to the address shown in item 5 or contact us on (202) 606-0249.

   DO NOT staple, damage, or mutilate this form.

5. The person who is the payee must be sure to sign this form and mail it within 30 days in the enclosed envelope to:
   U.S. Office of Personnel Management
   P.O. Box 956
   Washington, D.C. 20044-0956

If you need assistance:

If after carefully reading the instructions, you need assistance to complete the form, you may contact us weekdays from 8:00 a.m. to 5:00 p.m. (Eastern Time) on (202) 606-0249.

Self-Certification of Full-Time School Attendance For The School Year:

Show any change of address on this form below.

Form Approved:
OMB No. 3206-0032

U.S. Office of Personnel Management
Retirement and Insurance Group, Washington, DC 20415-0001

A	0	0	0	0	0	0	0	0	0
F	1	1	1	1	1	1	1	1	1
	2	2	2	2	2	2	2	2	2
	3	3	3	3	3	3	3	3	3
	4	4	4	4	4	4	4	4	4
	5	5	5	5	5	5	5	5	5
	6	6	6	6	6	6	6	6	6
	7	7	7	7	7	7	7	7	7
	8	8	8	8	8	8	8	8	8
	9	9	9	9	9	9	9	9	9

1. Student's name and date of birth

For Agency Use Only

I II III IV

Claim number

2. Currently certified thru

Date

IMPORTANT: Please read the enclosed instruction sheet before completing this form. To avoid interruption of payments, please complete this form immediately, using a pencil and darkening the entire circle; so our computer can process your form without delaying your payments. *Please complete this form for the entire school year* ***(not just one semester)*** *if plans are known; and complete it for one school year only.* Please do **not** take this form to the school. The person in the address above must sign in block 17. This is a personalized form, precoded for only the student shown in item 1.

3. Is the student's date of birth correct as shown in block 1 above?

Yes

No. Show the correct date below and **attach a birth certificate.**

Month *Day* *Year*

JAN	0	0	0	0
FEB	1	1	1	1
MAR	2	2	2	2
APR	3	3	3	3
MAY		4	4	4
JUN		5	5	5
JUL		6	6	6
AUG		7	7	7
SEP		8	8	8
OCT		9	9	9
NOV				
DEC				

4. Student's Social Security Number

Social Security Number

0	0	0	0	0	0	0	0	0	0
1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9

5. Is the student currently married?

No

Yes. Show the marriage date below.

Month *Year*

JAN	0	0
FEB	1	1
MAR	2	2
APR	3	3
MAY	4	4
JUN	5	5
JUL	6	6
AUG	7	7
SEP	8	8
OCT	9	9
NOV		
DEC		

6. During the past 12 months, did the student stop school before the end of the school term, or change from full-time to part-time status?

Yes. Show date full-time attendance ended.

No

Month *Year*

9

JAN	0
FEB	1
MAR	2
APR	3
MAY	4
JUN	5
JUL	6
AUG	7
SEP	8
OCT	9
NOV	
DEC	

Blocks 7 - 16 must be completed if the student returned or will return to school full-time on or after the date they are currently certified through for payment shown in block 2 above.

7. Show the school's name and address *(including ZIP code):*

Phone number *(if available & area code):*

( )

8. Is this school accredited by a nationally recognized accrediting agency or association?

No Yes

Previous editions are not usable

RI 25-14
Revised February 1995

9. Enter the date the student began or will begin full-time school attendance for the school year you are certifying. Date should be on or after date shown in block 2.

Month / *Day* / *Year* (Year: 9 _)

○ JAN 00 90
○ FEB 01 91
○ MAR 02 92
○ APR 03 93
○ MAY 04 94
○ JUN 05 95
○ JUL 06 96
○ AUG 07 97
○ SEP 08 98
○ OCT 09 99
○ NOV
○ DEC

10. Enter the date this school attendance will end or ended. If the student plans to attend for the full school year, you should show the ending date of the full school year *(NOT the semester)*. This date must be later than the date shown in block 9.

Month / *Day* / *Year* (Year: 9 _)

○ JAN 00 90
○ FEB 01 91
○ MAR 02 92
○ APR 03 93
○ MAY 04 94
○ JUN 05 95
○ JUL 06 96
○ AUG 07 97
○ SEP 08 98
○ OCT 09 99
○ NOV
○ DEC

11. Is the date given in block 10 the end of the school year?

○ Yes ○ No

12. Does the student intend to return to school full-time after the date shown in block 10, with less than a 5 month break?

○ Undecided

○ No

○ Yes. Show the beginning date of the next school year in block 13.

13. Enter the *estimated* date the student will begin full-time school attendance for the next school year after the school year shown in blocks 9 - 10.

Month / *Year* (Year: 9 _)

○ JAN 0
○ FEB 1
○ MAR 2
○ APR 3
○ MAY 4
○ JUN 5
○ JUL 6
○ AUG 7
○ SEP 8
○ OCT 9
○ NOV
○ DEC

14. Type of School

○ High School

○ Trade/Technical/or Vocational

○ Jr. College/College/ Community College/or University

○ Other:

15. Hours of School Attendance

Mark only one (A or B) below

○ A: Classroom Hours per week, such as for High Schools or trade schools. (Combine work/ study hours if in a high school work study program.)

○ B: Credit Hours such as for college.

Total Hours (00 01 02 03 04 05 06 07 08 09)

Total Hours (00 01 02 03 04 05 06 07 08 09)

16. Is the student in a school-sponsored co-op or internship program?

○ Yes (Attach a letter from the school explaining the program.)

○ No

WARNING: *Any intentionally false statements or willful misrepresentations are punishable by fine, imprisonment, or both (18 USC 1001).*

17. I certify that all information given in this certification is true and correct to the best of my knowledge and belief. I understand that I must immediately notify the Office of Personnel Management (OPM) if the student transfers to another school, discontinues school attendance, reduces attendance to less than full-time, marries or dies. I agree to return all overpayments of student benefits, including over-payments that may be made after I notify OPM of any terminating event. I understand OPM may ask the school to verify the accuracy of the information I am furnishing.

Signature of payee *(person who is receiving the payments)*

Daytime telephone number *(including area code)* ( )

Date *(mm/dd/yy)*

Reverse of RI 25-14
Revised February 1995

[FR Doc. 95–4395 Filed 2–22–95; 8:45 am]
BILLING CODE 6325–01–C

Federal Salary Council

AGENCY: Office of Personnel Management.

ACTION: Notice of Meeting.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (P.L. 92–463), notice is hereby given that the forty-third meeting of the Federal Salary Council will be held at the time and place shown below. At the meeting the Council will continue discussing issues relating to locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The meeting is open to the public. In addition, notice is hereby given that the meeting previously scheduled for February 28, 1995 (60 FR 513, January 4, 1995), has been canceled.

DATES: March 14, at 10:00 a.m.

ADDRESSES: Office of Personnel Management, 1900 E Street NW., Room 7B09, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth O'Donnell, Chief, Salary Systems Division, Office of Personnel Management, 1900 E Street NW., Room 6H31, Washington, DC 20415–0001. Telephone number: (202) 606–2838.

For the President's Pay Agent.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95–4393 Filed 2–22–95; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 20901; 811–8622]

Transamerica Strategic Income Fund; Notice of Application

February 16, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Transamerica Strategic Income Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on January 18, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 13, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 1000 Louisiana Street, Houston, Texas 77002.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Barry D. Miller, Senior Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified investment company, organized as a business trust under the laws of the Commonwealth of Massachusetts. On July 14, 1994, Applicant registered under the Act and filed a registration statement under the Securities Act of 1933.

2. In September 1994 both the registration statement and amendment thereto were held in abeyance pending the outcome of the then proposed transaction whereby the applicant's adviser, Transamerica Fund Management Company (''TFMC'') would be acquired by John Hancock Advisers, Inc. (''John Hancock Advisers''). Accordingly, applicant has not issued or offered any securities.

3. Applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

4. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–4402 Filed 2–22–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20902; File No. 812–9300]

New England Variable Life Insurance Company, et. al.

February 16, 1995.

AGENCY: Securities and Exchange Commission (the ''SEC'' or the ''Commission'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: New England Variable Life Insurance Company (''NEVLICO''), New England Variable Annuity Separate Account (''Variable Account''), and New England Securities Corporation (''New England Securities'') (Collectively, ''Applicants'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of a morality and expense risk charge from the assets of the Variable Account and any other separate accounts established by NEVLICO in the future in connection with the issuance and sale of certain flexible and single purchase payment deferred variable annuity contracts (''Contracts'') and any contracts that are similar in all material respects to the Contracts.

FILING DATE: The application was filed on October 20, 1994, and amended on February 10, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on March 13, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549.

APPLICANTS: Marie C. Swift, New England Variable Life Insurance Company, 501 Boylston Street, Boston, Massachusetts 02117.

FOR FURTHER INFORMATION CONTACT: Mark C. Amorosi, Attorney, or Wendy Finck Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance

Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. NEVLICO is a Delaware stock life insurance company chartered in 1980. NEVLICO is a wholly owned subsidiary of New England Mutual Life Insurance Company (''The New England''), a Massachusetts mutual life insurance company.

2. The Variable Account is a segregated investment account established by NEVLICO under Delaware law to act as a funding medium for variable annuity contracts. The Variable Account is divided into 12 subaccounts (''Subaccounts'') for investment in shares of a designated investment portfolio of the New England Zenith Fund, which is registered under the 1940 Act as an open-end diversified management company of the series type. The shares of each of the portfolios will be purchased by NEVLICO for the corresponding Subaccount at the portfolio's net asset value per share, without the deduction of any sales load. The Variable Account assets attributable to the Contracts are not chargeable with liabilities arising out of any other business of NEVLICO. Income, gains and losses, realized or unrealized, of a Subaccount are credited to or charged against the Subaccount without regard to other income, gains or losses of NEVLICO. The Variable Account is registered under the 1940 Act as a unit investment trust.

3. New England Securities, a wholly owned subsidiary of The New England, will serve as the distributor and principal underwriter for the Contracts. New England Securities is registered as a broker-dealer under the Securities Exchange Act of 1934.

4. The Contracts are flexible and single purchase payment deferred variable annuity contracts. Interests in the Contracts are registered under the Securities Act of 1933. The minimum initial purchase payment is $2,000 for Contracts qualifying for special tax treatment under Section 408 of the Internal Revenue Code of 1986, as amended. The minimum initial purchase payment for non-qualifying Contracts is $5,000. The minimum subsequent purchase payment is $250 for all Contracts. Purchase payments can be allocated to one or more Subaccounts and/or NEVLICO's general account (the ''Fixed Account'').

5. A death benefit is payable to the Beneficiary in the event that the Contract Owner dies prior to the maturity Date or earlier annuitization (the ''Death Proceeds''). The Death Proceeds equal a greater of (1) the Contract Value next determined after the later of the date when due proof of death is received at the Administrative Office and the date when an election of payment in one sum or under a payment option is received at the Administrative Office, or (2) the guaranteed minimum Death Proceeds on that date. On the date of issue, the guaranteed minimum Death Proceeds will equal the initial purchase payment. Thereafter, until the end of the seventh contract year, the guaranteed minimum Death Proceeds will be equal to the aggregate purchase payments paid, less any pro rata reductions caused by previous surrenders.

On the seventh Contract Anniversary, and every seventh year anniversary thereafter until the Contract Owner's 76th birthday, the guaranteed minimum Death Proceeds will be recalculated to determine whether a higher guarantee will apply. The guaranteed minimum Death Proceeds on each seven year anniversary is the greater of (a) the Contract Value on that date, or (b) the guaranteed minimum Death Proceeds amount that applied to the Contract just before the recalculation. In between seven year anniversaries, the guaranteed minimum Death Proceeds is adjusted for any interim purchase payments and surrenders.

6. At any time prior to the Maturity Date, a Contract may be surrendered for all or part of the Contract Value. The proceeds, after applicable charges are assessed, can be paid in cash or applied to a payment option. A Contract also contains a transfer provision providing for up to 12 free transfers of Contract Value among Subaccounts and the Fixed Account per year.

7. Two forms of administrative charges are deducted from the Contracts to compensate NEVLICO for certain administrative services. First, an annual Administration Contract Charge of $30 or, if less, 2% of the total Contract Value will be deducted from the Contract Value in the Variable Account on each Contract anniversary for the prior Contract Year, and will be deducted on a pro rata basis on the Maturity Date or upon a full surrender if it is not on a Contract anniversary. The charge will be waived for a Contract Year, except on full surrender or at the Maturity Date, if (1) the Contract Value at the end of the year was at least $50,000, or (2) additional net deposits (purchase payments minus partial surrenders) of at least $1,000 were made during the Contract Year and the Contract Value at the end of the previous Contract Year was at least $25,000. Second, NEVLICO will also deduct from the Variable Account a daily Administration Asset Charge equal to an effective annual rate of 0.10% of the average daily net assets of the Variable Account. This charge will continue to be assessed after annuitization if annuity payments are made on a variable basis. Applicants state that these administration charges are guaranteed not to increase. Applicants represent that these charges will be deducted in accordance with Rule 26a–1 under the 1940 Act. NEVLICO states that it neither anticipates nor intends to make a profit from the charges and will periodically monitor the administrative charges to determine whether they exceed the actual cost of providing administrative services for the Contracts.

8. NEVLICO currently allows 12 free transfers of Contract Value from one or more Subaccounts or the Fixed Account to another one or more of the Subaccounts or to the Fixed Account. NEVLICO assesses a $10 transfer charge on the thirteenth and each subsequent transfer during a single Contract Year prior to annuitization.

9. Contingent Deferred Sales Charge (''CDSC'') of up to 7% may be deducted in the event of (1) a full or partial withdrawal from the Contract Value, (2) in certain circumstances, the withdrawal of the amounts applied to a payment option prior to the Maturity Date, and (3) under Contracts issued in Pennsylvania or New York, the Maturity Date if at that date a purchase payment has been invested for less than seven years (collectively referred to as ''CDSC events''). The CDSC is calculated as a percentage of purchase payments withdrawn or applied. the CDSC declines with respect to each purchase payment based on the number of years for which the payment has been invested. Purchase payments will be treated as withdrawn on a first in, first out basis. The following table shows the schedule of the sales charge that will be applied at the occurrence of a CDSC event:

Number of full contract years since purchase payment	Applicable charge (percent)
1	7
2	6
3	5
4	4
5	3
6	2
7	1
Thereafter	0

10. The Contracts provide that several types of withdrawals can be made without incurring a sales charge. In any Contract Year, the Contract Owner may surrender a portion of Contract Value without incurring any CDSC. The free withdrawal amount is equal to the greater of (1) 10% of the Contract Value at the beginning of the Contract Year during which the CDSC event occurs, or (2) the excess of Contract Value over purchase payments subject to the sales charge on the date of the CDSC event. A surrender will be attributed first to the free withdrawal amount. If the surrendered amount is greater than the free withdrawal amount, the excess will be attributed to purchase payments on a first in, first out basis.

The CDSC will be waived on full or partial surrenders if the Contract Owner is terminally ill, has been confined to a nursing home for more than 90 continuous days, or is permanently and totally disabled, as those terms are defined in the registration statement for the Contracts.

The CDSC may be waived if the Contract Owner applies the proceeds from a surrender to certain payment options as described in the Contract. The CDSC will also be waived (except in Pennsylvania and New York) if, under a spousal continuation provision, the Contract's Maturity Date is reset to a date that is less than seven years after the most recent purchase payment made under the Contract.

The Contracts may also be sold directly, without the application of the Contingent Deferred Sales Charge, to employees, officers, directors, trustees and registered representatives of NEVLICO, The New England and their affiliated companies, to employees, officers, directors, trustees and registered representatives of any broker/dealer authorized to sell the Contracts and of any subadivsor to the portfolios, and to the spouses and immediate family members of any of the foregoing.

11. NEVLICO will deduct premium tax charges from the Contract Value in states that impose premium taxes on annuity purchase payments received by insurance companies. Deductions for premium tax charges currently range from 0% to 3.5% of Contract Value.

12. For all Contracts issued in connection with the Variable Account, NEVLICO deducts a Mortality and Expense Risk Charge that is equal, on an annual basis, to 1.25% of the average daily net assets of the Variable Account: approximately 0.70% for mortality risks and 0.55% for expense risks. This charge will continue to be assessed if annuity payments are made on a variable basis either before or after the Maturity Date. NEVLICO guarantees that this charge will not increase over the life of the Contract.

The mortality risks assumed by NEVLICO arise in part from NEVLICO's guarantee to make annuity payments at least equal to payments calculated based on annuity tables provided in the Contracts, regardless of how long an annuitant lives and regardless of any improvement in life expectancy.

NEVLICO also assumes a mortality risk in connection with the provision of a death benefit. If the Contract Owner dies prior to the Annuity Date, NEVLICO will pay the beneficiary the greater of (1) the Contract Value next determined after the later of the date when due proof of death is received at the Administrative Office and the date when an election of payment in one sum or under a payment option is received at the Administrative Office, or (2) the guaranteed minimum Death Proceeds on that date.

The expense risk assumed by NEVLICO is the risk that NEVLICO's administrative charges will be insufficient to cover actual administrative expenses over the life of the Contract.

Applicants' Legal Analysis and Conditions

1. Pursuant to Section 6(c) of the 1940 Act, the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of provisions of the 1940 Act or from any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act prohibit a registered unit investment trust and any depositor or underwriter thereof from selling periodic payment plan certificates unless the proceeds of all payments are deposited with a qualified trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services.

3. Applicants request an order under Section 6(c) exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the mortality and expense risk charge from the assets of the Variable Account under the Contracts. Applicants request that the order also permit the deduction of the Mortality and Expense Risk Charge from the assets of any other separate account established by NEVLICO in the future to support variable annuity contracts similar in all material respects to the Contracts.

4. Applicants submit that their request for an order that applies to future separate accounts issuing contracts that are similar in all material respects to the Contracts is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity contract market by eliminating the need for NEVLICO to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of resources. Applicants argue that the elimination of the delay and expense of redundant filings would enhance the ability of NEVLICO to effectively take advantage of business opportunities as they arise. Applicants further represent that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. Investors would not receive any additional benefit or protection by requiring NEVLICO to repeatedly seek exemptive relief with respect to the same issues addressed in this application.

5. NEVLICO states that it is entitled to compensation for its assumption of mortality and expense risks, and it represents that the mortality and expense risk charge is within the range of industry practice with respect to comparable annuity products. NEVLICO bases this representation on the analysis of the mortality risks, taking into consideration such factors as annuity purchase rate guarantees, death proceeds guarantees, other contract charges, the frequency of charges, the administrative services performed by NEVLICO with respect to the Contracts, the means of promotion, the market for the Contracts, investment options under the Contracts, purchase payment, transfer, dollar cost averaging and systematic withdrawal features, and the tax status of the Contracts. NEVLICO represents that it will maintain at its principal office a memorandum, available to the Commission, setting forth in detail this analysis.

6. NEVLICO acknowledges that its revenues from the Contingent Deferred Sales Charge could be less than its costs of distributing the Contracts. If a profit is realized from the Mortality and Expense Risk Charge, all or a portion of such profit may be viewed as being

offset by distribution expenses not reimbursed by the Contingent Deferred Sales Charge. In such circumstances, a portion of the Mortality and Expense Risk Charge might be viewed as providing for a portion of the costs relating to distribution of the Contracts. NEVLICO represents that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and Contract Owners. The basis for such a conclusion with be maintained in a memorandum at NEVLICO's principal office and available to the Commission upon request.

7. NEVLICO represents that the Variable Account will invest only in management investment companies that undertake, in the event the company adopts a plan to finance distribution expenses under Rule 12b–1 under the 1940 Act, to have such plan formulated and approved by the company's board of directors, a majority of whom are not ''interested persons'' of the company within the meaning of section 2(a)(19) of the 1940 Act.

Conclusion

Applicants assert that, for the reasons and the facts set forth above, the requested exemptions from Section 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge from the assets of the Variable account under the Contracts meet the standards in Section 6(c) of the 1940 Act. Applicants assert that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

For the commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–4399 Filed 2–22–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35388; File No. SR–CBOE–95–06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Related to Retail Automatic Execution System

February 16, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 18, 1995, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') 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 CBOE. 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

CBOE proposes to amend its rules to allow the Exchange's Control Room to turn off the Retail Automatic Execution System (''RAES''). The amendments would add an Interpretation to Exchange Rules 24.15 and 6.8. The text of the proposed rule change is available at the office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and the 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 CBOE has prepared summaries set forth in Sections (A), (B) and (C) below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to grant the Exchange's Control Room the authority to turn off RAES if there is a system malfunction that affects the Exchange's ability to disseminate or update market quotes. Specifically, the proposal would add a rule interpretation to Exchange Rules 24.15 and 6.8 to grant the senior person then in charge of the Exchange's Control Room the authority to turn off RAES if there is a system malfunction that affects the Exchange's ability to disseminate or update market quotes.

When RAES receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry into the system. A buy order will pay the prevailing market quote for an offer and a sell order will sell at the prevailing market quote for a bid. A market maker who has signed on as a participant in RAES will be designated as a contra-broker on the trade. Trades are assigned to these participating market makers on a rotating basis. Therefore, by agreeing to participate in RAES, a market maker is automatically assigned trades based on the prevailing market quote that is then being disseminated. Consequently, it is important that the prevailing market quote be accurate, because otherwise market makers participating in RAES may be assigned trades at prices other than the actual prevailing market quote.

In addition, if there is a quote dissemination problem such that incorrect quotes are being displayed, it could result in a customer's order being filled at a price other than the quote the customer sees on display.

The proposed interpretations are necessary to prevent market makers from being assigned trades based on inaccurate or ''stale'' market quotes and to prevent customer orders from being filled based on such inaccurate or ''stale'' market quotes. The proposed Interpretations are also necessary to prevent a situation where customers' orders are filled at prices other than the prices the customers see displayed. Pursuant to the proposed interpretations, the senior person then in charge of the Exchange's Control Room will have the ability to act quickly to turn off RAES if there is a system malfunction that affects the Exchange's ability to disseminate or update market quotes. Since RAES trades are based on the current disseminated quote, RAES trades would be based on inaccurate or ''stale'' quotes during a system malfunction that interferes with dissemination of current quote information. The Exchange believes it is important for the Control Room to have this power to turn off RAES since the Control Room will most likely learn of the system malfunction before Floor Officials or other Exchange Staff and consequently the Control Room can act in a timely manner to prevent trades based on ''stale'' market quotes.

If RAES is turned off, the orders that would have been routed to RAES will be re-routed to the Floor Broker routing printer in the trading crowd or to the member firm booths. Where the order is rerouted depends upon the parameters member firms have set for their customers' orders prior to entering the orders onto RAES.[1]

[1] CBOE understands that when determining order parameters for routing purposes, the member firms look to (1) the size of the order, (2) whether the series is on RAES, and (3) whether it is a market order or an immediately executable limit order. Telephone conservation between Edward Joyce, CBOE, Michael Meyer, Attorney, Schiff, Hardin, and Waite, Michael Walinskas, Branch Chief, Office of Market Supervision (''OMS''), Division of Market Regulation (''Division''), Commission, and John

Pursuant to the proposed interpretations, once the system malfunction has been corrected and the market quotes have been updated, either the senior person then in charge of the Exchange's Control Room, or the Order Book Official, or the RAES Supervisor may re-start RAES.

Conclusion

CBOE believes that the proposed rule change is consistent with and further the objectives of Section 6(b)(5) of the Act, in that the rules change is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest by enabling the Control Room to turn off RAES to prevent trades based on inaccurate market quotes.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) 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 CBOE. All submissions should refer to file number SR–CBOE–95–06 and should be submitted by March 16, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–4401 Filed 2–22–95; 8:45 am]

BILLING CODE 8010–01–M

Ayanian, Attorney, OMS, Division, Commission, on Monday, February 13, 1995.

[2] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35389; File No. SR–NASD–94–78]

Self-Regulatory Organizations; Order Granting Accelerated Approval of a Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Exercise Cut-Off Procedures for Expiring Equity Options Contracts

February 16, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] on December 23, 1994, the National Association of Securities Dealers, Inc. (''NASD'') submitted to the securities and Exchange Commission (''Commission'') a proposed rule change relating to the exercise procedures for expiring equity options contracts. The proposal was published for comment in the **Federal Register** on January 25, 1995.[3] No comments were received on the proposed rule change. This order approves the proposed rule change.

Currently, with regard to expiring standardized equity options, Section 63 of the NASD's Uniform Practice Code (''Practice Code'') provides that NASD members and their customers are required to indicate their exercise decisions to clearing members no later than 5:30 p.m. (E.S.T.) on the business day immediately prior to the expiration date of the options (''Exercise Cut-Off Time'').[4] This is the latest time by which an exercise instruction[5] may be: (1) Prepared by a clearing member for positions in its proprietary trading account; (2) accepted by a clearing member from a non-clearing member; or (3) accepted by a member from any customer.[6]

The only exceptions to the Exercise Cut-Off Times contained in Section 63 of the Practice Code are: (1) To remedy mistakes or errors made in good faith; (2) to take appropriate action as the result of a failure to reconcile an unmatched option transaction; (3) where exceptional circumstances relating to a customer's or member's ability to communicate exercise instructions to a member (or a member's ability to receive such exercise instructions) prior to the Exercise Cut-Off Time warrant such action; and (4) with respect to options contracts in an account maintained for another member in which only positions of customers of such other member are carried. Members are required to prepare a memorandum of every exercise instruction received from a customer stating the time when such instruction was received. In addition, in the event a member receives and acts on an exercise instruction pursuant to one of the exceptions noted above, the member must prepare a memorandum setting forth the circumstances giving rise to the exception. If the member is relying on either the first or the third exception described above, the member must promptly file a copy of the memorandum with the NASD.

Thus, it is presently a violation of Section 63 of the Practice Code for clearing members to accept exercise instructions after the Exercise Cut-Off Time, except in reliance on one of the exceptions noted above. Because

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] *See* Securities Exchange Act Release No. 35235 (January 18, 1995), 60 FR 4936 (January 25, 1995).

[4] Generally, the rules of the options exchanges provide that equity options may be traded up until the close of business on the last business day before expiration, which is generally the third Friday of the expiration month (''Expiration Friday''). *See, e.g.* CBOE Rule 11.1 and Phlx Rule 1042.

[5] For customers, an exercise instruction is a notice delivered to a member to exercise an option. For a clearing member of The Options Clearing Corporation (''OCC'') or a market maker or floor broker on a national options exchange, an exercise instruction is a notice to OCC to exercise an option that would not be automatically exercised pursuant to OCC's exercise-by-exception procedure (''OCC Rule 805''), or not to exercise an option that would otherwise be automatically exercised pursuant to OCC Rule 805. *See infra* note 9. The OCC has separate rules regarding the cut-off time by which exercise notices must be delivered to OCC by OCC clearing members. The proposed rule change does not in any way affect OCC rules.

[6] In most cases, exercise instructions are electronically transmitted to OCC clearing members through the Clearing Management and Control System (''C/MACS'').

exercise instructions are submitted to the clearing members, without having the audit trail pass directly through the NASD or the particular options exchange(s) trading the expiring option, it is difficult for the NASD to surveil for violations of Section 63. In fact, there have been some situations where members have either delayed making exercise decisions until after the Exercise Cut-Off Time in anticipation of the release of significant news concerning a particular underlying company or, having made exercise decisions prior to the Exercise Cut-Off Time, changed these decisions based upon such news. In one notable situation, certain firms that anticipated the release of material news regarding a particular company allegedly delayed making their exercise decisions until after the Exercise Cut-Off Time, causing firms who claimed to have been disadvantaged by such conduct to commence a series of highly publicized arbitration proceedings and lawsuits.[7]

Accordingly, in order to enable the options exchanges and the NASD to determine whether options holders have made their final exercise decisions no later than the prescribed Exercise Cut-Off Time and not on the basis of market developments occurring after the Exercise Cut-Off Time, the NASD proposes to amend Section 63 of the Practice Code to provide for an exercise advice procedure. Specifically, the proposed rule change will alter the existing exercise instruction procedures by requiring the final exercise decisions also be submitted to the relevant options exchange(s) trading a particular equity option. The clearing members will still be responsible for delivering exercise notices to OCC, however, the proposed rule change will allow the NASD, in conjunction with the options exchanges, to accurately document when each exercise instruction was received by a member or clearing member or delivered by a clearing member to OCC.[8] The Exercise Cut-Off Time will still be 5:30 p.m. (E.S.T.) on the business day immediately prior to the expiration date.

In particular, under the proposal, there will be two means of exercising an expiring equity option: (1) Take no action and allow exercise determinations to be made in accordance with OCC Rule 805; [9] or (2) members may submit a contrary exercise advice (*i.e.*, a notice committing an option holder either to exercise an option that would not otherwise be exercised automatically pursuant to OCC Rule 805, or not to exercise an option that otherwise would be exercised automatically pursuant to OCC Rule 805) (''Contrary Exercise Advice''). A Contrary Exercise Advice will be submitted by NASD members: (1) to a place designated for that purpose by any national options exchange of which they are a member and where the particular equity option is listed; (2) to a place designated for that purpose by any national options exchange that lists and trades that equity option via a member of such exchange if the member is not a member of such exchange; (3) to any national options exchange of which they are a member and where the equity option is listed via OCC in a form prescribed by OCC; [10] or (4) to any national options exchange where the equity option is listed via OCC in a form prescribed by OCC, provided the member is a member of OCC. In those instances where OCC Rule 805 has been waived by OCC,[11] the proposal provides that a Contrary Exercise Advice must be submitted prior to the Exercise Cut-Off Time by members wanting to exercise an option that would not have been automatically exercised, or not to exercise an option that would have been automatically exercised, had OCC's exercise-by-exception procedure been in effect.[12] The applicable underlying security price in such instances will be as described in OCC Rule 805(1), which is normally the last sale price in the primary market for the underlying security.

The proposal also requires that members maintaining proprietary or public customer positions in expiring options take necessary steps to ensure that final exercise decisions are properly indicated to the relevant national options exchange with respect to such positions. In addition, the proposal provides that members who have accepted the responsibility of indicating final exercise decisions on behalf of another member also shall take necessary steps to ensure that such decisions are properly indicated to the relevant national options exchange. In this regard, the proposal also provides that members may establish an internal processing cut-off time prior to 5:30 p.m. (E.S.T.), at which time the member will no longer accept final exercise decisions from its customers in expiring options.

With certain minor modifications,[13] the proposal maintains the current exceptions to Section 63 of the Practice Code. The proposal, however, does add language to Section 63(b)(3) to expressly state that the burden of establishing an exception to the Exercise Cut-Off Time for a proprietary or customer account of a member rests solely on the member seeking to rely on such exception.

In the event a member does not timely submit a Contrary Exercise Advice pursuant to an exception, the responsible member must prepare a written memorandum describing the circumstances surrounding the late submission of the Contrary Exercise Advice and stating the time when such final exercise decision was made or, in the case of customer, was received. The member must also file a copy of the memorandum with the market surveillance department of the national options exchange trading the option, if it is a member of such exchange, or the NASD's Market Surveillance Department, if it is not a member of such exchange, no later than 12:00 p.m. (E.S.T.) on the business day following that expiration.

Furthermore, in order to highlight the seriousness of violating Section 63 of the Practice Code, the proposed rule language expressly states that submitting or preparing an exercise instruction after the Exercise Cut-Off Time in any expiring equity option on the basis of material information

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[7] *See, e.g., In re Farmers Group Stock Options Litigation,* Master File No. 88–4994 (E.D.Pa).

[8] Because OCC's rules are not affected by this rule proposal, the reporting of final exercise decisions as contemplated by the revised rule does not serve to substitute as the effective exercise notice to OCC for the exercise or nonexercise of expiring options.

[9] OCC Rule 805 provides for the automatic exercise of in-the-money options at expiration without the submission of an exercise notice to OCC if the price of the security underlying the option is at or above a certain price for calls or at or below a certain price for puts; and the non-exercise of an option at expiration if the price of the security underlying the option does not satisfy such price levels. *See* OCC Rule 805.

[10] Even through this may be accomplished by submitting exercise decisions directly to the relevant options exchange, the more likely manner of accomplishing this will be to submit the exercise decisions to the options exchanges through C/MACS. The OCC has represented that all necessary systems modifications have been made and fully tested in order for the proposed exercise procedures described herein to be implemented for the next Expiration Friday on February 17, 1995. *See* Letter from James Young, First Vice President and General Counsel, OCC, to Brad Ritter, Senior Counsel, Office of Market Supervision, Division of Market Regulation, Commission, dated February 13, 1995.

[11] This could happen when an underlying security is not traded on its primary market on the trading day immediately preceding an expiration date and, as a result, OCC determines not to fix a closing price for that security. *See* OCC Rule 805(l).

[12] *See supra* note 9.

[13] Specifically, in order to conform the NASD's proposed rule with the rules of the options exchanges, the NASD proposes to delete the exemption that applies to ''option contracts carried in an account maintained for another member in which only positions of customers of such other member are carried.''

released after the Exercise Cut-Off Time is activity inconsistent with just and equitable principles of trade. The proposal also states that the requirements specified in Section 63(b) will not apply to standardized foreign currency options or standardized index option products.

The NASD represents that the proposed rule change reflects a coordinated effort among all the options exchanges, the NASD, and OCC. In particular, the NASD represents that the proposed exercise advice procedure has been reviewed and endorsed by the Intermarket Surveillance Group (''ISG''),[14] which has approved the issuance by the options exchanges of a circular explaining the operation of the new exercise cut-off provisions. The NASD notes that the Commission has already approved similar rule proposals from each of the national options exchanges.[15]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 15A(b)(6) of the Act.[16] Specifically, the Commission believes that the NASD's proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to protect investors and the public interest.

Although, as noted by the NASD, all options exchanges currently have a uniform 5:30 p.m. (E.S.T.) Exercise Cut-Off Time on Expiration Fridays for expiring equity options, OCC's rules permit OCC to accept exercise notices for expiring equity options from clearing firms until 12:00 a.m. (E.S.T.) on the expiration date (*i.e.*, the Saturday after an Expiration Friday). This additional time within which to receive exercise notices from clearing members was provided to accommodate corrections of mistakes made in good faith, trade reconciliations, and certain exceptional circumstances that affected a customer's ability to inform its brokerage firm or affected a firm's ability to receive final exercise decisions before the Exercise Cut-Off Time. Nevertheless, in order to prevent situations such as the one cited by the NASD,[17] the Commission believes that it is appropriate for the Exchange to make it clear in its rules that the submission of a Contrary Exercise Advice on the basis of material information released after the Exercise Cut-Off Time will be activity deemed inconsistent with just and equitable principles of trade.[18]

The Commission believes that the proposed exercise procedures should enhance the NASD's ability to surveil for violations of Section 63 of the Practice Code by providing an enhanced audit trail for identifying late exercises. Specifically, every time an exercise decision is made contrary to OCC Rule 805, a Contrary Exercise Advice must be filed as discussed above, in addition to submitting an exercise instruction to a clearing member as is currently required by either the rules of the options exchanges or by exchange clearing members.[19] Similarly, the proposal requires that documentation must be prepared and submitted either to the proper options exchange or to the NASD whenever a late exercise decision is made in reliance on one of the exceptions to Section 63, with the burden of establishing the existence of the exception on the party submitting the Contrary Exercise Advice. The proposed rule change, therefore, should facilitate the Exchange's ability to monitor and enforce compliance with Section 63. Accordingly, because the proposed rule change significantly bolsters the NASD's existing procedures regarding the exercise of expiring equity options and helps to ensure compliance with their rules, the Commission believes that the proposal is consistent with the Act.[20]

Even though the proposed rule change significantly improves the NASD's audit trail with respect to late exercises, the Commission believes that the NASD should continue to examine ways of ensuring compliance with the Exercise Cut-Off Time and the other requirements of Section 63.[21] Furthermore, the Commission also encourages the NASD to review the permitted exceptions to Section 63 and consider ways of establishing parameters as to the extent of the exceptions.[22]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Specifically, the Commission notes that the proposed rule change is substantively similar to proposals submitted by the national options exchanges and recently approved by the Commission.[23] Additionally, the proposals by the other options exchanges are being implemented in time for the next Expiration Friday on February 17, 1995.[24] Accelerated approval of the NASD's proposal is therefore necessary in order to ensure that the options exchanges and their members as well as the NASD and its members are operating under uniform procedures for exercising expiring equity options. Finally, the proposal was noticed for the full 21-day comment period without any comments being received by the Commission. Accordingly, the Commission believes that it is consistent with Section 15A(b)(6) of the Act to approve the proposed rule change on an accelerated basis.

It Is therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that the

[14] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Sharing Group Agreement, July 14, 1983. The members of ISG are the American Stock Exchange, Inc., the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Inc., the Cincinnati Stock Exchange, Inc., the NASD, the New York Stock Exchange, Inc., the Pacific Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

[15] *See* Securities Exchange Act Release Nos. 34806 (October 7, 1994), 59 FR 52339 (October 17, 1994) (order approving File No. SR–PHLX–93–37); 34807 (October 7, 1994), 59 FR 52329 (October 17, 1994) (order approving File No. SR–CBOE–94–06); 34808 (October 7, 1994), 59 FR 52324 (October 17, 1994) (order approving File No. SR–AMEX–94–01); 34810 (October 7, 1994), 59 FR 52334 (October 17, 1994) (order approving File No. SR–PSE–94–12); and 34818 (October 11, 1994), 59 FR 52331 (October 17, 1994) (order approving File No. SR–NYSE–94–12).

[16] 15 U.S.C. 78o(b)(6) (1982).

[17] *See supra* note 7.

[18] The Commission believes that the Exercise Cut-Off Time serves an important investor protection function. Specifically, the Exercise Cut-Off Time protects holders of short positions in equity options from unanticipated events occurring after the close of the market. As the Commission has previously stated, if expiring equity options were allowed to be exercised after the Exercise Cut-Off Time for reasons other than the exceptions set forth above, the Commission believes that options writers could be unfairly disadvantaged with respect to options holders by not having the same opportunity to react to such unanticipated events. *See* Securities Exchange Act Release No. 19589 (March 10, 1983), 48 FR 11196 (March 16, 1983).

[19] *See supra* note 5.

[20] The Commission notes that the NASD has distributed a notice to member organizations describing the new procedures set forth above and notifying member organizations as to the scheduled implementation of those procedures in time for the next Expiration Friday on February 17, 1995. *See* NASD Notice to Members 94–102, ''New Exercise Advice Procedures for Expiring Equity Options,'' dated December 23, 1994.

[21] For example, the NASD may wish to consider adopting additional penalties in those situations where a member organization is unable to establish the existence of one of the exceptions to Section 63 of the Practice Code for a particular trade or trades.

[22] For example, the NASD may want to define expressly in the rule the circumstances that qualify for a good faith exception.

[23] *See supra* note 15.

[24] *See supra* note 10.

[25] 15 U.S.C. 78s(b)(2). (1982).

proposed rule change (File No. SR–NASD–94–78) is hereby approved.

For the Commission, by the Division of Market Regulati0n, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–4400 Filed 2–22–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

[Public Notice 2168]

Policy on Munitions Export Licenses to Ecuador and Peru

AGENCY: Department of State.

ACTION: Public notice.

SUMMARY: Notice is hereby given that all licenses and other approvals to export or otherwise transfer defense articles or defense services to Ecuador or Peru are suspended until further notice pursuant to Sections 38, and 42 of the Arms Export Control Act.

EFFECTIVE DATE: February 9, 1995.

FOR FURTHER INFORMATION CONTACT: Christopher Kavanagh, Office of Export Control Policy, Bureau of Political-Military Affairs, Department of State (202–647–4231).

SUPPLEMENTARY INFORMATION: Effective immediately, it is the policy of the U.S. Government to deny all requests for licenses and other approvals to export or otherwise transfer defense articles and defense services to Ecuador or Peru. In addition, the Department of State has suspended all previously issued licenses and approvals authorizing the export or other transfer of defense articles or defense services to Ecuador or Peru. This action has been taken in response to the continuing conflict on the border between Ecuador and Peru.

The licenses and approvals subject to this policy include manufacturing licenses, technical assistance agreements, technical data, and commercial military exports of any kind involving Ecuador or Peru and which are subject to controls under the Arms Export Control Act. This policy also prohibits the use in connection with Ecuador or Peru of any exemptions from licensing or other approval requirements included in the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120–130), with the exception of those exemptions specified in Section 126.1(a), unless a specific written exception is provided by the Office of Defense Trade Controls.

Exceptions to this policy will be made for certain U.S. Munitions List Category XIII(B)(1) items from banking and financial institutions.

This action has been taken pursuant to Sections 38 and 42 of the Arms Export Control Act (22 U.S.C. §§ 2778, 2791) and § 126.7 of the ITAR in furtherance of the foreign policy of the United States.

Dated: February 9, 1995.

Eric D. Newsom,

Acting Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 95–4346 Filed 2–22–95; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 95–017]

In the Matter of Shanghai Hai Xing Shipping Company: Proposed Assessment of Class II Administrative Penalty

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed penalty; opportunity to comment.

SUMMARY: The Coast Guard gives notice of and provides an opportunity to comment on the proposed assessment of a Class II administrative penalty to Shanghai Hai Xing Shipping Company for violations of the Federal Water Pollution Control Act (FWPCA). The alleged violations involved the spill of approximately 3,000 gallons of intermediate fuel oil from the M/V AN PING 6 on January 10, 1994 into the Columbia River in the vicinity of Longview, Washington. Interested persons may submit written comments on the proceeding, including comments on the amount of the proposed penalty, or written notice of intent to present evidence at any hearing held in the proceeding. If no hearing is held, an interested person may, within 30 days after insurance of an order, petition to set aside the order and to provide a hearing.

DATES: Comments or notice of intent to present evidence at a hearing must be received not later than March 27, 1995.

ADDRESSES: Comments and requests for a hearing may be mailed to the Hearing Docket Clerk, Office of the Chief Administrative Law Judge, Commandant (G–CJ), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 6302 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Filings should reference docket number 95–0001–CIV. The administrative record for this proceeding is available for inspection at the same address and times.

FOR FURTHER INFORMATION CONTACT: Mr. George J. Jordan, Judicial Administrator, Office of the Chief Administrative Law Judge, Commandant (G–CJ), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–2940.

SUPPLEMENTARY INFORMATION: Notice of this proceeding is given pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended by the Oil Pollution Act of 1990. The proceeding is initiated under Section 311(b) of the FWPCA (33 U.S.C. 1321(b)).

This proceeding results from an alleged spill of approximately 3,000 gallons of intermediate fuel oil from the M/V AN PING 6 on January 10, 1994 into the Columbia River in the vicinity of Longview, Washington. Under the Coast Guard's Class II Civil Penalty regulations in 33 CFR Part 20, the Coast Guard publishes notice of the proposed issuance of an order assessing a Class II penalty in the Federal Register (33 CFR § 20.402). A person who wishes to be an interested person must file written comment on the proceeding or written notice of intent to present evidence at any hearing held in the proceeding with the Hearing Docket Clerk not later than March 27, 1995 (33 CFR § 20.404). Interested persons will be given notice of any hearing, a reasonable opportunity to be heard and to present evidence during any hearing, and notice of the decision. Although a hearing is not yet scheduled, the Coast Guard has asked that any hearing be held in Seattle, WA. If no hearing is held, an interested person may, within 30 days after issuance of an order, petition the Commandant of the Coast Guard to set aside the order and to provide a hearing (33 CFR § 20.1102).

The following additional information is provided:

Respondent: Shanghai Hai Xing Shipping Co., 20 Canton Rd., Shanghai, China 200002; M/V AN PING 6 (L8301929)

Complaint Filed: February 2, 1995; Seattle, WA

Docket Number: 95–0001–CIV

Amount of Proposed Penalty: $120,000

Charges:

Count 1—Improper Discharge of Oil

[26] 17 CFR 200.30–3(a)(12) (1994).

Count 2—Violations of Pollution Prevention Regulations: Contents of Transfer Procedures
Count 3—Violations of Pollution Prevention Regulations: Requirements of Transfer

Dated: February 16, 1995.

George J. Jordan,

Judicial Administrator, Office of the Chief Administrative Law Judge, U.S. Coast Guard.

[FR Doc. 95–4407 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–14–M

Office of Commercial Space Transportation

Environmental Impact Statement; Sierra and Doña Ana Counties, NM

AGENCY: Office of Commercial Space Transportation (OCST), DOT.

ACTION: Notice of intent.

SUMMARY: The Office of Commercial Space Transportation (OCST) is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared and scoping meetings held on the proposed phased development of the Southwest Regional Spaceport in southern New Mexico.

FOR FURTHER INFORMATION CONTACT: Sharon D.W. Boddie, Office of Commercial Space Transportation, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2929. Lucy Dunn, New Mexico Office of Space Commercialization, Department of Economic Development, 1990 E. Lohman Avenue, Atrium Suites 201, Las Cruces, New Mexico, 88001. Telephone: (505) 524–6829.

SUPPLEMENTARY INFORMATION: The Department of Transportation's (DOT) Office of Commercial Space Transportation (OCST), in cooperation with the State of New Mexico's Office of Space Commercialization (NMOSC) and Department of Economic Development, will prepare a joint Federal/State EIS for the proposed commercial Southwest Regional Spaceport in southern New Mexico. The operator of the spaceport will require a license from OCST in accordance with the Commercial Space Launch Act of 1984, as recodified at 49 U.S.C. Subtitle IX, ch. 701—Commercial Space Launch Activities, 49 U.S.C. §§ 70101–70119 (1994). An EIS is necessary for OCST to make a licensing determination and comply with the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq*.

The State of New Mexico proposes the establishment of a commercial spaceport on lands located generally in the Sierra and Doña Ana Counties, between the cities of Truth Or Consequences and Las Cruces, New Mexico, as a key element of the State's efforts to bring regional assets together as a consortium to form the Southwest Space Complex. Other major elements of the Southwest Space Complex include the Department of Defense-owned White Sands Missile Range and the National Aeronautics and Space Administration-owned White Sands Test Facility. The New Mexico State University's Physical Sciences Laboratory, USAF Phillips Laboratory, and the Department of Energy's Sandia and Los Alamos National Laboratories are among the research and development or educational institutions that would be available for additional support as required.

Development of the Southwest Regional Spaceport, and other elements of the Southwest Space Complex, will occur in phases over a number of years. The proposed action encompassed by the EIS includes the construction of launch and associated support facilities and the extension of roads and utilities necessary to parallel the phased development of single-stage-to-orbit (SSTO) technology and to support other existing or developmental rocket systems, such as sounding rockets and expendable launch vehicles. Initial launch operations are anticipated to begin as early as mid-1996. The State of New Mexico anticipates a completed Southwest Regional Spaceport early in the next century.

The purpose of the Southwest Regional Spaceport project is to provide launch, recovery, and associated support facilities to the developing commercial space industry. The State is proposing to locate the Southwest Regional Spaceport in southern New Mexico because it views the altitude, climatic, population density, and existing infrastructure conditions as highly favorable. The State anticipates that this project will enhance space-related economic development within the State of New Mexico generally and throughout the southwest, as well as increase the ability of the U.S. launch industry to recapture a share of the international satellite launch market.

Alternatives to the proposed action include no action and alternative sites for launch and support facilities within the general area.

Two public scoping meetings will be held in New Mexico to solicit comments on significant environmental issues associated with the proposed action. The specific dates and locations are:

(1) March 22, 1995, 7:00–9:00 PM, City Council Chambers, 200 N. Church Street, Las Cruces, New Mexico.

(2) March 23, 1995, 7:00–9:00 PM, Convention Center, 300 Daniel Street, Truth Or Consequences, New Mexico.

Comments are solicited from Federal, State, and local agencies, private organizations and citizens who have previously expressed or are known to have an interest in this proposal. To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties no later than March 27, 1995. Comments and questions concerning this proposed action should be directed to OCST in duplicate (i.e. two copies) at the address provided above.

Issued in Washington, DC on February 16, 1995.

Frank C. Weaver,

Director, Office of Commercial Space Transportation.

[FR Doc. 95–4392 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review Greater Rockford Airport, Rockford, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Greater Rockford Airport Authority for Greater Rockford Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Greater Rockford Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before July 30, 1995.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is January 31, 1995. The public comment period ends April 3, 1995.

FOR FURTHER INFORMATION CONTACT: Melissa Wishy, Federal Aviation Administration, Chicago Airports District Office, CHI–ADO–640.8, 2300 East Devon Avenue, Des Plaines, Illinois, 60018, (708) 294–7524.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Greater Rockford Airport are in compliance with applicable requirements of Part 150, effective January 31, 1995. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before July 30 1995. This notice announces the availability of this program for public review and comment.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operators will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

Greater Rockford Airport Authority submitted to the FAA on May 3, 1994 noise exposure maps, descriptions and other documentation which were produced during the Airport Noise Compatibility Planning (Part 150) Study at Greater Rockford Airport from February 1993 to May 1994. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Greater Rockford Airport Authority. The specific maps under consideration are Noise Exposure Maps: Official 1993 Noise Exposure Map and Official 1998 Noise Exposure Map. They are included along with supporting documentation found in the Part I Noise Exposure Map Documentation of the Part 150 Study in the submission. The FAA has determined that these maps for Greater Rockford Airport are in compliance with applicable requirements. This determination is effective January 31, 1995. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Greater Rockford Airport, also effective January 31, 1995. Preliminary review of submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before July 30, 1995.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Airport Manager's Office, Greater Rockford Airport Authority, 3600 Airport Drive, Rockford, Illinois 61125–0063

Rockford City Clerk's Office, Rockford City Hall, 1201 Broadway, Rockford, Illinois

Winnebago County Courthouse, County Clerk's Office, 400 West State, Rockford, Illinois

Rockford Public Library, 215 North Wymann, Rockford, Illinois

Illinois Department of Transportation, Division of Aeronautics, One Langhorne Drive, Capitol Airport, Springfield, Illinois

Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Des Plaines, Illinois on January 31, 1995.

Louis H. Yates,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 95–4437 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–13–M

Airport Surface Movement Conference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of conference.

SUMMARY: The FAA is issuing this notice to advise the public of a conference on Airport Surface Movement. FAA will solicit the public for input on technologies and procedural changes needed to implement and improve the airport safety and surface movement effort.

DATES: The conference will be held on Wednesday, March 8, 1995, through March 10, 1995.

ADDRESSES: The conference will be held at the Arlington Renaissance Hotel, 950 North Stafford Street, Arlington, Virginia.

FOR ADDITIONAL INFORMATION OR TO RECEIVE A REGISTRATION FORM: Call (301) 949–7477, or Fax inquiries to (301) 949–5154, to the attention of Deana Lou.

Issued in Washington, D.C. on February 1, 1995.

Michael J. Harrison,

Airport Surface Manager.

[FR Doc. 95–4436 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Airport Certification Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss airport certification issues.

DATES: The meeting will be held on March 2, 1995, at 10:00 a.m. Arrange for oral presentations by February 21, 1995.

ADDRESSES: The meeting will be held at FAA Headquarters, Conference Room 600E, 6th Floor, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Marisa Mullen, Federal Aviation Administration, Office of Rulemaking (ARM–205), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9781; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on March 2, 1995, at FAA Headquarters, Conference Room 600E, 6th Floor, 800 Independence Avenue, SW., Washington, DC 20591. The agenda will include.

- Committee administration.
- Review and Dispose Working Group Work plan.
- Discuss proposed new task to extend 14 CFR part 139 (airport certification) to airports served by scheduled commercial air carriers with 10 to 30 seats.
- A discussion of future meeting dates, locations, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by February 21, 1995, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on February 16, 1995.

Robert E. David,

Assistant Executive Director for Airport Certification Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–4433 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–3–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Worcester Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a Passenger Facility Charge at Worcester Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 27, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airport Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas Nolan, Acting Airport Director for Worcester Municipal Airport at the following address: Worcester Municipal Airport, 375 Airport Drive, Worcester, Massachusetts 01602.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Worcester under section 158.23 of Part 158 of the Federal Aviation Regulations.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Soldan, Airports Program Specialist, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, (617) 238–7614. The application may be reviewed in person at 16 New England Executive Park, Burlington, Massachusetts.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a Passenger Facility Charge (PFC) at Worcester Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 6, 1995, the FAA determined that the application to use the revenue from a PFC submitted by the City of Worcester was substantially complete within the requirements of section 158.25 of Part 158 of the Federal Aviation Regulations. The FAA will approve or disapprove the application, in whole or in part, no later than May 6, 1995.

The following is a brief overview of the use application.

Level of the proposed PFC: $3.00

Charge effective date: October 1, 1992

Estimated charge expiration date: October 1, 1997

Total approved net PFC revenue: $2,301,382

Total estimated net PFC revenue to be used on projects in this application: $220,780

Brief description of use projects:

Reconstruct Terminal Apron and Taxiway ''B''

Groove and Mark Runway 11–29

Install Centerline Lights and Touchdown Zone Lights Runway 11–29

Install Perimeter Fencing

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None Excluded.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Worcester Municipal Airport, 375 Airport Drive, Worcester, Massachusetts.

Issued in Burlington, Massachusetts on February 15, 1995.

Bradley A. Davis,

Assistant Manager, Airports Division, New England Region.

[FR Doc. 95–4438 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–13–M

Maritime Administration

[Docket S–918]

American President Lines, Ltd.; Notice of Application for a Waiver of Section 804(a) of the Merchant Marine Act, 1936, as amended, To Permit Foreign-Flag Slot Charters

American President Lines, Ltd. (APL), by application dated February 10, 1995, requests waiver of the provisions of section 804 of the Merchant Marine Act, 1936, as amended, (Act), for foreign-flag slot charters by APL on vessels of Orient Overseas Container Line Inc. (OOCL) and Mitsui O.S.K. Lines, Ltd. (MOL) pursuant to APL's participation in a reciprocal slot exchange and coordinated sailing agreement, designated Federal Maritime Commission (FMC) No. 203–011468, and in a Master Slot Charger Agreement, both among APL, OOCL, and MOL.

APL is currently a party to a reciprocal slot exchange and coordinated sailing agreement, designated FMC No. 203–011340 (AO–SEA) and a Master Slot Charter Agreement, both between APL and OOCL. APL has been operating under those agreements since originally granted a section 804 waiver September 27, 1991.

The new agreements which are the subject of the current application would replace the AO–SEA agreements. The replacement agreement, the APL/MOL/OOCL Asia-Pacific Alliance Agreement (A–PAC Agreement) and the Master Slot Charter Agreement (MSCA) are substantially similar to the AO–SEA agreements, and are, in effect, a continuation of the AO–SEA agreements, with the addition of one new partner—MOL—and an increase in the number of line haul strings from five to six.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request within the meaning of section 804 of the Act and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7210, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Comments must be received no later than 5:00 p.m. on March 8, 1995. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administrator will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies)).

By Order of the Maritime Administrator.

Dated: February 17, 1995.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 95–4440 Filed 2–22–95; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1994 Rev., Supp. No. 9; 4–00236]

Surety Companies Acceptable on Federal Bonds: Chartwell Reinsurance Company

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code, effective January 30, 1995. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1994 Revision, on page 34148 to reflect this addition:

Chartwell Reinsurance Company. Business Address: 300 Atlantic Street, Suite 400, Stamford, CT 06901 Telephone No. (203) 961–7300. Underwriting Limitation b/: $8,110,000. Surety Licenses c/: AL, AK, AZ, CA, DE, DC, ID, IL, IN, KS, KY, MD, MI, MN, MS, MO, MT, NE, NJ, NM, NY, ND, OH, PA, TN, TX, UT, WA, WV, WI, WY. Incorporated In: Minnesota.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Hyattsville, MD 20782, Telephone (202) 874–6696.

Dated: February 15, 1995.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Services.

[FR Doc. 95–4388 Filed 2–22–95; 8:45 am]

BILLING CODE 4810–35–M

Internal Revenue Service

Tax on Certain Imported Substances (Cyclododecanol, et al.); Notice of Determinations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces determinations, under Notice 89–61, that the list of taxable substances in section 4672(a)(3) will be modified to include cyclododecanol, 1,5,9-cyclododecatriene, and adiponitrile.

EFFECTIVE DATE: This modification is effective July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a), an importer or exporter of any substance may request that the Secretary determine whether such substance should be listed as a taxable substance. The Secretary shall add such substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce such substance. This determination is to be made on the basis of the predominant method of production. Notice 89–61, 1989–1 C.B. 717, sets forth the rules relating to the determination process.

Determination

On February 7, 1995, the Secretary determined that cyclododecanol, 1,5,9-cyclododecatriene, and adiponitrile should be added to the list of taxable substances in section 4672(a)(3), effective July 1, 1995.

The rate of tax prescribed for cyclododecanol, under section 4671(b)(3), is $6.21 per ton. This is based upon a conversion factor for butadiene of 1.22 and a conversion factor for methane of 0.08.

The rate of tax prescribed for 1,5,9-cyclododecatriene, under section 4671(b)(3), is $5.64 per ton. This is

based upon a conversion factor for butadiene of 1.16.

The rate of tax prescribed for adiponitrile, under section 4671(b)(3), is $5.72 per ton. This is based upon a conversion factor for methane of 0.52, a conversion factor for ammonia of 0.42, and a conversion factor for butadiene of 0.58.

The petitioner is E. I. du Pont de Nemours and Company, a manufacturer and exporter of these substances. No material comments were received on these petitions. The following information is the basis for the determinations.

Cyclododecanol

HTS number: 2906.19.00
CAS number: 1724–39–6

Cyclododecanol is derived from the taxable chemicals butadiene and methane. Cyclododecanol is a solid produced predominantly by air oxidation of cyclododecane. Cyclododecane is produced by hydrogenation of 1,5,9-cyclododecatriene which is produced by the trimerization of butadiene.

The stoichiometric material consumption formula for cyclododecanol is:

3 C_4H_6 (butadiene) + 0.75 CH_4 (methane) + 1.5 H_2O (water) + 0.5 O_2 (oxygen) ——> $C_{12}H_{24}O$ (cyclododecanol) + 0.75 CO_2 (carbon dioxide)

Cyclododecanol has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 80.18 percent by weight of the materials used in its production.

1,5,9-cyclododecatriene

HTS number: 2906.19.00
CAS number: 4904–61–4

1,5,9-cyclododecatriene is derived from the taxable chemical butadiene. 1,5,9-cyclododecatriene is a solid produced predominantly by trimerization of butadiene in the presence of a coordination-type catalyst.

The stoichiometric material consumption formula for 1,5,9-cyclododecatriene is:

3 C_4H_6 (butadiene) ——> $C_{12}H_{18}$ (1,5,9-cyclododecatriene)

1,5,9-cyclododecatriene has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 100 percent by weight of the materials used in its production.

Adiponitrile

HTS number: 2926.90.50
CAS number: 111–69–3

Adiponitrile is derived from the taxable chemicals methane, ammonia, and butadiene. Adiponitrile is a liquid produced predominantly by the reaction of butadiene with hydrogen cyanide (derived from ammonia and from methane in natural gas).

The stoichiometric material consumption formula for adiponitrile is:

2 CH_4 (methane) + 2 NH_3 (ammonia) + C_4H_6 (butadiene) + 3 O_2 (oxygen) ——> $C_6H_8N_2$ (adiponitrile) + 6 H_2O (water)

Adiponitrile has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 55.55 percent by weight of the materials used in its production.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 95–4441 Filed 2–22–95; 8:45 am]

BILLING CODE 4830–01–U

Tax on Certain Imported Substances (Hexabromocyclododecane, et al.); Filing of Petitions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89–61, 1989–1 C.B. 717, of petitions requesting that hexabromocyclododecane and ethylenebistetrabromophthalimide be added to the list of taxable substances in section 4672(a)(3). Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Submissions must be received by April 24, 1995. Any modification of the list of taxable substances based upon these petitions would be effective October 1, 1993.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (Petition), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (Petition), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on December 30, 1992 (hexabromocyclododecane) and December 23, 1992 (ethylenebistetrabromophthalimide). The petitioner is Ethyl Corporation, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Hexabromocyclododecane

HTS number: 2903.59.00.00
CAS number: 3194–55–6

This substance is derived from the taxable chemicals bromine and butadiene. Hexabromocyclododecane is a solid produced predominantly by reacting cyclododecatriene with bromine in a solvent system, followed by a neutralization, a centrifugation, a strip, a wash, drying, and grinding (as required).

The stoichiometric material consumption formula for this substance is:

3 Br_2 (bromine) + 3 C_4H_6 (butadiene) ——> $C_{12}H_{18}Br_6$ (hexabromocyclododecane)

According to the petition, taxable chemicals constitute 100 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.55 per ton. This is based upon a conversion factor for bromine of 0.747 and a conversion factor for butadiene of 0.253.

Ethylenebistetrabromophthalimide

HTS number: 2925.19.10.00
CAS number: 32588–76–4

This substance is derived from the taxable chemicals bromine, ethylene, xylene, ammonia, and chlorine. Ethylenebistetrabromophthalimide is a solid produced predominantly by sulfonating and brominating phthalic anhydride in the presence of oleum and then hydrolyzing the resulting tetrabromophthalic anhydride in the presence of a solvent system and reacting it with ethylene diamine. The resulting ethylenebistetrabromophthalimide is centrifuged, washed, dried/converted, milled, and packaged.

The stoichiometric material consumption formula for this substance is:

4 Br_2 (bromine) + C_2H_4 (ethylene) + 2 C_8H_{10} (o-xylene) + 2 NH_3 (ammonia) + Cl_2 (chlorine) + 6 O_2 (oxygen) +

8 SO_3 (sulfur trioxide) ——> $C_{18}H_4O_4N_2Br_8$ (ethylenebistetrabromophthalimide) + 8 H_2O (water) + 4 SO_2 (sulfur dioxide) + 4 H_2SO_4 (sulfuric acid) + 2 HCl (hydrochloric acid)

According to the petition, taxable chemicals constitute 54.18 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.51 per ton. This is based upon a conversion factor for bromine of 0.672, a conversion factor for ethylene of 0.029, a conversion factor for xylene of 0.223, a conversion factor for ammonia of 0.036, and a conversion factor for chlorine of 0.075.

Comments and Requests for a Public Hearing

Before a determination is made, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 95–4442 Filed 2–22–95; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INFORMATION AGENCY

Professional Development of South African Radio Station Owners and Managers

ACTION: Notice—Request for Proposals.

SUMMARY: The Office of Citizen Exchanges of the United States Information Agency's Bureau of Education and Cultural Affairs announces an open competition for an assistance award. Public or private non-profit organizations meeting the provisions described in IRS regulation 501 (c)(3) may apply to develop a two-way exchange project for South African radio station owners and managers. The project should be designed to enhance participations' skills in managing their broadcasting operations and assist them to develop strategies to operate their stations as successful business enterprises. The project should provide U.S.-based activities for approximately 9–12 South African radio station owners and managers. The project also should provide in-country workshops or consultancies to assist participating broadcasters implement appropriate business management strategies. The program should being in summer/fall 1995. Consultation with the U.S. Information Service (USIS) posts in South Africa in the development of the project proposal is encouraged.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interest, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

ANNOUNCEMENT NAME AND NUMBER: All communications with USIA concerning this announcement should refer to the above title and reference number E/P–95–49.

DATES: Deadline for proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC. time on Friday, April 14, 1995. Faxed documents will not be accepted, nor will documents postmarked on April 14, 1995 but received at a later date. It is the responsibility of each applicant to ensure that proposals are received by the above deadline.

FOR FURTHER INFORMATION CONTACT: The Africa/Near East/South Asia Division of the Office of Citizen Exchanges, U.S. Information Agency, 301 4th Street, S.W., Room 220, Washington, D.C. 20547, tel. 202–619–5319, fax 202–619–4350, Internet address STAYLOR@USIA.GOV, to request a Solicitation Package, which includes more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Please specify USIA Program Officer Stephen Taylor on all inquiries and correspondences. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the Office of Citizen Exchanges or submitting their proposals. Once the RFP deadline has passed, the Office of Citizen Exchanges may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

ADDRESSES: Applicants must follow all instructions provided in the Solicitation Package and send fully completed applications. Send the original and 14 copies to:

U.S. Information Agency, Ref.: E/P–95–49, Office of Grants Management, E/EX, Room 336, 301 4th Street, S.W., Washington, D.C. 20547

SUPPLEMENTARY INFORMATION: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including but not limited to race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle.

Overview

Background: The transition to nonracial democracy in South Africa is providing greater access to the nation's radio and television broadcasting airways, opening new opportunities for independent broadcasters. the government-owned South African Broadcasting Corporation (SABC) has been the country's dominant broadcaster, with three television services and 23 radio stations. These outlets include commercial as well as public service stations. The SABC and a small number of other broadcasters have been the major source of broadcasting management expertise. South Africa's Independent Broadcasting Authority (IBA), created in 1994 to shield the broadcast media from direct political controls, is responsible for regulating the airwaves and granting commercial, public service and community broadcasting licenses. During the next several months, the IBA will be issuing licenses that will enable a wide range of independent radio stations to begin broadcasting for the first time. While many of these new licensees may have some on-air experience, they may lack backgrounds in radio management. These owners and other new managers could benefit from a project focused on fundamental broadcasting management practices to

help enhance the prospects for the longer term viability of their stations.

Program Overview. The Office of Citizen Exchanges (E/P) proposes development of a two-way exchange project for South African participants designed to promote development of business management skills applicable to radio station management. This two-way exchange should include activities for 9–12 South African participants in the United States and opportunities for American specialists to share their expertise in South Africa. While the project should introduce participants to a variety of radio broadcasting operations, the program should concentrate on activities and site visits appropriate to the technology and infrastructure available in South Africa. The project should be designed to accommodate participants new to broadcasting management. Participants should study station management practices, business planning strategies and marketing concepts. They also should analyze the standards of professional journalism which managers must oversee and identify strategies to promote staff development.

This two-way exchange also should promote informal ties, opening channels of communications between U.S. and South African broadcasters to help enhance the viability of independent radio stations in South Africa. This might include informal advice on broadcasting management issues. The project should begin in summer/fall 1995.

Project Objectives

The project should be designed to:

—Introduce participants to fundamental business management skills applicable to station management including financial planning, cash management and staff development;
—Analyze income resources for radio stations including advertisements, and examine strategies for surviving the initial stages of launching a new broadcasting service;
—Examine marketing strategies aimed at attracting advertisers and, where appropriate, study the interrelationship among programming content, objective news reporting and maintaining advertisers as clients;
—Develop strategies for implementing improved station management practices;
—Examine media-government relations and demonstrate how the independent reporting of political and economic developments helps shape government policy and public opinion;
—Provide an overview of journalistic ethics and the standards of professional journalism; and
—Establish informal ties between South African station owners and U.S. counterparts, providing a resource for occasional advice on station management matters.

Participants

The project participants will be owners and managers of radio stations in South Africa. Many of the participants will be newly licensed station owners or recently hired management staff. The U.S. phase of the project should be designed for 9–12 participants. All participants will have strong English language skills. USIS personnel in South Africa will select the participants, although recommendations from the grantee institution are welcome.

For program activities in South Africa, the grantee institution will select the American presenters in consultation with USIA.

USIS offices will facilitate the issuance of visas for the South African participants and can help with the distribution of program-related materials in South Africa.

Programmatic Considerations

USIA will give careful consideration to proposal which demonstrate:

(1) In-depth, substantive knowledge of the strategies and practices involved in managing a broadcasting operation as a successful business enterprise;

(2) First-hand connections with a variety of American radio operations, as well as public and private sector organizations responsible for promoting journalistic professionalism and successful business management;

(3) The capacity to organize and manage international exchange programs, including the handling of pre-departure arrangements, orientation activities, monitoring and problem-solving involved in such programs.

USIA is especially interested in multi-phase programs in which the phases build on one another and lay the groundwork for new and long-term relationships between American and African professionals. Proposals which are overly ambitious and those which are very general in nature will not be competitive. The Office of Citizens Exchanges does *not* award grants to support projects whose focus is limited to technical matters, or to support scholarly research projects, development of publications for dissemination in the United States, individual student exchanges, film festivals or exhibits. The Office of Citizens Exchanges does *not* provide scholarships or support for long-term (one semester or more) academic studies. Competitions sponsored by other Bureau offices also are announced in the **Federal Register** and may have different application requirements as well as different objectives.

Program Suggestions

The proposed project should include at least one phase for South African participants in the United States and at least one phase for American specialists in South Africa. Programming elements might include in-country workshops or seminars led by American experts, specialized consultancies developed for radio station owners in South Africa, a study tour in the United States for selected South African participants and U.S.-based professional attachments for South African broadcasters. A planning visit overseas by the American organizer also could be considered if crucial to successful development and implementation of the program.

The project should include formats which maximize interaction between the South African participants and the program presenters. Participants should observe the full range of business management and financial planning activities on the part of radio station owners and managers. They might also observe the interaction of station owners with public and private sector organizations involved in formulating, implementing and evaluating policies that affect U.S. broadcasting, such as professional associations, advertising agencies, trade unions, government agencies and community groups. Participants also should visit university-based radio stations to observe training programs and study the role of such stations in the broadcasting industry. The program design should provide adequate time for participants to meet individually with American professionals who have similar interests and specializations. While not required, the presenters' familiarity with radio broadcasting in South Africa is desirable.

Program Responsibilities

The grantee institution's responsibilities include: Selecting presenters, themes and topics for discussion; organizing a coherent progression of activities; providing any support materials; providing all travel arrangements, lodging and other logistical arrangements for the visiting South African participants and the U.S. presenters who travel to South Africa; and overseeing the project on a daily basis to achieve maximum program

effectiveness. The grantee institution is responsible for coordinating plans and project implementation with E/P, USIS officers in South Africa and South African collaborating institutions.

At the start of each phase, the grantee institution will conduct an orientation session and, at the conclusion, conduct participant evaluations. The institution will submit a report at the conclusion of each program phase, including a final program report summarizing the entire project and resulting organizational links. The institution must also submit a final financial report. To prepare the participants for their U.S. experience, E/P encourages the grantee organization to forward a set of preliminary materials which might include an introduction to the U.S. system of government, American notions of free speech and freedom of the press, the practices of U.S. broadcasters and other background information about the project. E/P will ask the South African participants to prepare brief outlines describing their own particular interests in these areas. The grantee institution should brief the American presenters on the South African participants' backgrounds, interests and concerns.

Other Program Considerations

Consultation with USIS officers in South Africa in the development of the project proposal is encouraged. Letters of commitment from participating U.S. and South African institutions and individuals would enhance a proposal.

USIA also encourages the development of specialized written materials to enhance this professional development program. USIA is interested in organizations' ideas on how to ''reuse'' specialized materials by providing them to universities, libraries or other institutions for use by a larger audience. If not already available, glossaries of specialized terms might be developed. However, please note that, according to current USIA regulations, materials developed with USIA funds may not be distributed in the United States.

The grantee institution should maximize cost-sharing in all elements of the project and seek to stimulate U.S. private sector support, including from foundations and corporations.

All participants will be covered under the terms of a USIA-sponsored health insurance policy. The premium is paid by USIA directly to the insurance company.

Funding

Competition for USIA funding support is keen. Selection of a grantee institution is based on the substantive nature of the program proposal; the applicant's professional capability to carry the program through to a successful conclusion; and cost effectiveness, including in-kind contributions and the ability to keep overhead costs at a minimum. USIA will consider funding up to approximately $120,000, but grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Applicants must submit a comprehensive line item budget for the entire program based on the specific guidance in the Solicitation Package. Applicants must provide a summary budget as well as a break-down reflecting both the administrative budget and the program budget. For further clarification, applicants may provide optional, separate sub-budgets for each program phase or activity in order to facilitate USIA decisions on funding. USIA will consider funding the following costs:

1. International and domestic air fares; visas; transit costs (e.g., airport fees); ground transportation costs.

2. *Per diem:* For foreign participants during activities in the United States, organizations have the option of using a flat rate of $140/day or the published Federal Travel Regulations (FTR) per diem rates for individual American cities. (Note: U.S. institutional staff must use the published FTR per diem rates, not the flat rate.) For activities overseas, standard Federal Travel Regulations per diem rates must be used.

3. *Escort-interpreters:* Interpretation for U.S.-based programs is provided by the State Department's Language Services Division. Typically, delegations ranging from 8–12 participants require two simultaneous interpreters and one escort officer. Grant proposal budgets should contain a flat $140/day per diem rate for each State Department escort/interpreter, as well as home-program-home air fare of $400 per interpreter and any U.S. travel expenses during the program itself. Salary expenses are covered centrally and are not part of the applicant's budget proposal. USIA grants do not pay for foreign interpreters to accompany delegations during travel to or from their home country. Interpreters are not available for U.S.-based internship activities.

4. *Book and cultural allowances:* Participants are entitled to a one-time book allowance of $50 plus a cultural allowance of $150 per person during programs taking place in the United States. U.S. staff do not receive these benefits. Escort interpreters are reimbursed for actual cultural expenses up to $150.00.

5. *Consultants:* Consultants may be used to provide specialized expertise or to make presentations. Honoraria generally should not exceed $250/day. Subcontracting organizations may also be used, in which case the written contract(s) should be included in the proposal.

6. *Materials development:* Proposals may contain costs to purchase, develop and translate materials for participants. USIA reserves the rights to these materials for future use.

7. Room rentals, which generally should not exceed $250/day.

8. One working meal per project, for which per capita costs may not exceed $5–$8 for a lunch or $14–$20 for a dinner. The number of invited guests may not exceed the number of participants by more than a factor of two to one.

9. *Return travel allowance:* $70 for each participant which is to be used for incidental expenditures incurred during international travel.

10. Other costs necessary for the effective administration of the program, including salaries for grant organization employees, benefits, and other direct and indirect costs per detailed instructions in the application package.

E/P encourages cost-sharing, which may be in the form of allowable direct or indirect costs. E/P would be especially interested in proposals which demonstrate a program vision which goes well beyond that which can be supported by the requested USIA grant to leverage additional funding from other sources to support elements of the broader program plan.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the Agency contracts office, as well as the USIA Office of African Affairs and the USIA post overseas, where appropriate. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final

technical authority for grant awards resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Institutional Reputation and Ability:* Applicant institutions should demonstrate their potential for excellence in program design and implementation and/or provide documentation of successful programs. If an applicant is a previous USIA grant recipient, responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts will be considered. Relevant substantive evaluations of previous projects may also be considered in this assessment.

2. *Project Personnel:* The thematic and logistical expertise of project personnel should be relevant to the proposed program. Resumes or C.V.s should be summaries which are relevant to the specific proposal and no longer than two pages each.

3. *Program Planning:* A detailed agenda and relevant work plan should demonstrate substantive rigor and logistical capacity.

4. *Thematic Expertise:* Proposal should demonstrate the organization's expertise in the subject area which promises an effective sharing of information.

5. *Support of Diversity:* Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity.

6. *Cross-Cultural Sensitivity and Area Expertise:* Evidence should be provided of sensitivity to historical, linguistic, religious, and other cross-cultural factors, as well as relevant knowledge of the target geographic area/country.

7. *Ability to Achieve Program Objectives:* Objectives should be realistic and feasible. The proposal should clearly demonstrate how the grantee institution will meet program objectives.

8. *Multiplier Effect:* Proposed programs should strengthen long-term mutual understanding and contribute to maximum sharing of information and establishment of long-term institutional and individual ties.

9. *Cost-Effectiveness:* Overhead and direct administrative costs to USIA should be kept as low as possible. All other items proposed for USIA funding should be necessary and appropriate to achieve the program's objectives.

10. *Cost-Sharing:* Proposals should maximize cost-sharing through other private sector support as well as direct funding contributions and/or in-kind support from the prospective grantee institution and its partners.

11. *Follow-on Activities:* Proposals should provide a plan for continued exchange activity (without USIA support) which ensures that USIA-supported programs are not isolated events.

12. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. USIA recommends that the proposal include a draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives. Grantees will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The needs of the program may require the award to be reduced, revised, or increased. Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about July 17, 1995. Awards made will be subject to periodic reporting and evaluation requirements.

Dated: February 14, 1995.

John P. Loiello,

Associate Director, Educational and Cultural Affairs.

[FR Doc. 95–4193 Filed 2–22–95; 8:45 am]

BILLING CODE 8230–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Initiation of a Review To Consider the Designation of the West Bank and Gaza Strip as a Beneficiary of the GSP Program; Solicitation of Public Comments Relating to the Designation Criteria

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and solicitation of public comment with respect to the eligibility of the West Bank and Gaza Strip for the GSP program.

SUMMARY: This notice announces the initiation of a review to consider the designation of the West Bank and Gaza Strip as a beneficiary of the GSP program and solicits public comment relating to the designation criteria.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, N.W., Room 513, Washington, D.C. 20506. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION: The Trade Policy Staff Committee (TPSC) has initiated a review to determine if the West Bank and Gaza Strip meet the designation criteria of the GSP law and should be designated as a beneficiary for purposes of the GSP program, which is provided for in the Trade Act of 1974, as amended (19 U.S.C. 2461–2465). The designation criteria are listed in sections 502(a), 502(b) and 502(c) of the Act. Interested parties are invited to submit comments regarding the eligibility of the West Bank and Gaza Strip for designation as a GSP beneficiary. The designation criteria mandate determinations related to such practices as: participation in commodity cartels, preferential treatment provided to other developed countries, expropriation without compensation, enforcement of arbitral awards, support of international terrorism, and protection of internationally recognized worker rights. Other practices taken into account include: the extent of market access for goods and services, investment practices and protection of intellectual property rights.

Comments must be submitted in 15 copies, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, 600 17th Street, N.W., Room 513, Washington, D.C. 20506. Comments must be received no later than 5 p.m. on Wednesday, March 15, 1995. Information and comments submitted regarding the West Bank and Gaza Strip will be subject to public

inspection by appointment with the staff of the USTR Public Reading Room, except for information granted ''business confidential'' status pursuant to 15 CFR 2003.6. If the document contains business confidential information, 15 copies of a nonconfidential version of the submission along with 15 copies of the confidential version must be submitted. In addition, the submission should be clearly marked ''confidential'' at the top and bottom of each and every page of the document. The version which does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each and every page (either ''public version'' or ''non-confidential'').

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 95–4444 Filed 2–17–95; 2:20 pm]

BILLING CODE 3190–01–M

DEPARTMENT OF VETERANS AFFAIRS

Notice of Establishment of the Advisory Committee on Minority Veterans

SUMMARY: As required by Section 9(a)(2) of the Federal Advisory Committee Act, U.S.C. (App.l) 9(c), the Department of Veterans Affairs (VA) hereby gives notice of the establishment of the Advisory Committee on Minority Veterans in compliance with Public Law 103–446, Title 5, Section 510. VA has determined that this action is in the public interest.

SUPPLEMENTARY INFORMATION: The objectives of this committee are to advise the Secretary of Veterans Affairs with respect to the administration of benefits by the Department for veterans who are minority group members through review of reports and studies pertaining to such veterans concerning compensation, health care, rehabilitation, outreach and other benefits and programs administered by the Department.

The Committee will make an assessment of the needs of veterans who are minority group members and review VA programs and activities designed to meet such needs. The Committee will submit a report no later than July 1 of each year to the Secretary on the programs and activities of the Department that pertain to veterans who are minority group members.

The Committee membership will be selected based on the criteria enumerated in the authorizing statute. That is: (i) Representatives of veterans who are minority group members; (ii) individuals who are recognized authorities in fields pertinent to the needs of veterans who are minority group members; (iii) veterans who are minority group members who have experience in a military theater of operations; (iv) and veterans who are minority group members who do not have such experience. The Committee will include as ex officio members the following: (i) The Secretary of Labor (or a representative designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment); (ii) The Secretary of Defense (or a representative designated by the Secretary of Defense); (iii) The Secretary of Interior (or a representative designated by the Secretary of interior); (iv) The Secretary of Commerce (or a representative designated by the Secretary of Commerce); (v) The Secretary of Health and Human Services (or a representative designated by the Secretary of Health and Human Services; and (vi) the Under Secretary for Health and the Under Secretary for Benefits, or their designees. Minority group member means an individual who is—(1) Asian American; (2) Black; (3) Hispanic; (4) Native American (including American Indian, Alaskan Native, and Native Hawaiian); or (5) Pacific Islander American. The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee. Appointments will be for two years unless otherwise directed by the Secretary of Veterans Affairs.

The Designated Federal Official for the Committee is Anthony T. Hawkins, Executive Director, Center for Minority Veterans.

By Direction of the Secretary.

Dated: February 14, 1995.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–4387 Filed 2–22–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 36

Thursday, February 23, 1995

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).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 28, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, March 2, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor.)

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Correction and approval of Minutes.
Advisory Opinion 1994–36: Susan M. Frank on behalf of Science Applications International Corporation (SAIC).
Advisory Opinion 1995–05: Gregory Galassini on behalf of the 14th District TRIM Committee.
Administrative Matters.

DATE AND TIME: Thursday, March 2, 1995 at 2:00 p.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor.)

STATUS: This oral hearing will be open to the public.

MATTER BEFORE THE COMMISSION: Buchanan for President, Inc.—Oral Hearing.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 95–4635 Filed 2–21–95; 3:25 pm]

BILLING CODE 6715–01–M

Corrections

Federal Register

Vol. 60, No. 36

Thursday, February 23, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Parts 210 and 220

RIN 0584-AB94

National School Lunch Program and School Breakfast Program: Compliance With the Dietary Guidelines for Americans and Food-Based Menu Systems

Correction

In proposed rule document 95–2044 beginning on page 5514 in the issue of Friday, January 27, 1995 make the following corrections:

§210.10 [Corrected]

1. On page 5520, in §210.10(c)(1), the Minimum Quantities table, should read as set forth below:

MINIMUM QUANTITIES					
	REQUIRED FOR				OPTION FOR
	AGES 1–2	PRESCHOOL	GRADES K–6	GRADES 7–12	GRADES K–3
MEAL COMPONENT:					
MILK	6 OUNCES	6 OUNCES	8 OUNCES	8 OUNCES	8 OUNCES.
MEAT OR MEAT ALTERNATE	1 OUNCE	1½ OUNCES	2 OUNCES	2 OUNCES	1½ OUNCES.
FRUITS AND VEGETABLES	½ CUP	½ CUP	¾ CUP PLUS ADDITIONAL ½ CUP OVER A WEEK.	1 CUP	¾ CUP.
GRAINS AND BREADS	5 SERVINGS PER WEEK—MINIMUM OF ½ PER DAY.[1]	8 SERVINGS PER WEEK—MINIMUM OF 1 PER DAY.[1]	12 SERVINGS PER WEEK—MINIMUM OF 1 PER DAY.[1 2]	15 SERVINGS PER WEEK—MINIMUM OF 1 PER DAY.[1 2]	10 SERVINGS PER WEEK-MINIMUM OF 1 PER DAY.[1 2]

[1] FOR THE PURPOSES OF THIS CHART, WEEK EQUALS FIVE DAYS.
[2] UP TO ONE GRAINS/BREADS SERVING PER DAY MAY BE A DESSERT.

§220.8 [Corrected]

2. On page 5521, in §220.8(a)(1), in the Minimum Quantities table, in the ''Milk (Fluid)'' servings, ''Ages 1-2'' reads ''1½'' should read ''1/2''.

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent

Correction

In notice document 95–3472 appearing on page 8220 in the issue of February 13, 1995, make the following correction:

On page 8220, in the third column, in the fourth line, under the heading **''Summary''** and following the word ''Quincy'' the words ''Soybean Company of Quincy'' should be added.

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]
RIN 0960-AD96

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Benefit Reforms for Individuals Disabled Based on Drug Addiction or Alcoholism

Correction

In rule document 95–3369 beginning on page 8140 in the issue of Friday, February 10, 1995, make the following corrections:

§404.315 [Corrected]

1. On page 8145, in the first column, in amendatory instruction 2., in the second line, ''test'' should read ''text''.

PART 416 [CORRECTED]

2. On page 8149, in the third column, in the authority citation, in the first line, after ''1611(c)'' remove the comma.

BILLING CODE 1505–01–D

Federal Register

Thursday
February 23, 1995

Part II

Department of Agriculture

Rural Utilities Service

7 CFR Part 1726

Electric System Construction Policies and Procedures; Final Rule

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1726

RIN 0572–AA47

Electric System Construction Policies and Procedures

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS), successor to the Rural Electrification Administration (REA), hereby amends its regulation on Electric System Construction Policies and Procedures. This action codifies the policies and the procedures applicable to RUS electric borrowers when purchasing materials and equipment, and when constructing system facilities by contract or force account. These policies and procedures were contained in six REA bulletins. The changes made pertain to RUS approval of contracts, subcontracts and amendments to contracts; documentation of contracting activity by RUS borrowers; procurement procedures to be used by RUS borrowers; and closeout procedures for construction contracts.

EFFECTIVE DATE: This rule is effective March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Fred J. Gatchell, Deputy Director, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, Washington, DC 20250–1500, telephone (202) 720–1398.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Regulatory Flexibility Act Certification

This action does not fall within the scope of the Regulatory Flexibility Act.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504 of the Act, the information collection and recordkeeping requirements contained in this rule have been approved by OMB under control number 0572–0107. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, room 10102, New Executive Office Building, Washington, DC 20503.

National Environmental Policy Act Certification

The Administrator has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402. Telephone (202) 783–3238.

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A Notice of Final Rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS loans and loan guarantees from coverage under this order.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule will not: (1) Preempt any State or local laws, regulations. or policies; (2) Have any retroactive effect; and (3) Require administrative proceedings before parties may file suit challenging the provisions of this rule.

Background

The Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 101 Stat. 3178), signed by President Clinton on October 13, 1994, provides for the establishment of RUS as successor to REA with respect to various programs, including the electric loan program established by the Rural Electrification Act of 1936, as amended, (the RE Act) (7 U.S.C. 901 *et seq.*). On October 20, 1994, the Secretary of Agriculture issued Secretary's Memorandum 1010–1, establishing RUS and abolishing REA. Therefore, RUS is publishing this final rule that was previously proposed by REA. Pursuant to the RE Act, RUS hereby amends 7 CFR chapter XVII, by revising Part 1726, Electric System Construction Policies and Procedures. This revised part contains the policies and the procedures applicable to RUS borrowers and contractors when purchasing materials and equipment and constructing electric system facilities by contract or force account (the RUS borrower's own construction crews).

These policies and the procedures implement certain provisions of the RUS standard form of loan documents regarding the borrower's purchase of materials and equipment and the construction of its electric system by contract or force account. In order to facilitate the programmatic interests of the RE Act, and, in order to assure that loans made or guaranteed by RUS are adequately secured, RUS, as a secured lender, has established certain standards and specifications for materials, equipment, and the construction of electric systems. The use of standard forms and procurement procedures helps assure RUS that: (1) appropriate standards and specifications are maintained; (2) RUS's loan security is not adversely affected; and (3) loan and loan guarantee funds are used effectively and for the intended purposes.

The previous policies and procedures were set forth in REA Bulletin 40–6, Construction Methods and Purchase of Materials and Equipment; REA Bulletin 40–8, Construction Specifications, Drawings and Contract Forms for Distribution, Transmission and Generation Facilities; REA Bulletin 81–6, Closeout Procedures and Documents for Contract Construction of Distribution and Transmission Facilities; REA Bulletin 85–1, Closeout Procedures and Documents for the Contract Construction of Generating Facilities and Associated Buildings; REA Bulletin 86–1, Closeout Procedures and Documents for the Construction of Buildings Other than Generating Plants; and REA Bulletin 86–3, Headquarters Facilities for Electric Borrowers. The previous policies and procedures are being changed and updated by this rule. When this rule is effective, Bulletins 40–6, 81–6, 85–1, 86–1, and 86–3 will be superseded in their entirety and rescinded, and Bulletin 40–8 will be superseded with respect to the contract forms listed in this rule.

Bulletin 40–8 will be superseded in its entirety and rescinded when all forms referenced therein have been promulgated.

Major Changes

The major substantive changes are as follows:

(a) This rule applies to procurement and construction for all projects which are financed, in whole or in part, with loans made or guaranteed by RUS, including reimbursable projects. REA Bulletin 40–6 contained the requirements for all procurement and construction, regardless of the source of funds.

(b) This rule eliminates the previous requirement that RUS approve subcontracts. (Subcontracts for generating projects were already exempt from RUS approval.)

(c) This rule changes the dollar thresholds that determine which procurement procedure is to be used for a project.

(d) This rule raises the dollar thresholds that determine whether RUS approval of a contract is required and eliminates the requirement of RUS approval of certain contract amendments.

(e) This rule eliminates the requirement of RUS approval of borrowers' contracts for headquarters facilities.

(f) This rule adds procedures for procurement of communication and control facilities.

(g) This rule simplifies the procedures for the closeout of construction contracts by reducing the number of forms to be submitted to RUS.

(h) This rule revises the RUS standard contract forms. The major changes in the contract forms are as follows:

(1) Change the forms to reflect the changes listed above.

(2) Change the insurance and bonding dollar limits as outlined in 7 CFR part 1788.

(3) Change the forms to require prequalification of all bidders.

(4) Change the interest rate on overdue accounts.

(5) Change the ''Buy American'' provision to include Mexico and Canada in accordance with the North American Free Trade Agreement Implementation Act of December 8, 1993, Pub. L. 103–182.

(6) Change the indemnification clause (also called ''hold harmless clause'') to reflect RUS's current policy.

(7) Incorporate certain technical changes relating to wood treating and right-of-way clearing chemicals. In order to reduce printing cost and volume, the forms included in this part are condensed, especially the tables. Also, several forms refer to guide drawings, which do not contain requirements, and, hence, will not be included. RUS intends to reformat these forms similar to their current configuration (including the tables and drawings) and make them available in that format either from RUS or for purchase from the Government Printing Office. See § 1726.300 for a list of the standard forms of electric contracts and where each may be obtained.

This rule was published as a proposed rule at 59 FR 28924, June 3, 1994. In addition, ''Permitted Contract Modifications—Indemnification,'' dealing with indemnification of the owner by the contractor in RUS's standard contract forms, was published as a proposed rule at 59 FR 4603, February 1, 1994. This rule incorporates the changes and addresses the comments resulting from the proposed rule ''Permitted Contract Modifications—Indemnification.''

Comments

A total of 45 organizations submitted comments on the proposed rule, including 27 borrowers, the National Rural Electric Cooperative Association, 6 engineers and engineering organizations, the Power and Communication Contractors Association, two insurance companies, two state borrower associations, and 6 others. RUS considered all comments received. The more significant and most commonly made comments are addressed herein.

Applicability

Many commenters suggested changes or clarification as to when this rule applies. This rule has been clarified to state that it applies when materials, equipment, and construction are financed, in whole or in part, with loans made or guaranteed by RUS, including reimbursable projects. A statement regarding jointly owned projects has also been added. Competitive bidding for new capacity resources, however, is outside the scope of this rule.

Threshold Limits

There were many comments suggesting changes in the various dollar limits regarding forms to be used, bidding procedures to be followed, RUS approvals, etc. Several comments also suggested making the dollar limits more consistent. RUS has increased the contract approval limit for transmission construction and for load control, communication, and SCADA systems for power supply borrowers. RUS believes that the limits, as revised, are a reasonable balance that allows the borrower reasonable flexibility while assuring RUS that loan funds are being used properly. A number of clarifications have been added to avoid potential ambiguities.

Several commenters expressed concern about using a calendar year limit, since one or two large procurements could consume the entire limit, and very small procurements thereafter would be subject to more stringent requirements. This situation is inherent in any calendar limit, and RUS expects each borrower to manage its procurement program by using the procurement procedure (e.g., formal competitive bidding) or the contract form not subject to the calendar year limit for large procurements and prudently utilizing the flexibility provided by this rule so that the calendar year limits are not exceeded.

Bidders Qualifications and Competition

Several commenters suggested that a bidder's performance record, safety record, and similar factors should be considered when evaluating bids. RUS strongly disagrees with this. RUS believes that such factors can and should be considered when determining the bidder's qualifications to be invited to bid, but it is inappropriate and unacceptable to evaluate these factors when evaluating a bid from a qualified and invited bidder. Language has been added to the rule clarifying this position.

Other comments concerned how to deal with a potential conflict of interest with a bidder. This rule places primary responsibility on the borrower's board of directors to determine if a potential conflict of interest is significant, and RUS believes this is appropriate.

A number of commenters suggested that fewer than three bidders could represent adequate competition. RUS believes that, for most procurement, three or more bidders are needed to assure adequate competition. We have, however, eliminated the requirement that RUS concurrence be obtained prior to awarding a contract based on fewer than three bids, providing that the borrower documents that all reasonable measures were taken to assure adequate competition.

Engineer

Many commenters noted that borrowers often utilize staff engineers, but the language of the rule generally implies that the engineer is an outside consultant. RUS agrees with this position and has revised the language accordingly.

One commenter noted that several engineering contract forms were not included in the list of RUS standard contract forms. Such forms are still available and in some cases mandatory, but are outside the scope of this rule and are contained in other RUS rules.

Definitions

Various commenters recommended clarifications and changes to the definitions as well as the addition of several more definitions. RUS has revised several definitions and added two new definitions. The other proposed definitions appear to be self-explanatory without modification.

Several commenters suggested that the contracting committee was not needed or should have a different make-up. RUS believes that this committee, required only under informal competitive bidding and multiparty negotiation, is needed as specified to insure the integrity of these procedures.

RUS Approvals

Some commenters suggested that RUS approval be automatic after a specified time period (30 or 60 days) without RUS action. Due to numerous factors which may affect RUS approval, including other agency priorities, human resources, and unresolved issues, this change was not made.

Other commenters felt that RUS approval should not be required to purchase used equipment and materials. Since most RUS loans are long-term, RUS must be satisfied that the physical security is adequate, so RUS will continue to require new equipment and materials unless specifically approved by RUS.

Many commenters objected to RUS reserving the right to require contract construction in lieu of force account construction (§ 1726.22). While RUS has rarely exercised this right in the past and does not expect to use it often in the future, there are circumstances where such authority has been and may again be needed, therefore, the language of the rule has not been changed.

Many commenters also objected to certain amendments being subject to RUS approval even if the original contract was not. The purpose of this requirement was to prevent changing the RUS approved form of contract by amendment where the borrower is not permitted to make such changes in the form without RUS approval. The language of the rule has been changed to indicate that the approved form of contract cannot be changed either prior to bidding or by amendment without prior RUS approval, but the actual amendment would not be subject to RUS approval.

Other commenters suggested that a RUS approved form of contract should only be required if RUS approval of the contract is required. RUS disagrees with this. RUS has eliminated many of the requirements for RUS approval of contracts based on the requirement that the borrower use certain forms and procedures for other contracts. This also applies to the amendment forms, although RUS has determined that special requirements for amendments for payment for material delivered are not necessary, so § 1726.26, along with RUS Form 800, have been deleted.

Documents Submitted to RUS

Many commenters suggested that certain of the documents submitted to RUS are unnecessary. With regard to ''Proof of Insurance,'' RUS agrees and has deleted this requirement. RUS believes that the remaining documents to be submitted are needed to assure that loan funds are being used properly.

Procurement Procedures

Several commenters requested clarification of the applicability of some of the procedures and changes to some of the details of the requirements. Several changes have been made in this area. Other commenters suggested that the informal bidding procedure and the multiparty negotiation procedure be changed to allow clarifying discussions or negotiations, respectively, with only the apparent low evaluated bidder. This change has not been made. RUS believes that meeting with at least the three apparent lowest evaluated bidders will insure adequate competition and fairness without undue burden on the borrower.

Forms

A number of commenters suggested that computer generated versions of RUS standard contract forms should be acceptable in addition to the preprinted versions. RUS agrees with this only for those forms which are primarily tables (Forms 251 and 254). For the remainder of the contract forms, RUS continues to believe that the most effective means of maintaining accurate and recognizable forms is to continue to use the preprinted version.

Commenters suggested that RUS Form 792 be modified to allow multi-year contracting and to allow RUS Form 786 to be modified to be a ''purchase only'' contract form. These changes have been made. One commenter suggested that all contract bonds use RUS Form 168c instead of RUS Form 168b. Form 168c is currently used when the contractor's surety has accepted a Small Business Administration guarantee and the contract is for one million dollars or less. RUS Form 168b has proved to be a satisfactory bond form for other contracts, so RUS has determined that it will require the RUS Form 168b where the Form 168c is not applicable.

A number of other suggestions were made regarding changes to the contract forms. Some minor changes have been made, but RUS intends to thoroughly review and revise these forms in the near future, so other comments will be considered at that time.

Two commenters suggested that RUS prepare a standard form for ''Engineer-Procure-Construct'' (EPC) or ''Turnkey'' type projects. RUS's experience with such projects indicate that each one tends to be unique and not well suited to a standard contract form, so therefore, no attempt has been made to develop such a standard form at this time.

Indemnification

RUS requires borrowers to use standard contract forms for certain construction, material supply, equipment supply, architectural services, and engineering services contracts. The construction contract forms contain a standard indemnification clause (also called ''hold harmless'') pursuant to which the contractor agrees to indemnify the owner against certain risks. Some borrowers have requested approval to incorporate an alternative indemnification clause in certain contracts. They believe that it provides them indemnification in addition to that afforded by the currently required clause. Some contractors have expressed concern about the extent of their potential liability under such a modified indemnification provision, particularly for certain actions of the owner. RUS has determined that it is in the Government's and the borrowers' best interest to have a reasonable and balanced indemnification provision: one that provides adequate protection for the borrower while not placing an unreasonable business risk on the contractor. An indemnification provision that does not adequately protect the borrower could expose the borrower to liability for damages which could endanger the Government's loan security. An indemnification provision which places an unreasonable business risk on the contractor could result in qualified, capable contractors declining to bid under such conditions, which could result in reduced competition and higher costs. It could even result in the borrower being exposed to increased liability if only financially weak contractors bid, since the contractor may be financially unable to meet its indemnification obligations. In response to these requests, ''Permitted Contract Modifications—Indemnification,'' was published as a proposed rule at 59 FR 4603, February 1, 1994. This final rule incorporates the changes concerning the

indemnification clause in the contract forms proposed by both of these rules.

In response to the proposed ''Permitted Contract Modifications—Indemnification,'' the issue which drew the most comments was whether to extend the indemnification to the borrower's engineer. Nine organizations (generally engineers or engineering organizations) are in favor of including the engineer, while two commenters opposed their inclusion. Since the engineer is independent of the borrower and has no direct contractual relationship with the contractor, RUS has determined that a clear separation should be maintained between the engineer and the contractor. Therefore, the indemnification clause does not extend to the engineer.

Many commenters expressed the view that the borrower (owner) should be named as Additional Insured on the contractor's liability insurance policies. Others felt that the engineer should also be named as Additional Insured. It appears that naming the borrower (but not the engineer) as Additional Insured will further RUS'S overall objective without adding significantly to the cost of the contract. RUS has decided, therefore, to add a requirement to name the owner as Additional Insured on the contractor's liability insurance policies.

Several commenters suggested minor wording changes under certain circumstances to insure that the language accomplishes its purpose. A section has been added under Section H allowing the borrower to make certain changes in the language if appropriate in its jurisdiction. One commenter found the indemnification language to be ''weak at best,'' while two commenters felt that it placed too much burden on the contractor. RUS believes that the final language included in this rule reasonably balances the interests of the borrower, the engineer, and the contractor.

Other Comments

A number of comments were received suggesting or requesting clarifications or corrections to the language of the rule. These have generally been made, although certain areas which appeared reasonably clear were not clarified further.

List of Subjects in 7 CFR Part 1726

Electric power, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

In view of the above, RUS hereby amends 7 CFR chapter XVII by revising part 1726 to read as follows:

PART 1726—ELECTRIC SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

Subpart A—General

Sec.

1726.1–1726.9 [Reserved]
1726.10 Introduction.
1726.11 Purpose.
1726.12 Applicability.
1726.13 Waivers.
1726.14 Definitions.
1726.15 ''Buy American''.
1726.16 Debarment and suspension.
1726.17 Restrictions on lobbying.
1726.18 Preloan contracting.
1726.19 Use of competitive procurement.
1726.20 Standards and specifications.
1726.21 New materials.
1726.22 Methods of construction.
1726.23 Qualification of bidders.
1726.24 Written contracts.
1726.25 Subcontracts.
1726.26–1726.34 [Reserved]
1726.35 Submission of documents to RUS.
1726.36 Documents subject to RUS approval.
1726.37 OMB control number.
1726.38–1726.49 [Reserved]

Subpart B—Distribution Facilities

1726.50 Distribution line materials and equipment.
1726.51 Distribution line construction.
1726.52–1726.74 [Reserved]

Subpart C—Substation and Transmission Facilities

1726.75 General.
1726.76 Substation and transmission line materials and equipment.
1726.77 Substation and transmission line construction.
1726.78–1726.124 [Reserved]

Subpart D—Generation Facilities

1726.125 Generating plant facilities.
1726.126–1726.149 [Reserved]

Subpart E—Buildings

1726.150 Headquarters buildings.
1726.151–1726.174 [Reserved]

Subpart F—General Plant

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Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

Subpart A—General

§§ 1726.1–1726.9 [Reserved]

§ 1726.10 Introduction.

The policies, procedures and requirements included in this part are intended to implement provisions of the standard form of loan documents between the Rural Utilities Service (RUS) and its electric borrowers. Unless prior written approval is received from RUS, borrowers are required to comply with RUS policies and procedures as a condition to RUS providing loans, loan guarantees, or reimbursement of general funds for the construction and improvement of electric facilities. Requirements relating to RUS approval of plans and specifications, duties and responsibilities of the engineer and architect, and engineering and architectural services contracts, are contained in other RUS regulations. The terms ''RUS form'', ''RUS standard form'', ''RUS specification'', ''and RUS bulletin'' have the same meanings as the terms ''REA form'', ''REA standard form'', ''REA specification'', ''and REA bulletin'', respectively, unless otherwise noted.

§ 1726.11 Purpose.

Each borrower is responsible for the planning, design, construction, operation and maintenance of its electric system. RUS, as a secured lender, has a legitimate interest in accomplishing RUS's programmatic objectives, and in assuring that the costs of construction, materials, and equipment are reasonable and economical and that the property securing the loans is constructed adequately to serve the purposes for which it is intended.

§ 1726.12 Applicability.

The requirements of this part apply to the procurement of materials and equipment for use by electric borrowers in their electric systems and to the construction of their electric systems if such materials, equipment, and construction are financed, in whole or in part, with loans made or guaranteed by RUS, including reimbursable projects. In order for general fund expenditures for procurement or construction to be eligible for reimbursement from loan funds, the borrower must comply with the procedures required by this part. In the case of jointly owned projects, RUS will determine on a case by case basis the applicability of the requirements of this part.

§ 1726.13 Waivers.

The Administrator may waive, for good cause on a case by case basis, certain requirements and procedures of this part. RUS reserves the right, as a condition of providing loans, loan guarantees, or other assistance, to require any borrower to make any specification, contract, or contract amendment subject to the approval of the Administrator.

§ 1726.14 Definitions.

Terms used in this part have the meanings set forth in 7 CFR 1710.2. References to specific RUS forms and other RUS documents, and to specific sections or lines of such forms and documents, shall include the corresponding forms, documents, sections and lines in any subsequent revisions of these forms and documents. In addition to the terms defined in 7 CFR 1710.2, the following terms have the following meanings for the purposes of this part:

Approval of proposed construction means RUS approval of a construction work plan or other appropriate engineering study and RUS approval, for purposes of system financing, of the completion of all appropriate requirements of part 1794 of this chapter.

Architect means a registered or licensed person employed by the borrower to provide architectural services for a project and duly authorized assistants and representatives.

Bona fide bid means a bid which is submitted by a contractor on the borrower's list of qualified bidders for the specific contract, prior to bid opening.

''Buy American'' certificate means a certification that the contractor has complied with the ''Buy American'' requirement (see § 1726.15).

Competitive procurement means procurement of goods or services based on lowest evaluated bid for similar products or services when three or more bids are received.

Construction unit means a specifically defined portion of a construction project containing materials, labor, or both, for purposes of bidding and payment.

Contracting committee means the committee consisting of three to five members representing the borrower's management and board of directors and the engineer. The contracting committee represents the borrower during contract clarifying discussions or negotiations under informal competitive bidding or multiparty negotiation, respectively.

Encumbrance means the process of approval for advance of loans funds by RUS.

Engineer means a registered or licensed person, who may be a staff employee or an outside consultant, to provide engineering services and duly authorized assistants and representatives.

Equipment means a major component of an electric system, e.g., a substation transformer, heat exchanger or a transmission structure.

Force account construction means construction performed by the borrower's employees.

Formal competitive bidding means the competitive procurement procedure wherein bidders submit sealed proposals for furnishing the goods or services stipulated in the specification. Bids are publicly opened and read at a predetermined time and place. If a contract is awarded, it must be to the lowest evaluated responsive bidder (see § 1726.201).

Goods or services means materials, equipment, or construction, or any combination thereof.

Informal competitive bidding means the competitive procurement procedure which provides for private opening of bids and allows clarifying discussions between the contracting committee and the bidders. During the clarifying discussions any exceptions to the bid documents must be eliminated, or the bid rejected, so that the contract is awarded to the lowest evaluated responsive bidder (see § 1726.202).

Material means miscellaneous hardware which is combined with equipment to form an electric system, e.g., poles, insulators, or conductors.

Minor error or irregularity means a defect or variation in a bid that is a matter of form and not of substance. Errors or irregularities are ''minor'' if they can be corrected or waived without being prejudicial to other bidders and when they do not affect the price, quantity, quality, or timeliness of construction. A minor error or

irregularity is not an exception for purposes of determining whether a bid is responsive.

Minor modification or improvement means a project where the cost is less than $50,000, exclusive of the cost of owner furnished materials.

Multiparty lump sum quotations means the procurement of goods or services on a lump sum basis, based on the lowest evaluated offering, when three or more offers are received. (See § 1726.205).

Multiparty negotiation means the procurement procedure where three or more bids are received and provides for negotiations between the contracting committee and each bidder to determine the bid which is in the borrower's best interest (see § 1726.203).

Multiparty unit price quotations means the procurement of goods or services on a unit price basis, based on the lowest evaluated offering, when three or more offers are received (See § 1726.204).

Net utility plant (NUP) means Part C, Line 5 of RUS Form 7 for distribution borrowers or Section B, Line 5 of RUS Form 12a for power supply borrowers for the immediately preceding calendar year.

Procurement method means a procedure, including, but not limited to, those in subpart G of this part, that a borrower uses to obtain goods and services.

Owner furnished materials means materials or equipment or both supplied by the borrower for installation by the contractor.

Responsive bid means a bid with no exceptions or non-minor errors or irregularities on any technical requirement or in the contract terms and conditions.

RUS approval means written approval by the Administrator or a representative with delegated authority. RUS approval must be in writing, except in emergency situations where RUS approval may be given over the telephone followed by a confirming letter.

Unit prices means individual prices for specific construction units defined in accordance with RUS approved units specified in RUS standard contract forms.

§ 1726.15 ''Buy American''.

The borrower must ensure that all materials and equipment financed with loans made or guaranteed by RUS complies with the ''Buy American'' provisions of the Rural Electrification Act of 1938 (7 U.S.C. 903 note), as amended by the North American Free Trade Agreement Implementation Act (107 Stat 2129). When a ''Buy American'' certificate is required by this part, this must be on RUS Form 213.

§ 1726.16 Debarment and suspension.

Borrowers are required to comply with certain requirements on debarment and suspension in connection with procurement activities as set forth in part 3017 of this title, particularly with respect to lower tier transactions, e.g., procurement contracts for goods or services.

§ 1726.17 Restrictions on lobbying.

Borrowers are required to comply with certain restrictions and requirements in connection with procurement activities as set forth in part 3018 of this title.

§ 1726.18 Preloan contracting.

Borrowers must consult with RUS prior to entering into any contract for material, equipment, or construction if a construction work plan, general funds, loan or loan guarantee for the proposed work has not been approved. While the RUS staff will work with the borrower in such circumstances, nothing contained in this part is to be construed as authorizing borrowers to enter into any contract before the availability of funds has been ascertained by the borrower and all the requirements of part 1794 of this chapter, Environmental Policies and Procedures for Electric and Telephone Borrowers, have been fulfilled.

§ 1726.19 Use of competitive procurement.

RUS borrowers' procurement is not subject to the provisions of the Federal Acquisition Regulation (48 CFR chapter 1); however, since borrowers receive the benefit of Federal financial assistance borrowers must use competitive procurement to the greatest extent practical. The borrower must use competitive procurement for obtaining all goods or services when a RUS loan or loan guarantee is involved except:

(a) As specifically provided for in subparts B through F of this part; or

(b) A waiver is granted.

§ 1726.20 Standards and specifications.

All materials, equipment, and construction must meet the minimum requirements of all applicable RUS standards and specifications. (See Part 1728, Electric Standards and Specifications for Materials and Construction, of this chapter, which is applicable regardless of the source of funding.)

§ 1726.21 New materials.

The borrower shall purchase only new materials and equipment unless otherwise approved by RUS, on a case by case basis, prior to the purchase.

§ 1726.22 Methods of construction.

The borrower is generally responsible for determining whether construction will be by contract or force account. If construction is by contract, the borrower must determine whether materials will be supplied by the contractor or will be furnished by the borrower. RUS reserves the right to require contract construction in lieu of force account construction on a case by case basis.

§ 1726.23 Qualification of bidders.

(a) *Qualified bidder list (QBL).* The borrower shall (acting through its engineer, if applicable) review the qualifications of prospective bidders for contract construction and for material and equipment procurement, and select firms qualified for inclusion on the borrower's list of qualified bidders for each contract. (See also § 1726.16 and § 1726.17.) A bid may not be solicited from a prospective bidder or opened by the borrower unless that bidder has been determined to be a qualified bidder for the contract. When preparing the QBL, in addition to the actual experience of the borrower, if any, in dealing with a prospective bidder, the borrower may solicit information from that bidder or from other parties with firsthand experience regarding the firm's capabilities and experience. It is also important to consider the firm's performance record, safety record, and similar factors in determining whether to include that firm on the QBL, since the borrower may not evaluate these factors when evaluating a bid from a qualified and invited bidder.

(b) *Conflict of interest.* If there is a relationship between the borrower or engineer and a prospective bidder which might cause the borrower or engineer to have or appear to have a conflict of interest, that prospective bidder shall not be included on the QBL unless the engineer discloses the nature of the relationship to the borrower. In the case of the borrower, if its employees or directors have a relationship with a prospective bidder, the prospective bidder shall not be included on the qualified bidders list unless the nature of the relationship is disclosed to the board of directors, and the board of directors specifically approves the inclusion of that bidder in light of the potential for a conflict of interest.

§ 1726.24 Written contracts.

(a) *General.* Procurement of goods or services must be by written contract or written purchase order. The borrower

shall use a RUS Approved Form of Contract for such contracts where required by subparts B through F of this part.

(b) *Amendments to contracts.*—(1) *Contract forms.* The borrower must use RUS Form 180, Construction Contract Amendment, for any change or addition in a distribution line construction contract. The borrower must use RUS Form 238, Construction or Equipment Contract Amendment, for any change or addition in any other contract for construction, or for materials or equipment.

(2) *Special considerations.* Each time an amendment to a construction contract is executed, the borrower must ensure that contractor's bond is adequate, that all necessary licenses and permits have been obtained, and that any environmental requirements associated with the proposed construction have been met.

(3) *Amendment approval requirements.* (i) If a RUS approved form of contract is required by this part, an amendment must not alter the terms and conditions of the RUS approved form of contract without prior RUS approval.

(ii) The borrower must make a contract amendment subject to RUS approval if the underlying contract was made subject to RUS approval and the total amended contract price exceeds 120 percent of the original contract price (excluding any escalation provision contained in the contract).

(iii) Contract amendments, except as provided in paragraph (b)(3)(ii) of this section, are not subject to RUS approval and need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

§ 1726.25 Subcontracts.

The contractor or supplier may use RUS Form 282, Subcontract, for subcontracts on construction, material or equipment contracts. Subcontracts are not subject to RUS approval and need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

§§ 1726.26–1726.34 [Reserved]

§ 1726.35 Submission of documents to RUS.

(a) *Where to send documents.* Documents required to be submitted to RUS under this part are to be sent to the office of the borrower's respective RUS Regional Director, the Power Supply Division Director, or such other office of RUS as designated by RUS (see part 1700 of this chapter.)

(b) *Borrower certification.* When a borrower certification is required by this part, it must be made by the borrower's manager unless the board of directors specifically authorizes another person to make the required certification. In such case, a certified copy of the specific authorizing resolution must accompany the document or be on file with RUS.

(c) *Contracts requiring RUS approval.* The borrower shall submit to RUS three copies of each contract that is subject to RUS approval under subparts B through F of this part. At least one copy of each contract must be an original signed in ink (i.e., no facsimile signature). Each contract submittal must be accompanied by:

(1) A bid tabulation and evaluation and, if applicable, a written recommendation of the architect or engineer.

(2) For awards made under the informal competitive bidding procedure or the multiparty negotiation procedure, a written recommendation of the contracting committee (See §§ 1726.202 and 1726.203).

(3) Three copies of an executed contractor's bond on RUS approved bond forms as required in the contract form (at least one copy of which must be an original signed in ink) and one copy of the bid bond or facsimile of the certified check.

(4) A certification by the borrower or chairperson of the contracting committee, as applicable, that the appropriate bidding procedures were followed as required by this part.

(5) A certified copy of the board resolution awarding the contract.

(6) Evidence of clear title to the site for substations and headquarters construction contracts, if not previously submitted.

(7) Documentation that all reasonable measures were taken to assure competition if fewer than three bids were received.

(d) *Contract amendments requiring RUS approval.* The borrower must submit to RUS three copies of each contract amendment (at least one copy of which must be an original signed in ink) which is subject to RUS approval under § 1726.24(b). Each contract amendment submittal to RUS must be accompanied by:

(1) A certified copy of the board resolution approving the amendment; and

(2) A bond extension, where necessary.

(e) *Encumbrance of loan or loan guarantee funds.* (1) For contracts subject to RUS approval, the submittals required under paragraph (c) of this section will initiate RUS action to encumber loan or loan guarantee funds for such contracts.

(2) For contracts not subject to RUS approval (except for generation projects), loan or loan guarantee funds will normally be encumbered using RUS Form 219, Inventory of Work Orders, after closeout of the contracts. In cases where the borrower can show good cause for a need for immediate cash, the borrower may request encumbrance of loan or loan guarantee funds based on submittal of a copy of the executed contract, provided it meets all applicable RUS requirements.

(3) For generation project contracts not subject to RUS approval, the borrower must submit to RUS the following documentation:

(i) A brief description of the scope of the contract, including contract identification (name, number, etc.);

(ii) Contract date;

(iii) Contractor's name;

(iv) Contract amount;

(v) Bidding procedure used;

(vi) Borrower certification that:

(A) The board of directors approved the contract;

(B) The bidding procedures and contract award for each contract were in conformance with the requirements of Part 1726, Electric System Construction Policies and Procedures;

(C) If a RUS approved form of contract is required by this part, the terms and conditions of the RUS approved form of contract have not been altered;

(D) If RUS has approved plans and specifications for the contract, the contract was awarded on the basis of those plans and specifications; and

(E) No restriction has been placed on the borrower's right to assign the contract to RUS or its successors.

(4) *Contract amendments.* (i) For amendments subject to RUS approval, the submittals required under paragraph (c) of this section will initiate RUS action to encumber loan or loan guarantee funds for contract amendments requiring RUS approval.

(ii) For amendments not subject to RUS approval (except generation projects), loan or loan guarantee funds will normally be encumbered using RUS Form 219, Inventory of Work Orders, after closeout of the contracts. In cases where the borrower can justify a need for immediate cash, the borrower may request encumbrance of loan or loan guarantee funds based on submittal of a copy of the executed amendment, providing it meets all applicable RUS requirements.

(iii) For each generation project contract amendment not subject to RUS approval, the borrower must submit to RUS the following information and documentation:

(A) The contract name and number;

(B) The amendment number;
(C) The amendment date;
(D) The dollar amount of the increase or the decrease of the amendment;
(E) Borrower certification that:
(*1*) The amendment was approved in accordance with the policy of the board of directors (the borrower must ensure that RUS has a certified copy of the board resolution establishing such policy);
(*2*) If a RUS approved form of contract is required by this part, the terms and conditions of the RUS approved form of contract has not been altered; and
(*3*) No restriction has been placed on the borrower's right to assign the contract to RUS or its successors.

§ 1726.36 Documents subject to RUS approval.

Unless otherwise indicated, the borrower shall make all contracts and amendments that are subject to RUS approval effective only upon RUS approval.

§ 1726.37 OMB control number.

The collection of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 0572–0107.

§§ 1726.38–1726.49 [Reserved]

Subpart B—Distribution Facilities

§ 1726.50 Distribution line materials and equipment.

(a) *Contract forms.* (1) The borrower shall use RUS Form 198, Equipment Contract, for purchases of equipment where the total cost of the contract is $500,000 or more.
(2) The borrower may, in its discretion, use RUS Form 173, Materials Contract, RUS Form 198, Equipment Contract, or a written purchase order for purchases of equipment of less than $500,000 and for all materials.
(b) *Standards and specifications.* Distribution line materials and equipment must meet the minimum requirements of RUS standards as determined in accordance with the provisions of part 1728 of this chapter, Electric Standards and Specifications for Materials and Construction. The borrower must obtain RUS approval prior to purchasing any unlisted distribution line material or equipment of the types listed in accordance with the provisions of part 1728 of this chapter.
(c) *Procurement procedures.* It is the responsibility of each borrower to determine the procurement method that best meets its needs for the purchase of material and equipment to be used in distribution line construction.
(d) *Contract approval.* Contracts for purchases of distribution line materials and equipment are not subject to RUS approval and need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

§ 1726.51 Distribution line construction.

(a) *Contract forms.* The borrower must use RUS Form 201, 790, 792, or 830, as outlined in this paragraph (a), for distribution line construction, except for minor modifications or improvements.
(1) The borrower may use RUS Form 790, Distribution Line Extension Construction Contract (Labor and Materials), or RUS Form 792, Distribution Line Extension Construction Contract (Labor only) under the following circumstances:
(i) For contracts for which the borrower supplies all materials and equipment; or
(ii) For non-site specific construction contracts accounted for under the work order procedure; or
(iii) If neither paragraph (a)(1)(i) or (a)(1)(ii) of this section are applicable, the borrower may use RUS Form 790 or 792 for contracts, up to a cumulative total of $250,000 or one percent of NUP, whichever is greater, per calendar year of distribution line construction, exclusive of the cost of owner furnished materials and equipment
(2) The borrower must use RUS Form 830, Electric System Construction Contract (Labor and Materials), for all other distribution line construction. Where distribution lines are being constructed incidental to transmission line construction, the borrower must use RUS Form 831, Electric Transmission Construction Contract.
(3) The borrower must use RUS Form 201, Right-of-Way Clearing Contract, for new distribution line construction right-of-way clearing when done separately from work performed under RUS Form 830.
(b) *Procurement procedures.* (1) It is the responsibility of each borrower to determine the procurement method that best meets its needs to award contracts in amounts of up to a cumulative total of $250,000 or one percent of NUP, whichever is greater, per calendar year of distribution line construction (including minor modifications or improvements), exclusive of the cost of owner furnished materials and equipment.
(2) In addition to the cumulative total stipulated in paragraph (b)(1) of this section, a borrower may use Multiparty Unit Price Quotations to award contracts in amounts of up to a cumulative total of $350,000 or 1.5 percent of NUP, whichever is greater, per calendar year of distribution line construction (including minor modifications or improvements), exclusive of the cost of owner furnished materials and equipment.
(3) The borrower shall use formal competitive bidding for all other distribution line contract construction. The amount of contracts bid using the formal competitive bidding procedure do not apply to the cumulative total stipulated in paragraph (b)(1) of this section.
(4) An amendment which increases the scope of the contract by adding a project is not considered competitively bid, therefore, the amount of that amendment does apply to the cumulative total stipulated in paragraph (b)(1) of this section.
(c) *Contract approval.* Contracts for distribution line construction are not subject to RUS approval and need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

§§ 1726.52–1726.74 [Reserved]

Subpart C—Substation and Transmission Facilities

§ 1726.75 General.

As used in this part, ''substations'' includes substations, switching stations, metering points, and similar facilities.

§ 1726.76 Substation and transmission line materials and equipment.

(a) *Contract forms.* (1) The borrower must use RUS Form 198, Equipment Contract, for purchases of equipment where the total cost of the contract is $500,000 or more.
(2) The borrower may, in its discretion, use RUS Form 173, Materials Contract, RUS Form 198, Equipment Contract, or a written purchase order for purchases of equipment of less than $500,000 and for all materials.
(b) *Standards and specifications.* Substation and transmission line materials and equipment must meet the minimum requirements of RUS standards as determined in accordance with the provisions of part 1728 of this chapter, Electric Standards and Specifications for Materials and Construction. The borrower must obtain RUS approval prior to purchasing of any unlisted substation or transmission line material or equipment of the types listed in accordance with the provisions of part 1728 of this chapter.
(c) *Procurement procedures.* It is the responsibility of each borrower to determine the procurement method that best meets its needs for purchase of material and equipment to be used in

substation and transmission line construction.

(d) *Contract approval.* Contracts for purchases of substation and transmission line materials and equipment are not subject to RUS approval and need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

§ 1726.77 Substation and transmission line construction.

(a) *Contract forms.* (1) The borrower must use RUS Form 764, Substation Erection Contract, for construction of substations, except for minor modifications or improvements. The borrower must use RUS Form 831, Electric Transmission Construction Contract for projects where substations are incidental to transmission line construction and are to be constructed under the same contract.

(2) The borrower must use RUS Form 831, Electric Transmission Construction Contract, for construction of transmission lines (except for minor modifications or improvements).

(3) The borrower must use RUS Form 203, Transmission System Right-of-Way Clearing Contract, for new transmission line construction right-of-way clearing when right-of-way clearing is performed separately from work performed under RUS Form 831.

(b) *Procurement procedures.* (1) It is the responsibility of each borrower to determine the procurement method that best meets its needs to award contracts not requiring RUS approval in amounts of up to a cumulative total of $250,000 or one percent of NUP (not to exceed $2,000,000), whichever is greater, per calendar year of substation and transmission line construction (including minor modifications or improvements), exclusive of the cost of owner furnished materials and equipment.

(2) The borrower shall use formal competitive bidding for all other contract construction, including all contracts requiring RUS approval. The amount of contracts bid using the formal competitive bidding procedure do not apply to the cumulative total stipulated in paragraph (b)(1) of this section.

(3) An amendment which increases the scope of the contract by adding a project is not considered competitively bid, therefore, the amount of that amendment does apply to the cumulative total stipulated in paragraph (b)(1) of this section.

(c) *Contract approval.* Individual contracts in amounts of $250,000 or more or one percent of NUP (not to exceed $500,000 for distribution borrowers or $1,500,000 for power supply borrowers), whichever is greater, exclusive of the cost of owner furnished materials and equipment, are subject to RUS approval.

§§ 1726.78–1726.124 [Reserved]

Subpart D—Generation Facilities

§ 1726.125 Generating plant facilities.

This section covers the construction of all portions of a generating plant, including plant buildings and the generator step-up transformer. Generally, the transmission switchyard will be covered under this section during initial construction of the plant. Subpart C of this part covers subsequent modifications to transmission switchyards. Warehouses and equipment service type buildings are covered under subpart E of this part.

(a) *Contract forms.* (1) The borrower must use RUS Form 198, Equipment Contract, for the purchase of generating plant equipment in the amount of $1,500,000 or more and for any generating plant equipment contract requiring RUS approval.

(2) The borrower must use RUS Form 200, Construction Contract—Generating, for generating project construction contracts in the amount of $1,500,000 or more and for any generating project construction contract requiring RUS approval.

(3) The borrower may, in its discretion, use other contract or written purchase order forms for those contracts in amounts of less than $1,500,000 and that do not require RUS approval.

(b) *Plans and specifications.* The borrower shall obtain RUS approval of the plans and specifications for generating plant equipment prior to issuing invitations to bid for any contract subject to RUS approval as determined under this subpart and for any contract for generating plant equipment or construction which will cost $1,500,000 or more. Plans and specifications for other equipment and construction contracts do not require RUS approval and need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

(c) *Procurement procedures.* (1) It is the responsibility of each borrower to determine the procurement method that best meets its needs to award contracts in amounts of less than $1,500,000 each.

(2) If the amount of the contract is $1,500,000 or more or if the contract requires RUS approval, the borrower must use formal or informal competitive bidding to award the contract.

(3) Where formal or informal competitive bidding is not applicable, or does not result in a responsive bid, multiparty negotiation may be used only after RUS approval is obtained.

(d) *Contract approval.* During the early stages of generating plant design or project design, RUS will, in consultation with the borrower and its consulting engineer, identify the specific contracts which require RUS approval based on information supplied in the plant design manual. The following are typical contracts for each type of generating project which will require RUS approval. Although engineering services are not covered by this part, they are listed in this paragraph (d) to emphasize that RUS approval is required for all major generating station engineering service contracts in accordance with applicable RUS rules. For types of projects not shown, such as nuclear and alternate energy projects, RUS will identify the specific contracts which will require RUS approval on a case by case basis.

(1) *Fossil generating stations.* Engineering services, steam generator, turbine generator, flue gas desulfurization system, particulate removal system, electric wiring and control systems, mechanical equipment installation (including turbine installation and plant piping), power plant building (foundation and superstructure), site preparation, coal unloading and handling facilities, main step-up substation, cooling towers, and dams or reservoirs.

(2) *Diesel and combustion turbine plants.* Engineering services, prime mover and generator, building (foundation and superstructure), and electrical control systems.

(3) *Hydro installations.* Engineering services, turbine/generator, civil works and powerhouse construction, electrical control system, and mechanical installation.

§§ 1726.126–1726.149 [Reserved]

Subpart E—Buildings

§ 1726.150 Headquarters buildings.

This section includes headquarters buildings such as warehouses and equipment service type buildings. Generating plant buildings are covered under subpart D of this part.

(a) *Contract forms.* The borrower must use RUS Form 257, Contract to Construct Buildings, for all contracts for construction of new headquarters facilities, and additions to, or modifications of existing headquarters facilities (except for minor modifications or improvements).

(b) *Procurement procedures.* A borrower may use Multiparty Lump

Sum Quotations to award contracts in amounts of up to a cumulative total of $250,000 or one percent of NUP (not to exceed $1,000,000), whichever is greater, per calendar year of headquarters construction (including minor modifications or improvements.) The borrower must use formal competitive bidding for all other headquarters contract construction.

(c) *Contract approval.* Contracts for headquarters construction are not subject to RUS approval and need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

§§ 1726.151–1726.174 [Reserved]

Subpart F—General Plant

§ 1726.175 General plant materials.

This section covers items such as office furniture and equipment; transportation equipment and accessories, including mobile radio systems, stores and shop equipment, laboratory equipment, tools and test equipment.

(a) *Contract forms.* The borrower may, in its discretion, use RUS Form 173, Material Contract, RUS Form 198, Equipment Contract, or a written purchase order.

(b) *Procurement procedures.* It is the responsibility of each borrower to determine the procurement method that best meets its needs for purchase of general plant material and equipment.

(c) *Contract approval.* Contracts for the purchase of general plant items are not subject to RUS approval and need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

§ 1726.176 Communications and control facilities.

This section covers the purchase of microwave and power line carrier communications systems, load control, and supervisory control and data acquisition (SCADA) systems. Mobile radio systems are covered as general plant materials in § 1726.175.

(a) *Power line carrier systems.* Power line carrier equipment will frequently be purchased as part of a substation and will be included in the complete substation plans and specifications. When purchased in this manner, the requirements of subpart C of this part, Substation and Transmission Facilities, will apply. If obtained under a contract for only a power line carrier system, the requirements of paragraph (b) of this section apply.

(b) *Load control systems, communications systems, and SCADA systems*—(1) *Contract forms.* The borrower must use RUS Form 786, Electric System Communication and Control Equipment Contract. This form may be modified to be a ''purchase only'' contract form.

(2) *Procurement procedures.* (i) It is the responsibility of each borrower to determine the procurement method that best meets its needs to award contracts not requiring RUS approval in amounts of up to a cumulative total of $250,000 or one percent of NUP (not to exceed $2,000,000), whichever is greater, per calendar year of communications and control facilities construction (including minor modifications or improvements.), exclusive of the cost of owner furnished materials and equipment.

(ii) The borrower must use multiparty negotiation for all other communications and control facilities contract construction, including all contracts requiring RUS approval. The amount of contracts bid using the multiparty negotiation procedure do not apply to the cumulative total stipulated in paragraph (b)(2)(i) of this section.

(iii) An amendment which increases the scope by adding a project is not considered competitively bid, therefore, the amount of that amendment does apply to the cumulative total stipulated in paragraph (b)(2)(i) of this section.

(3) *Contract approval.* Individual contracts in amounts of $250,000 or more or one percent of NUP (not to exceed $500,000 for distribution borrowers or $1,500,000 for power supply borrowers), whichever is greater, exclusive of the cost of owner furnished materials and equipment, are subject to RUS approval.

§§ 1726.177–1726.199 [Reserved]

Subpart G—Procurement Procedures

§ 1726.200 General requirements.

The borrower must use the procedures described in this subpart where such procedures are required under subparts B through F of this part. The borrower must ensure that arrangements prior to announcement of the award of the contract are such that all bidders are treated fairly and no bidder is given an unfair advantage over other bidders.

§ 1726.201 Formal competitive bidding.

Formal competitive bidding is used for distribution, transmission, and headquarters facilities, and may be used for generation facilities. The borrower must use the following procedure for formal competitive bidding:

(a) *Selection of qualified bidders.* The borrower (acting through its engineer, if applicable) will compile a list of qualified bidders for each proposed contract. The borrower will send invitations to bid only to persons or organizations on its QBL for the specific project (see § 1726.23).

(b) *Invitations to bid.* The borrower (acting through its engineer, if applicable) is responsible for sending out invitations to prospective bidders, informing them of scheduled bid openings and taking any other action necessary to procure full, free and competitive bidding. The borrower should send out a sufficient number of invitations in order to assure adequate competition and so that at least three bids will be received. Subject to the foregoing criteria, the determination of how many and which bidders will be permitted to bid will be the responsibility of the borrower.

(c) *Evaluation basis.* Any factors, other than lowest dollar amount of the bid, which are to be considered in evaluating the proposals of qualified bidders (e.g., power consumption, losses, etc.) must be stated in the ''Notice and Instructions to Bidders.'' The borrower will not evaluate a bidder's performance record, safety record, and similar factors when evaluating a bid from a qualified and invited bidder. Such factors are to be considered when determining whether to include a particular bidder on the qualified bidders list.

(d) *Handling of bids received.* The borrower or the engineer, as applicable, will indicate, in writing, the date and time of receipt by the borrower or the engineer on the outside envelope of each bid and all letters and other transmittals amending or modifying the bids. Any bid received at the designated location after the time specified must be returned to the bidder unopened.

(e) *Bid openings.* Bid openings are generally conducted by the engineer in the presence of bidders and a representative of the borrower and the borrower's attorney. Each bona fide bid must be opened publicly and reviewed for any irregularities, errors, or exceptions. It must be verified that any addendum or supplement to the specification has been acknowledged by the bidder. The adequacy of bid bonds or certified checks must be verified at this time.

(f) *Conditions affecting acceptability of bids.* The borrower must take the following specified action if any of the following exist:

(1) *Fewer than three bona fide bids received.* If fewer than three bona fide bids are received for the contract project, the borrower must determine that all reasonable measures have been taken to assure competition prior to awarding the contract. This

determination must be documented and such documentation submitted to RUS where required by subpart A of this part. The borrower may, however, elect to reject all bids, make changes in the specification or the qualified bidders list or both and invite new bids.

(2) *Significant error or ambiguity in the specification.* If a significant error or ambiguity in the specification is found which could result in the bidders having varying interpretations of the requirements of the bid, the borrower must either issue an addendum to each prospective bidder correcting the error or ambiguity before bids are received, or reject all bids and correct the specification. If a significant error or ambiguity in the specification is discovered after the bids are opened, the borrower must reject all bids, correct the specification and invite new bids.

(3) *Minor errors or omissions in the specification.* If minor errors or omissions in the specification are found, the borrower must issue an addendum to each prospective bidder correcting the error or omission prior to opening any bids. After bid opening, the error or omission must be corrected in the executed contract.

(4) *Minor errors or irregularities in bid.* The borrower may waive minor errors or irregularities in any bid, if the borrower determines that such minor errors or irregularities were made through inadvertence. Any such minor errors or irregularities so waived must be corrected on the bid in which they occur prior to the acceptance thereof by the borrower.

(5) *Non-minor error or irregularity in bid.* If a bid contains a non-minor error or irregularity, the bid must be rejected and the bid price must not be disclosed.

(6) *Unbalanced bid.* If a bid contains disproportionate prices between labor and materials or between various construction units, the borrower may reject the bid.

(7) *No acceptable price quoted.* If none of the bidders quote an acceptable price, the borrower may reject all bids.

(g) *Evaluating bids.* The borrower (acting through the engineer, if applicable) must conduct the evaluation of bids on the basis of the criteria set out in the ''Notice and Instructions to Bidders.'' The contract, if awarded, must be awarded to the bidder with the lowest evaluated responsive bid.

(h) *Announcement of bids.* If possible, the borrower will announce bids at the bid opening. However, where extensive evaluation is required, the borrower may elect to adjourn and make formal written announcement to all bidders at a later time. Any discrepancy in a rejected bid must be indicated in the bid announcement.

(i) *Award of contract.* Upon completion of the bid evaluations and based upon the findings and recommendations of the borrower's management and engineer, the borrower's board of directors will either:

(1) Resolve to award the contract to the lowest evaluated responsive bidder; or

(2) Reject all bids.

(j) *Certification by the borrower and its engineer.* The borrower shall certify and the engineer shall certify as follows: ''The procedures for formal competitive bidding, as described in 7 CFR 1726.201, were followed in awarding this contract.'' The certification executed by and on behalf of the borrower and its engineer shall be submitted to RUS in writing where required by subpart A of this part.

§ 1726.202 Informal competitive bidding.

Informal competitive bidding may be used for equipment purchases and generation construction. The borrower must use the following procedure for informal competitive bidding:

(a) *Selection of qualified bidders.* The borrower (acting through its engineer, if applicable) will compile a list of qualified bidders for each proposed contract. The borrower will send invitations to bid only to persons or organizations on its qualified bidder list for the specific project (see § 1726.23).

(b) *Invitations to bid.* The borrower (acting through its engineer, if applicable) is responsible for sending out invitations to prospective bidders, informing them of scheduled bid openings and any other action necessary to procure full, free and competitive bidding. In any event, however, sufficient invitations need to be sent out to assure competition and that at least three bids will be received. Subject to the criteria in the preceding sentence, the determination of how many and which bidders will be permitted to bid will be the responsibility of the borrower.

(c) *Notice and instructions to bidders.* The borrower must indicate in the ''Notice and Instructions to Bidders'' section of the bid documents that bids will be opened privately. The borrower may elect to conduct clarifying discussions with the bidders. If such clarifying discussions are held, at least the three apparent low evaluated bidders must be given an equal opportunity to resolve any questions related to the substance of the bidder's proposal and to arrive at a final price for a responsive bid.

(d) *Evaluation basis.* Any factors, other than lowest dollar amount of the bid, which are to be considered in evaluating the proposals of qualified bidders (e.g., power consumption, losses, etc.) must be stated in the ''Notice and Instructions to Bidders.'' The borrower will not evaluate a bidder's performance record, safety record, and similar factors when evaluating a bid from a qualified and invited bidder. Such factors are to be considered when determining whether to include a particular bidder on the qualified bidders list.

(e) *Handling of bids received.* The borrower or the engineer, as applicable, will indicate, in writing, the date and time of receipt by the borrower or the engineer on the outside envelope of each bid and all letters and other transmittals amending or modifying the bids. Any bid received at the designated location after the time specified must be returned to the bidder unopened.

(f) *Bid opening.* The contracting committee will conduct the bid opening in private. The contracting committee will open each bona fide bid which has been received prior to the deadline, and review it for any irregularities, errors, or exceptions. It must be verified that any addendum to the specification has been acknowledged by each bidder. The adequacy of bid bonds or certified checks must also be verified.

(g) *Conditions affecting acceptability of bids.* The borrower must take the following specified action if any of the following exist:

(1) *Fewer than three bona fide bids received.* If fewer than three bona fide bids are received for the contract project, the borrower must determine that all reasonable measures have been taken to assure competition prior to awarding the contract. This determination must be documented and such documentation submitted to RUS where required by subpart A of this part. The borrower may, however, elect to reject all bids, make changes in the specification or the qualified bidders list or both and invite new bids.

(2) *Significant error or ambiguity in the specification.* If a significant error or ambiguity in the specification is found which could result in the bidders having varying interpretations of the requirements of the bid, the borrower must either issue an addendum to each prospective bidder correcting the error or ambiguity before bids are received, or reject all bids and correct the specification. If a significant error or ambiguity in the specification is discovered after the bids are opened, the borrower must reject all bids, correct the specification and invite new bids.

(h) *Clarification of proposals.* The contracting committee may elect not to hold any clarifying discussions and recommend awarding the contract to the low responsive bidder. Otherwise, the contracting committee must give at least each of the three apparent lowest evaluated bidders an equal opportunity to participate in discussions for the purpose of resolving questions regarding the specification and contract terms and to arrive at a final price. Neither prices of other bids nor relative ranking of any bidder are to be revealed under any circumstances. Such discussions may be held by telephone or similar means provided at least each of the three apparent lowest evaluated bidders have an equal opportunity to participate. Upon completion of the clarifying discussions, the contracting committee will determine the lowest evaluated responsive bid. If no bids are responsive after the contracting committee has completed clarifying discussions, no contract award can be made under the informal bidding procedure.

(i) *Award of the contract.* Upon completion of the bid evaluations, the contracting committee will promptly report all findings and recommendations to the borrower's board of directors. The board will either:

(1) Resolve to award the contract to the lowest evaluated responsive bidder; or

(2) Reject all bids.

(j) *Certifications by the contracting committee.* The chairperson of the contracting committee shall certify as follows: ''The procedures for informal competitive bidding as described in 7 CFR 1726.202 were followed in awarding this contract.'' The certification executed by the chairperson of the contracting committee shall be submitted to RUS in writing where required by subpart A of this part.

§ 1726.203 Multiparty negotiation.

Multiparty negotiation may only be used where permitted under subpart F of this part or where prior RUS approval has been obtained. The borrower must use the following procedure for multiparty negotiation:

(a) *Selection of qualified bidders.* The borrower (acting through its engineer, if applicable) will compile a list of qualified bidders for each proposed contract. The borrower will send invitations to bid only to persons or organizations on its qualified bidder list for the specific project (see § 1726.23).

(b) *Invitations to bid.* The borrower (acting through its engineer, if applicable) is responsible for sending out invitations to prospective bidders, informing them of scheduled bid openings and any other action necessary to procure full, free and competitive bidding. In any event, however, sufficient invitations need to be sent out to assure competition and so that at least three bids will be received. Subject to the criteria in the preceding sentence, the determination of how many and which bidders will be permitted to bid will be the responsibility of the borrower.

(c) *Notice and instructions to bidders.* The borrower must indicate in the ''Notice and Instructions to Bidders'' section of the bid documents that bids will be opened privately. The borrower may elect to conduct negotiations with the bidders. If such negotiations are held, at least the three apparent low evaluated bidders must be given an equal opportunity to resolve any questions related to the substance of the bidder's proposal and to arrive at a final price.

(d) *Evaluation basis.* Any factors, other than lowest dollar amount of the bid, which are to be considered in evaluating the proposals of qualified bidders (e.g., power consumption, losses, etc.) must be stated in the ''Notice and Instructions to Bidders.'' The borrower will not evaluate a bidder's performance record, safety record, and similar factors when evaluating a bid from a qualified and invited bidder. Such factors are to be considered when determining whether to include a particular bidder on the qualified bidders list.

(e) *Handling of bids received.* The borrower or the engineer, as applicable, will indicate, in writing, the date and time of receipt by the borrower or the engineer on the outside envelope of each bid and all letters and other transmittals amending or modifying the bids. Any bid received at the designated location after the time specified must be returned to the bidder unopened.

(f) *Bid opening.* The contracting committee will conduct the bid opening in private. The contracting committee will open each bona fide bid which has been received prior to the deadline, and review it for any irregularities, errors, or exceptions. It must be verified that any addendum to the specification has been acknowledged by each bidder. The adequacy of bid bonds or certified checks must also be verified.

(g) *Conditions affecting acceptability of bids.* The borrower must take the following specified action if any of the following exist:

(1) *Fewer than three bona fide bids received.* If fewer than three bona fide bids are received for the contract project, the borrower must determine that all reasonable measures have been taken to assure competition prior to awarding the contract. This determination must be documented and such documentation submitted to RUS where required by subpart A of this part. The borrower may, however, elect to reject all bids, make changes in the specification or the qualified bidders list or both and invite new bids.

(2) *Significant error or ambiguity in the specification.* If a significant error or ambiguity in the specification is found which could result in the bidders having varying interpretations of the requirements of the bid, the borrower must either issue an addendum to each prospective bidder correcting the error or ambiguity before bids are received, or reject all bids and correct the specification. If a significant error or ambiguity in the specification is discovered after the bids are opened, the borrower must reject all bids, correct the specification and invite new bids.

(h) *Negotiations.* The contracting committee may elect not to hold any negotiations and recommend award of the contract. Otherwise, the contracting committee must give at least each of the three apparent lowest evaluated bidders an equal opportunity to participate in negotiations for the purpose of resolving questions regarding the specification and contract terms and to arrive at a final price. Neither prices of other bids nor relative ranking of any bidder are to be revealed under any circumstances. Such discussions may be held by telephone or similar means provided at least each of the three apparent lowest evaluated bidders have an equal opportunity to participate. Upon completion of the negotiations, the contracting committee will determine the bid that is in the borrower's best interest.

(i) *Award of the contract.* Upon completion of the bid evaluations, the contracting committee will promptly report all findings and recommendations to the borrower's board of directors. The board will either:

(1) Resolve to award the contract to the selected bidder; or

(2) Reject all bids.

(j) *Certifications by the contracting committee.* The chairperson of the contracting committee shall certify as follows: ''The procedures for multiparty negotiation as described in 7 CFR 1726.203 were followed in awarding this contract.'' The certification executed by the chairperson of the contracting committee shall be submitted to RUS in writing where required by subpart A of this part.

§ 1726.204 Multiparty unit price quotations.

The borrower or its engineer must contact a sufficient number of suppliers or contractors to assure competition and so that at least three bids will be received. On the basis of written unit price quotations, the borrower will select the supplier or contractor based on the lowest evaluated cost.

§ 1726.205 Multiparty lump sum quotations.

The borrower or its engineer must contact a sufficient number of suppliers or contractors to assure competition and so that at least three bids will be received. On the basis of written lump sum quotations, the borrower will select the supplier or contractor based on the lowest evaluated cost.

§§ 1726.206–1726.249 [Reserved]

Subpart H—Modifications to RUS Standard Contract Forms

§ 1726.250 General.

RUS provides standard contract forms for procurement of materials, equipment, and construction, for contract amendments and subcontracts, and various related forms for use by RUS borrowers. See § 1726.300 for a listing of these forms and how to obtain them. The standard contract forms shall be used by the borrowers in accordance with the provisions of this part. RUS will give prior approval to certain modifications to these forms without changing the applicable requirements for RUS approval. Such approved modifications are set forth in this subpart. These are the only modifications given prior RUS approval.

§ 1726.251 Prior approved contract modification related to price escalation on transmission equipment, generation equipment, and generation construction contracts.

(a) *General.* Where the borrower encounters reluctance among manufacturers, suppliers, and contractors to bid a firm price on transmission equipment or generation equipment, materials or construction, modifications may be made in the RUS standard form of contracts. These modifications, if applicable, may include, as an alternative to the standard form, provisions for adjusting a base price either upward or downward as determined by changes in specified indexes between the time of the bid and the time the work is performed or materials are procured by the contractor for such work. A large number of labor and materials indexes are published monthly by the Bureau of Labor Statistics (BLS). The borrower (acting through its engineer, if applicable) will select the indexes for the particular item to be used in the price adjustment clause. Suppliers' corporate indexes may not be used. Labor and materials indexes are reported in the BLS's monthly publications entitled ''Employment and Earnings'' and ''Producer Prices and Price Indexes.'' These publications may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or any of the BLS regional offices.

(b) *Material and equipment contracts.* The approved provisions needed to reflect the modifications to provide for price escalation in the material or equipment contract forms for generation facilities are as follows:

(1) Insert new paragraphs in the Notice and Instructions to Bidders as follows:

''Proposals are invited on the basis of firm prices (or prices with a stated maximum percentage escalation) or on the basis of nonfirm prices to be adjusted as provided for below or on both bases. The owner may award the contract on either basis.

Nonfirm prices. The prices are subject to adjustment upward or downward based on change in the Bureau of Labor Statistics labor and material indexes.

A proportion of ____ percent [the borrower will enter the appropriate percentage amount] of the contract price shall be deemed to represent labor cost and shall be adjusted based on changes in the Bureau of Labor Statistics, Average Hourly Earnings Rate____ [the borrower will enter the appropriate BLS index] from the month in which the bids are opened to the month in which the labor is incorporated in the equipment or materials. The adjustment for labor costs shall be obtained by applying the percentage of increase or decrease in such index, calculated to the nearest one-tenth of one percent, to the percentage of the contract prices deemed to represent labor costs. A portion of ____ percent [the borrower will enter the appropriate percentage amount] of the contract price shall be deemed to represent material costs and shall be adjusted based on changes in the Bureau of Labor Statistics, material index ____ [the borrower will enter the appropriate BLS index] for the period and in a manner similar to the labor cost adjustment.''

(2) Insert the following in the contract documents under the ''Proposal'' section:

''Firm Price $_____
Nonfirm Price $_____''

(3) For equipment that uses a large quantity of insulating oil, the borrower may insert the following in the contract documents under the ''Proposal'' section:

''The price for insulating oil shall be adjusted upward or downward based on the change in the Bureau of Labor Statistics Refined Petroleum Rate (057) from the month in which the bids are opened to the month in which the oil is purchased by the equipment supplier. Contracts shall be evaluated based on an estimated cost of ____ cents per gallon [the borrower will enter the appropriate cost] for oil. Such adjustment, if any, shall not change the contract amount for purpose of applying any other adjustments to the contract prices.''

(c) *Construction contracts.* The approved provisions needed to reflect the modifications to provide for price escalation in the construction contract forms for generation facilities are as follows:

(1) Insert new paragraphs in the ''Notice and Instructions'' to Bidders as follows:

''Proposals are invited on the basis of firm prices (or prices with a stated maximum percentage escalation) or on the basis of nonfirm prices to be adjusted as provided for below or on both bases. The owner may award the contract on either basis.

Nonfirm Prices—The prices are subject to adjustment upward or downward based on changes in the Bureau of Labor Statistics labor and material indexes.

A proportion of ____ percent [the borrower will enter the appropriate percentage amount] of the contract price shall be deemed to represent shop labor costs and shall be adjusted based on changes in the Bureau of Labor Statistics, Average Hourly Earnings Rate ____ [the borrower will enter the appropriate BLS index] from the month in which bids are opened to the month in which the work is accomplished. The adjustment for shop labor costs shall be obtained by applying the percentage increase or decrease in such index, to the percentage of each partial payment deemed to represent shop labor costs. A portion of ____ percent [the borrower will enter the appropriate percentage amount] of the contract prices shall be deemed to represent material costs and shall be adjusted based on changes in the Bureau of Labor Statistics, Producer Price Index, ____ [the borrower will enter the appropriate BLS index] for the period and in a manner similar to the shop labor costs adjustment. A portion of ____ percent [the borrower will enter the appropriate percentage amount] of the contract price shall be deemed to represent field labor costs and shall be adjusted based on changes in the Bureau of Labor Statistics, Average Hourly Earnings Rate ____ [the borrower will enter the appropriate BLS index], for the period and in a manner similar to the shop labor costs adjustment.''

(2) Insert the following in the contract documents under the ''Proposal'' section:

''Firm Price $_____
Nonfirm Price $_____''

§ 1726.252 Prior approved contract modification related to liability for special and consequential damages.

This section applies only to transmission equipment purchases and

generation contracts. Where the borrower anticipates difficulty in obtaining responsive bids on RUS standard contract forms due to a lack of limitation with respect to special and consequential damages, and where the borrower believes that such a modification will encourage competition through the receipt of an alternative bid which limits the bidder's liability for special and consequential damages, the borrower may make the following approved phrase modifications in the RUS standard contract form on which the borrower solicits bids:

(a) Insert new paragraphs in the ''Notice and Instructions to Bidders'' as follows:

''Proposals are invited on the basis of alternative Liability Clauses Numbers 1 and 2. The Owner will determine on which Liability Clause basis the award will be made. Any other liability clauses in the proposal or any other modifications will be considered not responsive and unacceptable. These Liability Clauses are defined as follows:

Liability Clause Number 1. This will include unmodified all of the standard terms and conditions of the form of contract furnished by the Owner and attached hereto.

Liability Clause Number 2. This will include the following paragraph, in addition to all of the standard terms and conditions, otherwise unmodified, of the form of contract furnished by the Owner and attached hereto:

'Except for the Seller's willful delay or refusal to perform the contract in accordance with its terms, the Seller's liability to the Owner for special or consequential damages on account of breach of this contract shall not exceed in total an amount equal to ____ percent [the borrower will insert an appropriate percentage between 0 and 100 percent, inclusive] of the contract price.'''

(b) Insert the following in the contract documents under the ''Proposal'' section:

''Price $ (Based on Liability Clause 1)_____
Price $ (Based on Liability Clause 2)_____''

(c) Insert the following in the acceptance section of the standard contract form:

''This contract is based on Liability Clause Number_____.''

(d) In RUS Form 200, the word ''Bidder'' would replace the word ''Seller'' in the Liability Clause in paragraph (a) of this section.

§ 1726.253 Prior approved contract modification related to alternative bid provision for payment to contractor for bulk purchase of materials.

When construction is to be performed over an extended period of time, but large quantities of material are to be purchased by the contractor at the beginning of the project (e.g., cable for URD installations), the borrower may allow alternative bids providing for payment to the contractor of 90 percent of the cost of such materials within 30 days of delivery of those materials at the job site. The borrower will retain the right to award the contract with or without the alternative payment provision, however, the contract still must be awarded on the basis of the lowest evaluated responsive bid for the alternative accepted.

§ 1726.254 Prior approved contract modifications related to RUS approval of contracts and amendments and modified bidding requirements.

It will be necessary for borrowers to make certain modifications to various RUS contract forms to implement the provisions of this part. If a RUS approved form of contract is required to be used by this part and private bid opening is permitted by this part, the ''Notice and Instructions to Bidders'' of the contract form may be modified accordingly. Other modifications are needed to indicate that certain provisions related to RUS approval are not applicable under specified circumstances. These modifications are as follows:

(a) *RUS Form 173 Materials Contract.* No modifications.

(b) *RUS Form 180 Construction Contract Amendment.* No modifications.

(c) *RUS Form 198 Equipment Contract.* For contracts NOT requiring approval of the Administrator (in accordance with subparts B through F of this part) the applicable modifications are as follows:

(1) Change Section 5(e) of the ''Equipment Contract'' to read as follows:

''(e) Each and all of the covenants and agreements herein contained shall extend to and be binding upon the successors and assigns of the parties hereto provided, however, the Seller shall not assign this contract or any part hereof without approval in writing of the Purchaser, and further the Seller shall not enter into any contract with any person, firm or corporation for the performance of the Seller's obligations hereunder, or any part thereof, without the approval in writing of the Purchaser.''

(2) Delete Section 5(f) of the ''Equipment Contract.''

(d) *RUS Form 200 Construction Contract—Generating.* For contracts Not requiring approval of the Administrator (in accordance with subparts B through F of this part) the applicable modifications are as follows:

(1) *Contractor's Proposal, Article II, Section 3(a), Sentence 2.* Delete the words ''and the Administrator.''

(2) *Contractor's Proposal, Article II, Section 3(d), Sentence 2.* Delete the words ''and approved by the Administrator[1]'' and the associated footnote.

(3) *Contractor's Proposal, Article VI, Section 7.* Change to read as follows:

''Nonassignment of Contract. Except as provided in Section 8 of this Article, the Bidder will not assign this Contract, or any interest in any funds that may become due hereunder, or enter into any contract with any person, firm or corporation, for the performance of the Bidder's obligations hereunder, or any part hereof without the approval in writing of the Owner and the Surety or Sureties, if any.''

(4) *Contractor's Proposal, Article VI.* Delete Section 10.

(5) *Acceptance.* Delete the words ''Subject to the approval of the Administrator.''

(e) *RUS Form 201 Right-of-Way Clearing Contract.* No modifications.

(f) *RUS Form 203 Transmission System Right-of-Way Clearing Contract.* For contracts Not requiring approval of the Administrator (in accordance with subparts B through F of this part) the applicable modifications are as follows.

(1) *Notice and Instructions to Bidders, Section 8.* Delete the words ''and such acceptance has been approved by the Administrator.''

(2) *Contractor's Proposal, Article II, Section 1(a).* Replace the word ''Administrator'' with the word ''Owner'' in two places in the referenced section.

(3) *Contractor's Proposal, Article II, Section 3(d), Sentence 1.* Delete the words ''and with the approval of the Administrator[1]'' and the associated footnote.

(4) *Contractor's Proposal, Article II, Section 3(d), Sentence 3.* Delete the words ''and approved by the Administrator[2]'' and the associated footnote.

(5) *Contractor's Proposal, Article III, Section 1.* Delete the words ''and the Administrator'' in five places in the referenced section.

(6) *Contractor's Proposal, Article III, Section 1(b).* Replace the word ''Administrator'' with the word ''Owner.''

(7) *Contractor's Proposal, Article III, Section 1(e).* Replace the word ''Administrator'' with the word ''Owner.''

(8) *Contractor's Proposal, Article VI, Section 1(d).* Delete the words ''and the Administrator.''

(9) *Contractor's Proposal, Article VI.* Delete Section 10.

(10) *Acceptance.* Delete the words ''Subject to the approval of the Administrator.''

(g) *RUS Form 238 Construction or Equipment Contract Amendment.* If the contract amendment does not require RUS approval, in accordance with § 1726.24(b), the borrower may delete from RUS Form 238 the following sentence:

''(The Administrator of RUS is hereby authorized to approve this amendment either in whole or in part and to delete such items as do not meet his approval.)''

(h) *RUS Form 257 Contract to Construct Buildings.* No modifications.

(i) *RUS Form 282 Subcontracts.* The applicable modifications are as follows:

(1) *Section 6, line 3.* Delete the words ''and the Administrator of the Rural Utilities Service (hereinafter called the Administrator).''

(2) *Section 7, line 2.* Change Section 7, line 2 to read as follows:

''approved in writing by the Owner and the Surety, if any; provided, * * *''

(3) *Section 7, line 3.* Delete the words ''and the Administrator.''

(j) *RUS Form 764 Substation and Switching Station Erection Contract.* For contracts NOT requiring approval of the Administrator (in accordance with subparts B through F of this part) the applicable modifications are as follows:

(1) *Notice and Instructions to Bidders, Section 10.* Delete the words ''and such acceptance has been approved by the Administrator.''

(2) *Contractor's Proposal, Article II, Section 1.a.* Replace the word ''Administrator'' with the word ''Owner'' in two places in the referenced section.

(3) *Contractor's Proposal, Article II, Section 1.d, Sentence 1.* Delete the words ''and with the approval of the Administrator [1]'' and the associated footnote.

(4) *Contractor's Proposal, Article II, Section 1.d, Sentence 2.* Delete the words ''and approved by the Administrator [2]'' and the associated footnote.

(5) *Contractor's Proposal, Article III, Section 1.* Delete the words ''and the Administrator'' in five places in the referenced section.

(6) *Contractor's Proposal, Article III, Section 1.b.* Replace the word ''Administrator'' with the word ''Owner.''

(7) *Contractor's Proposal, Article III, Section 1.e.* Replace the word ''Administrator'' with the word ''Owner.''

(8) *Contractor's Proposal, Article VI, Section 1.e.* Delete the words ''and the Administrator.''

(9) *Contractor's Proposal, Article VI.* Delete Section 10.

(10) *Acceptance.* Delete the words ''Subject to the approval of the Administrator.''

(k) *RUS Form 786 Electric System Communications and Control Equipment Contract (including installation).* For contracts NOT requiring approval of the Administrator (in accordance with subparts B through F of this part) the applicable modifications are as follows:

(1) *Article I, Section 2.* Delete the words ''subject to the approval of the Administrator [1]'' and ''and approved by the Administrator [2]'' and the associated footnotes.

(2) *Article II, Section 1, Sentence 2.* Replace the word ''Administrator'' with ''Purchaser.''

(3) *Article II, Section 5.* Delete the words ''subject to the approval of the Administrator [3]'' and ''subject to the approval of the Administrator [4]'' and the associated footnotes.

(4) *Article III, Section 2, Sentence 3.* Replace the words ''if the Administrator shall so approve'' with the words ''if the Purchaser shall so approve.''

(5) *Article VI.* Delete Section 7.

(6) *Acceptance.* Delete the words ''Subject to the approval of the Administrator.''

(l) *RUS Form 790 Distribution Line Extension Construction Contract (Labor and Materials).* No modifications.

(m) *RUS Form 792 Distribution Line Extension Construction Contract (Labor Only).* No modifications.

(n) *RUS Form 830 Electric System Construction Contract.* No modifications.

(o) *RUS Form 831 Electric Transmission Construction Contract.* For contracts NOT requiring approval of the Administrator (in accordance with subparts B through F of this part) the applicable modifications are as follows:

(1) *Notice and Instructions to Bidders, Section 10.* Delete the words ''and such acceptance has been approved by the Administrator.''

(2) *Contractor's Proposal, Article II, Section 1.d.* Delete the words ''with the approval of the Administrator [1]'' and ''and approved by the Administrator [2]'' and the associated footnotes.

(3) *Contractor's Proposal, Article II, Section 4.a.* Delete the words ''and approved by the Administrator [3]'' and the associated footnote.

(4) *Contractor's Proposal, Article III, Section 1.a. Sentence 4.* Delete the words ''and the Administrator.''

(5) *Contractor's Proposal, Article III, Section 1.b.* Replace the word ''Administrator'' with the word ''Owner.''

(6) *Contractor's Proposal, Article III, Section 1.c.* Delete the words ''and the Administrator'' in four places in the referenced section.

(7) *Contractor's Proposal, Article III, Section 1.e.* Replace the word ''Administrator'' with the word ''Owner.''

(8) *Contractor's Proposal, Article VI, Section 1.e.* Delete the words ''and the Administrator.''

(9) *Contractor's Proposal, Article VI.* Delete Section 11.

(10) *Acceptance.* Delete the words ''Subject to the approval of the Administrator.''

§ 1726.255 Prior approved contract modifications related to indemnification.

(a) As an alternative to the indemnification provision required in RUS standard construction contract forms in those jurisdictions requiring specific language concerning the requirement that the indemnitor indemnify the indemnitee for the indemnitee's own negligence, the borrower may add the words ''otherwise this provision shall apply to any alleged negligence or condition caused by the Owner'' so that the first paragraph reads as follows:

''i. To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Bidder's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Bidder's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Bidder, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Bidder liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner, otherwise this provision shall apply to any negligence or condition caused by the Owner.''

(b) As an alternative to the indemnification provision required in RUS standard construction contract forms in those jurisdictions that have a legal prohibition against one party indemnifying another for the other's negligence, the borrower may replace the words ''defend, indemnify, and hold harmless'' with the words '' shall pay on behalf of'' so that the first paragraph reads as follows:

''i. To the maximum extent permitted by law, Bidder shall pay on behalf of Owner and Owner's directors, officers, and employees from all claims, causes of action, losses,

liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Bidder's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Bidder's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Bidder, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Bidder liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner, otherwise this provision shall apply to any negligence or condition caused by the Owner.''

(c) If the alternative indemnification provision in paragraph (a) or (b) of this section is chosen by the borrower, the language of paragraph (a) or (b) of this section would be inserted in lieu of subsection (i) of the section indicated in the RUS standard construction contract forms as follows:

RUS form No.	Title	Desiganted section
200	Construction Contract—Generating	Article IV, Section 1(c).
201	Right-of-Way Clearing Contract	Article IV, Section 1(e).
203	Transmission System Right-of-Way Clearing Contract	Article IV, Section 1(f).
257	Contract to Construct Buildings	Article IV, Section 1(b).
764	Substation and Switching Station Erection Contract	Article IV, Section 1(f).
786	Electric System Communications and Control Equipment Line	Article IV, Section 1(c).
790	Distribution Line Extension Construction Contract (labor & materials)	Article IV, Section 1(f).
792	Distribution Line Extension Construction Contract (labor only)	Article IV, Section 1(f).
830	Electric System Construction Contract (labor & material)	Article IV, Section 1(f).
831	Electric Transmission Construction Contract (labor & material)	Article IV, Section 1(f).

(d) In RUS Forms 201, 790, and 792, the word ''Contractor'' would replace the word ''Bidder'' in the alternative indemnification clause in paragraph (a) or (b) of this section.

(e) In RUS Form 786, the word ''Seller'' would replace the word ''Bidder'' and the word ''Purchaser'' would replace the word ''Owner'' in the alternative indemnification clause in paragraph (a) or (b) of this section.

§§ 1726.256–1726.299 [Reserved]

Subpart I—RUS Standard Forms

§ 1726.300 List of RUS standard contracting forms for electric systems.

The following is a list of the current RUS standard contracting forms that RUS has prepared for use by electric borrowers when purchasing materials and equipment and constructing facilities with a RUS loan or loan guarantee. Copies of the contract forms are available from the sources indicated in the listing. A notice of any change in these contract forms will be published in the Federal Register.

RUS Electric Program Standard Contract Forms

RUS form No.	Issue date	Title	Purpose	Source of copies [1]
168b	2–95	Contractor's bond	Used in RUS Forms 200, 201, 203, 257, 764, 786, 790, 792, 830 & 831.	In respective contract form.
168c	2–95	Contractor's bond (less than $1 million).	In lieu of RUS Form 168b, used when contractor's surety has accepted a Small Business.	RUS.
172	9–58	Certificate of Inspection Contract Construction.	Administration guarantee—Used to notify RUS that construction is ready for inspection.	RUS.
173	3–55	Materials contract	Used for distribution, transmission, and general plant material purchases.	RUS.
180	2–95	Construction Contract Amendment .	Used to amend distribution line construction contracts	RUS.
181	2–95	Certificate of Completion Contract Construction for Buildings.	Used for the closeout of RUS Form 257	RUS.
187	2–95	Certificate of Completion Contract Construction.	Used in RUS Forms 200, 203, 764, 786, 830, and 831.	In respective contract form.
198	2–95	Equipment Contract Construction Contract—Generating.	Used for equipment purchases	RUS.
200	2–95	Construction Contract Generating ..	Used for generating plant construction or for the furnishing and installation of major items of equipment.	RUS.
201	2–95	Right-of-Way Clearing Contract	Used for distribution right-of-way clearing work which is to be performed separate from line construction.	RUS.
203	2–95	Transmission System Right-of-Way Clearing Contract.	Used for transmission line right-of-way clearing work which is to be performed separate from line construction.	RUS.
213	2–95	Certificate (''Buy American'')	Used to document compliance with the ''Buy American'' requirement.	RUS.
219	10–88	Inventory of Work Orders	Used to encumber funds	RUS.
224	2–95	Waiver and Release of Lien	Used in RUS Forms 200, 203, 764, 786, 830, and 831.	In respective contract form.
231	2–95	Certificate of Contractor	Used in RUS Forms 200, 203, 764, 786, 830, and 831.	In respective contract form.
238	2–95	Construction or Equipment Contract Amendment.	Used to amend contracts except for distribution line construction contracts.	RUS.
251	2–95	Material Receipt	Used in RUS Forms 764, 830, and 831	In respective contract form.

RUS ELECTRIC PROGRAM STANDARD CONTRACT FORMS—Continued

RUS form No.	Issue date	Title	Purpose	Source of copies [1]
254	2–95	Construction Inventory	Used with the closeout of RUS Forms 203, 764, 830, and 831.	RUS.
257	2–95	Contract to Construct Buildings	Used to construct headquarters buildings and other structure construction.	GPO.[2]
270	7–70	Equal Opportunity Addendum	Addendum to contracts not having current equal opportunity provisions.	RUS
274	6–81	Bidder's Qualifications	Used to document Bidder's Qualifications	RUS.
282	11–53	Subcontract	Used for subcontracting	RUS.
307	2–95	Bid Bond	Used In RUS Forms 200, 203, 257, 764, 830 and 831.	In respective contract form.
458	3–55	Material Contract	Used to obtain generating plant material and equipment purchases over $10,000, not requiring acceptance tests at the project site.	RUS.
764	2–95	Substation and Switching Station Erection Contract.	Used to construct substations and switching stations	RUS.
786	2–95	Electric System Communications and Control Equipment Contract.	Used for delivery and installation of equipment for system communications.	RUS.
790	2–95	Distribution Line Extension Construction Contract (labor & materials).	Used for limited distribution construction accounted for under work order procedure.	GPO.[2]
792	2–95	Distribution Line Extension Construction Contract (labor only).	Used for limited distribution construction accounted for under work order procedure.	GPO.[2]
792b	2–95	Certificate of Construction and Indemnity Agreement.	Used in RUS Forms 201, 790, and 792	In respective contract form.
792c	2–95	Supplemental Contract for Additional Project.	Used in RUS Forms 201, 790, and 792	In respective contract form.
830	2–95	Electric System Construction Contract (labor & material).	Used for distribution and/or transmission project construction.	GPO.[2]
831	2–95	Electric Transmission Construction Contract (labor & material).	Used for transmission project construction	GPO.[2]

Notes:

[1] A single copy of the form will be furnished by RUS upon request. Additional copies may be duplicated or reproduced. Requests for copies should be sent to: Director, Administrative Services Division, U.S. Department of Agriculture, Rural Utilities Service, Washington, DC 20250.

[2] Requests for copies should be submitted to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone orders may also be placed, using Mastercard or Visa, by calling (202) 512–1800.

§ 1726.301 Use of printed forms.

If a RUS contract form is required by this part, the borrower shall use the form in the format available from RUS or GPO (photocopying or other exact reproduction is acceptable.) The contract forms are not to be retyped, changed, modified or altered in any manner not specifically authorized in this part or approved by RUS in writing. Any modifications approved by RUS must be clearly shown so to indicate that such are different from the standard form. Electronic reproduction is acceptable for RUS Forms 251 and 254 only.

§ 1726.302 RUS approved forms of contract.

If a specific RUS contract form is required by a particular section of this part, the borrower shall use that form without changes or modifications or alterations unless, prior to issuing the bid package to bidders, RUS has specifically approved any such changes to that form for that borrower, nor shall any change be made to the form by amendment of an executed contract without prior RUS approval. Any proposed changes shall not relieve the contractor or the borrower of the basic responsibilities required by the standard RUS contract form, and, shall not alter any terms and conditions required by law. Changes permitted or required by subpart H of this part or by part 1788, RUS Fidelity and Insurance Requirements for Electric and Telephone Borrowers, of this chapter are approved by RUS under the circumstances indicated.

§ 1726.303 Interest on overdue accounts.

Certain RUS contract forms contain a provision concerning payment of interest on overdue accounts. Prior to issuing the invitation to bidders, the borrower must insert an interest rate equal to the lowest ''Prime Rate'' listed in the ''Money Rates'' section of the Wall Street Journal on the date such invitation to bid is issued. If no prime rate is published on that date, the last such rate published prior to that date must be used. The rate must not, however, exceed the maximum rate allowed by any applicable state law.

§§ 1726.304–1726.309 [Reserved]

§ 1726.310 Contractor's bond, RUS Form 168b.

The bond form in this section shall be used when a Contractor's Bond is required by RUS Forms 200, 201, 203, 257, 764, 786, 790, 792, 830, or 831 unless the contractor's surety has accepted a Small Business Administration guarantee and the contract is for one million dollars or less.

Contractor's Bond

1. Know all men that we, _____, as Principal, and _____, as Surety, are held and firmly bound unto _____ (hereinafter called the ''Owner'') and unto the United States of America (hereinafter called the ''Government'') and unto all persons, firms and corporations who or which may furnish materials for or perform labor on a Rural Utilities Service Project known as Project _____ and to their successors and assigns, in the penal sum of _____ dollars ($_____), as hereinafter set forth and for the payment of which sum well and truly to be made we bind ourselves, our executors, administrators, successors and assigns jointly and severally by these presents. Said Project is described in a certain construction contract (hereinafter called the ''Construction

Contract'') between the Owner and the Principal, dated _____, 19____, pursuant and subject to a certain loan contract (hereinafter called the ''Loan Contract'') between the Owner and the Government, acting through the Administrator of the Rural Utilities Service (hereinafter called the ''Administrator'').

2. The condition of this obligation is such that if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of the Construction Contract and any amendments thereto, whether such amendments are for additions, decreases, or changes in materials, their quantity, kind or price, labor costs, mileage, routing or any other purpose whatsoever, and whether such amendments are made with or without notice to the Surety, and shall fully indemnify and save harmless the Owner and the Government from all costs and damages which they, or either of them, shall suffer or incur by reason of any failure so to do, and shall fully reimburse and repay the Owner and the Government for all outlay and expense which they, or either of them shall incur in making good any such failure of performance on the part of the Principal, and shall promptly make payment to all persons working on or supplying labor or materials for use in the construction of the Project contemplated in the Construction Contract and any amendments thereto, in respect of such labor or materials furnished and used therein, to the full extent thereof, and in respect of such labor or materials furnished but not so used, to the extent of the quantities estimated in the Construction Contract and any amendments thereto to be required for the construction of the Project, and shall well and truly reimburse the Owner and the Government, as their respective interests may appear, for any excess in cost of construction of said Project over the cost of such construction as provided in the Construction Contract and any amendments thereto, occasioned by any default of the Principal under the Construction Contract and any amendments thereto, then this obligation shall be null and void, but otherwise shall remain in full force and effect.

3. It is expressly agreed that this bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon any amendment to the Construction Contract, so as to bind the Principal and the Surety to the full and faithful performance of the Construction Contract as so amended, provided only that the total amount of all increases in the cost of construction shall not exceed 20 percent of the amount of the maximum price set forth in the Construction Contract. The term ''Amendment,'' wherever used in this bond, and whether referring to this bond, the Construction Contract or the Loan Contract shall include any alteration, addition, extension, modification, amendment, rescission, waiver, release or annulment, of any character whatsoever.

4. It is expressly agreed that any amendment which may be made by agreement or otherwise between the Principal and the Owner in the terms, provisions, covenants and conditions of the Construction Contract, or in the terms, provisions, covenants and conditions of the Loan Contract (including, without limitation, the granting by the Administrator to the Owner of any extension of time for the performance of the obligations of the Owner under the Loan Contract or the granting by the Administrator or the Owner to the Principal of any extension of time for the performance of the obligations of the Principal under the Construction Contract, or the failure or refusal of the Administrator or the Owner to take any action, proceeding or step to enforce any remedy or exercise any right under either the Construction Contract or the Loan Contract, or the taking of any action, proceeding or step by the Administrator or the Owner, acting in good faith upon the belief that the same is permitted by the provisions of the Construction Contract or the Loan Contract) shall not in any way release the Principal and the Surety, or either of them or their respective executors, administrators, successors or assigns, from liability hereunder. The Surety hereby acknowledges receipt of notice of any amendment, indulgence or forbearance, made, granted or permitted.

5. This bond is made for the benefit of all persons, firms and corporations who or which may furnish any materials or perform any labor for or on account of the construction to be performed under the Construction Contract and any amendments thereto, and they, and each of them, are hereby made obligees hereunder with the same force and effect as if their names were written herein as such, and they and each of them may sue hereon.

In witness whereof, the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this _____ day of _____, 19____.

Principal _____ (Seal)
By _____
Attest: _____ Secretary
Surety_____ (Seal)
By _____
Attest: _____ Secretary
_____ Address of Surety's Home Office
By _____ Resident Agent of Surety

Signatures: The Contractor's Bond must be signed with the full name of the Contractor. If the Contractor is a partnership the Contractor's Bond must be signed in the partnership name by a partner. If the Contractor is a corporation the Contractor's Bond must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the corporation. A typewritten copy of all such names and signatures shall be appended.

Power of Attorney: The Contractor's Bond must be accompanied by a power of attorney authorizing execution on behalf of the Surety and, in jurisdictions so requiring should be countersigned by a duly authorized resident agent of the Surety.

[End of clause]

§ 1726.311 Contractor's bond, RUS Form 168c.

The bond form in this section shall be used when a Contractor's Bond is required by RUS Form 200, 201, 203, 257, 764, 786, 790, 792, 830, or 831 and the contractor's surety has accepted a Small Business Administration guarantee and the contract is for one million dollars or less.

Contractor's Bond

(Use only when contract is less than $1 million and Surety has accepted an SBA (Small Business Administration) Guarantee)

1. Know all men that we, _____, as Principal, and _____, as Surety, are held and firmly bound unto _____ (hereinafter called the ''Owner'') and unto the United States of America (hereinafter called the ''Government'') and unto all persons, firms and corporations who or which may furnish materials for or perform labor on a Rural Utilities Service Project known as Project _____ and to their successors and assigns, in the penal sum of _____ dollars ($_____), as hereinafter set forth and for the payment of which sum well and truly to be made we bind ourselves, our executors, administrators, successors and assigns jointly and severally by these presents. Said Project is described in a certain construction contract (hereinafter called the ''Construction Contract'') between the Owner and the Principal, dated _____, 19____, pursuant and subject to a certain loan contract (hereinafter called the ''Loan Contract'') between the Owner and the Government, acting through the Administrator of the Rural Utilities Service (hereinafter called the ''Administrator'').

2. The condition of this obligation is such that if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of the Construction Contract and any amendments thereto, whether such amendments are for additions, decreases, or changes in materials, their quantity, kind or price, labor costs, mileage, routing or any other purpose whatsoever, and whether such amendments are made with or without notice to the Surety, and shall fully indemnify and save harmless the Owner and the Government from all costs and damages which they, or either of them, shall suffer or incur by reason of any failure so to do, and shall fully reimburse and repay the Owner and the Government for all outlay and expense which they, or either of them shall incur in making good any such failure of performance on the part of the Principal, and shall promptly make payment to all persons working on or supplying labor or materials for use in the construction of the Project contemplated in the Construction Contract and any amendments thereto, in respect of such labor or materials furnished and used therein, to the full extent thereof, and in respect of such labor or materials furnished but not so used, to the extent of the quantities estimated in the Construction Contract and any amendments thereto to be required for

the construction of the Project, and shall well and truly reimburse the Owner and the Government, as their respective interests may appear, for any excess in cost of construction of said Project over the cost of such construction as provided in the Construction Contract and any amendments thereto, occasioned by any default of the Principal under the Construction Contract and any amendments thereto, then this obligation shall be null and void, but otherwise shall remain in full force and effect.

3. Provided, that the liability of the Principal and Surety hereunder to the Government shall be subject to the same limitations and defenses as may be available to them against a claim hereunder by the Owner, provided, however, that the Government may, at its option, perform any obligations of the Owner required by the contract.

4. It is expressly agreed that this bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon any amendment to the Construction Contract, so as to bind the Principal and the Surety to the full and faithful performance of the Construction Contract as so amended, provided only that the total amount of all increases in the cost of construction shall not exceed 20 percent of the amount of the maximum price set forth in the Construction Contract. The term ''Amendment,'' wherever used in this bond, and whether referring to this bond, the Construction Contract or the Loan Contract shall include any alteration, addition, extension, modification, amendment, rescission, waiver, release or annulment, of any character whatsoever.

5. It is expressly agreed that any amendment which may be made by agreement or otherwise between the Principal and the Owner in the terms, provisions, covenants and conditions of the Construction Contract, or in the terms, provisions, covenants and conditions of the Loan Contract (including, without limitation, the granting by the Administrator to the Owner of any extension of time for the performance of the obligations of the Owner under the Loan Contract or the granting by the Administrator or the Owner to the Principal of any extension of time for the performance of the obligations of the Principal under the Construction Contract, or the failure or refusal of the Administrator or the Owner to take any action, proceeding or step to enforce any remedy or exercise any right under either the Construction Contract or the Loan Contract, or the taking of any action, proceeding or step by the Administrator or the Owner, acting in good faith upon the belief that the same is permitted by the provisions of the Construction Contract or the Loan Contract) shall not in any way release the Principal and the Surety, or either of them or their respective executors, administrators, successors or assigns, from liability hereunder. The Surety hereby acknowledges receipt of notice of any amendment, indulgence or forbearance, made, granted or permitted.

6. This bond is made for the benefit of all persons, firms and corporations who or which may furnish any materials or perform any labor for or on account of the construction to be performed under the Construction Contract and any amendments thereto. Provided, that beneficiaries or claimants hereunder shall be limited to the subcontractors, and persons, firms and corporations having a direct contract with the Principal or its subcontractors.

7. Provided, further, that no suit or action shall be commenced hereunder by any person, firm, or corporation who performed work or labor or who furnished materials for the project: (a) Unless such person, firm, or corporation, other one having a direct contract with the Principal (or with the Government in the event the Government is performing the obligation of the Owner), shall have given detailed written notice of claim to: The Principal, and the Owner, within ninety (90) days after such person, firm, or corporation did or performed the last of the work or labor, or furnished the last of the materials for which such claim is made. (b) After the expiration of one (1) year following the date on which Principal ceased work on said contract, it being understood, however, that if any limitation embodied in the Bond is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to equal to the minimum period of limitation permitted by such law.

In witness whereof, the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this _____ day of _____, 19____.

Principal _____ (Seal)
By _____
Attest: _____ Secretary
Surety _____ (Seal)
By _____
Attest: _____ Secretary
_____ Address of Surety's Home Office
By _____ Resident Agent of Surety

Signatures: The Contractor's Bond must be signed with the full name of the Contractor. If the Contractor is a partnership the Contractor's Bond must be signed in the partnership name by a partner. If the Contractor is a corporation the Contractor's Bond must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the corporation. A typewritten copy of all such names and signatures shall be appended.

Power of Attorney: The Contractor's Bond must be accompanied by a power of attorney authorizing execution on behalf of the Surety and, in jurisdictions so requiring should be countersigned by a duly authorized resident agent of the Surety.

[End of clause]

§ 1726.312 Construction contract amendment, RUS Form 180.

The amendment form in this section shall be used when required by this part.

Construction Contract Amendment

Instructions—Submit 3 copies of this form & 3 copies of all attachments to Administrator, Rural Utilities Service, U.S. Department of Agriculture, Washington, DC 20250.

1. Project Designation _____
2. Amendment No. _____
3. Date _____
4. Details of changes are tabulated on sheet _____ to _____ attached and are part of this amendment.
5. The following changes in Construction Contract Number _____ dated _____, 19____ are hereby submitted for your approval.
6. Data pertinent to the original contract and amendments including this amendment are as follows (decrease to be preceded by (−) minus sign):

	Miles	Consumers		Price
		Signed	Potential	
Original Contract				
Amendment No. 1				
Amendment No. 2				
Amendment No. 3				
Amendment No. 4				
Amendment No. 5				
Amendment No. 6				
Total with this Amendment				

7. Changes in materials furnished by Owner: This amendment provides for an increase/decrease of $_____ in the amount of materials furnished by Owner. The details of changes in items, quantities, or prices

are tabulated on sheet _____ to _____ attached and made a part hereof.
8. Bond extension attached ____ Yes ____ No
9. The construction period will be changed _____ days.
10. New counties (if any) _____
11. Description and reason for change: _____ This amendment providing for an increase/decrease of $_____ in the amount of said construction contract is submitted pursuant to the provisions thereof and pursuant to the loan contract between the United States of America and the undersigned borrower. You are hereby authorized to approve this amendment either in whole or in part and to delete such items as do not meet with your approval. To the extent the items hereof are approved by you the construction contract shall be amended.

Accepted
_____ Contractor
By _____ President-Owner-Partner (Strike out inapplicable title. If signed by other than above, power of attorney should be attached or on file with RUS.)
_____ Date
_____ Owner
By _____ President-Board of Directors
_____ Date
Approved
_____ Date
_____ Engineer for the Borrower
Details of Contract Amendment
Item No. _____
Assembly Unit Designation _____
Quantity Previously Approved _____
Net Change Number Of Units _____
Contract Amended To Read (Show quantities and prices as revised by this amendment):
Number of Units _____
Unit Price:
Labor _____
Material _____
Total _____
Total Price _____
Total Increase Price _____
Total Decrease _____
Totals _____
Net Total _____

[End of clause]

§ 1726.313 Certificate of completion, contract construction for buildings, RUS Form 181.

The closeout form in this section shall be used when required by this part.

Certificate of Completion; Contract Construction for Buildings

_____ (Project Designation)

I, the undersigned Architect of the above-designated Rural Utilities Service Project, hereby certify that:

1. The construction provided for pursuant to Construction Contract No. _____ dated _____ 19____, including all approved amendments, (hereinafter called the ''Project'') between _____(''Owner'') and _____ (''Contractor'') has been completed as of _____ 19____, and is in all respects in strict compliance with the provisions of the Loan Contract and the Construction Contract, including the Plans and Specifications and all modifications thereto.

2. To the best of my knowledge, payment in full has been made to all persons who have furnished labor for the Project.

3. The Contractor has, to the best of my knowledge, obtained valid releases of lien from all Manufacturers, materialmen, and subcontractors that furnished materials or services or both which were employed by the Contractor in the performance of the Construction Contract, and that such releases have been delivered to the Owner.

4. All defects in workmanship and materials reported during the period of construction of the Project have been corrected.

5. The final Contract Price of the Project as completed is _____ dollars ($_____).

_____Date
_____Representative of Architect
_____Title
Acceptance
_____Date
_____Representative of Contractor
_____Title
_____Date
_____Name of Owner
_____President, Board of Directors

[End of clause]

§ 1726.314 Certificate of completion, contract construction, RUS Form 187.

The closeout form in this section shall be used when required by this part.

Certificate of Completion; Contract Construction

To: Administrator
Rural Utilities Service
U.S. Department of Agriculture Washington, D.C. 20250
_____ (Project Designation)

I, the undersigned Engineer of the above-designated Rural Utilities Service Project do hereby certify that:

1. The construction provided for pursuant to Construction Contract No. _____ dated _____ 19____ including all approved amendments, (hereinafter called the ''Project'') between _____ (''Owner'') and _____ (''Contractor'') has been completed as of _____ 19____, and is in all respects in strict compliance with the provisions of the Loan Contract and the Construction Contract, including all Plans, specifications, maps, and drawings and all modifications thereto.

2. Payment in full has been made to all persons who have furnished labor for the Project.

3. The Contractor has obtained valid releases of lien from all persons, firms and/or corporations furnishing materials, supplies, and appliances which were employed by the Contractor in the performance of the Construction Contract, and that such releases have been delivered by the Contractor to the Owner.

4. If applicable, the Final Inventory attached hereto and made a part hereof is a complete and accurate summary of all units of construction in the Project and of all work performed in accordance with the Construction Contract.

5. If applicable, the staking sheets and tabulation of staking sheets upon which the Final Inventory is based show the accurate location, number, and kind of all units of construction of the project and show all work performed in accordance with the Construction Contract.

6. All defects in workmanship and materials reported during the period of construction of the Project have been corrected.

7. The total cost of the Project as completed is _____ dollars ($_____). The Project consists of facilities shown on the Statement of Construction which is true and correct and which is attached hereto and made a part hereof.

Dated this _____ day of _____, 19____.
_____ Name of Engineer
By _____
_____ Title
_____ Date
Approved as to Items 1 and 6 above:
_____ RUS Field Engineer

We, the undersigned Owner and Contractor, do hereby certify that:

1. The Project has been completed in accordance with the provisions of the Construction Contract, dated _____ 19____, provided, however, that acceptance of the Project by the Owner shall not be deemed to relieve the Contractor of its obligations contained in the Construction Contract with respect to defective workmanship or, materials discovered within one year after the date of completion.

2. If applicable, the Final Inventory attached hereto and made a part hereof is a complete and accurate summary of all units of construction in the Project and of work performed in accordance with the Construction Contract.

_____ Owner
By _____ President
_____ Date
_____ Name of Contractor
By _____
_____ Title
_____ Date

[End of clause]

§ 1726.315 Equipment contract, RUS Form 198.

The contract form in this section shall be used when required by this part.

Equipment Contract

Notice and Instructions to Bidders

1. Sealed proposals for the furnishing and delivery f.o.b. _____ of equipment for the _____ (hereinafter called the ''Owner'') which is to be part of the project known as _____ will be received by the Owner on or before _____ o'clock, ____ M., _____ 19____, at _____ at which time and place the proposals will be publicly opened and read. Any proposal received subsequent to the time specified will be promptly returned to the Bidder unopened.

2. The Plans and Specifications, together with all necessary forms and other documents for bidders may be obtained from the Owner or from the Engineer, _____ at the latter's office at _____. The Plans and Specifications may be examined at the office of the Owner or at the office of the Engineer.

A copy of the loan contract (if the Project is to be financed in whole or in part, pursuant to a loan contract) between the Owner and the United States of America acting through the Administrator of the Rural Utilities Service (hereinafter called the ''Administrator'') and of the loan contract between the Owner and any other lender, may be examined at the office of the Owner.

3. Proposals and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner. The name and address of the Bidder and the date and hour of the opening of bids must appear on the envelope in which the Proposal is submitted. Proposals must be filled in in ink or typewriter. No alterations or interlineations will be permitted, unless made before submission and initialed and dated.

4. Prior to the submission of the Proposal, the Bidder shall make and shall be deemed to have made a careful examination of the Plans and Specifications and forms of Equipment Contract on file with the Secretary of the Owner and with the Engineer, and all other matters, including transportation facilities, that may affect the cost and the time of completion of the work.

5. Proposals will be accepted only from those prequalified bidders invited by the Owner to submit a proposal.

6. In estimating the lowest cost to the Owner as one of the factors in deciding the award of the Contract, the Owner will consider, in addition to the price quoted in the Proposals, the following: _____.

7. The Contract, when executed, shall be deemed to include the entire agreement between the parties thereto, and the Bidder shall not claim any modification thereof resulting from any representation or promise made at any time by any officer, agent, or employee of the Owner or by any other person.

8. The Owner reserves the right to waive minor irregularities or minor errors in any Proposal if it appears to the Owner that such irregularities or errors were made through inadvertence. Any such irregularities or errors so waived must be corrected on the Proposal in which they occur prior to the execution of any contract which may be awarded thereon.

9. The Owner reserves the right to reject any or all Proposals.

_____ Owner
By _____
_____ Date

Proposal

To: _____ (hereinafter called the ''Owner''.)

1. The undersigned (hereinafter called the ''Bidder'') hereby proposes to furnish and deliver the equipment (hereinafter called the ''Equipment'') described in the Plans and Specifications attached hereto and made a part hereof for the following prices: Item _____.

2. The prices of Equipment set forth herein shall include the cost of delivery to _____. Such delivery shall be made within _____ days after the receipt of the written order of the Owner.

3. This Proposal is made pursuant to the provisions of the Notice and Instructions to Bidders, if any shall be attached hereto, and the Bidder agrees to the terms and conditions thereof.

4. The Bidder warrants the accuracy of all statements contained in the Bidder's Qualifications, if any shall be submitted, and agrees that the Owner shall rely upon such accuracy as a condition of the Contract in the event that this Proposal is accepted.

5. The Bidder warrants that this Proposal is made in good faith and without collusion or connection with any other person or persons bidding for the same work.

6. The Bidder agrees that, in the event this Proposal is accepted, it will execute a Contract in the form attached hereto.

7. The Bidder warrants that the Equipment will conform to the performance data and guarantees which are attached hereto and by this reference made a part hereof.

8. If, in submitting this Proposal, the Bidder has made any change in the form of Proposal or Contract furnished by the Owner, the Bidder understands that the Owner and the Administrator may evaluate the effect of such change as they see fit or they may exclude the Proposal from consideration in determining the award of the Contract.

9. The Bidder represents that:

It has _____, does not have _____, 100 or more employees, and if it has, that it has _____, has not _____, furnished the Equal Employment Opportunity-Employers Information Report EEO–1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964.

The Bidder agrees that it will obtain, prior to the award of any subcontract for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100.

The Bidder agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this contract will amount to more than $10,000, the Bidder will file such report, as required by law, and notify the Owner in writing of such filing prior to the Owner's acceptance of this Proposal.

10. The Bidder certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term ''segregated facilities'' means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

_____ Name of Bidder
_____ Address of Bidder
By _____
_____ Title of Officer
_____ Date

Equipment Contract

Agreement made _____ 19____, between _____ (hereinafter called the ''Purchaser'') and _____ (hereinafter called the ''Seller''), a corporation organized and existing under the laws of the State of _____.

Whereas, the Purchaser desires to purchase and the Seller desires to sell the equipment described herein for the project financed in part or whole by a loan to the Purchaser from the United States of America, acting through the Administrator of the Rural Utilities Service (hereinafter called the ''Administrator'') which project is designated _____.

Now therefore, in consideration of the mutual undertakings herein contained, the parties hereto agree as follows:

Section 1—Acceptance of Proposal

(a) The Purchaser accepts the Proposal which is attached hereto and by this reference made a part hereof, and the parties hereto agree that the Seller shall sell and deliver to the Purchaser and the Purchaser shall purchase and receive from the Seller the equipment (hereinafter called the ''Equipment'') described in the Proposal upon the terms and conditions herein stated.

(b) The prices set forth in the Proposal include the cost of delivery to _____.

(c) The prices set forth in the Proposal do not include any sums which are or may be payable by the Seller on account of taxes imposed by any taxing authority upon the sale, purchase or use of the Equipment. If any such tax is applicable to the sale, purchase or use of the Equipment hereunder, the amount thereof shall be added to the purchase price and paid by the Purchaser.

Section 2—Delivery

The Seller shall deliver the Equipment within _____ days after receipt of the written order or orders of the Purchaser. The time for delivery shall be extended for the period of any reasonable delay due exclusively to causes beyond the control and without the fault of the Seller, including, but not limited to, acts of God, fires, strikes, and floods.

Section 3—Payment

Upon the shipment of any Equipment hereunder, the Seller shall submit to the

Purchaser a detailed statement of the Equipment shipped. The Purchaser shall, upon receipt of the Equipment, pay the Seller ninety percent (90%) of the contract price of the Equipment. When the Equipment has been installed, placed in satisfactory operation, tested and accepted by the Purchaser, the Purchaser shall make final payments therefor to the Seller; provided, however, such final payment shall be made not later than one-hundred eighty (180) days after delivery of the Equipment, unless such acceptance by the Purchaser shall be withheld because of the fault of the Seller.

Section 4—Defective Material and Workmanship

(a) All Equipment furnished hereunder shall be subject to the inspection, tests, and approval of the Purchaser and the Administrator and the Seller shall furnish all information required concerning the nature of source of any Equipment and provide adequate facilities for testing and inspecting the Equipment at the plant of the Seller.

(b) The Equipment furnished hereunder shall become the property of the Purchaser upon delivery, provided, however, that the Purchaser or the Administrator, within one year after delivery or within the period for which the Equipment is guaranteed, whichever is longer, may reject any Equipment which does not comply with the Specifications attached hereto and made a part hereof or with the guarantees, if any, of the Seller and the manufacturer. Upon any such rejection, the Seller shall repair or replace such defective Equipment within a reasonable time after notice in writing from the Purchaser and in the event of failure by the Seller so to do, the Purchaser may make such replacement and the cost and expense thereof shall be paid by and recoverable from the Seller.

Section 5—Miscellaneous

(a) All manufacturers' guarantees of Equipment, if any, shall be transferred and assigned to the Purchaser upon delivery of any Equipment and before final payment is made for such Equipment. Such guarantees shall be in addition to those required of the Seller by other provisions of this Contract.

(b) The Seller shall hold harmless and indemnify the Purchaser from any and all claims, suits, and proceedings for infringement of any patent or patents covering Equipment purchased hereunder.

(c) In the performance of this contract there shall be furnished only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, Mexico, or Canada, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States, Mexico, or Canada; provided that other articles, materials, or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. The Seller agrees to submit to the Purchaser such certificates with respect to compliance with the foregoing provision as the Administrator from time to time may require.

(d) During the performance of this contract, the Seller agrees as follows:

(1) The Seller will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Seller will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Seller agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Seller will, in all solicitations or advertisements for employees placed by or on behalf of the Seller, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Seller will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Seller's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Seller will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(5) The Seller will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the Seller's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Seller may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Seller will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Seller will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Seller becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Seller may request the United States to enter into such litigation to protect the interest of the United States.

(e) Each and all of the covenants and agreements herein contained shall extend to and be binding upon the successors and assigns of the parties hereto provided, however, that the Seller shall not assign this contract or any part hereof without approval in writing of the Purchaser and the Administrator, and further that the Seller shall not enter into any contract with any person, firm or corporation for the performance of the Seller's obligations hereunder, or any part thereof, without the approval in writing of the Purchaser.

(f) This contract shall become effective only upon approval by the Administrator. Neither this contract nor any provision thereof shall be modified, amended, rescinded, waived, or terminated without the approval in writing of the Administrator. Amendments executed on RUS Form 238 are not subject to approval of the Administrator, except that when a contract amendment along with all previous amendments to this contract cause the total amended contract price to exceed 120 percent of the original contract price, as stated in the Seller's proposal and accepted by the Owner, that amendment and all subsequent amendments to this contract shall be made subject to the approval of the Administrator.

[1] In Witness Whereof, the parties hereto have caused this contract to be signed in their respective corporate names by their presidents and their corporate seals to be hereunto affixed and attested by their secretaries, all as of the day and year first above written.

_____ Purchaser
By _____ President
Attest: _____ Secretary
_____ Seller
By _____ President
Attest: _____ Secretary

[2] In Witness Whereof, the Purchaser has caused this contract to be signed in its corporate name by its President and its corporate seal to be hereunto affixed and attested by its Secretary, and the Seller has (have) set his (their) hand(s), all as of the day and year first above written.

_____ Purchaser
By _____ President
Attest: _____ Secretary

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[1] When Seller is a corporation this section of agreement to be used.

[2] When Seller is an individual or partnership this section of agreement to be used. If a partnership—all partners shall sign.

_____ Seller
_____ Name
_____ Title

[End of clause]

§§ 1726.316–1726.319 [Reserved]

§ 1726.320 Construction contract, generating, RUS Form 200.

The contract form in this section shall be used when required by this part.

Construction Contract—Generating

Notice and Instructions to Bidders

1. Sealed proposals for the furnishing, delivery and installation of equipment and materials for the electric generating plant of _____ (hereinafter called the ''Owner'') which is to be part of the system known as _____ will be received by the Owner on or before ____ o'clock __.M.,____, 19__, at ____, at which time and place the proposals will be publicly opened and read. Any proposal received subsequent to the time specified will be promptly returned to the Bidder unopened.

2. Obtaining Documents. The Plans and Specifications together with all necessary forms and other documents for bidders may be obtained from the Owner or from the Engineer, _____, at the latter's office at _____ upon the payment of $_____, all of which will be refunded to each bona fide bidder within ten days after the bid opening. The Plans and Specifications may be examined at the office of the Owner or at the office of the Engineer. A copy of the Loan Contract (if the Project is to be financed, in whole or in part, pursuant to a loan contract) between the Owner and the United States of America acting through The Administrator of the Rural Utilities Service (hereinafter called the ''Administrator''), and of the Loan Contract between the Owner and any other lender may be examined at the office of the Owner. Each set of documents will have a serial number, given by the Engineer, and the number of each set with the name of the purchaser will be recorded by the Engineers. Bids will be accepted only from the original purchasers.

3. Manner of Submitting Proposals. Proposals and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner. The name and address of the Bidder, its license number, if a license is required by the State, and the date and hour of the opening of bids must appear on the envelope in which the Proposal is submitted. Proposals must be filled in in ink or typewritten. No alterations of interlineations will be permitted, unless made before submission and initiated and dated.

4. Familiarity with Conditions. Prior to the submission of the Proposal, the Bidder shall make and shall be deemed to have made a careful examination of the site of the Project and of the Plans and Specifications, Construction Drawings and forms of Contractor's Proposal and Acceptance, and Contractor's Bond on file with the Owner and with the Engineer, and shall become informed as to the location and nature of the proposed construction, the ecological and environmental criteria to be followed, the transportation facilities, the kind and character of soil and terrain to be encountered, the kind of facilities required before and during the construction of the Project, general local conditions and all other matters that may affect the cost and the time of completion of the Project. Bidders will be required to comply with all applicable statutes, regulations, etc., including those pertaining to the licensing of contractors, and the so-called ''Kick-Back'' Statute (48 Stat. 948) and regulations issued pursuant thereto.

5. Proposals will be accepted only from those prequalified bidders invited by the Owner to submit a proposal.

6. The Time for Completion of the Project shall be as specified by the Engineer in the Proposal.

7. Bid Bond. Each Proposal must be accompanied by a Bid Bond in the form attached or a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the Owner, in an amount equal to ten percent (10%) of the maximum bid price. Each Bidder agrees, provided its Proposal is one of the three low Proposals, that, by filing its Proposal together with such Bid Bond or check in consideration of the Owner's receiving and considering such Proposal, said Proposal shall be firm and binding upon each such Bidder and such Bid Bond or check shall be held by the Owner until a Proposal is accepted and a satisfactory Contractor's Bond is furnished (where required) by the successful Bidder and such acceptance has been approved by the Administrator, or for a period not to exceed sixty (60) days from the date hereinbefore set for the opening of Proposals, whichever period shall be the shorter. If such Proposal is not one of the three low Proposals, the Bid Bond or check will be returned in each instance within a period of ten (10) days to the Bidder furnishing same.

8. Contractor's Bond. The successful Bidder will be required to execute two additional counterparts of the Proposal and, for a Contract in excess of $100,000, to furnish a Contractor's Bond in triplicate in the form attached hereto with sureties listed by the United States Treasury Department as Acceptable Sureties in a penal sum not less than the Contract price.

9. Failure to Furnish Contractor's Bond. Should the successful Bidder fail or refuse to execute such counterparts of the Proposal or to furnish a Contractor's Bond (where required) within ten (10) days after written notification of the acceptance of the Proposal by the Owner, the Bidder will be considered to have abandoned the Proposal. In such event, the Owner shall be entitled (a) to enforce the Bid Bond in accordance with its terms, or (b) if a certified check has been delivered with the Proposal, to retain from the proceeds of the certified check the difference (not exceeding the amount of the certified check) between the amount of the Proposal and such larger amount for which the Owner may in good faith contract with another party to construct the Project. The term ''successful Bidder'' shall be deemed to include any Bidder whose proposal is accepted after another Bidder has previously refused or has been unable to execute the counterparts of the proposal or to furnish a satisfactory Contractor's Bond (where required.)

10. Factors in Deciding the Award of the Contract. In estimating the lowest cost to the Owner as one of the factors in deciding the award of the Contract, the Owner will consider, in addition to the prices quoted in the Proposals, the following: _____.

11. Contract is Entire Agreement. The Contract to be effected by the acceptance of the Proposal shall be deemed to include the entire agreement between the parties thereto, and the Bidder shall not claim any modification thereof resulting from any representation or promise made at any time by any officer, agent or employee of the Owner or by any other person.

12. Minor Irregularities. The Owner reserves the right to waive minor irregularities or minor errors in any Proposal, if it appears to the Owner that such irregularities or errors were made through inadvertence. Any such irregularities or errors so waived must be corrected on the Proposal prior to the acceptance thereof by the Owner.

13. Bid Rejection. The Owner reserves the right to reject any or all Proposals.

14. Definition of Terms. The terms ''Administrator'', ''Engineer'', ''Supervisor'', ''Project'', ''Completion of Construction'' and ''Completion of the Project,'' as used throughout this Contract, shall be as defined in Article VI, Section 1 of the Contractor's Proposal.

15. The Owner Represents:

(a) If by provisions of the Contractor's Proposal the Owner shall have undertaken to furnish any materials for the construction of the Project, such materials are on hand at locations specified or if such materials are not on hand they will be made available to the successful Bidder at the locations specified before the time such materials are required for construction.

(b) All funds necessary for prompt payment for the construction of the Project will be available. If the Owner shall fail to comply with any of the undertakings contained in the foregoing representations or if any of such representations shall be incorrect, the Bidder will be entitled to an extension of time of completion for a period equal to the delay, if any, caused by the failure of the Owner to comply with such undertakings or by any such incorrect representations, provided the Bidder shall have promptly notified the Owner in writing of its desire to extend the time of completion, and provided, further, that such extension, if any, of the time of the completion shall be the sole remedy of the Bidder for the Owner's failure, because of conditions beyond the control and without the fault of the Owner, to furnish materials in accordance with subparagraph a, hereof.

_____ Owner
By _____
____, 19__

Contractor's Proposal

To Furnish, Deliver and Install Equipment and Materials
To: _____ (hereinafter called the ''Owner'')

Article I—General

Section 1. Offer to Furnish, Deliver and Install. The undersigned (hereinafter called the ''Bidder'') hereby proposes to furnish, deliver and install the materials, supplies and equipment (hereinafter called the ''Project'') described in the plans, specifications and drawings (hereinafter called the ''Specifications'') attached hereto and made a part hereof, financed in part or whole by a loan to the Owner by the United States of America, acting through the Administrator of the Rural Utilities Service (hereinafter called the ''Administrator'') and designated _____.

Section 2. Familiarity with Conditions. The Bidder has made a careful examination of the site of the Project and of the Plans and Specifications, Construction Drawings, and form of Contractor's Bond attached hereto, and has become informed as to the location and nature of the proposed construction, the transportation facilities and the kind of facilities required before and during the construction of the Project, and has become acquainted with the labor conditions, the ecological and environmental criteria to be followed, state and local laws and regulations which would affect work on the proposed construction.

Section 3. License. The Bidder warrants that a Contractor's License is ____, is not ____, required, and if required, it possesses Contractor's License No. ____ of the State of ____, in which the Project is located and said license expires on ____, 19__.

Section 4. The Bidder warrants that this Proposal is made in good faith and without collusion or connection with any person or persons bidding for the same work.

Section 5. The Bidder warrants that it possesses adequate financial resources and agrees that in the event this Proposal is accepted and a Contractor's Bond is required, it will furnish a Contractor's Bond in the form attached hereto, in a penal sum not less than the maximum Contract Price, with a surety or sureties listed by the United States Treasury Department as Acceptable Sureties.

In the event that the surety or sureties on the performance bond delivered to the Owner contemporaneously with the execution of the Contract or on any bond or bonds delivered in substitution thereof or in addition thereto shall at any time become unsatisfactory to the Owner or the Administrator, the Bidder agrees to deliver to the Owner another or an additional bond.

The Bidder understands, that, if in submitting this Proposal, the Bidder has made any change in the form of Proposal furnished by the Owner, that the Owner and the Administrator may evaluate the effect of such change as they see fit or they may exclude the Proposal from consideration in determining the award of the contract.

Article II—Construction

Section 1. Bid Price. The Bidder will construct the Project for the following sum:

Base Bid _____ Dollars ($_____)
Alternate No. 1 _____ Dollars ($_____)
Alternate No. 2 _____ Dollars ($_____)

Section 2. Taxes. The price quoted herein includes all amounts which the Bidder estimates will be payable by the Bidder or the Owner on account of taxes imposed by any taxing authority upon the sale, purchase or use of materials, supplies or equipment or services or labor of installation to be incorporated in the Project. The Bidder will pay all such taxes and will furnish to appropriate taxing authorities any required information and reports pertaining thereto.

Section 3. Time and Manner of Construction.

(a) The time of Completion of Construction of the Project is of the essence of this Contract. The Bidder will commence the work within ____ calendar days after the Owner shall have given the Bidder written notice to commence construction, will prosecute diligently and complete such construction to the satisfaction of the Owner and the Administrator within ____ calendar days after giving of such notice.

(b) The time of Completion of Construction shall be extended for the period of any reasonable delay due exclusively to causes beyond the control and without fault of the Bidder, including Acts of God, fires, strikes, floods, inability to obtain materials, changes in the Specifications as herein provided and acts or omissions of the Owner with respect to matters for which the Owner is solely responsible: Provided, however, that no such extension of time for completion shall be granted the Bidder unless within ten (10) days after the happening of any event relied upon by the Bidder for such an extension of time the Bidder shall have made a request therefor in writing to the Owner, and provided further that no delay in such time of completion or in the progress of the work which results from any of the above causes except acts or omissions of the Owner, shall result in any liability on the part of the Owner.

(c) In the sequence of construction, the Owner, acting through the Engineer, shall have the right to direct the Bidder to perform any part or parts of the work which is to be performed at the site of the Project before any other part or parts, of such work and the Bidder agrees to comply with all such directions. The Bidder shall comply with all other reasonable directions of the Owner.

(d) The Owner, acting through the Engineer, may from time to time during the progress of the construction of the Project make such changes, additions to or subtractions from the Plans and Specifications and sequence of construction provided for in the previous paragraph which are part of the Contractor's Proposal as conditions may warrant: Provided, however, that if any change in the construction to be done shall require an extension of time, a reasonable extension will be granted if the Bidder shall make a written request therefor to the Owner within ten (10) days after any such change is made. If the cost of the Project to the Bidder to make the change shall be increased or decreased, the contract price shall be amended by an amount equal to the reasonable cost hereof in accordance with a construction amendment signed by the Owner and the Bidder and approved by the Administrator [1], but no claim for additional compensation for any such change or addition will be considered unless the Bidder shall have made a written request therefor to the Owner prior to the commencement of work in connection with such change or addition. The reasonable cost of any increase or decrease in the contract price covered by contract amendment as outlined above, in the absence of other mutual agreement, shall be computed on the basis of the direct cost of materials, f.o.b. the site of the Project, plus the direct cost of labor necessary to incorporate such materials into the Project (including actual cost of payroll taxes and insurance), plus ____ percent of the direct cost of materials and labor. Labor costs shall be limited to the direct costs for workmen and foremen. Costs for profit and overhead for subcontractors, if any, Bidder's main office overhead, job office overhead and superintendence shall not be included.

Section 4. The Bidder agrees that in the event this Proposal is accepted it will make available for use in connection with the proposed construction all necessary tools and equipment and qualified superintendents and foremen.

Section 5. Supervision and Inspection.

a. The Bidder will give sufficient supervision to the work, using its best skill and attention. The Bidder will carefully study and compare all drawings, specifications and other instructions and will at once report to the Owner any error, inconsistency or omission which it may discover. The Bidder shall cause the construction work on the Project to receive constant supervision by a competent superintendent (hereinafter called the ''Superintendent'') who shall be present at all times during working hours where construction is being carried on. The Bidder shall also employ, in connection with the construction of the Project, capable, experienced and reliable foremen and such skilled workmen as may be required for the various classes of work to be performed. Directions and instructions given to the Superintendent shall be binding upon the Bidder.

b. The Owner reserves the right to require the removal from the Project of any employee of the Bidder if in the judgment of the Owner such removal shall be necessary in order to protect the interest of the Owner. The Owner or the Supervisor, if any, shall have the right to require the Bidder to increase the number of its employees and to increase or change the amount or kinds of tools and equipment if at any time the progress of the work shall be unsatisfactory to the Owner or Supervisor; but the failure of the Owner or Supervisor to give any such directions shall not relieve the Bidder of its obligations to complete the work within the time and in the manner specified in this Proposal.

c. The manner of construction of the Project, and all materials and equipment

[1] As long as the total price of this contract including all amendments is less than 120 percent of the original contract price as stated in the acceptance hereto, amendments executed on RUS Form 238 are not subject to the approval of the Administrator. Whenever an amendment to this contract causes the total amended contract to exceed 120 percent of the original contract price, that amendment and all subsequent amendments to this contract shall be made subject to the approval of the Administrator.

used therein, shall be subject to the inspection, tests and approval of the Owner and the Administrator, and the Bidder shall furnish all information required by the Owner or by the Administrator concerning the nature or source of any materials incorporated or to be incorporated in the Project. The Owner and the Administrator shall have the right to inspect all payrolls, invoices of materials, and other data and records of the Bidder and of any subcontractor, relevant to the construction of the Project. The Bidder shall provide all reasonable facilities necessary for such inspection and tests and shall maintain an office at the site of the Project, with telephone service where obtainable and at least one office employee to whom directions and instructions of the Owner may be delivered. Delivery of such directions or instructions in writing to the employee of the Bidder at such office shall constitute delivery to the Bidder. The Bidder shall have an authorized agent accompany the Engineer when final inspection is made and, if requested by the Owner, when any other inspection is made.

d. In the event that the Owner through its Engineer, or the Administrator, shall determine that the construction contains or may contain numerous defects, it shall be the duty of the Bidder and the Bidder's Surety or Sureties, if any, to have an inspection made by an engineer approved by the Owner and the Administrator for the purpose of determining the exact nature, extent and location of such defects.

e. The Engineer may recommend to the Owner that the Bidder suspend the work wholly or in part for such period or periods as the Engineer may deem necessary due to unsuitable weather or such other conditions as are considered unfavorable for the satisfactory prosecution of the work or because of the failure of the Bidder to comply with any of the provisions of the Contract: Provided, however, that the Bidder shall not suspend work pursuant to this provision without written authority from the Owner to do so. The time of completion hereinabove set forth shall be increased by the number of days of any such suspension, except when such suspension is due to the failure of the Bidder to comply with any of the provisions of this Contract. In the event that work is suspended by the Bidder with the consent of the Owner, the Bidder before resuming work shall give the Owner at least twenty-four (24) hours notice thereof in writing.

Section 6. Defective Materials and Workmanship.

a. The acceptance of any materials, equipment or any workmanship by the Owner or the Engineer shall not preclude the subsequent rejection thereof if such materials, equipment, or workmanship shall be found to be defective after delivery or installation, and any such materials, equipment or workmanship found defective before final acceptance of the construction shall be replaced or remedied, as the case may be, including the installation and removal thereof, by and at the expense of the Bidder. Any such condemned material or equipment shall be immediately removed from the site of the Project by the Bidder at the Bidder's expense. The Bidder shall not be entitled to any payment hereunder so long as any defective materials, equipment, or workmanship in respect to the Project, of which the Bidder shall have had notice, shall not have been replaced or remedied, as the case may be.

b. Notwithstanding the acceptance of workmanship, materials, supplies or equipment, or the giving of any certificate with respect to the completion of the work, if during the construction or within one year after such completion, or within such longer period as the Project or any part thereof may be guaranteed by other provisions of the Contract or the Specifications, the workmanship, materials, supplies or equipment shall be found to be defective or not in conformity with the requirements of the Specifications, the Bidder shall replace such defective materials or equipment or remedy any such defective workmanship within thirty (30) days after notice of the existence thereof shall have been given to the Bidder by the Owner. In event of failure by the Bidder to do so, the Owner may replace such defective materials or equipment or remedy such defective workmanship, as the case may be, and in such event the Bidder shall pay to the Owner the cost and expense thereof.

Article III—Payments and Release of Liens

Section 1. Payments to Bidder.

a. Within the first fifteen (15) days of each calendar month, the Owner shall make partial payment to the Bidder for construction accomplished during the preceding calendar month on the basis of estimates thereof certified to by the Bidder, and approved by the Engineer and by the Owner solely for the purpose of payment: Provided, however, that such approval shall not be deemed approval of the workmanship or materials; and provided further, that in estimating the amount of construction accomplished, consideration shall be given only to equipment and materials incorporated into the Project and equipment and materials delivered to the site in accordance with approved shipping schedule. Only ninety percent (90%) of each such estimate approved during the construction of the Project shall be paid by the Owner to the Bidder prior to Completion of the Project. Upon completion by the Bidder of the construction of the Project, the Engineer shall inspect the work performed hereunder and if he shall find the work acceptable and all provisions hereunder fully performed, he shall so certify to the Owner and shall certify the balance found to be due the Bidder.

The Certificate of Completion, Contract Construction, RUS Form 187, a copy of which is attached hereto, after it has been signed by the Engineer and certified to by the Owner and the Bidder shall thereupon be submitted to the Administrator for his approval and when such approval has been given, the Owner shall make payment to the Bidder of all unpaid amounts to which the Bidder shall be entitled hereunder unless withheld because of the fault of the Bidder.

b. Interest at the rate of _____ percent[2] (____%) per annum shall be paid by the Owner to the Bidder on all unpaid balances due the Bidder commencing fifteen (15) days after the due date: Provided that the delay in payment beyond the due date is not caused by any condition within the control of the Bidder. The due date for purposes of such monthly payment shall be the fifteenth day of each calendar month provided (1) the Bidder on or before the fifth day of such month shall have submitted its certification of construction completed during the preceding month, and (2) the Owner on or before the fifteenth day of such month shall have approved such certification. If, for any reasons not due to the Bidder's fault, such approval shall not have been given on or before the fifteenth day of such month, the due date for purposes of this subsection ''b'' shall be the fifteenth day of such month notwithstanding the absence of the approval of the certification.

c. No payments shall be due while the Bidder is in default in respect of any of the provisions of this Proposal and the Owner may withhold from the Bidder the amount of any claim by a third party against either the Bidder or the Owner based upon an alleged failure of the Bidder to perform the work hereunder in accordance with the provisions of this Proposal.

Section 2. Release of Liens and Certificate of Contractor. (See Sample RUS Form 224, Waiver and Release of Lien, and sample RUS Form 231, Certificate of Contractor.) Upon the completion by the Bidder of the construction of the Project but prior to the payment to the Bidder of any amount in excess of ninety percent (90%) of the total cost of construction, the Bidder shall deliver to the Owner, in duplicate, releases of all liens and of rights to claim any lien, in the form attached hereto, from all manufacturers, materialmen, and subcontractors furnishing services or materials for the Project and a certificate in the form attached hereto to the effect that all labor used on or for the project has been paid and that all such releases have been submitted to the Owner for approval.

Section 3. Payments to Materialmen and Subcontractors. The Bidder shall pay each materialman, and each subcontractor, if any, within five (5) days after receipt of any payment from the Owner, the amount thereof allowed the Bidder for and on account of materials furnished or construction performed by each materialman or each subcontractor.

Article IV—Particular Undertakings of the Bidder

Section 1. Protection to Persons and Property. The Bidder shall at all times exercise reasonable precautions for the safety of employees on the work and of the public, and shall comply with all applicable provisions of Federal, State and Municipal safety laws and building and construction codes. All machinery and equipment and other physical hazards shall be guarded in accordance with the ''Manual of Accident

[2] The Owner shall insert a rate equal to the lowest ''Prime Rate'' listed in the ''Money Rates'' section of the Wall Street Journal on the date such invitation to bid is issued.

Prevention in Construction'' of the Associated General Contractors of America, unless such instructions are incompatible with Federal, State or Municipal laws or regulations.

The following provisions shall not limit the generality of the above requirements:

(a) The Bidder shall at all times keep the premises free from accumulations of waste materials or rubbish caused by his employees or work, and at the completion of the work he shall remove all rubbish from and about the Project and all his tools, scaffolding and surplus materials and shall leave his work ''broom clean''. The Bidder shall dispose of waste material by burying it on the work site or in a manner approved by local authorities, but shall not dispose of any waste materials or rubbish by open burning. The Bidder shall provide chemical sanitary facilities which may be required in compliance with applicable local, State and Federal laws or regulations.

(b) The Bidder will perform the work in such a manner as to maximize preservation of aesthetics and conservation of natural resources, and minimize marring and scarring of the landscape, erosion of soils and oil spillage. There will be no depositing of trash in streams or waterways. Herbicides, other chemicals or their containers will not be deposited in or near streams or waterways.

(c) The Project, from the commencement of work to completion, or to such earlier date or dates when the Owner may take possession and control, in whole or in part as hereinafter provided, shall be under the charge and control of the Bidder and during such period of control by the Bidder all risks in connection therewith and the materials, supplies and equipment to be used therein shall be borne by the Bidder, except risk of loss or of damage to materials or equipment furnished for or used in connection with the Project by the Owner, Bidder or any subcontractor, caused by fire, lightning, wind damage, explosion, riot or civil commotion, aircraft and other vehicles, and smoke damage (against which perils the Owner will maintain insurance, hereinafter called ''Builder's Risk Insurance''). The Bidder will make good and fully repair all injuries and damages to the Project, or any portion thereof under the control of the Bidder by reason of any act of God, or any other casualty or cause whether or not the same shall have occurred by reason of the Bidder's negligence, except damage covered by the Owner's Builder's Risk Insurance.

(i) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Bidder's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Bidder's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Bidder, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Bidder liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner.

(ii) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Bidder, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Bidder shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Bidder does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Bidder.

(iii) Bidder shall provide to Owner's satisfaction evidence of Bidder's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.

(d) The Bidder shall submit to the Owner monthly reports in duplicate of all accidents giving such data as may be prescribed by the Engineer.

(e) Upon violation by the Bidder of any of the provisions of this section, after written notice of such violation given to the Bidder by the Engineer or the Owner, the Bidder shall immediately correct such violation. Upon failure of the Bidder so to do the Owner may correct such violation at the Bidder's expense: Provided, however, that the Owner may, if it deems it necessary or advisable, correct such violation at the Bidder's expense without such prior notice to the Bidder.

Section 2. Insurance. The Bidder shall take out and maintain throughout the contract period insurance of the following types and minimum amounts:

(a) Workers' compensation and employers' liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

(b) Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

(c) Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million per occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsections ''b'' and ''c'' of this Section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Owner shall be named as Additional Insured on all policies of insurance required in subsections ''b'' and ''c'' of this Section.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.

Section 3. Assignment of Guarantees. All guarantees of materials and workmanship running in favor of the Bidder shall be transferred and assigned to the Owner prior to the time the Bidder receives final payment.

Section 4. Delivery of Possession and Control to Owner. Upon written request of the Owner, the Bidder shall deliver to the Owner full possession and control of any portion of the Project provided the Bidder shall have been paid at least ninety percent (90%) of the cost of construction of such portion. Upon such delivery of the possession and control of any portion of the Project to the Owner, the risks and obligations of the Bidder as set forth in Article IV, Section 1 c hereof with respect to such portion so delivered to the Owner shall be terminated; Provided, however, that nothing herein contained shall relieve the Bidder of any liability with respect to defective materials and workmanship as contained in Article II, Section 6 hereof.

Article V—Remedies

Section 1. Completion on Bidder's Default. If default shall be made by the Bidder or by any subcontractor in the performance of any of the terms of this Proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Bidder and the Surety or Sureties, if any, upon the Contractor's Bond or Bonds a written notice requiring the Bidder to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Bidder such default shall be corrected or arrangements for the correction thereof satisfactory to both the Owner and the Administrator shall be made by the Bidder or its Surety or Sureties, if any, the Owner may take over the construction of the Project and

prosecute the same to completion by Contract or otherwise for the account and at the expense of the Bidder, and the Bidder and its Surety or Sureties, if any, shall be liable to the Owner for any cost or expense in excess of the Contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the Project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Bidder or any of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims or demands which the Bidder may have against third parties in connection with this Contract and for such purpose the Bidder does hereby assign, transfer and set over unto the Owner all such rights, claims and demands.

Section 2. Enforcement of Remedies by Administrator. The Administrator may on behalf of the Owner exercise any right or enforce any remedy which the Owner may exercise hereunder.

Section 3. Cumulative Remedies. Every right or remedy herein conferred upon or reserved to the Owner or the Administrator shall be cumulative and shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election.

Article VI—Miscellaneous

Section 1. Definitions.

a. The term ''Administrator'' shall mean the Administrator of the Rural Utilities Service of the United States of America and his duly authorized representatives or any other person in whom or authority in which may be vested the duties and functions which the Administrator is now authorized by law to perform.

b. The term ''Engineer'' shall mean the engineer employed by the Owner, with the approval of the Administrator, to provide engineering services for the Project, and said Engineer's duly authorized assistants and representatives.

c. The term ''Supervisor'' shall mean the person, if any, appointed by the Administrator as the representative of the Government under the provisions of the Loan Contract providing for such appointment in special cases. The term is limited to such special representative of the Government, if any, who is responsible exclusively to the Administrator and does not refer to the Manager or any other person employed by the Owner and responsible to it.

d. The term ''Completion of Construction'' shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof except the Bidder's obligations in respect of Releases of Liens and Certificate of Contractor under Article III, Section 2 hereof. The term ''Completion of the Project'' shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof. The Certificate of Completion, signed by the Engineer and approved in writing by the Owner and the Administrator, shall be the sole and conclusive evidence as to the date of Completion of Construction and as to the fact of Completion of the Project.

Section 2. Purchase of Materials. The Bidder shall purchase all materials, supplies, and equipment outright and not subject to any conditional sales agreements, bailment lease or other agreement reserving unto the seller any right, title or interest therein. All materials, supplies and equipment shall be new and shall become the property of the Owner when erected in place, or when the Owner shall have made any payment to the Bidder in respect of such materials; whichever shall occur first.

Section 3. Materials and Supplies. In the performance of this contract there shall be furnished only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, Mexico, or Canada, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States, Mexico, or Canada; provided that other articles, materials, or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. The Bidder agrees to submit to the Purchaser such certificates with respect to compliance with the foregoing provision as the Administrator from time to time may require.

Section 4. Patent Infringement. The Bidder shall save harmless and indemnify the Owner from any and all claims, suits and proceedings for the infringement of any patent or patents covering any materials or equipment used in construction of the Project.

Section 5. Compliance with Statutes and Regulations. The Bidder shall comply with all applicable statutes, ordinances, rules, and regulations pertaining to the work. The Bidder acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the so-called ''Kick-Back'' Statute (48 Stat. 948), and regulations issued pursuant thereto, and 18 U.S.C. Section 287 and 1001, as amended. The Bidder understands that the obligations of the parties hereunder are subject to the applicable regulations and orders of Governmental Agencies having jurisdiction in the premises.

Section 6. Equal Opportunity Provisions.

(a) Bidder's Representations.

The Bidder represents that:

It has ____, does not have ____, 100 or more employees, and if it has, that it has ____, has not ____ furnished the Equal Employment Opportunity-Employers Information Report EEO–1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964.

The Bidder agrees that it will obtain, prior to the award of any subcontract for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100.

The Bidder agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than $10,000, the Bidder will file such report, as required by law, and notify the owner in writing of such filing prior to the Owner's acceptance of this Proposal.

(b) Equal Opportunity Clause. During the performance of this Contract, the Bidder agrees as follows:

(1) The Bidder will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Bidder will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

(2) The Bidder will, in all solicitations or advertisements for employees placed by or on behalf of the Bidder, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The Bidder will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Bidder's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Bidder will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.

(5) The Bidder will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Bidder's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part, and the Bidder may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

(7) The Bidder will include this Equal Opportunity Clause in every subcontract or

purchase order unless exempted by the rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Bidder will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; Provided, however, that in the event Bidder becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Bidder may request the United States to enter into such litigation to protect the interests of the United States.

(c) Certificate of Nonsegregated Facilities. The Bidder certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term ''segregated facilities'' means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

Section 7. Nonassignment of Contract. Except as provided in Section 8 of this Article, the Bidder will not assign this Contract, or any interest in any funds that may become due hereunder, or enter into any contract with any person, firm or corporation, for the performance of the Bidder's obligations hereunder, or any part hereof without the approval in writing of the Owner, the Surety or Sureties, if any, and the Administrator.

Section 8. Subcontracts. The Bidder shall not enter into any subcontract or subcontracts with any person, firm or corporation for the performance of the Bidder's obligation hereunder in any aggregate amount in excess of 40% of The Bidder's obligations (to be calculated on the basis of the total contract price) nor shall the Bidder enter into any subcontract in excess of $20,000, without the approval in writing of the Owner and of the Surety or Sureties, if any, on any bond furnished by the Bidder for the faithful performance of the Bidder's obligations hereunder. If the Bidder shall enter into a subcontract with any subcontractor for the performance of any part of this Contract, the Bidder shall be as fully responsible to the Owner and the Administrator for the acts and omissions of such subcontractor and of persons employed by such subcontractor as the Bidder would be for its own acts and omissions and those of persons directly employed by it.

Section 9. Contractor. Upon acceptance of this Proposal, the successful Bidder shall be the Contractor and all references in the Proposal to the Bidder shall apply to the Contractor.

Section 10. Approval of the Administrator. The acceptance of this Proposal by the Owner shall not create a contract unless such acceptance shall be approved in writing by the Administrator within sixty (60) days after the date set for the opening of proposals.

_____ (Bidder)
By _____ (President)
_____ (Title)
_____ (Address)
Attest:
_____ (Secretary)
Date _____

The Proposal must be signed with the full name of the Bidder. If the Bidder is a partnership, the Proposal must be signed in the partnership name by a partner. If the Bidder is a corporation, the Proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

Acceptance

Subject to the approval of the Administrator, the Owner, _____, hereby accepts the Proposal of the above-named Bidder for the construction of the Project therein described for the Base Bid of $ _____ and
Alternate No. 1 $_____
Alternate No. 2 $_____
The total contract price is $_____
_____ (Owner)
By _____ President
Attest:
_____ (Secretary)
_____ Date of Contract

[End of clause]

§ 1726.321 Right-of-way clearing contract, RUS Form 201.

The contract form in this section shall be used when required by this part. This form refers to guide drawings, which do not contain requirements, and, hence, are not included in this part. The guide drawings are included in the printed form available from RUS (see § 1726.300.).

Right-of-Way Clearing Contract

Contractor's Proposal

(Proposal shall be submitted in ink or typewritten)
To: _____ (Hereinafter called the ''Owner'')

Article I—General

Section 1. Offer to Clear. The undersigned (hereinafter called the ''Contractor'') hereby proposes to furnish all materials, equipment, machinery, tools, labor, transportation and other means required to clear rights-of-way for the rural electric system bearing the RUS Designation _____ in strict accordance with the Specifications and Drawings therefor, attached hereto and made a part hereof, for the prices hereinafter stated.

Section 2. Description of Project. The Project will consist of approximately _____ miles of right-of-way clearing. The Project is located in _____ counties in the State of _____.

Section 3. Description of Contract. The Description of Units, Specifications, Drawings and Plans attached hereto and made a part hereof, together with the Proposal and Acceptance constitute the Contract. The Plans consisting of maps and plan and profile sheets if transmission clearing is included, showing the number and types of right-of-way units that are to be cleared, along with other special drawings are identified as follows:

Section 4. Familiarity with Conditions. The Contractor warrants that it has made careful examination of the site of the Project and of the Specifications, Drawings, and form of Contractors' Bond attached hereto, and has become informed as to the location and nature of the proposed work, the transportation facilities, the kind and character of soil and terrain to be encountered, and the kind of facilities required for undertaking and completing the Project, and has become acquainted with the labor conditions, state and local laws and regulations which would affect the proposed work.

Section 5. License. The Contractor warrants that a Contractor's License is ____, is not ____, required, and if required, it possesses Contractor's license number ____ for the State of _____ in which the Project is located and said license expires on _____, 19____.

Section 6. Contractor's Bond. If the estimated cost of the clearing of a Section shall exceed $100,000, the Contractor agrees to furnish, prior to the commencement of work on such Section, a bond in the penal sum of not less than the estimated cost of the Section in the form attached hereto with a Surety or Sureties listed by the United States Treasury Department as acceptable sureties. In the event that the Surety or Sureties on the performance bond delivered to the Owner shall at any time become unsatisfactory to the Owner, the Contractor agrees to deliver to the Owner another or an additional bond.

Section 7. Taxes. The unit prices for Right-of-Way Clearing Units in this Proposal include any sums which are or may be payable by the Contractor on account of taxes imposed by any taxing authority on payments for materials furnished or services

performed by the Contractor under the terms of this Contract.

Article II—Construction

Section 1. Time and Manner of Work.

(a) The Contractor agrees to commence work on the Project on a date (hereinafter called the ''Commencement Date'') which shall be determined by the Owner after its acceptance of this Proposal, but in no event will the Commencement Date be later than ____ calendar days after date of acceptance of this Proposal. The Contractor further agrees to prosecute diligently and to complete clearing in strict accordance with the Specifications and Drawings within ____ (____) calendar days (excluding Sundays) after Commencement Date.

(b) The time for Completion of Clearing shall be extended for the period of any reasonable delay which is due exclusively to causes beyond the control and without the fault of the Contractor, including acts of God, fires, floods, inability to obtain materials and acts or omissions of the Owner with respect to matters for which the Owner is solely responsible: Provided, however, that no such extension of time for completion shall be granted the Contractor unless within ten (10) days after the happening of any event relied upon by the Contractor for such an extension of time the Contractor shall have made a request therefor in writing to the Owner, and provided further that no delay in such time of completion or in the progress of the work which results from any of the above causes except acts or omissions of the Owner, shall result in any liability on the part of the Owner.

(c) The sequence of construction shall be as set forth below, the numbers or names being the designations of extensions or areas (hereinafter called the ''Sections'') corresponding to the numbers or names shown on the maps attached hereto, or if no Sections are set forth below, the sequence of construction shall be as determined by the Contractor subject to the approval of the Owner.

(d) The Owner may from time to time during the progress of the work on the Project make such changes in, additions to or subtractions from the Specifications, Drawings and sequence of work provided for in the previous paragraph which are part of the Contractor's Proposal as conditions may warrant: Provided, however, that if any change in the work to be done shall require an extension of time, a reasonable extension will be granted if the Contractor shall make a written request therefor to the Owner within ten (10) days after any such change is made. And provided further, that if the cost to the Contractor of completion of the Project shall be materially increased by any such change or addition, the Owner shall pay the Contractor for the reasonable cost thereof in accordance with a Contract Amendment signed by the Owner and the Contractor, but no claim for additional compensation for any such change or addition will be considered unless the Contractor shall have made a written request therefor to the Owner prior to the commencement of work in connection with such change or addition.

(e) The Contractor will not perform any work hereunder on Sundays unless there is urgent need for such Sunday work and the Owner consents thereto in writing. The time for completion specified in subsection (a) of this Section 1 shall not be affected in any way by inclusion of this subsection by the Owner's consent or lack of consent to Sunday work hereunder.

Section 2. Environmental Protection. The Contractor shall perform work in such a manner as to maximize preservation of beauty, conservation of natural resources, and minimize marring and scarring of the landscape and silting of streams. The Contractor shall not deposit trash in streams or waterways, and shall not deposit herbicides or other chemicals or their containers in or near streams, waterways or pastures. The Contractor shall follow, under the general direction of the Engineer, the criteria relating to environmental protection as specified herein by the Engineer.

Section 3. Supervision and Inspection.

(a) The Contractor shall cause the work on the Project to receive constant supervision by a competent superintendent (hereinafter called the ''Superintendent'') who shall be present at all times during working hours where work is being carried on. The Contractor shall also employ in connection with the Project, capable, experienced and reliable foremen and such skilled workmen as may be required for the various classes of work to be performed. Directions and instructions given to the Superintendent shall be binding upon the Contractor.

(b) The Owner reserves the right to require the removal from the Project of any employee of the Contractor if in the judgment of the Owner such removal shall be necessary in order to protect the interest of the Owner. The Owner shall have the right to require the Contractor to increase the number of its employees and to increase or change the amount or kind of tools and equipment if at any time the progress of the work shall be unsatisfactory to the Owner; but the failure of the Owner to give any such directions shall not relieve the Contractor of its obligations to complete the work within the time and in the manner specified in this Proposal.

(c) The manner of performance of the work, and all equipment used therein, shall be subject to the inspection and approval of the Owner. The Owner shall have the right to inspect all payrolls and other data and records of the Contractor relevant to the work. The Contractor will provide all reasonable facilities necessary for such inspection. The Contractor shall have an authorized agent accompany the inspector when final inspection is made and, if requested by the Owner, when any other inspection is made.

(d) In the event that the Owner shall determine that the work contains or may contain numerous defects, it shall be the duty of the Contractor and the Contractor's Surety or Sureties to have an inspection made by an engineer approved by the Owner for the purpose of determining the exact nature, extent and location of such defects.

(e) The Engineer may recommend to the Owner that the Contractor suspend the work wholly or in part for such period or periods as the Engineer may deem necessary due to unsuitable weather or such other conditions as are considered unfavorable for the satisfactory prosecution of the work or because of the failure of the Contractor to comply with any of the provisions of the Contract: Provided, however, that the Contractor shall not suspend work pursuant to this provision without written authority from the Owner so to do. The time of completion hereinabove set forth shall be increased by the number of days of any such suspension, except when such suspension is due to the failure of the Contractor to comply with any of the provisions of this Contract. In the event that work is suspended by the Contractor with the consent of the Owner, the Contractor before resuming work shall give the Owner at least twenty-four (24) hours' notice thereof in writing.

Section 4. Unsuitable Workmanship. The acceptance of any workmanship by the Owner or the Engineer shall not preclude the subsequent rejection thereof if such workmanship shall be found to be unsuitable. Workmanship found unsuitable before final acceptance of the work shall be remedied, by and at the expense of the Contractor. The Contractor shall not be entitled to any payment hereunder so long as any unsuitable workmanship in respect to the Project, of which the Contractor shall have had notice, shall not have been remedied.

Article III—Payment

Section 1. Payments to Contractor.

(a) Within the first fifteen (15) days of each calendar month, the Owner shall make partial payment to the Contractor for work accomplished during the preceding calendar month on the basis of a statement of completed clearing units furnished and certified to by the Contractor and approved by the Owner solely for the purposes of payment: Provided, however, that such approval by the Owner shall not be deemed approval of the workmanship or materials. Only ninety percent (90%) of each such statement approved during the clearing of a Section shall be paid by the Owner to the Contractor prior to completion of the Section. Upon completion by the Contractor of the clearing of a Section, the Contractor shall prepare a Final Inventory of the Section showing the total number and character of clearing units and shall deliver to the Owner a Certificate of Contractor and Indemnity Agreement in the form attached hereto, showing the total cost of the work performed and stating (1) that all persons who have furnished labor in connection with the Project and subcontractors who have furnished services for the Project have been paid in full and (2) that the Contractor shall hold the Owner harmless against any liens arising out of the Contractor's performance hereunder which may have been or may be filed against the Owner. Upon the approval of such certificate, the Owner shall make payment to the Contractor of all amounts to which the Contractor shall be entitled thereunder which shall not have been paid.

(b) The Contractor shall be paid on the basis of the number of clearing units actually completed at the direction of the Owner shown by the Final Inventory: Provided, however, that the total cost shall not exceed

the total contract price for the Project as set forth in the Acceptance, unless such excess shall have been approved in writing by the Owner.

(c) No payment shall be due while the Contractor is in default in respect of any of the provisions of this Contract and the Owner may withhold from the Contractor the amount of any claim by a third party against either the Contractor or the Owner based upon an alleged failure of the Contractor to perform the work hereunder in accordance with the provisions of the Contract.

(d) If no Sections are designated in Article II, Section 1 (c) the term ''Section'' shall mean for purposes of this subsection (a) and Article IV, Section 3 (b) only, a part of the Project as designated by the Owner which represents at least twenty-five percent (25%) of the total contract price as stated in the Acceptance.

(e) Interest at the rate of ____ percent [1] (____%) per annum shall be paid by the Owner to the Contractor on all unpaid balances due on monthly statements, commencing fifteen (15) days after the due date; provided the delay in payment beyond the due date is not caused by any condition within the control of the Contractor. The due date for purposes of such monthly payment shall be the fifteenth day of each calendar month provided (1) the Contractor on or before the fifth day of such month shall have submitted its certification of right-of-way clearing units completed during the preceding month and (2) the Owner on or before the fifteenth day of such month shall have approved such certification. If for reasons not due to the Contractor's fault, such approval shall not have been given on or before the fifteenth day of such month, the due date for purposes of this subsection (e) shall be the fifteenth day of such month notwithstanding the absence of the approval of the certification.

(f) Interest at the rate of ____ percent [2] (____%) per annum shall be paid by the Owner to the Contractor on the final payment for the Project or any completed Section thereof, commencing fifteen (15) days after the due date. The due date for purposes of such final payment shall be the date of approval by the Owner of the Final Inventory and receipt of the Certificate of Contractor and Indemnity Agreement as conditions precedent to the making of final payment.

Section 2. Payments to Subcontractors. The Contractor shall pay each subcontractor, if any, within five (5) days after receipt of any payment from the Owner, the amount thereof allowed the Contractor for and on account of services performed by each subcontractor.

Article IV—Particular Undertakings of the Contractor

Section 1. Protection to Persons and Property. The Contractor shall at all times take all reasonable precautions for the safety of employees on the work and of the public, and shall comply with all applicable provisions of Federal, state, and municipal safety laws and building and construction codes, as well as the safety rules and regulations of the Owner. All machinery and equipment and other physical hazards shall be guarded in accordance with the ''Manual of Accident Prevention in Construction'' of the Associated General Contractors of America unless such instructions are incompatible with Federal, state, or municipal laws or regulations.

The following provisions shall not limit the generality of the above requirements:

(a) The Contractor shall so conduct work on the Project as to cause the least possible obstruction of public highways.

(b) The Contractor shall provide and maintain all such guard lights and other protection for the public as may be required by applicable statutes, ordinances, and regulations or by local conditions.

(c) The Contractor shall do all things necessary or expedient to properly protect any and all parallel, converging, and intersecting lines, joint line poles, highways, and any and all property of others from damage, and in the event that any such parallel, converging and intersecting lines, joint line poles, highways, or other property are damaged in the course of work on the Project the Contractor shall at its own expense restore any or all of such damaged property immediately to as good a state as before such damage occurred.

(d) Where the right-of-way of the Project traverses cultivated lands, the Contractor shall limit the movement of his crews and equipment so as to cause as little damage as possible to crops, orchards, or property and shall endeavor to avoid marring the lands. All fences which are necessarily opened or moved during work on the project shall be replaced in as good condition as they were found and precautions shall be taken to prevent the escape of livestock. The Contractor shall not be responsible for loss of or damage to crops, orchards, or property (other than livestock) on the right-of-way necessarily incident to work on the Project and not caused by negligence or inefficient operation of the Contractor. The Contractor shall be responsible for all other loss of or damage to crops, orchards, or property, whether on or off the right-of-way, and for all loss of or damage to livestock caused by work on the Project. The right-of-way for purposes of this said section shall consist of an area extending ____ feet on both sides of the center line of the poles along the route of the Project lines, plus such area reasonably required by the Contractor for access to the route of the Project lines from public roads to carry on the work.

(e) The Project, from the commencement of work to completion, or to such earlier date or dates when the Owner may take possession and control in whole or in part as hereinafter provided, shall be under the charge and control of the Contractor and during such period of control by the Contractor all risks in connection with the work on the Project and the materials to be used therein shall be borne by the Contractor. The Contractor shall make good and fully repair all injuries and damages to the Project or any portion thereof under the control of the Contractor by reason of an act of God or other casualty or cause whether or not the same shall have occurred by reason of the Contractor's negligence.

(i) To the maximum extent permitted by law, Contractor shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Contractor's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Contractor's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Contractor, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Contractor liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner.

(ii) To the maximum extent permitted by law, Contractor shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Contractor, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Contractor shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Contractor does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Contractor.

(iii) Contractor shall provide to Owner's satisfaction evidence of Contractor's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.

(f) Any and all excess earth, rock, debris, underbrush, and other useless material shall be removed by the Contractor from the site of the Project as rapidly as practicable as the work progresses. The Contractor shall not deposit trash in streams or waterways, and shall not deposit herbicides or other chemicals or their containers in or near streams, waterways or pastures.

(g) Upon violation by the Contractor of any provisions of this section, after written notice of such violation given to the Contractor by the Owner, the Contractor shall immediately correct such violation. Upon failure of the Contractor so to do the Owner may correct such violation at the Contractor's expense.

(h) The Contractor shall submit to the Owner monthly reports in duplicate of all accidents, giving such data as may be prescribed by the Owner.

(i) The Contractor shall not proceed with the cutting of trees or clearing of right-of-way

[1] The Owner shall insert a rate equal to the lowest ''Prime Rate'' listed in the ''Money Rates'' section of the Wall Street Journal on the date such invitation to bid is issued.

[2] See Footnote 1.

without written notification from the Owner that proper authorization has been received from the owner of the property and the Contractor shall promptly notify the Owner whenever any landowner objects to the trimming or felling of any trees or the performance of any other work on his land in connection with the Project and shall obtain the consent in writing of the Owner before proceeding in any such case.

Section 2. Insurance. The Contractor shall take out and maintain throughout the period of this Agreement the following minimum amounts of insurance:

(a) Worker's compensation and employer's liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

(b) Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

(c) Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million each occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection ''b'' and ''c'' of this Section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Owner shall be named as Additional Insured on all policies of insurance required in subsections ''b'' and ''c'' of this Section.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.

Section 3. Delivery of Possession and Control to the Owner.

(a) Upon written request of the Owner, the Contractor shall deliver to the Owner full possession and control of any portion of the Project provided the Contractor shall have been paid at least ninety percent (90%) of the cost of the work of such portion. Upon such delivery of possession and control to the Owner, the risks and obligations of the Contractor as set forth in Section 1(e) of this Article IV with respect to such portion so delivered to the Owner, shall be terminated: Provided, however, that nothing herein contained shall relieve the Contractor of any liability with respect to unsuitable workmanship as specified in Article II, Section 4.

(b) Where the construction of a Section as hereinbefore defined in Article II, Section 1 (c) and Article III, Section 1 (d) shall have been completed by the Contractor, the Owner agrees, after receipt of a written request from the Contractor, to accept delivery of possession and control of such Section upon having inspected the Section and having found the work acceptable. Upon such delivery of the possession and control of any such Section to the Owner, the risk and obligations of the Contractor as set forth in Article IV, Section 1 (e) hereof with respect to such Section so delivered to the Owner shall be terminated: Provided, however, that nothing herein contained shall relieve the Contractor of any liability with respect to unsuitable workmanship as specified in Article II, Section 4 hereof.

Section 4. Assignment of Guarantees. All guarantees of materials and workmanship running in favor of the Contractor shall be transferred and assigned to the Owner prior to the time the Contractor receives final payment for any Section.

Article V—Remedies

Section 1. Completion on Contractor's Default. If default shall be made by the Contractor or by any subcontractor in the performance of any of the terms of this Proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Contractor and the Surety, if any, a written notice requiring the Contractor to cause such default to be corrected forthwith.

Unless within twenty (20) days after the service of such notice upon the Contractor and the Surety, if any, such default shall be corrected or arrangements for the correction thereof satisfactory to the Owner shall be made, the Owner may take over the work on the Project and prosecute the same to completion by contract or otherwise for the account and at the expense of the Contractor, and the Contractor shall be liable to the Owner for any cost or expense in excess of the contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the Project, any materials, tools, supplies, equipment, appliance, and plant belonging to the Contractor or any of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims, or demands which the Contractor may have against third persons in connection with this Proposal and for such purpose the Contractor does hereby assign, transfer, and set over unto the Owner all such rights, claims, and demands.

Section 2. Liquidated Damages. The time of the Completion of Clearing is of the essence of the Contract. Should the Contractor neglect, refuse or fail to complete the clearing within the time herein agreed upon, after giving effect to extensions of time, if any, herein provided, then, in that event and in view of the difficulty of estimating with exactness damages caused by such delay, the Owner shall have the right to deduct from and retain out of such monies which may be then due, or which may become due and payable to the Contractor the sum of ____ dollars (____) per day for each and every day that such work is delayed in its completion beyond the specified time, as liquidated damages and not as a penalty; if the amount due and to become due from the Owner to the Contractor is insufficient to pay in full any such liquidated damages, the Contractor shall pay to the Owner the amount necessary to effect such payment in full: Provided, however, that the Owner shall promptly notify the Contractor in writing of the manner in which the amount retained, deducted or claimed as liquidated damages was computed.

Section 3. Cumulative Remedies. Every right or remedy herein conferred upon or reserved to the Owner shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election: Provided, however, that the provision of Section 2 of this Article shall be the exclusive measure of damages for failure by the Contractor to complete the clearing within the time herein agreed upon.

Article VI—Miscellaneous

Section 1. Definitions.

(a) The term ''Engineer'' shall mean the engineer employed by the Owner to provide engineering services for the Project and said Engineer's duly authorized assistants and representatives. The term ''Engineer'' will mean ''Owner'' if no engineer is employed by the Owner to provide engineering services.

(b) The term ''Completion of Clearing'' shall mean full performance by the Contractor of the Contractor's obligations under the Contract and all amendments and revisions thereof except the Contractor's obligations in respect of furnishing (1) the ''Certificate of Contractor and Indemnity Agreement'' and (2) the Final Inventory both referred to in Article III, Section 1 hereof.

(c) The term ''Completion'' shall mean full performance by the Contractor of the Contractor's obligations under the Contract and all amendments and revisions thereof relating to any Section of the Project or to the Project.

Section 2. Patent Infringement. The Contractor shall save harmless and indemnify the owner from any and all claims, suits and proceedings for the infringement of any patent or patents covering any materials or equipment used in construction of the Project.

Section 3. Permits for Explosives. All permits necessary for the handling or use of dynamite or other explosives in connection with the construction of the Project shall be obtained by and at the expense of the Contractor.

Section 4. Compliance with Statutes and Regulations. The Contractor will comply with all applicable statutes, ordinances,

rules, and regulations pertaining to the work. The Contractor acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the so-called ''Kick-Back'' Statute (48 Stat. 948), and regulations issued pursuant thereto, and 18 U.S.C. §§ 286, 287, 1001, as amended. The Contractor understands that the obligations of the parties hereunder are subject to the applicable regulations and orders of governmental agencies having jurisdiction in the premises.

Section 5. Equal Opportunity Provisions.

(a) Contractor's Representations.

The Contractor represents that:

It has __, does not have __, 100 or more employees, and if it has, that it has __, has not __, furnished the Equal Employment Opportunity—-Employers Information Report EEO–1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964.

The Contractor agrees that it will obtain, prior to the award of any subcontractor for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100. The Contractor agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than $10,000, the Contractor will file such report, as required by law, and notify, the Owner in writing of such filing prior to the Owner's acceptance of this Proposal.

(b) Equal Opportunity Clause. During the performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the Contractor's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations or orders, this Contract may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(c) Certificate of Nonsegregated Facilities. The Contractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Contractor certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term ''segregated facilities'' means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Contractor agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

Section 6. Franchises and Rights-of-way. The Contractor will be under no obligation to obtain or assist in obtaining any franchises, authorizations, permits, or approvals required to be obtained by the Owner from Federal, state, county, municipal or other authority; any rights-of-way over private lands; or any agreements between the Owner and third parties with respect to the construction and operation of the Project.

Section 7. Nonassignment of Contract. The Contractor shall not assign the Contract effected by an acceptance of this Proposal or any part thereof or enter into any contract with any person, firm or corporation for the performance of the Contractor's obligations thereunder, or any part thereof, without the approval in writing of the Owner.

Section 8. Extension to Successors and Assigns. Each and all of the covenants and agreements contained in the Contract effected by the acceptance of the Proposal shall extend to and be binding upon the successors and assigns of the parties thereto.

_____ (Contractor)
By _____ (President)
_____ (Address)
Attest: _____ (Secretary)
Date of Proposal _____

This Proposal must be signed with the full name of the Contractor. If the Contractor is a partnership, the Proposal must be signed in the partnership name by a partner. If the Contractor is a corporation, the Proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

Description of Units

Right-of-Way Clearing Units:

R1–10. The unit is 1,000 feet in length and 10 feet in width (to be measured on one side of the pole line) of actual clearing of right-of-way. This includes clearing of underbrush, tree removal, and such tree trimming as is required so that the right-of-way, except for tree stumps which shall not exceed _____ in height, shall be clear from the ground up of the width specified on one side of the line of poles carrying primary conductors. This unit does not include clearing or trimming associated with secondaries or services which is included with conductor units. The length of actual clearing shall be measured in a straight line parallel to the horizontal line between stakes and across the maximum dimension of foliage cleared projected to the

ground line. All trees and underbrush across the width of the right-of-way, as designated by the Engineer shall be considered to be grouped together as a single length in measuring the total length of clearing. Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement. All length thus arrived at, added together and divided by 1,000, shall give the number of 1,000-foot R1–10 units of clearing. This unit includes the removal or topping, at the option of the Contractor; of danger trees outside of the right-of-way when so designated by the Engineer. (Danger trees are defined as dead or leaning trees which, in falling, will affect the operation of the line.) The Contractor shall not remove or trim shade, fruit or ornamental trees unless so directed by the Engineer.

R1–20. This unit is identical with R1–10 except that width is 20 feet (to be measured 10 feet on each side of the pole line).

R1–30. This unit is identical with R1–10 except that width is 30 feet (to be measured 15 feet on each side of the pole line).

R1–40. This unit is identical with R1–10 except that width is 40 feet (to be measured 20 feet on each side of the pole line).

RC1–10, RC1–20, RC1–30, RC1–40. These units are identical to the respective R1 units except that chemical treatment of stumps is required in addition to the clearing of underbrush, tree removal and tree trimming.

TM–12. The unit is 1,000 feet in length and ____ (____) feet in width (to be measured ____ (____) feet on one side of pole line or centerline of structures) of actual clearing of right-of-way. This includes clearing of underbrush, tree removal, and such tree trimming as is required so that the right-of-way, except for tree stumps which shall not exceed ____ in height, shall be clear from the ground up on one side of the line poles carrying conductors. (See Detail A, Drawing TM–12–2A). The length of actual clearing shall be measured in a straight line parallel to the horizontal line between poles or centerline of structures and across the maximum dimension of foliage cleared projected to the ground line (See Detail B, Drawing TM–12–2A). All trees and underbrush across the width of the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing (See Detail C, Drawing TM–12–2A). Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement. All length thus arrived at, added together and divided by 1,000 shall give the number of TM–12 units of clearing. The Contractor shall not remove or trim shade, fruit or ornamental trees unless so directed by the Engineer in writing.

TM–12 (1). This unit is identical with TM–12, except the full width of the right-of-way to be cleared shall be ____ (____) feet wide (to be measured ____ (____) feet on each side of the pole line or centerline of structures) (See Detail D, Drawing TM–12–2A.)

TMC–12, TMC–12(1). These units are identical to the respective TM units except that chemical treatment of stumps is required in addition to the clearing of underbrush, tree removal and tree trimming.

TM–13. The unit, for purpose of quoting, is 1,000 feet in length of clearing off the right-of-way. The Engineer will select those trees of the right-of-way that he deems to be a hazard to the line and will designate them to the Contractor in writing as danger trees. When so designated, the Contractor shall remove or top such trees at his option except that the Contractor shall trim and not remove shade, fruit or ornamental trees unless otherwise directed by the Engineer in writing (See Drawings TM–12–2A and TM–13 for examples of danger trees).

The measurement of length of right-of-way to be cleared shall be considered as a straight line parallel to the horizontal line between poles or centerline of structures, such measurement of length to be based on maximum dimension of foliage (not trunk) projected to the ground line (See Details E, F, G, and H, Drawing TM–12–2A). Dead trees having no foliage shall be measured across the maximum dimension and multiplied by two. (See Detail F, Drawing TM–12–2A). Each tree so removed shall be added together to determine the total length of clearing. All length thus arrived at, added together and divided by 1,000 shall give the number of TM–13 units (Example: Details E, F, G, and H, Drawing TM–12–2A, total .1 of a TM–13 unit).

TM–14. The unit is 1,000 feet in length and ____ (____) feet in width (to be measured ____ (____) feet on one side of right-of-way center line) of actual clearing of right-of-way. Trees and underbrush should be cleared from the ground up within 10 feet of any structure location. The Engineer will mark the trees and brush to be cleared to provide ''undulating'' boundaries. Low growing trees and brush are to be left in the right-of-way to the extent it will not be hazardous to the line or will not interfere with the access road. The length of actual clearing shall be measured in a straight line parallel to the horizontal line between poles or center line of structures and across the maximum dimension of foliage cleared projected to the ground line (See Detail B, Drawing TM–12–2A). All trees and underbrush cleared across the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing (See Detail C, Drawing TM–12–2A). Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement.

TM–14 (1). This unit is identical with TM–14 except the full width of the right-of-way to be cleared shall be ____ (____) feet wide (See Detail D, Drawing TM–12–2A).

TM–15. The unit is 1,000 feet in length and ____ (____) feet in width (to be measured ____ (____) feet on one side of the right-of-way center line) of actual clearing of the right-of-way. Trees and underbrush should be cleared from ground up within 10 feet of any structure location. The Engineer will mark the trees and brush to be cleared to provide a ''feathered'' appearance in the right-of-way. Low growing trees and brush are to be left in the right-of-way to the extent it will not be hazardous to the line or will not interfere with the access road.

The length of actual clearing shall be measured in a straight line parallel to the horizontal line between poles or center line of structures and across the maximum dimension of foliage cleared projected to ground line. (See Detail B, Drawing TM–12–2A). All trees and underbrush cleared across the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing (See Detail C, Drawing TM–12–2A). Spaces along the right-of-way, in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement.

TM–15 (1). This unit is identical to TM–15 except the full width of the right-of-way to be cleared shall be ____ (____) feet wide (See Detail D, Drawing TM–12–2A).

Additional Requirements. (When specifying units denote type of disposal A or B).

A. Trees, brush, branches and refuse shall, without delay be disposed of by such of the following methods as the Engineer will direct (Engineer to strike out methods not to be used).

1. Burned
2. Piled on one side of right-of-way
3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
4. Other (Describe)

B. Trees that are felled shall be cut to commercial wood lengths, stacked neatly, and left on the right-of-way for the landowner. Commercial wood length means the length designated by the Engineer but in no case shall it be required to be less than ____ (____) feet. Brush, branches and refuse shall, without delay, be disposed of by such of the following methods as the Engineer will direct (Engineer to strike out methods not to be used).

1. Burned
2. Piled on one side of right-of-way
3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
4. Other (Describe)

Specifications

In preparing the right-of-way, trees shall be removed, underbrush cleared, and trees trimmed so that the right-of-way shall be clear from the ground up or as specified. Trees fronting each side of the right-of-way shall be trimmed symmetrically unless otherwise directed by the Engineer. Dead trees beyond the right-of-way which would strike the line in falling shall be removed. Leaning trees beyond the right-of-way which would strike the line in falling and which would require topping if not removed may be removed or topped at the direction of the Engineer.

Where RC or TMC units are specified, the right-of-way shall be cleared in accordance with the instructions in the preceding paragraph and in addition, all stumps one-half inch in diameter and larger shall be sprayed as specified by the Engineer.

Right-of-Way Units

DISTRIBUTION CLEARING UNITS

Unit No.	No. of units	Unit price	Extended price
.....			

Total _____

TRANSMISSION CLEARING UNITS

Unit No.	No. of units	Unit price	Extended price

Total _____
Total Distribution and Transmission _____

Acceptance

The Owner hereby accepts the foregoing Proposal of the Contractor, _____ for the following:

Total Distribution Clearing: $_____
Total Transmission Clearing: $_____
The total contract price is $_____
_____ Owner

By _____ President
_____ Secretary
_____ Date of Contract

[End of clause]

§ 1726.322 Transmission system right-of-way clearing contract, RUS Form 203.

The contract form in this section shall be used when required by this part. This form refers to guide drawings, which do not contain requirements, and, hence, are not included in this part. The guide drawings are included in the printed form available from RUS (See § 1726.300.).

Transmission System Right-of-Way Clearing Contract

Notice and Instructions to Bidders

1. Sealed proposals for the clearing of underbrush and trees from right-of-way, including the supply of necessary labor and equipment, of a rural electric system of ____ (hereinafter called the ''Owner'') bearing the RUS Designation ____ will be received by the Owner on or before ____ o'clock __M., ____ 19____, at its office at ____ at which time and place the proposals will be publicly opened and read. Any proposal received subsequent to the time specified will be promptly returned to the Bidder unopened.

2. Description of Project. The Project will consist of approximately: ____ miles of right-of-way clearing. The Project is located in ____ Counties in the State of ____.

3. Obtaining Documents. All necessary forms and other documents for bidders may be obtained from the Owner, or from the Engineer ____ at the latter's office at ____. A copy of the Loan Contract (if the Project is to be financed in whole or in part, pursuant to a Loan Contract) between the Owner and the United States of America acting through the Administrator of the Rural Utilities Service (hereinafter called the Administrator), and any other lender's contract may be examined at the office of the Owner. Each set of documents will have a serial number, given by the Engineer, and the number of each set with the name of the recipient will be recorded by the Engineer. Bids will be accepted only from the original recipient.

4. Manner of Submitting Proposals. Proposals and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner. The name and address of the Bidder, its license number if a license is required by the State, and the date and hour of the opening of bids must appear on the envelope in which the Proposal is submitted. Proposals must be filled in in ink or typewritten. No alterations or interlineations will be permitted, unless made before submission, and initialed and dated.

5. Familiarity with Conditions. Prior to the submission of the Proposal the Bidder shall make and shall be deemed to have made a careful examination of the site of the Project and of the Specifications, Drawings, and forms of Contractor's Proposal and Contractor's Bond on file with the Secretary of the Owner and with the Engineer, and shall become informed as to the location and nature of the proposed work, the transportation facilities, the kind and character of soil and terrain to be encountered, the kind of facilities required before and during the construction of the Project. Bidders will be required to comply with all applicable statutes, regulations, etc., including those pertaining to the licensing of contractors, and the so-called ''Kick-back Statute'' (48 Stat. 948) and regulations issued pursuant thereto.

6. Proposals will be accepted only from those prequalified bidders invited by the Owner to submit a proposal.

7. The time for Completion of the Project shall be as specified by the Engineer in the Proposal.

8. Bid Bond. Each Proposal must be accompanied by a bid bond in the form attached or a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the Owner, in an amount equal to ten percent (10%) of the maximum bid price. Each Bidder agrees, provided its Proposal is one of the three low Proposals, that, by filing its Proposal together with such bid bond or check in consideration of the Owner's receiving and considering such Proposals, said Proposal shall be firm and binding upon each such Bidder and such bid bond or check shall be held by the Owner until a Proposal is accepted and a satisfactory Contractor's Bond is furnished (where required) by the successful Bidder and such acceptance has been approved by the Administrator, or for a period not to exceed sixty (60) days from the date hereinbefore set for the opening of Proposals, whichever period shall be the shorter. If such Proposals is not one of the three low Proposals, the bid bond or check will be returned in each instance within a period of ten (10) days to the Bidder furnishing same.

9. Contractor's Bond. The successful Bidder will be required to execute two additional counterparts of the Proposal and, for a Contract in excess of $100,000, to furnish a Contractor's Bond in triplicate in the form attached hereto with sureties listed by the United States Treasury Department as Acceptable Sureties, in a penal sum not less than the contract price.

10. Failure to Furnish Contractor's Bond. Should the successful Bidder fail or refuse to execute such counterparts or to furnish a Contractor's Bond (where required) within ten (10) days after written notification of the acceptance of the Proposal by the Owner, the Bidder will be considered to have abandoned the Proposal. In such event, the Owner shall be entitled (a) to enforce the bid bond in accordance with its terms, or (b) if a certified check has been delivered with the Proposal, to retain from the proceeds of the certified check, the difference (not exceeding the amount of the certified check) between the amount of the Proposal and such larger amount for which the Owner may in good faith contract with another party to construct the Project. The term ''successful Bidder'' shall be deemed to include any Bidder whose Proposal is accepted after another Bidder has previously refused or has been unable to execute the counterparts or to furnish a satisfactory Contractor's Bond (where required.)

11. Contract is Entire Agreement. The Contract to be effected by the acceptance of the Proposal shall be deemed to include the entire agreement between the parties thereto, and the Bidder shall not claim any modification thereof resulting from any representation or promise made at any time by any officer, agent or employee of the Owner or by any other person.

12. Minor Irregularities. The Owner reserves the right to waive minor irregularities or minor errors in any Proposal, if it appears to the Owner that such irregularities or errors were made through inadvertence. Any such irregularities or errors so waived must be corrected on the Proposal in which they occur prior to the acceptance thereof by the Owner.

13. Bid Rejection. The Owner reserves the right to reject any or all Proposals.

14. Definition of Terms. The terms ''Administrator,'' ''Engineer,'' ''Supervisor,'' ''Project,'' ''Completion of Construction'' and ''Completion of the Project'' as used throughout this Contract shall be as defined in Article VI, Section 1, of the Contractor's Proposal.

15. The Owner represents:

a. All easements and rights-of-way, except as shown on maps included in the Specifications, have been obtained from the Owners of the properties across which the project is to be carried out (including tenants who may reasonably be expected to object to such clearing). The remaining easements and rights-of-way, if any, will be obtained as required to avoid delay in construction.

b. Prompt payment for the work to be done will be made with funds pursuant to the Loan Contract, or with funds otherwise available to the Owner.

If the Owner shall fail to comply with any of the undertakings contained in the

foregoing representations or if any such representations shall be incorrect, the Bidder will be entitled to extension of time of completion for a period equal to the delay, if any, caused by the failure of the Owner to comply with such undertakings or by any such incorrect representation; provided the Bidder shall have promptly notified the Owner in writing of its desire to extend the time of completion in accordance with the foregoing.

_____ Owner

By _____

_____, 19___

Contractor's Proposal

(Proposal shall be submitted in ink or typewritten)

To: _____ (Hereinafter called the ''Owner'')

Article I—General

Section 1. Offer to Clear. The undersigned (hereinafter called the ''Bidder'') hereby proposes to furnish all materials, equipment, machinery, tools, labor, transportation and other means required to clear rights-of-way for rural electric system bearing the RUS Designation ____ in strict accordance with the Specifications and Drawings therefore, attached hereto and made a part hereof, for the prices hereinafter stated.

Section 2. Description of Contract. The Notice and Instructions to Bidders and Specifications attached hereto and made a part hereof, together with the Proposal and Acceptance constitute the contract. The Specifications consisting of maps, plan and profile sheets showing the number and types of right-of-way units that are to be cleared for each parcel, along with other special drawings are identified as follows: ____.

Section 3. Familiarity with Conditions. The Bidder has made a careful examination of the site of the Project and of the Specifications, Drawings, and form of Contractor's Bond attached hereto, and has become informed as to the location and nature of the proposed work, the transportation facilities, the kind and character of soil and terrain to be encountered, and the kind of facilities required for undertaking and completing the Project, and has become acquainted with the labor conditions, state and local laws and regulations which would affect the proposed work.

Section 4. License. The Bidder warrants that a Contractor's License is ____, is not ____, required, and if required, it possesses Contractor's license number _____ for the State of _____ in which the Project is located and said license expires on _____, 19____.

Section 5. The Bidder warrants that this Proposal is made in good faith and without collusion or connection with any person or persons bidding for the same work.

Section 6. The Bidder warrants that it possesses adequate financial resources and agrees that in the event this Proposal is accepted and a Contractor's Bond is required, it will furnish a Contractor's Bond in the form attached hereto, in a penal sum not less than the maximum Contractor price, with a surety or sureties listed by the United States Treasury Department as Acceptable Sureties.

In the event that the surety or sureties on the performance bond delivered to the Owner contemporaneously with the execution of the Contract or on any bond or bonds delivered in substitution therefore or in addition thereto shall at any time become unsatisfactory to the Owner or the Administrator, the Bidder agrees to deliver to the Owner another or an additional bond.

Article II—Construction

Section 1. Time and Manner of Work.

(a) Bidder agrees to commence work on the Project on a date (hereinafter called the ''Commencement Date'') which shall be determined by the Engineer after notice in writing of approval of the Contract by the Administrator, but in no event will the Commencement Date be later than _____ calendar days after date of approval of the Contract by the Administrator. The Bidder further agrees to prosecute diligently and to complete construction in strict accordance with the Specifications and Drawings within _____ (_____) calendar days (excluding Sundays) after Commencement Date.

(b) The time for Completion of Clearing shall be extended for the period of any reasonable delay which is due exclusively to causes beyond the control and without the fault of the Bidder, including Acts of God, fires, floods, inability to obtain materials and acts or omissions of the Owner with respect to matters for which the Owner is solely responsible: Provided however, that no such extension of time for completion shall be granted the Bidder unless within ten (10) days after the happening of any event relied upon by the Bidder for such an extension of time the Bidder shall have made a request therefore in writing to the Owner, and provided further that no delay in such time of completion or in the progress of the work which results from any of the above causes except acts or omission of the Owner, shall result in any liability on the part of the Owner.

(c) The sequence of construction shall be as set forth below, the numbers or names being the designations of extensions or areas (hereinafter called the ''Sections'') corresponding to the numbers or names shown on the maps attached hereto, or if no Sections are set forth below, the sequence of construction shall be as determined by the Bidder, subject to the approval of the Engineer _____.

(d) The Owner, acting through the Engineer and with the approval of the Administrator [1], may from time to time during the progress of the work on the Project make such changes in additions to or subtractions from the Specifications, Drawings, and sequence of construction provided for in the previous paragraph which are part of the Contractor's Proposal as conditions may warrant: Provided, however, that if any change in the construction to be done shall require an extension of time, a reasonable extension will be granted if the Bidder shall make a written request therefore to the Owner within ten (10) days after any such change is made. And provided further, that if the cost to the Bidder of construction of the Project shall be materially increase by any such change or addition, the Owner shall pay the Bidder for the reasonable cost thereof in accordance with a Contract Amendment signed by the Owner and the Bidder and approved by the Administrator [2], but no claim for additional compensation for any such change or addition will be considered unless the Bidder shall have made a written request therefore to the Owner prior to the commencement of work in connection with such change or addition.

(e) The Bidder will not perform any work hereunder on Sundays unless there is urgent need for such Sunday work and the Owner consents thereto in writing. The time for completion specified in subsection (a) of this Section 1 shall not be affected in any way by inclusion of this subsection nor by the Owner's consent or lack of consent to Sunday work hereunder.

Section 2. Environmental Protection. The Bidder shall perform work in such a manner as to maximize preservation of beauty, conservation of natural resources, and minimize marring and scarring of the landscape and silting of streams. There should be no deposition of trash in streams or waterways. Herbicides, other chemicals or their containers should not be deposited in or near streams, waterways or pastures. The Bidder will be required to follow, under the general direction of the engineer, the criteria relating to environmental protection as specified herein by the engineer.

Section 3. Supervision and Inspection.

(a) The Bidder shall cause the work on the Project to receive constant supervision by a competent superintendent (hereinafter called the ''Superintendent'') who shall be present at all times during working hours where work is being carried on. The Bidder shall also employ in connection with the Project, capable, experienced and reliable foremen and such skilled workmen as may be required for the various classes of work to be performed. Directions and instructions given to the Superintendent shall be binding upon the Bidder.

(b) The Owner reserves the right to require the removal from the Project of any employee of the Bidder if in the judgment of the Owner such removal shall be necessary in order to protect the interest of the Owner. The Owner or the Supervisor, if any, shall have the right to require the Bidder to increase the number of its employees and to increase or change the amount or kind of tools and equipment if at any time the progress of the work shall be unsatisfactory to the Owner or Supervisor; but the failure of the Owner or Supervisor to give any such directions shall not relieve the Bidder of its obligations to complete the work within the time and in the manner specified in this proposal.

(c) The manner of carrying out the Project, and all materials and equipment used therein, shall be subject to the inspection,

[1] As long as the total price of this contract including all amendments is less than 120 percent of the original contract price as stated in the acceptance hereto, amendments executed on RUS Form 238 are not subject to the approval of the Administrator. Whenever an amendment to this contract causes the total amended contract to exceed 120 percent of the original contract price, that amendment and all subsequent amendments to this contract shall be made subject to the approval of the Administrator.

[2] See Footnote 1.

tests and approval of the Owner and the Administrator, and the Bidder shall furnish all information required by the Owner or by the Administrator concerning the nature or source of any materials incorporated or to be incorporated in the Project. The Owner and the Administrator shall have the right to inspect all payrolls, invoices of materials, and other data and records of the Bidder and of any subcontractor, relevant to the Project. The Bidder shall provide all reasonable facilities necessary for such inspection and tests and shall maintain an office at the site of the Project, with telephone service where obtainable and at least one office employee to whom directions and instructions of the Owner may be delivered. Delivery of such directions or instructions in writing to the employee of the Bidder at such office shall constitute delivery to the Bidder. The Bidder shall have an authorized agent accompany the Engineer when final inspection is made and, if requested by the Owner, when any other inspection is made.

(d) In the event that the Owner, or the Administrator, shall determine that the work contains or may contain numerous defects, it shall be the duty of the Bidder and the Bidder's Surety or Sureties, if any, to have an inspection made by an engineer approved by the Owner and the Administrator for the purpose of determining the exact nature, extent and location of such defects.

(e) The Engineer may recommend to the Owner that the Bidder suspend the work wholly or in part for such period or periods as the Engineer may deem necessary due to unsuitable weather or such other conditions as are considered unfavorable for the satisfactory prosecution of the work or because of the failure of the Bidder to comply with any of the provisions of the Contract: Provided, however, that the Bidder shall not suspend work pursuant to this provision without written authority from the Owner to do so. The time of completion hereinabove set forth shall be increased by the number of days of any such suspension, except when such suspension is due to the failure of the Bidder to comply with any of the provisions of this Contract. In the event that work is suspended by the Bidder with the consent of the Owner, the Bidder before resuming work shall give the Owner at least twenty-four (24) hours notice thereof in writing

Section 4. Unsuitable Workmanship. The acceptance of any workmanship by the Owner or the Engineer shall not preclude the subsequent rejection thereof if such workmanship shall be found to be unsuitable. Workmanship found unsuitable before final acceptance of the work shall be remedied, by and at the expense of the Bidder. The Bidder shall not be entitled to any payment hereunder so long as any unsuitable workmanship in respect to the Project, of which the Bidder shall have had notice, shall not have been remedied.

Article III—Payments and Release of Liens

Section 1. Payments to Bidder.

(a) Within the first fifteen (15) days of each calendar month, the Owner shall make partial payment to the Bidder for work accomplished during the preceding calendar month on the basis of completed rights-of-way clearing units furnished and certified to by the Bidder, recommended by the Engineer and approved by the Owner solely for the purposes of payment: Provided, however, that such approval shall not be deemed approval of the workmanship or materials. Only ninety percent (90%) of each such estimate shall be paid by the Owner to the Bidder prior to Completion of the Project: Provided, however, that at any time after work, which, in the sole determination of the Engineer, amounts to fifty percent (50%) of the maximum contract price has been completed, the Owner may elect, in lieu of paying ninety percent (90%) of each such subsequent estimate, to pay each such subsequent estimate in full. Upon completion by the Bidder of the Project, the Engineer will prepare a Final Inventory of the Project showing the total number and character of rights-of-way clearing units and, after checking such inventory with the Bidder, will certify it to the Owner, together with a certificate of the total cost of the construction performed. Upon the approval of such certificates by the Owner and the Administrator, the Owner shall make payment to the Bidder of all amounts to which the Bidder shall be entitled thereunder which shall not have been paid: Provided, however, that such final payments shall be made not later than ninety (90) days after the date of Completion of Construction of the Project, as specified in the Certificate of Completion, unless withheld because of the fault of the Bidder.

(b) The Bidder shall be paid on the basis of the number of rights-of-way clearing units actually completed at the direction of the Owner shown by the inventory based on the staking sheets or structure lists; Provided, however, that the total cost shall not exceed the maximum contract price for the construction of the Project as set forth in the Acceptance, unless such excess shall have been approved in writing by the Administrator.

(c) Notwithstanding the provisions of Section 1 (a) above, the Bidder may, by giving written notice thereof to the Owner elect to receive payment in full for any Section of the Project upon:

(1) completion of such Section as certified by the Engineer and approved by the Owner and the Administrator;

(2) submission to the Owner and the Administrator of the releases of lien and the certificate referred to in Section 2 hereof;

(3) approval by the Owner and the Administrator of the inventory in respect of such Section; and

(4) submission to the Owner and the Administrator of the consent in writing by the Surety or Sureties, if any, on the Contractor's Bond to payment in full for such Section prior to Completion of Project.

If no Sections are designated in Article II, Section 1 (c), the term ''Section'' shall mean for purposes of this subsection (a) and Article IV, Section 3 (b) only, a part of the Project as designated by the Owner which represents at least twenty-five percent (25%) of the maximum Contract price as stated in Article III, Section 1.

(d) Interest at the rate of ____ percent[3] (____%) per annum shall be paid by the Owner to the Bidder on all unpaid balances due on monthly estimates, commencing fifteen (15) days after the due date; provided the delay in payment beyond the due date is not caused by any condition within the control of the Bidder. The due date for purposes of such monthly payment shall be the fifteenth day of each calendar month provided (1) the Bidder on or before the fifth day of such month shall have submitted its certification of rights-of-way clearing units completed during the preceding month and (2) the Owner on or before the fifteenth day of such month shall have approved such certification. If, for reasons not due to the Bidder's fault, such approval shall not have been given on or before the fifteenth day of such month, the due date for purposes of this subsection (d) shall be the fifteenth day of such month notwithstanding the absence of the approval of the certification.

(e) Interest at the rate of ____ percent[4] (____%) per annum shall be paid by the Owner to the Bidder on the final payment for the Project or any completed Section thereof, commencing fifteen (15) days after the due date. The due date for purposes of such final payment shall be the date of approval by the Administrator of all of the documents requiring such approval, as a condition precedent to the making of final payment, or ninety (90) days after the date of Completion of Construction of the Project, as specified in the Certificate of Completion, whichever date is earlier.

(f) No payment shall be due while the Bidder is in default in respect of any of the provisions of this Contract and the Owner may withhold from the Bidder the amount of any claim by a third party against either the Bidder or the Owner based upon an alleged failure of the Bidder to perform the work hereunder in accordance with the provisions of this Contract.

Section 2. Release of Liens and Certificate of Contractor. (See sample RUS Form 224, Waiver and Release of Lien and sample RUS Form 231, Certificate of Contractor.) Upon the Completion of Clearing by the Bidder (or any Section thereof if the Bidder shall elect to receive payment in full for any section when completed as provided above) but prior to final payment to the Bidder the Bidder shall deliver to the Owner, in duplicate, releases of all liens and of rights to claim any lien, in the form attached hereto from all manufacturers, materialmen, and subcontractors furnishing services or materials for the Project or such Section and a certificate in the form attached hereto to the effect that all labor used on or for the Project or such Section has been paid and that all such releases have been submitted to the Owner for approval.

Section 3. Payments to Subcontractors. The Bidder shall pay each subcontractor, if any, within five (5) days after receipt of any payment from the Owner, the amount thereof

[3] The Owner shall insert a rate equal to the lowest ''Prime Rate'' listed in the ''Money Rates'' section of the Wall Street Journal on the date such invitation to bid is issued.

[4] See Footnote 3.

allowed the Bidder for and on account of work performed by each subcontractor.

Article IV—Particular Undertakings of the Bidder

Section 1. Protection to Persons and Property. The Bidder shall at all times take all reasonable precautions for the safety of employees on the work and of the public, and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building and construction codes, as well as the safety rules and regulations of the Owner. All machinery and equipment and other physical hazards shall be guarded in accordance with the ''Manual of Accident Prevention in Construction'' of the Associated General Contractors of America unless such instructions are incompatible with Federal, State, or Municipal laws or regulations.

The following provisions shall not limit the generality of the above requirements:

(a) The Bidder shall at no time and under no circumstances cause or permit any employee of the Bidder to perform any work upon energized lines, or upon poles carrying energized lines, unless otherwise specified in the Notice and Instructions to Bidders.

(b) The Bidder shall so conduct the construction of the Project as to cause the least possible obstruction of Public highways.

(c) The Bidder shall provide and maintain all such guard lights and other protection for the public as may be required by applicable statutes, ordinances and regulations or by local conditions.

(d) The Bidder shall do all things necessary or expedient to properly protect any and all parallel, converging and intersecting lines, joint line poles, highways and any and all property of others from damage, and in the event that any such parallel, converging and intersecting lines, joint line poles, highways or other property are damaged in the course of the construction of the Project, the Bidder shall at its own expense restore any or all of such damaged property immediately to as good a state as before such damage occurred.

(e) Where the right-of-way of the Project traverses cultivated lands, the Bidder shall limit the movement of its crews and equipment so as to cause as little damage as possible to crops, orchards or property and shall endeavor to avoid marring the lands. All fences which are necessarily opened or moved during the construction of the Project shall be replaced in as good condition as they were found and precautions shall be taken to prevent the escape of livestock. The Bidder shall not be responsible for loss of or damage to crops, orchards or property (other than livestock) on the right-of-way necessarily incident to the construction of the Project and not caused by negligence or inefficient operation of the Bidder. The Bidder shall be responsible for all other loss of or damage to crops, orchards, or property, whether on or off the right-of-way, and for all loss of or damage to livestock caused by the construction of the Project. The right-of-way for purposes of this said section shall consist of area extending _____ feet on both sides of the center line of the poles along the route of the Project lines, plus such area reasonably required by the Bidder for access to the route of the Project lines from Public roads to carry on construction activities.

(f) The Project, from the commencement of work to completion, or to such earlier date or dates when the Owner may take possession and control in whole or in part as hereinafter provided shall be under the charge and control in whole or in part as hereinafter provided shall be under the charge and control of the Bidder and during such period of control by the Bidder all risks in connection with the construction of the Project and the materials to be used therein shall be borne by the Bidder. The Bidder shall make good and fully repair all injuries and damages to the Project or any portion thereof under the control of the Bidder by reason of any Act of God or other casualty or cause whether or not the same shall have occurred by reason of the Bidder's negligence.

(i) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Bidder's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Bidder's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Bidder, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Bidder liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner.

(ii) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Bidder, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Bidder shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Bidder does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Bidder.

(iii) Bidder shall provide to Owner's satisfaction evidence of Bidder's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.

(g) Any and all excess earth, rock, debris, underbrush and other useless material shall be removed by the Bidder from the site of the Project as rapidly as practicable as the work progresses. There should no disposition of trash in streams or waterways. Herbicides, other chemicals or their containers should not be deposited in or near streams, waterways or pastures.

(h) Upon violation by the Bidder of any of the provisions of this section, after written notice of such violation given to the Bidder by the Engineer or the Owner, the Bidder shall immediately correct such violation. Upon failure of the Bidder so to do the Owner may correct such violation at the Bidder's expense: Provided, however, that the Owner may, if it deems it necessary or advisable, correct such violation at the Bidder's expense without such prior notice to the Bidder.

(i) The Bidder shall submit to the Owner monthly reports in duplicate of all accidents, giving such data as may be prescribed by the Owner.

(j) The Bidder shall not proceed with the cutting of trees or clearing of right-of-way without written notification from the Owner that proper authorization has been received from the owner of the property, and the Bidder shall promptly notify the Owner whenever any landowner objects to the trimming or felling of any trees or the performance of any other work on its land in connection with the Project and shall obtain the consent in writing of the Owner before proceeding in any such case.

Section 2. Insurance. The Bidder shall take out and maintain throughout the contract period insurance of the following types and minimum amounts:

(a) Workers' compensation and employers' liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

(b) Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

(c) Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million per occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection ''b'' and

''c'' of this Section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Owner shall be named as Additional Insured on all policies of insurance required in subsections ''b'' and ''c'' of this Section.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.

Section 3. Delivery of Possession and Control to Owner.

(a) Upon written request of the Owner the Bidder shall deliver to the Owner full possession and control of any portion of the Project provided the Bidder shall have been paid at least ninety percent (90%) of the cost of construction of such portion. Upon such delivery of the possession and control of any portion of the Project to the Owner, the risk and obligations of the Bidder as set forth in Article IV, Section 1(f) hereof with respect to such portion of the Project so delivered to the Owner shall be terminated: Provided, however, that nothing herein contained shall relieve the Bidder of any liability with respect to defective materials and workmanship as contained in Article II, Section 4 hereof.

(b) Where the construction of a Section as hereinbefore defined in Article II, Section 1 (c) and Article III, Section 1(c) shall have been completed by the Bidder, the Owner agrees, after receipt of a written request from the Bidder, to accept delivery of possession and control of such Section upon the issuance by the Engineer of a written statement that the Section has been inspected and found acceptable by the Engineer. Upon such delivery of the possession and control of any such Section to the Owner, the risk and obligations of the Bidder as set forth in Article IV, Section 1(f) hereof with respect to such Section so delivered to the Owner shall be terminated; Provided, however, that nothing herein contained shall relieve the Bidder of any liability with respect to defective materials or workmanship as contained in Article II, Section 4 hereof. Section 4. Assignment of Guarantees. All guarantees of materials and workmanship running in favor of the Bidder shall be transferred and assigned to the Owner prior to the time the Bidder receives final payment.

Article V—Remedies

Section 1. Completion of Bidder's Default. If default shall be made by the Bidder or by any subcontractor in the performance of any of the terms of this Proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Bidder and the Surety or Sureties, if any, upon the Contractor's Bond or Bonds a written notice requiring the Bidder to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Bidder such default shall be corrected or arrangements for the correction thereof satisfactory to both the Owner and the Administrator shall be made by the Bidder or its Surety or Sureties if any, the Owner may take over the Project and prosecute the same to completion by contract or otherwise for the account and at the expense of the Bidder, and the Bidder and its Surety or Sureties if any, shall be liable to the Owner for any cost or expense in excess of the contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the Project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Bidder or any of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims or demands which the Bidder may have against third persons in connection with this contract and for such purpose the Bidder does hereby assign, transfer and set over unto the Owner all such rights, claims and demands. Section 2. Liquidated Damages. The time of the Completion of the Project is of the essence of the Contract. Should the Bidder neglect, refuse or fail to complete the Project within the time herein agreed upon, after giving effect to extensions of time, if any, herein provided, then, in that event and in view of the difficulty of estimating with exactness damages caused by such delay, the Owner shall have the right to deduct from and retain out of such moneys which may be then due, or which may become due and payable to the Bidder the sum of _____ dollars (_____) per day for each and every day that such construction is delayed in its completion beyond the specified time, as liquidated damages and not as a penalty; if the amount due and to become due from the Owner to the Bidder is insufficient to pay in full any such liquidated damages, the Bidder shall pay to the Owner the amount necessary to effect such payment in full; Provided, however, that the Owner shall promptly notify the Bidder in writing of the manner in which the amount retained, deducted or claimed as liquidated damages was computed.

Section 3. Cumulative Remedies. Every right or remedy herein conferred upon or reserved to the Owner or the Government or the Administrator shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election: Provided, however, that the provision of Section 2 of this Article shall be the exclusive measure of damages for failure by the Bidder to complete the Project within the time herein agreed upon.

Article VI—Miscellaneous

Section 1. Definitions.

(a) The term ''Administrator'' shall mean the Administrator of the Rural Utilities Service of the United States of America and his duly authorized representatives or any other person in whom or authority in which may be vested the duties and functions which the Administrator is now authorized by law to perform.

(b) The term ''Engineer'' shall mean the engineer employed by the Owner with the approval of the Administrator, to provide engineering services for the Project and said Engineer's duly authorized assistants and representatives.

(c) The term ''Supervisor'' shall mean the person, if any, appointed by the Administrator as the representative of the Government under the provisions of the Loan Contract providing for such appointment in special cases. The term is limited to such special representative of the Government, if any, who is responsible exclusively to the Administrator and does not refer to the Manager or any other person employed by the Owner and responsible to it.

(d) The term ''Completion of Clearing'' shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof except the Bidder's obligations in respect of (1) Releases of liens and Certificate of Contractor under Article III, Section 2 hereof, (2) the inventory referred to in Article III, Section 1 hereof, and (3) other final documents. The term ''Completion of the Project'' shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof. The Certificate of Completion signed by the Engineer and approved in writing by the Owner and the Administrator, shall be the sole and conclusive evidence as to the date of Completion of Clearing.

Section 2. Patent Infringement. The Bidder shall save harmless and indemnity the Owner from any and all claims, suits and proceedings for the infringement of any patent or patents covering any materials or equipment used in construction of the Project.

Section 3. Permits for Explosives. All permits necessary for the handling or use of dynamite or other explosives in connection with the construction of the Project shall be obtained by and at the expense of the Bidder.

Section 4. Compliance with Statutes and Regulations. The Bidder shall comply with all applicable statutes, ordinances, rules, and regulations pertaining to the work. The Bidder acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the so-called ''Kick-Back'' Statute (48 Stat. 948), and regulations issued pursuant thereto, and 18 U.S.C. Sections 286, 287 and 1001 as amended. The Bidder understands that the obligations of the parties hereunder are subject to the applicable regulations and orders of Governmental Agencies leaving jurisdiction in the premises.

Section 5. Equal Opportunity Provisions.

(a) Bidder's Representations.

The Bidder represents that:

It has _____, does not have _____, 100 or more employees, and if it has, that it has _____, has not _____, furnished the Equal Employment Opportunity-Employers Information Report EEO–1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964.

The Bidder agrees that it will obtain, prior to the award of any subcontract for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current

report on Form 100. The Bidder agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this contract will amount to more than $10,000, the Bidder will file such report, as required by law, and notify the Owner in writing of such filing prior to the Owner's acceptance of this Proposal.

(b) Equal Opportunity Clause. During the performance of this contract, the Bidder agrees as follows:

(1) The Bidder will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Bidder will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

(2) The Bidder will, in all solicitations or advertisements for employees placed by or on behalf of the Bidder, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Bidder will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's representatives of the Bidder's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Bidder will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Bidder will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Bidder's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part, and the Bidder may be declared ineligible for further Government contracts of federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

(7) The Bidder will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by the rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Bidder will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a Bidder becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Bidder may request the United States to enter into such litigation to protect the interests of the United States.

(c) Certificate of Nonsegregated Facilities. The Bidder certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term ''segregated facilities'' means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

Section 6. Franchises and Rights-of-Way. The Bidder shall be under no obligation to obtain or assist in obtaining: Any franchises, authorizations, permits or approvals required to be obtained by the Owner from Federal, State, County, Municipal or other authorities; any rights-of-way over private lands; or any agreements between the Owner and third parties with respect to the construction and operation of the Project.

Section 7. Nonassignment of Contract. The Bidder shall perform directly and without subcontracting not less than twenty-five per centum (25%) of the construction of the Project, to be calculated on the basis of the total contract price. The Bidder shall not assign the contract effected by an acceptance of this proposal or any interest in any funds that may be due or become due hereunder or enter into contract with any person, firm or corporation for the performance of the Bidder's obligations hereunder or any part thereof, without the approval in writing of the Owner and of the Surety or Sureties, if any, on any bond furnished by the Bidder for the faithful performance of the Bidder's obligation hereunder. If the Bidder, with the consent of the Owner and any Surety or Sureties, if any, on the Contractor's Bond or Bonds, shall enter into a subcontract with any subcontractor for the performance of any part of this contract, the Bidder shall be as fully responsible to the Owner and the Government for the acts and omissions of such subcontractor and of persons employed by such subcontractor as the Bidder would be for its own acts and omissions and those of persons directly employed by it.

Section 8. Extension to Successors and Assigns. Each and all of the covenants and Agreements herein contained shall extend to and be binding upon the successors and assigns of the parties hereto.

Section 9. Contractor. Upon acceptance of this Proposal, the successful Bidder shall be the Contractor and all references in the Proposal to the Bidder shall apply to the Contractor.

Section 10. Approval by the Administrator. No acceptance of this Proposal shall become effective until approval in writing of the Administrator; Provided, however that no obligations shall arise hereunder unless such approval is given within sixty (60) days from the date of acceptance by the Owner.

_____ (Bidder)
By _____ (President)
_____ (Address)
Attest: _____ (Secretary)
Date _____

The Proposal must be signed with the full name of the Bidder. If the Bidder is a partnership, the Proposal must be signed in the partnership name by a partner. If the Bidder is a corporation, the Proposal must be signed in the Corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

Description of Units

TM–12. The unit is 1,000 feet in length and _____ (_____) feet in width (to be measured _____ (_____) feet on one side of pole line or centerline of structures) of actual clearing of right-of-way. This includes clearing of underbrush, tree removal, and such tree trimming as is required so that the right-of-way, except for tree stumps which shall not exceed _____ in height, shall be clear from the ground up on one side of the line of poles carrying conductors (See Detail A, Drawing TM–12–2A.) The length of actual clearing shall be measured in a straight line parallel to the horizontal line between poles or centerline of structures and across the maximum dimension of foliage cleared projected to the ground line (See Detail B, Drawing TM–12–2A.) All trees and underbrush across the width of the right-of-way shall be considered to be grouped together as a single length in

measuring the total length of clearing (See Detail C, Drawing TM–12–2A.) Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement. All lengths thus arrived at, added together and divided by 1,000 shall give the number of TM–12 units of clearing. The Bidder shall not remove or trim shade, fruit, or ornamental trees unless so directed by the Engineer in writing.

TM–12 (1). This unit is identical with TM–12, except the full width of the right-of-way to be cleared shall be _____ feet wide (to be measured _____ (_____) feet on each side of the pole line or centerline of structures) (See Detail D, Drawing TM–12–2A.)

TM–13. The unit, for purpose of quoting, is 1,000 feet in length of clearing off the right-of-way. The Engineer will select those trees off the right-of-way that he deems to be a hazard to the line and will designate them to the Bidder in writing as danger trees. When so designated, the Bidder shall remove or top such trees at his option except that the Bidder shall trim and not remove shade, fruit or ornamental trees unless otherwise directed by the Engineer in writing (See Drawings TM–12–2A and TM–13 for examples of danger trees.)

The measurement of length of right-of-way to be cleared shall be considered as a straight line parallel to the horizontal line between poles or centerline of structures, such measurement of length to be based on maximum dimension of foliage (not trunk) projected to the ground line (See Details E, F, G and H, Drawing TM–12–2A.) Dead trees having no foliage shall be measured across the maximum dimension and multiplied by two. (See Detail F, Drawing TM–12–2A.) Each tree so removed shall be added together to determine the total length of clearing. All lengths thus arrived at, added together and divided by 1,000 shall give the number of TM–13 units (Example: Details E, F, G and H, Drawing TM–12–2A, total 0.10 of a TM–13 unit.)

TMC–12, TMC–12 (1). These units are identical to the respective TM units except that chemical treatment of stumps is required in addition to the clearing of underbrush, tree removal and tree trimming.

TM–14. The unit is 1,000 feet in length and _____ (_____) feet in width (to be measured _____ (_____) feet on one side of right-of-way center line) of actual clearing of right-of-way. Trees and underbrush should be cleared from the ground up within 10 feet of any structure location. The Engineer will mark the trees and brush to be cleared to provide ''undulating'' boundaries. Low growing trees and brush are to be left in the right-of-way to the extent it will not be hazardous to the line or will not interfere with the service road. The length of actual clearing shall be measured in a straight line parallel to the horizontal line between poles or center line of structures and across the maximum dimension of foliage cleared projected to the ground line (See Detail B, Drawing TM–12–2A.) All trees and underbrush cleared across the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing (See Detail C, Drawing TM–12–2A.) Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement.

TM–14 (1). This unit is identical with TM–14 except the full width of the right-of-way to be cleared shall be _____ (_____) feet wide (See Detail D, Drawing TM–12–2A.)

TM–15. The unit is 1,000 feet in length and _____ (_____) feet in width (to be measured _____ (_____) feet on one side of the right-of way center line) of actual clearing of the right-of-way. Trees and underbrush should be cleared from ground up within 10 feet of any structure location. The Engineer will mark the trees and brush to be cleared to provide a ''feathered'' appearance in the right-of-way. Low growing trees and brush are to be left in the right-of-way to the extent it will not be hazardous to the line or will not interfere with the service road.

The length of actual clearing shall be measured in a straight line parallel to the horizontal line between poles or center line of structures and across the maximum dimension of foliage cleared projected to ground line (See Detail B, Drawing TM–12–2A). All trees and underbrush cleared across the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing (See Detail C, Drawing TM–12–2A). Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement.

TM–15 (1). This unit is identical to TM–15 except the full width of the right-of-way to be cleared shall be _____ (_____) feet wide (See Detail D, Drawing TM–12–2A).

Additional Requirements. (When Specifying TM units denote type of disposal A or B).

A. Trees, brush, branches and refuse shall, without delay, be disposed of by such of the following methods as an Engineer will direct (Engineer to strike out methods not to be used).

1. Burned

2. Piled on one side of right-of-way

3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.

4. Other (Describe) _____

B. Trees that are felled shall be cut to commercial wood lengths, stacked neatly, and left on the right-of-way for the landowner. Commercial wood length means the length designated by the Engineer but in no case shall it be required to be less than _____ (_____) feet. Brush, branches and refuse shall, without delay, be disposed of by such of the following methods as the Engineer will direct (Engineer to strike out methods not to be used).

1. Burned

2. Piled on one side of right-of-way

3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.

4. Other (Describe) _____

Transmission Right-of-Way Units

Unit No.	No. of units	Unit price	Extended price

Total _____

Acceptance

Subject to the approval of the Administrator, the Owner hereby accepts the foregoing Proposal of the Bidder, _____ for the construction of the following:

The total contract price is $_____

_____ Owner

By _____ President

_____ Secretary

_____ Date of Contract

Specifications

In preparing the right-of-way, trees shall be removed, underbrush cleared, and trees trimmed so that the right-of-way shall be clear from the ground up as specified in the Proposal. Trees fronting each side of the right-of-way shall be trimmed symmetrically unless otherwise directed by the Engineer. Dead trees beyond the right-of-way which would strike the line in falling shall be removed. Leaning trees beyond the right-of-way which would strike the line in falling and which would require topping if not removed may be removed or topped at the direction of the Engineer.

Where TMC–12, TMC–12–(1) units are specified, the right-of-way shall be cleared in accordance with the instructions in the preceding paragraph and in addition, all stumps one-half inch in diameter and larger shall be sprayed as specified by the Engineer.

[End of clause]

§ 1726.323 Certificate (Buy America), RUS Form 213.

The closeout form in this section shall be used when required by this part.

Certificate

With respect to compliance with the second paragraph of the Rural Electrification Act of 1938, being Title IV of the Work Relief and Public Works Appropriation Act of 1938 (Public Resolution No. 122, 75th Congress, approved June 21, 1938).

Rural Utilities Service Project _____.

The undersigned, being, the _____ [1], in a certain contract No. _____ dated _____, 19 ___, between the undersigned and _____ [2], does hereby certify that in the performance of the said contract there have been used or furnished no unmanufactured articles, materials or supplies which have not been mined or produced in the United States, Mexico, or Canada and no manufactured articles, materials or supplies which have not been manufactured in the United States, Mexico, or Canada substantially all from articles, materials or supplies mined, produced or manufactured, as the case may be in the United States, Mexico, or Canada, except to the extent that compliance with the

[1] Insert ''Contractor.'' ''Subcontractor.'' ''Seller'' Or ''Materialman.'' as the case may be.

[2] Insert the name of the RUS Borrower.

second paragraph of the Rural Electrification Act of 1938, being Title IV of the Work Relief and Public Works Appropriation Act of 938 (Public Resolution No. 122, 75th Congress, approved June 22, 1938) has been waived by the Administrator of the Rural Utilities Service.

_____
By _____
Date _____, 19____

[End of clause]

§ 1726.324 Waiver and release of lien, RUS Form 224.

The closeout form in this section shall be used when required by this part.

Waiver and Release of Lien

Whereas the undersigned, _____ (name of manufacturer, materialman or subcontractor) has furnished to _____ (name of contractor) the following: _____ (kind of material and services furnished) for use in the construction of a Project belonging to _____ (name of borrower) and designated by the Rural Utilities Service as _____ (RUS project designation.)

Now, Therefore, the undersigned, _____ (name of manufacturer, materialman or subcontractor) for and in consideration of $_____ and other good and valuable consideration, the receipt whereof is hereby acknowledged, do(es) hereby waive and release any and all liens, or right to or claim of lien, on the above described project and premises, under any law, common or statutory, on account of labor or materials, or both, heretofore or hereafter furnished by the undersigned to or for the account of said _____ (name of contractor) for said project.

Given under my(our) hand(s) and seal(s) this _____ day of _____, 19____.

_____ Name of manufacturer, materialman or subcontractor

By _____ President, vice president, partner or owner, or, if signed by other than one of foregoing, accompanied by power of attorney signed by one of the foregoing in favor of the signer. (use designation applicable)

[End of clause]

§ 1726.325 Certificate of contractor, RUS Form 231.

The closeout form in this section shall be used when required by this part.

Certificate of Contractor

_____, certifies that he is the _____ (Title of Office) of _____ (Name of Contractor), the Contractor, in a Construction Contract No. _____ dated _____, 19____, entered into between the Contractor and _____ (Name of Borrower) the Owner, for the construction of a Project, which bears the Rural Utilities Service Project Designation _____ and that he is authorized to and does make this certification on behalf of said Contractor in order to induce the Owner to make payment to the Contractor, in accordance with the provisions of said Construction Contract.

Undersigned further says that all persons who have furnished labor in connection with said construction have been paid in full, that the names of manufacturers, materialmen and subcontractors that furnished material or services or both in connection with such construction and the kind or kinds of material or services or both so furnished are:

Name _____
Kind of material and service _____
and that the releases of liens executed by all such manufacturers, materialmen and subcontractors have been furnished the Owner.

Date _____
Signature _____

[End of clause]

§ 1726.326 Construction or equipment contract amendment, RUS Form 238.

The amendment form in this section shall be used when required by this part.

Construction Or Equipment Contract Amendment

Project Designation _____
Date _____
Amendment No. _____
Contract No. _____
Bond extension attached ____ Yes ____ No
Delivery or Completion Date: Original _____ As Amended _____

Instructions: 1. The Architect-Engineer shall submit three (3) copies of this form for each contract which has been approved by RUS, to the Owner. 2. The Owner will submit the three (3) copies of this form to RUS for approval.

Reasons for, and details and description of the amendment _____

(If additional space is needed, use reverse or separate sheet)

A summary of the original contract price and amendments thereto, including this amendment, follows:

(Amendments which decreased the price are preceded by a (−) minus sign).

Original Contract Price $_____
Amendment Number 1 $_____
Amendment Number 2 $_____
Amendment Number 3 $_____
Amendment Number 4 $_____
Amendment Number 5 $_____
Amendment Number 6 $_____
Amendment Number 7 $_____
Amendment Number 8 $_____
Amended Contract Price $_____

This amendment, providing for an increase of $_____ / decrease of $_____ in the contract price is submitted pursuant to the provisions of said contract. (The Administrator of RUS is hereby authorized to approve this amendment either in whole or in part and to delete such items as do not meet his approval).

To the extent the items hereof are approved the contract shall be amended.

Accepted
_____ Contractor
By _____ President-Owner-Partner (Strike out inapplicable title. If signed by other than above, power of attorney should be attached or on file with RUS.)
_____ Date
_____ Owner
By _____ President-Board of Directors
_____ Date
Approved
_____ Architect-engineer
_____ Date

Item No.	Reasons for and description of contract amendment No. ____	Labor or installation[1]	Material or equipment[1]	Total
Net total				

[1] Changes in Cost (decrease preceded by (−) minus sign.) To be filled in when applicable.

[End of clause]

§ 1726.327 Material receipt, RUS Form 251.

The receipt form in this section shall be used when a Material Receipt is required by RUS Form 764, 830, or 831.

Materials Receipt

Instructions: Prepare three (3) copies. Forward original to Owner, one copy to Contractor and one copy to Engineer.

Date _____

Item[1]	Quantity	Description of item	Manufacturer and catalog No.	Unit price	Extended price

Item[1]	Quantity	Description of item	Manufacturer and catalog No.	Unit price	Extended price
Total					

Notes: 1. Item corresponds with item in list of materials in construction drawings.

Received by _____
For:
_____ Contractor
_____ Owner

[End of clause]

§ 1726.328 Construction inventory (for labor and material contract), RUS Form 254.

The closeout form in this section shall be used when required by this part.

Construction Inventory (For Labor and Material Contract)

Date _____
Project Designation _____
Borrower _____
Engineer _____
Contractor _____

Amount Payable to Contractor

A. Total Cost of Standard, New And Conversion Assembly Units Installed (Total No. 6, RUS Form 254a) $_____

B. Cost To Remove ''I'' Units (Total No. 7, RUS Form 254a) $_____

C. Amount To Be Credited To Contractor For Materials Removed From Existing Facilities And Returned (Total No. 14, RUS Form 254b) $_____

Subtotal $_____
Deduct:

D. Amount Chargeable To Contractor For Materials In Assembly Units Removed (Total No. 9, RUS Form 254a) $_____

E. Net Amount Of Owner-furnished Materials (Total No. 24 RUS Form 254c) $_____

F. Net Amount Due Contractor (In making final payment to Contractor, the net amount due the Contractor, as shown by this Certification, will be reduced by the sums, if any, due the Owner for liquidated damages, payment made to date, or other sums which the Owner has the right to retain under the terms of the Contract, and signature by all parties does not preclude the retention by the Owner of such amounts.) $_____

Certificate of Engineer

I certify that to the best of my knowledge and belief the attached final inventory correctly shows the total number and character of assembly units installed and removed by the Contractor and that the net amount of $_____ due the Contractor, as shown above, is true and correct.

Engineer _____
By _____
Date _____

Acceptance by Owner

Owner _____
By _____ President
Date _____

Acceptance by Contractor

Firm _____
By _____
Date _____

Instructions

(See RUS Bulletin 1767B–3, Preparation and Use of RUS Form 254, for additional instructions.)

The Engineer will prepare 5 copies of RUS Form 254 and 254a, also 5 copies of Forms 254b and 254c when applicable. Original and 1 copy to be forwarded to RUS, 1 copy to Contractor, 1 copy to Owner, and 1 copy to be retained by Engineer.

Calculation of amount payable to Contractor will employ data taken from Nos. 1 through 25, RUS Forms 254, 254a, 254b, 254c. The amounts to be inserted opposite Items A, B, C, D, and E on RUS Form 254 are indicated in the texts of those items.

Nos. 1 through 17, Forms 254a and 254b: (Form 254b is required only when ''I'' removal units are included in the Contract.)

No.—Source of Information

1 and 2—From tabulation of staking sheets.[1]
3 and 4—From Contract.
5—No. 3 plus No. 4.
6—No. 1 multiplied by No. 5.
7—No. 1 multiplied by No. 3 (for ''I'' units only).
8—From Table C of Contract.
9—No. 1 multiplied by No. 8 for ''I'' removal units only. (Table C relates solely to ''I'' units.)
10, 11, and 12—From Engineer's and Owner's records.
13—From Table D in Contract.
14—No. 12 multiplied by No. 13.
15—From Engineer's records. (Quantities shall be listed opposite the appropriate material items described in No. 11.)
16—From individual stock record card for each material item listed.
17—No. 15 multiplied by No. 16.

Data shown on Form 254c to be presented under the following headings, as appropriate:

Part I Material Items Included in Lists Set Forth in Construction Contract

Part II Other Material Items Furnished by Owner

Nos. 18 through 25: (Form 254c is required only when there are owner-furnished materials.)

No.—Source of Information

18 and 19—From Contract and Material Receipts.
20—From charge-out and credit tickets covering materials issued to and returned by the Contractor.[2]
21—From average unit costs on charge-out and credit tickets relating to this construction, such costs in turn being taken from the average unit costs reflected by the stock record cards for the applicable period.
22—No. 20 multiplied by No. 21.
23—For Part I, from the unit prices specified in the Contract in the ''List of Owner's Materials on Hand'' or the ''List of Materials Ordered by Owner But Not Delivered.''

For Part II, from the actual unit costs to Owner—the same as used in No. 21.

24—No. 20 multiplied by No. 23.
25—No. 24 minus No. 22. (if a minus quantity, enter in parentheses.)

See 7 CFR 1726, Electric System Construction Policies and Procedures, for instructions regarding distribution of the completed form.

Reference should be made to RUS Bulletin 1767B–3, Preparation and Use of RUS Form 254, for instruction in accounting for all contract costs, including the retirement of units removed by the Contractor and the unitization by record units of costs of construction assemblies installed by the Contractor.

RUS Form 254a

Assembly Units

1. Quantity _____
2. Standard (N—New, H—Conversion, I—Removal) _____

Due to Contractor for Units Installed, Converted, and Removed

3. Labor (Unit Price) _____
4. Material Unit Price (Except I Units) _____
5. Total Unit Price (No. 3 + No. 4) (Except I Units) _____
6. Cost of Construction (No. 1 x No. 5) (Except I Units) _____
7. Cost to Remove ''I'' Units (No. 1 x No. 3) _____

Amount Chargeable to Contractor for Materials in Assemblies Removed

8. Unit Values (Table C in Contract) _____
9. Total (No. 1 x No. 8) _____
Total (No. 6) _____
Total (No. 7) _____
Total (No. 9) _____

[1] Standard units will be listed first, followed by new units and conversion units, in that order, with all ''I'' removal units being listed last.

[2] The quantities shown in No. 20 should agree with Materials Receipts (RUS Form 251) prepared in connection with the contact. The types of items of material and the quantity of any item of material listed under Part I of the tabulation should be limited to the type of items and should not exceed the quantity of any item of material specified in the construction contract in the ''List of Owner's Materials on Hand'' or the ''List of Materials Ordered by Owner But Not Delivered.'' Any additional items of material or excess quantities over the items specified in such lists are to be shown under Part II of the tabulation.

RUS Form 254b

Summary and Classification Of Materials Returned to Owner by Contractor from ''I'' Removal Units

Amounts to be Credited to Contractor for Materials Returned

10. Item Designation _____
11. Description of Material _____
12. Quantity _____
13. Item Value—Table D in Contract _____
14. Total Credit to Contractor (No. 12 x No. 13) _____

Returned Materials Declared Reusable by Engineer

15. Quantity of Items _____
16. Stock Card Item Price _____
17. Salvage Value (No. 15 x No. 16) _____
Total (No. 14) _____
Total (No. 17) _____

RUS Form 254c

Tabulation of Net Amount of Materials Furnished by Owner

18. Item Designation _____
19. Description of Material _____
20. Quantity _____

Actual Cost to Owner

21. Unit Cost _____
22. Extended Cost (No. 20 x No. 21) _____

Amount Chargeable to Contractor at Contract Price

23. Unit Cost _____
24. Extended Cost (No. 20 x No. 23) _____
25. Excess of No. 24 over No. 22 _____
Total (No. 22) _____
Total (No. 24) _____
Total (No. 25) _____

[End of clause]

§ 1726.329 Contract to construction buildings, RUS Form 257.

The contract form in this section shall be used when required by this part.

Contract to Construct Buildings

Notice and Instructions to Bidders

1. Proposals: Sealed proposals for the construction, including the furnishing of all materials, machinery, labor and equipment, water, heat, utilities, transportation, and other means necessary for construction of the building(s) listed below (hereinafter called the ''Project'') to be financed _____ not to be financed _____ pursuant to a loan contract between _____ (hereinafter called the ''Owner'') and the United States of America, by the Administrator of the Rural Utilities Service (hereinafter called the ''Administrator'') and designated as Project _____ will be received by the Owner on or before _____ o'clock ____ M _____ Time, _____, 19____, at its office located at _____ at which time and place the proposals will be publicly opened and read. The Rural Telephone Bank may also be a party to the loan contract.

Name or Kind of Building _____
Location _____

2. Obtaining Documents: The Plans and Specifications together with all other necessary forms and documents for bidders may be secured from _____ at _____ upon payment of _____ Dollars ($_____) which payment will be refunded to each bona fide bidder within ten (10) days after the bid opening. Additional sets of Plans and Specifications may be obtained upon payment of _____ Dollars ($_____) which payment will not be subject to refund. The Plans and Specifications may be examined at the office of _____. A copy of the loan contract may also be examined at the office of the Owner.

3. Manner of Submitting Proposals: Proposals and all supporting documents required to be attached thereto must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope, addressed to the Owner. The name and address of the Bidder, its license number, if a license is required by the State, and the date and hour of the opening of bids must appear on the envelope in which the proposal is submitted. Proposals must be filled in in ink or typewritten. No alterations or interlineations will be permitted, unless made before submission, and initialed and dated.

4. Familiarity with Conditions: Prior to the submission of the Proposal, the Bidder shall make and shall be deemed to have made a careful examination of the site of the Project and of the Plans and Specifications, forms of Construction Proposal and Acceptance, and Contractor's Bond on file with Secretary of the Owner and shall become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of the soil and terrain to be encountered, the kind of facilities required before and during the construction of the Project, general local conditions, and all other matters that may affect the cost and the time of completion of the Project. Bidders will be required to comply with all applicable statutes, regulations, etc., including those pertaining to the licensing of contractors and the so called ''Kick-Back'' Statute (48 Stat. 948) and regulations issued pursuant thereto.

5. Proposals will be accepted only from those prequalified bidders invited by the Owner to submit a proposal.

6. Time of Completion of Construction: The time of completion of construction of the Project shall be as specified by the Architect in the Proposal.

7. Bid Bond: Each proposal must be accompanied by a bid bond in the form attached or a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the Owner, in an amount equal to ten percent (10%) of the maximum bid price. Each Bidder shall agree, provided its proposal is one of the three low proposals, that by filing its proposal together with such bid bond or check in consideration of the Owner's receiving and considering such proposal, said proposal shall be firm and binding upon each such Bidder and such bid bond or check shall be held by the Owner until a Proposal is accepted and a satisfactory Contractor's Bond (or Builder's Risk Policy) is furnished by the successful Bidder and such acceptance has been approved by the Administrator, or for a period not to exceed sixty (60) days from the date hereinbefore set for the opening of proposals, whichever period shall be the shorter. If such proposal is not one of the three low proposals, the bid bond or check will be returned in each instance within a period of ten (10) days to the respective Bidder.

8. Contractor's Bond or Builder's Risk Policy: The successful Bidder will be required to execute two additional counterparts of the Proposal and to furnish.

(a) For contracts in amounts in excess of $100,000, a Contractor's Bond in the form attached to the Proposal with sureties listed by the United States Treasury Department as Acceptable Sureties, in a penal sum not less than the contract price.

(b) For contracts in amounts of $100,000 or less, either a Contractor's Bond or a Builder's Risk Policy, whichever the Owner has specified below: (Check One)

_____ Contractor's Bond
_____ Builder's Risk Policy

9. Failure to Furnish Contractor's Bond or Builders Risk Policy: Should the successful Bidder fail or refuse to furnish a Contractor's Bond (or Builder's Risk Policy) satisfactory to the Owner within fifteen (15) days after written notification of the acceptance of the Proposal by the Owner, the Bidder will be considered to have abandoned the Proposal. In such event, the Owner shall be entitled: (a) To enforce the Bid Bond in accordance with its terms, or (b) if a certified check has been delivered with the Proposal, to retain from the proceeds of the certified check the difference between the amount of the Proposal and such larger amounts for which the Owner may in good faith contract with another party to construct the Project. The term ''successful Bidder'' shall be deemed to include any Bidder whose proposal is accepted after another Bidder has previously refused or has failed to furnish a satisfactory Contractor's Bond (or Builder's Risk Policy).

10. Contract is Entire Agreement: The contract, effected by acceptance of the Proposal, shall be deemed to include the entire agreement between the parties thereto, and the Bidder shall not claim any modification thereof resulting from any representation or promise made at any time by any officer, agent or employee of the Owner or by any other person.

11. Minor Irregularities: The Owner reserves the right to waive minor irregularities or minor errors in the Proposal, if it appears to the Owner that such irregularities or errors were made through inadvertence.

Any such irregularities or errors so waived must be corrected on the Proposal prior to its acceptance by the Owner.

12. Rejection of Proposals: The Owner reserves the right to reject any or all proposals.

13. Discrepancies: Where a discrepancy appears between the sum of the Base Bids of each building and the Total Base Bid, the correct addition of the Base Bid price for each building shall control.

14. The Owner Represents:

(a) If by provisions of the Proposal, the Owner shall have undertaken to furnish any materials for the construction of the Project, such materials are on hand at locations

which may be determined by the bidders' inquiry of the Architect, or if such materials are not on hand, they will be made available by the Owner to the successful Bidder before the time such materials are required for incorporation into the Project.

(b) Title to the property on which the Project is to be constructed has been obtained.

(c) All funds necessary for prompt payment of the construction of the Project will be available. If the owner should fail to comply with any of the undertakings contained in the foregoing representations or if any such representations shall be incorrect, the Bidder will be entitled to an extension of the time of completion of Construction for a period equal to the delay, if any, caused by the failure of the Owner to comply with such undertakings or by any such incorrect representations; provided the Bidder shall have promptly notified the Owner in writing of its desire to extend the time of completion in accordance with the foregoing, and provided further that such extension, if any, of the time of completion shall be the sole remedy of the Bidder for the Owner's failure to comply with any of the foregoing representations.

_____ Owner
By _____
Dated _____

Proposal

To: _____ (hereinafter called the ''Owner''). The undesigned (hereinafter called the ''Bidder'') proposes to construct the buildings(s) listed in Section 1 of Article I (hereinafter called the ''Project''), financed _____, not to be financed _____, in whole or in part by a loan to the Owner by the United States of America, by the Administrator of the Rural Utilities Service (hereinafter called the ''Administrator''), or by loans to the Owner by the United States of America and by the Rural Telephone Bank, designated _____ and to receive and install such materials and equipment as may hereinafter be specified to be furnished by the Owner, and to furnish all other materials, machinery, and equipment, water, heat, utilities, transportation and other means required to construct the Project in accordance with the plans and specifications (hereinafter called the ''Plans and Specifications''), prepared by _____ (hereinafter called the ''Architect'') and dated _____, 19____, and approved by the Rural Utilities Service on _____, 19____, and by this reference made a part hereof. The Bidder has made a careful examination of the site(s) on which the Project to be constructed, has become informed as to the kind of facilities required before and during the construction of the Project and has become acquainted with the labor conditions which would affect the work.

The Bidder agrees that if his bid is accepted, the following terms shall govern.

Article I—Amount of Proposal

Section 1. Bid Price: The Bidder will construct the Project for the following sum:

Name or Kind and Location of Building

_____

Base Bid _____
Total of Bid $_____
Alternate Bid No. 1 (add) (deduct) $_____
Alternate Bid No. 2 (add) (deduct) $_____
Alternate Bid No. 3 (add) (deduct) $_____
Alternate Bid No. 4 (add) (deduct) $_____

Section 2. Taxes: The price quoted herein includes all amounts which the Bidder estimates will be payable by the Bidder or the Owner on account of taxes imposed by any taxing authority upon the sale, purchase or use of materials, supplies or equipment or services or labor of installation to be incorporated in the Project.

The Bidder will pay all such taxes and will furnish to appropriate taxing authorities any required information and reports pertaining thereto.

Article II—Construction

Section 1. Time of Construction:

(a) The Bidder, after notification in writing of approval of the Construction Contract by the Administrator, if approval of the Administrator is required, will commence construction of the Project within _____ (_____) calendar days after the Owner shall have given the Bidder written notice to commence construction which notice shall be given:

(1) Not later than _____ (_____) calendar days after approval of the Construction Contract by the Administrator, if approval of the Administrator is required.

(2) On a date to be determined by the Owner.

(The Architect will cross out the inapplicable statement (1) or (2) above before requesting bids.)

(b) The Bidder will prosecute diligently and complete construction of the Project in strict accordance with the Plans and Specifications and directions of the Architect within _____ (_____) calendar days after the expiration of the time specified to commence construction.

(c) The time for Completion of Construction herein set forth shall be extended for the period of any reasonable delay which is due exclusively to causes beyond the control and without the fault of the Bidder, including acts of God, fires, floods, direction by the Architect to cease construction during periods when in the judgment of the Architect it is impractical to perform any operation of construction and acts or omissions of the Owner with respect to matters for which the Owner is solely responsible, provided, however, that no such extension of time for completion shall be granted the Bidder unless within ten (10) days after the happening of any event relied upon by the Bidder for such an extension of time the Bidder shall have made a request therefor in writing to the Owner and provided further that no delay in such time of completion or in the progress of the work which results from any of the above causes or from any changes in construction which may be made pursuant to Subsection (d) of this Section shall result in any liability on the part of the Owner.

(d) The Owner, acting through the Architect and with the approval of the Administrator, if approval of the Administrator is required, may from time to time during the progress of construction make revisions in the Project. If the revision is such as to require on extension in the time of construction, a reasonable extension shall be granted if the Bidder shall make a written request therefor to the Owner prior to the commencement of work in connection with such revision. If the cost of the Project to the Bidder to make revision shall be increased or decreased, the contract price shall be amended by an amount equivalent to the reasonable cost thereof by a Construction Contract Amendment signed by the Owner and the Bidder, and approved by the Administrator, if approval of the Administrator is required; but no claim for additional compensation for any revision will be considered unless the Bidder shall have made a written request therefore to the Owner prior to the commencement of work in connection with such revision. The reasonable cost of any increase or decrease in the contract amendment as outline above, in the absence of any other mutual agreement, shall be computed on the basis of the direct cost of materials, F.O.B. the site of the Project, plus the direct cost of labor necessary to incorporate such materials into the Project (including actual cost of payroll taxes and insurance) plus twenty-five percent (25%) of the direct cost of materials and labor. Labor cost shall be limited to the direct costs for workmen and foremen. Costs for Bidder's main office overhead, job office overhead and superintendence shall not be included.

Section 2. Supervision: The Bidder will give sufficient supervision to the work, using his best skill and attention. He will carefully study and compare all drawings, specifications and other instructions, and report at once to the architect any error, inconsistency or omission which he may discover. The Bidder will make available during construction a competent superintendent and any necessary assistants, all satisfactory to the architect. The superintendent shall not be changed except with the consent of the Architect unless the superintendent proves to be unsatisfactory to the Bidder and ceases to be his employ. The superintendent shall represent the Bidder in his absence and all directions given to him shall be as binding as if given to the Bidder. When requested, such directions shall be confirmed in writing.

Section 3. Shop Drawings: The Bidder, after reviewing, will submit to the Architect, with such promptness as to cause no delay in the work two copies of all shop or setting drawings and schedules required for the work of the various trades, and the Architect shall pass on them with reasonable promptness, requesting corrections required thereto to be made. The Bidder will make any corrections required and file with the Architect three corrected copies and furnish such other copies as may be needed. The Architect's approval of such drawings or schedules shall not relieve the Bidder of responsibility for deviations from the Plans and Specifications. The Bidder will keep one copy of the contract documents on the site, in good order, available to the Architect. All drawings and specifications will be returned to the Architect upon completion of construction.

Section 4. Samples: The Bidder will furnish for approval, all samples as directed

by the Architect, and will perform the work in accordance with such approved samples.

Section 5. Inspection and Tests: The manner of construction of the Project and all materials and equipment used or to be used therein shall be subject to the inspection, tests and approval of the Architect and the Administrator, and the Bidder will furnish all information required by the Architect or the Administrator concerning the nature or source of materials. The Owner and the Administrator shall have the right to inspect all records of the Bidder and of any subcontractor relevant to the work. The Bidder will make available at the site of the Project, telephone service where obtainable, the payroll, invoices of material and other data and records of the Bidder relevant to the work. The Bidder will provide all reasonable facilities necessary for such inspection and tests. If the specifications, the Architect's instructions, laws, ordinances or any public authorities require any work to be specially tested or approved, the Bidder will give the Architect timely notice of its readiness for observation by the Architect or inspection by an authority other than the Architect, and if the inspection is by such other authority, of the date fixed for such inspection, testing or approval. The Bidder will bear all costs of such inspections, tests and approvals unless otherwise provided, obtain required certificates and deliver them to the Architect. Observations by the Architect shall be promptly made, and where practicable at the source of supply. If any work should be covered without approval or consent of the Architect, it must, if required by the Architect, be uncovered for examination at the Bidder's expense.

Re-examination of questioned work may be ordered by the Architect and if so ordered the work must be uncovered by the Bidder. If such work be found in accordance with the contract documents the Owner shall pay the cost of re-examination and replacement. If such work be found not in accordance with the contract documents the Bidder will pay such cost.

Section 6. Employees: The Bidder will at all times enforce strict discipline and good order among his employees and shall not employ any unfit person or anyone not skilled in the task assigned him. The Architect and the Owner shall have the right to require the removal from the Project of any employee of the Bidder or subcontractor if in their judgment such removal shall be necessary to protect the interest of the Owner.

Section 7. Defective Workmanship and Materials: Notwithstanding the acceptance of workmanship, materials (except owner-furnished materials) or equipment or the giving of any certificate with respect to the Completion of Construction, if during the construction or within one year after such completion, or within such longer period as the Project or any part thereof may be guaranteed by other provisions of this Proposal, the workmanship, materials or equipment shall be found to be defective or not in conformity with the requirements of the Plans and Specifications, the Bidder will remedy or replace such workmanship, materials or equipment within thirty (30) days after written notice of the failure of the Bidder to conform with the applicable provisions of the contract documents shall have been given to the Bidder by the Owner.

Article III—Payment and Releases of Liens

Section 1. Payments to Bidder:

(a) On or before the fifth (5) day of each Calendar Month, the Bidder will make application for payment, and the Owner, on or before the fifteenth (15) day of such month, shall make partial payment to the Bidder for construction accomplished during the preceding Calendar Month and partial payment for materials not incorporated in the Project. The payment shall be made on the basis of a schedule of values and receipts or other vouchers, submitted by the Bidder to, and approved by, the Architect, showing payments for labor and materials, payments to subcontractors, and such other evidence of the Bidder's right to payment for construction accomplished, and bills of sale or such other procedure as will establish the Owner's title to materials not incorporated in the Project but delivered and suitably stored on the site or at any other location agreed upon in writing by the Owner. Approval by the Architect of the application for payment is solely for the purposes of payment and shall not be deemed approval of the workmanship or materials. Only ninety percent (90%) of each such estimate of the cost for construction accomplished and approved and fifty percent (50%) of the cost of materials not incorporated in the Project shall be paid by the Owner to the Bidder prior to Completion of Construction.

The Bidder will, before the first application, submit to the Architect, a schedule of values of the various parts of the work, including quantities, aggregating the total contract price, divided so as to assist in determining the accuracy of payments to subcontractors and of the applications for payment.

(b) Upon Completion of Construction, the Architect shall inspect the Project, and if he shall find the work acceptable and all provisions hereunder fully performed, he shall furnish the Owner two copies of a Certificate of Completion, on forms satisfactory to the Administrator, and shall certify thereon the final Contract Price. The Certificate of Completion shall show thereon the Acceptance of the Contractor. Upon acceptance of the Certificate of Completion by the Owner, the Owner shall make final payment to the Bidder of all unpaid amounts to which the Bidder shall be entitled hereunder, except that, for contracts requiring approval of the Administrator, the Owner shall submit one copy of the Certificate of Completion to the Administrator for approval. Upon notice of approval by the Administrator, the Owner shall make final payment to the Bidder.

(c) Interest at the rate of ____ percent [1] (____%) per annum shall be paid by the Owner to the Bidder on all unpaid balances due on monthly estimates, commencing fifteen (15) days after the due date, provided the delay in payment beyond the due date is not caused by any condition within control of the Bidder. The due date for purposes of such monthly payment shall be the fifteenth (15th) day of each Calendar Month provided (1) The Bidder on or before the fifth (5th) day of such month shall have submitted its certified estimate of construction completed during the preceding month and (2) the Architect on or before the fifteenth (15th) day of such month shall have approved such certification. If, for reasons not due to the Bidder's fault, such approval of the Architect shall not have been given on or before the fifteenth (15th) day of such month, the due date for purposes of this Subsection shall be the fifteenth (15th) day of such month notwithstanding the absence of the Architect's approval of the certification.

(d) Interest at the rate of ____ percent [2] (____%) shall be paid by the Owner to the Bidder on the final payment commencing fifteen (15) days after the due date. The due date for the purposes of such final payment shall be sixty (60) days after the date of certification by the Architect in the Certificate of Completion or the date of approval by the Administrator of the Certificate of Completion when approval thereof is required by the Administrator.

(e) No payments shall be due while the Bidder is in default in respect of any of the provisions of this Proposal, and the Owner may withhold from the Bidder the amount of any claim by a third party against either the Bidder or the Owner based upon an alleged failure of the Bidder to perform the work hereunder in accordance with the provisions of this Proposal.

Section 2. Release of Liens: Upon Completion of Construction of the Project, but prior to the payment to the Bidder of any amount withheld in accordance with Section 1, (a) of Article III, the Bidder shall furnish the Owner, on forms satisfactory to the Administrator releases of all liens, and of all rights to claim any lien from manufacturers, materialmen and subcontractors who have furnished materials or services for the construction of the Project, and a Certificate of Contractor on a form satisfactory to the Administrator, to the effect that all labor used on or for the Project has been paid and that all such releases have been submitted to the Owner.

Article IV—Particular Undertakings of the Bidder

Section 1. Protection to Persons and Property: The Bidder will, at all times, take all reasonable precautions for the safety of employees on the Project, and of the public and all other persons who may be affected thereby, and will comply with all applicable provisions of Federal, State and Municipal safety laws and building and construction codes.

The Bidder will protect from loss or damage all materials and equipment to be incorporated in the Project, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, paved surfaces, structures and utilities not designated for

[1] The Owner shall insert a rate equal to the lowest ''Prime Rate'' listed in the ''Money Rates'' section of the Wall Street Journal on the date such invitation to bid is issued.

[2] See footnote 1.

removal, relocation or replacement in the course of construction. The Bidder will provide and maintain guard lights, watchman or other protection for persons and property, and physical hazards shall be guarded in accordance with the ''Manual of Accident Prevention in Construction'' of the Associated General Contractors of America, unless such instructions are incompatible with or less strict than those of any public authority having jurisdiction thereon, or instructions of the Architect.

The following provisions shall not limit the generality of the above requirements:

(a) The Bidder will at all times, keep the premises free from accumulation of waste material or rubbish caused by his employees or work, and at the completion of construction he will remove all rubbish from and about the Project, and all his tools, scaffolding and surplus materials and will leave his work ''broom clean.''

(b) The Project from its commencement to completion, or to such earlier date or dates when the Owner may take possession and control in whole or in part as hereinafter provided, will be under the charge and control of the Bidder and during such period of control by the Bidder all risks in connection therewith and the materials to be used therein will be borne by the Bidder. The Bidder will make good and fully repair all injuries and damages to the Project or any portion thereof under the control of the Bidder, by reason of any act of God or other casualty or cause, whether or not the same shall have occurred by reason of the Bidder's negligence.

(i) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Bidder's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Bidder's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Bidder, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Bidder liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner.

(ii) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Bidder, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Bidder shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Bidder does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Bidder.

(iii) Bidder shall provide to Owner's satisfaction evidence of Bidder's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.

(c) The Bidder will confine his apparatus, the storage of materials and the operations of his workmen to limits indicated by law, ordinances, permits, or directions of the Architect, and shall not unreasonably encumber the premises with his materials.

(d) The Bidder will not load or permit any of the structure to be loaded with a weight that will endanger its safety.

(e) The Bidder will submit to the Owner, monthly reports in duplicate of all accidents giving such data as may be prescribed by the Architect.

(f) Upon violation by the Bidder of any of the provisions of this section, the Bidder will, after written notice of such violation given to the Bidder by the Architect or the Owner, immediately correct such violation. Upon failure of the Bidder so to do, the Owner may correct such violation at the Bidder's expense; provided, however, that the Owner may, if it deems necessary or advisable, correct such violation at the Bidder's expense without such prior notices to the Bidder.

(g) The Bidder will be responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the construction of the Project.

Section 2. Insurance. The Bidder shall take out and maintain throughout the contract period insurance of the following types and minimum amounts:

(a) Workers' compensation and employers' liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

(b) Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

(c) Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million per occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection ''b'' and ''c'' of this Section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Owner shall be named as Additional Insured on all policies of insurance required in subsections ''b'' and ''c'' of this Section.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.

Section 3. Purchase of Materials: The Bidder will purchase all materials (except owner-furnished materials) and supplies outright and not subject to any conditional sales agreements, bailment lease or other agreement reserving unto the seller any right, title or interest therein. All materials and supplies shall become the property of the Owner when erected in place or at such earlier time as the parties may agree pursuant to Section 1(a) of Article III. Unless otherwise specified, all materials shall be new.

Section 4. Assignment of Guarantees: The Bidder will obtain from manufacturers, materialmen, and subcontractors and furnish to the Owner all guarantees and will transfer or assign to the Owner such guarantees as run in favor of the Bidder, prior to the time the Bidder receives final payment. The guarantees shall be in addition to and not limited by any other provisions of the contract documents, guarantee or remedy required by law.

Section 5. Royalties and Patent Infringement: The Bidder will pay all royalties and license fees, and will hold harmless and indemnify the Owner from any and all claims, suits, and proceedings for the infringement of any patent or patents covering any equipment, materials, supplies or construction methods used in the work.

Section 6. Compliance with Statues and Regulations: The Bidder will comply with all applicable statues, ordinances, rules and regulations pertaining to the work. The Bidder acknowledges that it is familiar with The Rural Electrification Act of 1936, as amended, the so-called ''Kick-Back'' Statute (48 Stat. 948), and all regulations issued pursuant thereto, and 18 U.S.C. §§ 287, 1001 as amended. The Bidder understands that the obligations of the parties hereunder are subject to the applicable regulations and orders of Governmental agencies having jurisdiction in the premises.

Section 7. Delivery of Possession and Control to Owner: Upon written request of the Owner, the Bidder shall deliver to the Owner full possession and control of any

portion of the Project provided the Bidder shall have been paid at least 90 percent (90%) of the cost of construction of such portion. Upon such delivery of the possession and control of such portion of the Project to the Owner, the risks and obligations of the Bidder as set forth in Section 1(b), Article IV hereof with respect to such portion so delivered to the Owner shall be terminated; provided, however, that nothing herein contained shall relieve the Bidder of any liability with respect to defective workmanship or materials as provided in Section 7, Article II.

Section 8. Occupancy Before Completion: Exception as provided in Section 7, the Owner shall not occupy any portion of the Project prior to the time of completion without the written approval of the Bidder. It is agreed that such occupancy of any such portion of the Project will not constitute acceptance of workmanship or materials used in construction of the Project as provided in Section 7, Article II, and that such occupancy will not relieve the Bidder from his obligation to complete any part of the Project in compliance with the contract. The Owner agrees to permit the Bidder to fulfill the requirements of the contract in accordance with instructions issued to the Bidder by the Architect upon occupancy by the Owner.

Article V—Remedies

Section 1. Liquidated Damages: The time of Completion of Construction of the Project is of the essence of this Contract. Should the Bidder neglect, refuse or fail to complete construction within the time herein agreed upon, after giving effect to extensions of time, if any herein provided for, then, in that event and in view of the difficulty of estimating with exactness damages caused by such delay, the Owner shall have the right to deduct from and retain out of such moneys which may be then due or which may become due and payable to the Bidder, the sum of _____ Dollars ($_____) per day of each and every day that such construction is delayed in its completion beyond the specified time, as liquidated damages and not as a penalty. If the amount due and to become due from the Owner to the Bidder is insufficient to pay in full any such liquidated damages, the Bidder shall pay to the Owner the amount necessary to effect such payment in full; provided, however, that the Owner shall promptly notify the Bidder in writing of the manner in which the amount retained, deduced or claimed as liquidated damages was computed.

Section 2. Completion on Bidder's Default: If default shall be made by the Bidder or by any subcontractor in the performance of any of the terms of this Proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Bidder and the surety or sureties upon the Contractor's Bond or Bonds a written notice requiring the Bidder to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Bidder, such default shall be corrected or arrangements for the correction thereof, satisfactory to both the Owner and the Administrator, shall be made by the Bidder or its Surety or Sureties, the Owner may take over the construction of the Project and prosecute the same to completion by contract or otherwise for the account and at the expense of the Bidder and the Bidder and its Surety or Sureties shall be liable to the Owner for any cost or expense in excess of the contract price occasioned thereby. Sureties shall be liable to the Owner for any cost or expense in excess of the contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the Project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Bidder or any of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims or demands which the Bidder may have against third persons in connection with this Proposal and for such purpose the Bidder does hereby assign, transfer and set over unto the Owner all such rights, claims and demands.

Section 3. Cumulative Remedies: Every right or remedy herein conferred upon or reserved to the Owner or the Government or the Administrator shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election; provided, however, that the provisions of Section 1 of this Article V shall be the exclusive measure of damages for failure by the Bidder to complete the construction of the Project within the time herein agreed upon.

Article VI—Miscellaneous

Section 1. Definitions: (a) The term ''Administrator'' shall mean the Administrator of the Rural Utilities Service of the United States of America and his duly authorized representatives or any other person in whom or authority in which may be vested in the duties and functions which the Administrator is now authorized by law to perform.

(b) The term ''Architect'' shall mean the person or organization employed by the Owner to provide architectural services for the Project, and the Architect's duly authorized assistants and representatives. If an Architect is not employed, the term shall apply to the duly authorized agent of the Owner.

(c) The term ''Completion of Construction'' shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof except the Bidder's obligations in respect of (1) Releases of Liens and Certificate of Contractor under Article III, Section 2 hereof, and (2) other final documents. The term ''Completion of the Project'' shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof. The date of signature by the Architect of the Certificate of Completion shall be the sole and conclusive evidence as to the date of Completion of Construction and as to the fact of Completion of the Project.

Section 2. Materials and Supplies. In the performance of this contract there shall be furnished only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, Mexico, or Canada, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States, Mexico, or Canada; provided that other articles, materials, or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. The Bidder agrees to submit to the Purchaser such certificates with respect to compliance with the foregoing provision as the Administrator from time to time may require.

Section 3. Bond or Builder's Risk Policy: (a) The Bidder will furnish to the Owner, for a contract in an amount in excess of $100,000, a bond in a penal sum not less than the Total Contract Price and in the form attached hereto and with a Surety or Sureties listed by the United States Treasury Department as Acceptable Sureties.

(b) The Bidder will furnish to the Owner for a contract in an amount of $100,000 or less, a Builder's Risk Policy or a bond like that required in the preceding paragraph, whichever the Owner has specified under Paragraph 8 of the Notice and Instructions to Bidders. The Builder's Risk Policy shall be on a completed value form, effective from the date equipment or materials is first delivered to the building site, and shall name both the Owner and the Contractor as insureds. The policy shall insure against loss by fire or lightning and the named perils in the extended coverage endorsement. The amount of coverage shall not be less than the replacement value of the property constructed, including all materials to be used in the construction and stored at the site or at any other location whether furnished by the Owner or the Contractor. When directed, the Bidder shall furnish evidence of compliance with these requirements. The evidence shall be in the form of a certificate of insurance by the insurance company and shall include a provision that no change in or cancellation of the policy shall be made without prior written notice to the Owner and the Administrator.

Section 4. Subcontracts and Nonassignment: (a) Within ten (10) days after acceptance of the Proposal by the Owner and before awarding any subcontracts, the Bidder will notify the Architect, Owner and Surety in writing, of the names of the subcontractors proposed for the principal parts of the work, and will not enter into any subcontract for such work if written objection thereto is received from the Architect, Owner, Surety or Sureties within fifteen (15) days after receipt of such notice. The Bidder will be as fully responsible to the Owner and the Administrator for the acts and omissions of each subcontractor and of persons employed by such subcontractor as the Bidder would be for its own acts and omissions and those of persons directly employed by it. The Bidder will not subcontract on aggregate amount in excess of sixty-five percent (65%) of its obligations, (to be calculated on the basis of the Total Contract Price) without approval of

the Architect, Owner, and Surety or Sureties on any bond furnished by the Bidder for the faithful performance of the Bidder's obligations hereunder. Nothing contained in the Construction Contract shall create any contractual relation between any subcontractor and the Owner.

(b) The Bidder will not assign the contract effected by the acceptance of this Proposal or any part thereof without approval in writing of the Owner, Surety or Sureties, and the Administrator if the Construction Contract was approved by the Administrator.

Section 5. Equal Opportunity Provisions: (a) Bidder's Representations.

The Bidder represents that:

It has ____, does not have____, 100 or more employees, and if it has, that it has ____, has not____, furnished the Equal Employment Opportunity-Employers Information Report EEO–1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964.

The Bidder agrees that it will obtain, prior to the award of any subcontract for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100.

The Bidder agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than $10,000, the Bidder will file such report, as required by law, and notify the Owner in writing of such filing prior to the Owner's acceptance of this Proposal.

(b) Equal Opportunity Clause, During the performance of this Contract, the Bidder agrees as follows: (1) The Bidder will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Bidder will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such actions shall include, but not be limited to, the following: Employment, upgrading, demotions or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

(2) The Bidder will, in all solicitations or advertisements for employees placed by or on behalf of the Bidder, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The Bidder will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's representative of the Bidder's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Bidder will comply with all provisions of Executive Order 11246 of September 24, 1965, and rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Bidder will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Bidder's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part, and the Bidder may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as provided by law.

(7) The Bidder will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by the rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontract or vendor. The Bidder will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event Bidder becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Bidder may request the United States to enter into such litigation to protect the interests of the United States.

(c) Certificate of Nonsegregated Facilities. The Bidder certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term ''segregated facilities'' means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

Section 6. License: The Bidder warrants that a Contractor's License is ____, is not ____, required, and if required, it possesses Contractor's License No. _____ for the State of _____ in which the Project is located, and said license expires on _____, 19____.

Section 7. Extension to Successors and Assigns: Each and all of the covenants and agreements contained in the contract effected by the Acceptance of this Proposal shall extend to and be binding upon the successors and assigns of the parties thereto.

Section 8. Description of Contract: The Notice and Instructions to Bidders, the Proposal, the Acceptance, the Contractor's Bond or Builder's Risk Policy, the Plans and Specifications and all amendments or revisions thereto constitute the Construction Contract.

Section 9. Contractor: Upon acceptance of this Proposal the successful Bidder shall be the Contractor and all references in the Proposal to the Bidder shall apply to the Contractor.

Section 10. Approval by the Administrator: No acceptance of a Proposal for a contract upon which approval of the Administrator is required shall become effective until the contract has been approved by the Administrator; provided that no obligation shall arise hereunder unless such approval is given within sixty (60) days after the date set for the opening of the proposals. The acceptance of a Proposal for a contract upon which approval of the Administrator is not required shall become effective the date of acceptance by the Owner.

_____ Bidder
By _____ President
_____ Address
Attest: _____ Secretary
Date _____

The Proposal must be signed with the full name of the Bidder. If the Bidder is a partnership, the Proposal must be signed in partnership name by a partner. If the Bidder is a corporation, the Proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

Acceptance

Subject to the approval of the Administrator, if approval of the Administrator is required, the Owner hereby accepts the Proposal of _____ for the construction of the Project therein described for the:

Base Bid of _____ and alternate bids as follows (Show plus or minus):

Alternate bid No. _____, $_____.
Alternate bid No. _____, $_____.
Alternate bid No. _____, $_____.
Alternate bid No. _____, $_____.
Alternate bid No. _____, $_____.
Alternate bid No. _____, $_____.

Alternate bid No. _____, $_____.
The Total Contract Price is $_____
_____ Owner
By _____ President
Attest: _____ Secretary
Dated _____

[End of clause]

§ 1726.330 [Reserved]

§ 1726.331 Bid bond, RUS Form 307.

The bond form in this section shall be used when a Bid Bond is required by RUS Form 200, 203, 257, 764, 830, or 831.

Bid Bond

1. KNOW ALL MEN that we, _____, as Principal, and _____, as Surety, are held and firmly bound unto _____ (hereafter called the ''Owner'') in the penal sum of ten percent (10%) of the amount of the bid referred to in paragraph 2 below, but not to exceed _____ dollars ($_____), as hereinafter set forth and for the payment of which sum well and truly to be made we bind ourselves, our executors, administrators, successors and assigns, jointly and severally, by these presents;

2. WHEREAS, the Principal has submitted a bid to the Owner for the construction of the Rural Utilities Service Project known as Project _____.

3. NOW, THEREFORE, the condition of this obligation is such that if the Owner shall accept the bid of the Principal, and

(a) The Principal shall execute such contract documents, if any, as may be required by the terms of the bid and give such Contractor's Bond or Bonds for the performance of the contract and for the prompt payment of labor and material furnished for the Project as may be specified in the bid, or

(b) In the event of the failure of the Principal to execute such contract documents, if any, and give such Contractor's Bond or Bonds, if the Principal shall pay to the Owner the difference, not to exceed the penal sum hereof, between the amount specified in the bid and such larger amount for which the Owner may in good faith contract with another party to construct the Project, then this obligation shall be void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this _____ day of_____, 19____

Principal _____ (Seal)
By _____
Title _____
Attest: _____ (Secretary)
Surety _____ (Seal)
By _____
Title _____
Attest: _____ (Secretary)

[End of clause]

§§ 1726.332–1726.339 [Reserved]

§ 1726.340 Substation and switching station erection contract, RUS Form 764.

The contract form in this section shall be used when required by this part.

Substation and Switching Station Erection Contract

Notice and Instructions to Bidders

1. Sealed proposals for the construction, including the supply of necessary labor, materials and equipment, of a rural electric project of _____ (hereinafter called the ''Owner'') to be known as Project _____ will be received by the Owner on or before _____ o'clock ____ M., 19____, at its office at _____ at which time and place the proposals will be publicly opened and read. Any proposal received subsequent to the time specified will be promptly returned to the Bidder unopened.

2. Description of Project: The Project will consist of the following Substations and other Major Facilities:

Name _____ KVA ____ Voltage _____
Name _____ KVA ____ Voltage _____
Name _____ KVA ____ Voltage _____

The Project is located in _____ Counties, in the State of _____ all as more fully described in the Plans, Specifications for Construction, Construction Drawings and Contractor's Proposal therefore hereinafter referred to.

3. Owner Furnished Materials. The unit prices in the Contractor's Proposal should include provisions for Owner Furnished Materials since as stated in Article I, Section 3 of the Contractor's Proposal, the value of the Owner Furnished Materials, if any, will be deducted from payments to the Bidder for completed Construction Units.

4. Obtaining Documents. The Plans, Specifications for Construction and Construction Drawings together with all necessary forms and other documents for bidders may be obtained from the Owner, or from the Engineer _____ at the latter's office at _____ upon payment of $_____, which payment will not be subject to refund. The Plans, Specifications for Construction and Construction Drawings may be examined at the office of the Owner or at the office of the Engineer. A copy of the Loan Contract (if the Project is to be financed in whole or in part, pursuant to a Loan Contract) between the Owner and the United States of America acting through the Administrator of the Rural Utilities Service (hereinafter called the ''Administrator'') and of the loan contract between the Owner and any other lender may be examined at the office of the Owner. Each set of Plans, Specifications for Construction and Construction Drawings will have a serial number, given by the Engineer, and the number of each set with the name of the Purchaser will be recorded by the Engineer. Bids will be accepted only from the original purchasers.

5. Manner of Submitting Proposals. Proposals and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner. The name and address of the Bidder, its license number if a license is required by the State, and the date and hour of the opening of bids must appear on the envelope in which the Proposal is submitted, Proposals must be filled in in ink or typewritten. No alterations or interlineations will be permitted, unless made before submission, and initialed and dated.

6. Familiarity with Conditions. Prior to the submission of the Proposal the Bidder shall make and shall be deemed to have made a careful examination of the site of the Project and of the Plans, Specifications for Construction, Construction Drawings, and forms of Contractor's Proposal and Contractor's Bond on file with the Secretary of the Owner and with the Engineer, and shall become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be encountered, the kind of facilities required before and during the construction of the Project, general local conditions and all other matters that may affect the cost and the time of completion of the Project. Bidders will be required to comply with all applicable statutes, regulations, etc., including those pertaining to the licensing of contractors, and the so-called ''Kickback Statute'' (48 Stat. 948) and regulations issued pursuant thereto.

7. Proposals will be accepted only from those prequalified bidders invited by the Owner to submit a proposal.

8. Alternate Designs. The Owner reserves the right to confine its consideration of the several bids to one type of design regardless of alternate types of design which may be specified in the Plans and Specifications for Construction and offered in the Proposals.

9. The time for Completion of Construction of the Project shall be as specified by the Engineer in the Proposal.

10. Bid Bond. Each Proposal must be accompanied by a Bid Bond in the form attached or a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the Owner, in an amount equal to ten percent (10%) of the maximum bid price. Each Bidder agrees, provided its Proposal is one of the three low Proposals, that, by filing its Proposal together with such Bid Bond or check in consideration of the Owner's receiving and considering such Proposal, said Proposal shall be firm and binding upon each such Bidder and such Bid Bond or check shall be held by the Owner until a Proposal is accepted and a satisfactory Contractor's Bond is furnished (where required) by the successful Bidder and such acceptance has been approved by the Administrator, or for a period not to exceed sixty (60) days from the date hereinbefore set for the opening of Proposals, whichever period shall be the shorter. If such Proposal is not one of the three low Proposals, the Bid Bond or check will be returned in each instance within a period of ten (10) days to the Bidder furnishing same.

11. Contractor's Bond. The successful Bidder will be required to execute two additional counterparts of the Proposal and,

for a Contract in excess of $100,000, to furnish a Contractor's Bond in triplicate in the form attached hereto with sureties listed by the United States Treasury Department as Acceptable Sureties, in a penal sum not less than the contract price.

12. Failure to Furnish Contractor's Bond. Should the successful Bidder fail or refuse to execute such counterparts or to furnish a Contractor's Bond (where required) within ten (10) days after written notification of the acceptance of the Proposal by the Owner, the Bidder will be considered to have abandoned the Proposal. In such event, the Owner shall be entitled (a) to enforce the bid bond in accordance with its terms, or (b) if a certified check has been delivered with the Proposal, to retain from the proceeds of the certified check the difference (not exceeding the amount of the certified check) between the amount of the Proposal and such larger amount for which the Owner may in good faith contract with another party to construct the Project. The term ''successful Bidder'' shall be deemed to include any Bidder whose Proposal is accepted after another Bidder has previously refused or has been unable to execute the counterparts or to furnish a satisfactory Contractor's Bond (where required.)

13. Contract is Entire Agreement. The Contract to be effected by the acceptance of the Proposal shall be deemed to include the entire agreement between the parties thereto, and the Bidder shall not claim any modification thereof resulting from any representation or promise made at any time by any officer, agent or employee of the Owner or by any other person.

14. Minor Irregularities. The Owner reserves the right to waive minor irregularities or minor errors in any Propose, if it appears to the Owner that such irregularities or errors were made through inadvertence. Any such irregularities or errors so waived must be corrected on the Proposal in which they occur prior to the acceptance thereof by the Owner.

15. Rejection of Bids. The Owner reserves the right to reject any or all Proposals. The attention of Bidders is specially called to the desirability of a proper balance between prices for labor and materials and between the total prices for the respective Construction Units. Lack of such balance may be considered as a reason for rejecting a Proposal.

16. Discrepancy in Unit Prices. Where the unit prices in the Contractor's Proposal are separated into three columns designated as ''Labor,'' ''Materials'' and ''Labor and Materials,'' and where a discrepancy appears between the sum shown in the ''Labor and Materials'' column and the correct addition of the sums appearing in the ''Labor'' column and the ''Materials'' column, the correct addition of the sums appearing in the ''Labor'' column and the ''Materials'' column shall control.

17. Bidding and Acceptance. If the Project includes more than one substation, bidders may bid on one or more substations. The Owner may award (1) a contract for all of the substations on the basis of the low total bid or, (2) separate contracts for one or more substations based on the low bids for the respective substations.

18. Definition of Terms. The terms ''Administrator,'' ''Engineer,'' ''Supervisor,'' ''Project,'' ''Completion of Construction'' and ''Completion of the Project'' as used throughout this Contract shall be as defined in Article VI, Section 1, of the Contractor's Proposal.

19. The Owner represents:

a. If by provisions of the Contractor's Proposal the Owner shall have undertaken to furnish any materials for the construction of the Project, such materials are on hand at locations specified or if such materials are not on hand they will be made available by the Owner to the successful Bidder at the locations specified before the time such materials are required for construction.

b. Title to the property on which the Project is to be constructed has been obtained.

c. All funds necessary for prompt payment for the construction of the Project will be available.

If the Owner shall fail to comply with any of the undertakings contained in the foregoing representations or if any of such representations shall be incorrect, the Bidder will be entitled to an extension of time of completion for a period equal to the delay, if any, caused by the failure of the Owner to comply with such undertakings or by any such incorrect representation; provided the Bidder shall have promptly notified the Owner in writing of its desire to extend the time of completion in accordance with the foregoing, and provided further that such extension, if any, of the time of completion shall be the sole remedy of the Bidder for the Owner's failure, because of conditions beyond the control and without the fault of the Owner, to furnish materials in accordance with subparagraph a. hereof.

_____ Owner

By _____

_____, 19____

Contractor's Proposal

(Proposal shall be submitted in ink or typewritten)

To: _____ (Hereinafter called the ''Owner'')

Article I—General

Section 1. Offer to Construct. The undersigned (hereinafter called the ''Bidder'') hereby proposes to receive and install such materials and equipment as may hereinafter be specified to be furnished by the Owner, and to furnish all other materials and equipment, all machinery, tools, labor transportation and other means required to construct the rural electric project _____ in strict accordance with the Plans, Specifications for Construction and Construction Drawings for the prices hereinafter stated.

Section 2. Materials and Equipment. The Bidder agrees to furnish and use in the construction of the Project under this Proposal, in the event the Proposal is accepted, only such materials and equipment as are included in the current ''List of Materials Acceptable for Use on Systems of RUS Electrification Borrowers,'' including revisions adopted prior to the Bid Opening.

Section 3. Owner-Furnished Materials. The Bidder understands and agrees that, if this Proposal is accepted, the Owner will furnish to the Bidder the material set forth in the attached ''List of Owner's Materials on Hand'' (see page 10) and the Bidder will give a receipt (see page 12) therefore in writing to the Owner. The Bidder, further, will on behalf of the Owner accept delivery of such of the materials set forth in the attached ''List of Materials Ordered by Owner but Not Delivered'' (see page 11) as may be subsequently delivered and will promptly forward to the Owner for payment the supplier's invoice, together with the Bidder's receipt in writing for such materials. The materials referred to are on hand at, or will be delivered to, the locations specified in the Lists and the Bidder will use such materials in constructing the Project.

The value of the completed Construction Units certified by the Bidder each month pursuant to Article III, Section 1.a of this Proposal shall be reduced by an amount equal to the value of the materials installed by the Bidder during the preceding month which have been furnished by the Owner or the delivery of which has been accepted by the Bidder on behalf of the Owner. Only ninety percent (90%) of the remainder shall be paid prior to the Completion of the Project. The value of such materials shall be computed on the basis of the unit prices stated in the Lists. Materials, if any, not required for the Project, which have been furnished to the Bidder by the Owner or delivery of which has been accepted by the Bidder on behalf of the Owner, shall be returned to the Owner by the Bidder upon Completion of Construction of the Project. The value of all materials not installed in the Project nor returned to the Owner shall be deducted from the final payment to the Bidder.

The Owner shall not be obligated to furnish materials in excess of the quantities, size, kind and type set forth in the attached Lists. If the Owner furnishes, and the Bidder accepts, materials in excess thereof, the values of such excess materials shall be their actual cost as stated by the Owner.

Information on the shipping schedules of materials on the ''List of Materials Ordered by Owner But Not Delivered'' will be furnished to the Bidder as necessary during progress of the work.

Upon delivery the Bidder shall promptly receive, unload, transport and handle all materials and equipment on the ''List of Materials Ordered by Owner But Not Delivered'' at its expense and shall be responsible for demurrage, if any.

Section 4. Purchase of Materials Not Furnished by Owner. The Bidder will purchase all materials and equipment (other than owner-furnished materials) outright and not subject to any conditional sales agreements, bailment, lease or other agreement reserving unto the seller any right, title or interest therein. All such materials and equipment shall become the property of the Owner when erected in place.

Section 5. Proposal on Unit Basis. The Bidder understands and agrees that the various Construction Units on which bids are made are defined by symbols and descriptions in this Proposal, that all said bids are on a unit basis, and that the Owner

may specify any number or combination of Construction Units that the Owner may deem necessary for the construction of the Project. Separate Construction Units are designated for each different arrangement which may be used in the construction of the Project. This Proposal is based on a consideration of each unit in place and includes only the materials listed on the corresponding Construction Drawings or description of unit where no drawing exists.

Section 6. Familiarity with Conditions. The Bidder has made a careful examination of the site of the Project to be constructed and of the Plans, Specifications for Construction, Construction Drawings, and form of Contractor's Bond attached hereto, and has become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be encountered, and the kind of facilities required before and during the construction of the Project, and has become acquainted with the labor conditions, state and local laws and regulations which would affect work on the proposed construction.

Section 7. License. The Bidder warrants that a Contractor's License is ____, is not ____, required, and if required, it possesses Contractor's License No. _____ for the State of _____ in which the Project is located and said license expires on _____, 19___.

Section 8. The Bidder warrants that this Proposal is made in good faith and without collusion or connection with any person or persons bidding for the same work.

Section 9. The Bidder warrants that it possesses adequate financial resources and agrees that in the event this Proposal is accepted and a Contractor's Bond is required, it will furnish a Contractor's Bond in the form attached hereto, in a penal sum not less than the maximum Contract price, with a surety or sureties listed by the United States Treasury Department as Acceptable Sureties.

In the event that the surety or sureties on the performance bond delivered to the Owner contemporaneously with the execution of the Contractor on any bond or bonds delivered in substitution therefor or in addition thereto shall at any time become unsatisfactory to the Owner or the Administrator, the Bidder agrees to deliver to the Owner another or an additional bond.

Section 10. Taxes. The unit prices for Construction Units in this Proposal include provisions for the payment of all monies which will be payable by the Bidder or the Owner in connection with the construction of the Project on account of taxes imposed by any taxing authority upon the sale, purchase or use of materials, supplies and equipment, or services or labor of installation thereof, to be incorporated in the Project as part of such Construction Units. The Bidder agrees to pay all such taxes, except taxes upon the sale, purchase or use of owner-furnished materials and it is understood that, as to owner-furnished materials, the values stated in the attached ''List of Owner's Materials on Hand'' and ''List of Materials Ordered by Owner But Not Delivered'' include taxes upon the sale, purchase or use of owner-furnished materials, if applicable. The Bidder will furnish to the appropriate taxing authorities all required information and reports pertaining to the Project, except as to the owner-furnished materials.

Section 11. Changes in Quantities. The Bidder understands and agrees that the quantities called for in this Proposal are approximate, and that the total number of units upon which payment shall be made shall be as set forth in the inventory. If the Owner changes the quantity of any unit or units specified in this Proposal by more than 15%, and the materials cost to the Bidder is increased thereby to an extent which would not be adequately compensated by application of the unit prices in this Proposal to the revised quantity of such unit or units, such change, to the extent of the quantities of such units in excess of such 15%, shall be regarded as a change in the construction within the meaning of Article II, Section 1(d) of this Proposal.

LIST OF OWNER'S MATERIALS ON HAND

Item [1]	Description of material	Catalog No.	Quantity	Unit price	Extended price
Total. Above Materials are Located at:					

[1] Item corresponds with item in list of materials in construction drawings. Under Article I, Section 3, the value of these materials will be deducted from payments to the Bidder for completed Construction Units.

LIST OF MATERIALS ORDERED BY OWNER BUT NOT DELIVERED

Item [1]	Supplier name and address	Scheduled delivery date	Description of material	Catalog No.	Quantity	Unit price	Extended price
Total. Above Material to be Delivered to:							

[1] Item corresponds with item in list of materials in construction drawings. Under Article I, Section 3, the value of these materials will be deducted from payments to the Bidder for completed Construction Units.

Article II—Construction

Section 1. Time and Manner of Construction.

a. The Bidder agrees to commence construction of the Project on a date (hereinafter called the ''Commencement Date'') which shall be determined by the Engineer after notice in writing of approval of the Contract by the Administrator and notice in writing from the Bidder that the Bidder has sufficient materials to warrant commencement and continuation of construction, but in no event will the Commencement Date be later than _____ calendar days after date of approval of the Contract by the Administrator. The Bidder further agrees to prosecute diligently and to complete construction in strict accordance with the Plans, Specifications for Construction and Construction Drawings within _____ (_____) calendar days (excluding Sundays) after Commencement Date: Provided, however, that the Bidder will not be required to perform any construction on such days when in the judgment of the Engineer snow, rain, or wind, or the results of snow, rain, or frost make it impracticable to perform any operation of construction and to the extent of the time lost due to the conditions described herein and approved in writing by the Engineer, the time of completion set out above will be extended if the Bidder makes a written request therefor to the Owner as provided in subsection b of this Section 1.

b. The time for Completion of Construction shall be extended for the period of any reasonable delay which is due exclusively to causes beyond the control and without the fault of the Bidder, including acts of God, fires, floods, inability to obtain materials and acts or omissions of the Owner with respect to matters for which the Owner is solely responsible: Provided, however, that no such extension of time for completion shall be granted the Bidder unless within ten (10) days after the happening of any event relied upon by the Bidder for such an extension of time the Bidder shall have made a request therefore in writing to the Owner, and provided further that no delay in such time of completion or in the progress of the work which results from any of the above causes, except acts or omissions of the Owner, shall result in any liability on the part of the Owner.

c. The sequence of construction shall be as set forth below, the numbers or names being the designations of substations or other major facilities (hereinafter called the ''Stations'') corresponding to the numbers or names shown on the maps attached hereto, or if no Stations are set forth below, the sequence of construction shall be as determined by the Bidder, subject to the approval of the Engineer. _____

d. The Owner, acting through the Engineer and with the approval of the Administrator,[1] may from time to time during the progress of the construction of the Project make such changes, additions to or subtractions from the Plans, Specifications for Construction, Construction Drawings, List of Materials and sequence of construction provided for in the previous paragraph which are part of the Contractor's Proposal as conditions may warrant: Provided, however, that if any change in the construction to be done shall require an extension of time, a reasonable extension will be granted if the Bidder shall make a written request therefor to the Owner within ten (10) days after any such change is made. And provided further, that if the cost to the Bidder of construction of the Project shall be materially increased by any such change or addition, the Owner shall pay the Bidder for the reasonable cost thereof in accordance with a Construction Contract Amendment signed by the Owner and the Bidder and approved by the Administrator,[2] but no claim for additional compensation for any such change or addition will be considered unless the Bidder shall have made a written request therefor to the Owner prior to the commencement of work in connection with such change or addition.

e. The Bidder will not perform any work hereunder on Sundays unless there is urgent need for such Sunday work and the Owner consents thereto in writing. The time for completion specified in subsection a of this Section 1 shall not be affected in any way by inclusion of this subsection nor by the Owner's consent or lack of consent to Sunday work hereunder.

Section 2. Environmental Protection. The Bidder shall perform work in such a manner as to maximize preservation beauty, conservation of natural resources and minimize marring and scarring of the landscape and silting of streams. The Bidder shall not deposit trash in streams or waterways, and shall not deposit herbicides or other chemicals or their containers in or near streams, waterways or pastures. The Bidder shall follow, under the general direction of the Engineer, the criteria relating to environmental protection as specified herein by the Engineer.

Section 3. The Bidder agrees that in the event this Proposal is accepted it will make available for use in connection with the proposed construction all necessary tools and equipment and qualified superintendents and foremen.

Section 4. Changes in Construction. The Bidder agrees to make changes in construction previously installed in the Project by the Bidder as required by the Owner. The compensation for such changes shall be as agreed upon in writing by the Bidder and the Owner prior to commencement of work in connection with such changes.

No payment shall be made to the Bidder for materials or labor involved in correcting errors or omissions on the part of the Bidder which result in construction not in accordance with the Plans and Specifications for Construction.

Section 5. Construction Not in Proposal. The Bidder also agrees that when it is necessary to construct units not shown in the Proposal it will construct such units for a price arrived at as follows:

a. The cost of materials shall be determined by the invoices.

b. The cost of labor shall be the reasonable cost thereof, as agreed upon by the Owner and Bidder prior to the commencement of work.

Section 6. Supervision and Inspection.

a. The Bidder shall cause the construction work on the Project to receive constant supervision by a competent superintendent (hereinafter called the ''Superintendent'') who shall be present at all times during working hours where construction is being carried on. The Bidder shall also employ, in connection with the construction of the Project, capable, experienced and reliable foremen and such skilled workmen as may be required for the various classes of work to be performed. Directions and instructions given to the Superintendent shall be binding upon the Bidder.

b. The Owner reserves the right to require the removal from the Project of any employee of the Bidder if in the judgment of the Owner such removal shall be necessary in order to protect the interest of the Owner. The Owner or the Supervisor, if any, shall have the right to require the Bidder to increase the number of its employees and to increase or change the amount or kind of tools and equipment if at any time the progress of the work shall be unsatisfactory to the Owner or Supervisor; but the failure of the Owner or Supervisor to give any such directions shall not relieve the Bidder of its obligations to complete the work within the time and in the manner specified in this Proposal.

c. The manner of construction of the Project, and all materials and equipment used therein, shall be subject to the inspection, tests and approval of the Owner and the Administrator, and the Bidder shall furnish all information required by the Owner or by the Administrator concerning the nature or source of any materials incorporated or to be incorporated in the Project. The Owner and the Administrator shall have the right to inspect all payrolls, invoices of materials, and other data and records of the Bidder and of any subcontractor, relevant to the construction of the Project. The Bidder shall provide all reasonable facilities necessary for such inspection and tests. The Bidder shall have an authorized agent accompany the Engineer when final inspection is made and, if requested by the owner, when any other inspection is made.

d. In the event that the Owner, or the Administrator, shall determine that the construction contains or may contain numerous defects, it shall be the duty of the Bidder and the Bidder's Surety or Sureties, if any, to have an inspection made by an engineer approved by the Owner and the Administrator for the purpose of determining the exact nature, extent and location of such defects.

e. The Engineer may recommend to the Owner that the Bidder suspend the work wholly or in part for such period or periods as the Engineer may deem necessary due to unsuitable weather or such other conditions as are considered unfavorable for the satisfactory prosecution of the work or because of the failure of the Bidder to comply with any of the provisions of the Contract: Provided, however, that the Bidder shall not suspend work pursuant to this provision without written authority from the Owner so to do. The time of completion hereinabove set forth shall be increased by the number of days of any such suspension, except when such suspension is due to the failure of the Bidder to comply with any of the provisions of this Contract. In the event that work is suspended by the Bidder with the consent of the Owner, the Bidder before resuming work shall give the Owner at least twenty-four (24) hours notice thereof in writing.

Section 7. Defective Materials and Workmanship.

a. The acceptance of any materials, equipment (except owner-furnished materials) or any workmanship by the Owner or the Engineer shall not preclude the subsequent rejection thereof if such materials, equipment, or workmanship shall be found to be defective after delivery or installation, and any such materials, equipment or workmanship found defective before final acceptance of the construction shall be replaced or remedied, as the case may be, by and at the expense of the Bidder. Any such condemned material or equipment shall be immediately removed from the site of the Project by the Bidder at the Bidder's expense. The Bidder shall not be entitled to any payment hereunder so long as any defective materials, equipment or workmanship in respect to the Project, of which the Bidder shall have had notice, shall not have been replaced or remedied, as the case may be.

b. Notwithstanding any certificate which may have been given by the Owner or the Engineer, if any materials, equipment (except owner-furnished materials) or any workmanship which does not comply with the requirements of this Contract shall be discovered within one (1) year after Completion of Construction of the Project, the Bidder shall replace such defective materials or equipment or remedy any such defective workmanship within thirty (30) days after notice in writing of the existence thereof shall have been given by the Owner. If the Bidder shall be called upon to replace

[1] As long as the total price of this contract including all amendments is less than 120 percent of the original contract price as stated in the acceptance hereto, amendments executed on RUS Form 238 are not subject to the approval of the Administrator. Whenever an amendment to this contract causes the total amended contract to exceed 120 percent of the original contract price, that amendment and all subsequent amendments to this contract shall be made subject to the approval of the Administrator.

[2] See Footnote 1.

any defective materials or equipment or to remedy defective workmanship as herein provided, the Owner, if so requested by the Bidder shall deenergize that portion of the Project involved in such work. In the event of failure by the Bidder so to do, the Owner may replace such defective materials or equipment or remedy such defective workmanship, as the case maybe, and in such event the Bidder shall pay to the Owner the cost and expense thereof.

Article III—Payments and Release of Liens

Section 1. Payments to Bidder.

a. Within the first fifteen (15) days of each calendar month, the Owner shall make partial payment to the Bidder for construction accomplished during the preceding calendar month on the basis of completed Construction Units furnished and certified to by the Bidder, recommended by the Engineer, and approved by the Owner solely for the purposes of payment: Provided, however, that such approval shall not be deemed approval of the workmanship or materials. Only ninety percent (90%) of each such estimate approved during the construction of the Project shall be paid by the Owner to the Bidder prior to Completion of the Project: Provided, however, that at any time after work, which, in the sole determination of the Engineer, amounts to fifty percent (50%) of the maximum Contract price has been completed, the Owner may elect, in lieu of paying ninety percent (90%) of each such subsequent estimate, to pay each such subsequent estimate in full. Upon completion by the Bidder of the construction of the Project, the Engineer will prepare an inventory of the Project showing the total number and character of Construction Units and, after checking such inventory with the Bidder, will certify it to the Owner together with a certificate of the total cost of the construction performed. Upon the approval of such certificates by the Owner and the Administrator, the Owner shall make payment to the Bidder of all amounts to which the Bidder shall be entitled thereunder which shall not have been paid, provided, however, that such final payment shall be made not later than ninety (90) days after the date of Completion of Construction of the Project as specified in the Certificate of Completion, unless withheld because of the fault of the Bidder.

b. The Bidder shall be paid on the basis of the number of Construction Units actually installed at the direction of the Owner shown by the inventory: Provided, however, that the total cost shall not exceed the maximum Contract price for the construction of the Project as set forth in the Acceptance, unless such excess shall have been approved in writing by the Administrator.

c. Notwithstanding the provisions of Section la above, the Bidder may, by giving written notice thereof to the Owner, elect to receive payment in full for any Station of the Project upon:

(1) completion of construction of such Station as certified by the Engineer and approved by the Owner and the Administrator;

(2) submission to the Owner and the Administrator of the releases of lien and the certificate referred to in Section 2 hereof;

(3) approval by the Owner and the Administrator of the inventory in respect of such Station; and

(4) submission to the Owner and the Administrator of the consent in writing by the Surety or Sureties, if any, on the Contractor's Bond to payment in full for such Station prior to Completion of the Project. d. Interest at the rate of _____ percent [3] (_____%) per annum shall be paid by the Owner to the Bidder on all unpaid balances due on monthly estimates, commencing fifteen (15) days after the due date; provided the delay in payment beyond the due date is not caused by any condition within the control of the Bidder. The due date for purposes of such monthly payment shall be the fifteenth day of each calendar month provided (1) the Bidder on or before the fifth day of such month shall have submitted its certification of Construction Units completed during the preceding month and (2) the Owner on or before the fifteenth day of such month shall have approved such certification. If, for reasons not due to the Bidder's fault, such approval shall not have been given on or before the fifteenth day of such month, the due date for purposes of this subsection d shall be the fifteenth day of such month notwithstanding the absence of the approval of the certification.

e. Interest at the rate of ——— percent [4] (———%) per annum shall be paid by the Owner to the Bidder on the final payment for the Project or any completed Station thereof, commencing fifteen (15) days after the due date. The due date for purposes of such final payment shall be the date of approval by the Administrator of all of the documents requiring such approval, as a condition precedent to the making of final payment, or ninety (90) days after the date of Completion of Construction of the Project, as specified in the Certificate of Completion, whichever date is earlier.

f. No payment shall be due while the Bidder is in default in respect of any of the provisions of this Contract and the Owner may withhold from the Bidder the amount of any claim by a third party against either the Bidder or the Owner based upon an alleged failure of the Bidder to perform the work hereunder in accordance with the provisions of this Contract.

Section 2. Release of Liens and Certificate of Contractor. (See sample RUS Form 224, Waiver and Release of Lien and sample RUS Form 231, Certificate of Contractor.) Upon the completion by the Bidder of the construction of the Project (or any Station thereof if the Bidder shall elect to receive payment in full for any Station when completed as provided above) but prior to final payment to the Bidder, the Bidder shall deliver to the Owner, in duplicate, releases of all liens and of rights to claim any lien, in the form attached hereto from all manufacturers, materialmen, and subcontractors furnishing services or materials for the Project or such Station and a certificate in the form attached hereto to the effect that all labor used on or for the Project or such Station has been paid and that all such releases have been submitted to the Owner for approval.

Section 3. Payments to Materialmen and Subcontractors. The Bidder shall pay each materialman and each subcontractor, if any, within five (5) days after receipt of any payment from the Owner, the amount thereof allowed the Bidder for and on account of materials furnished or construction performed by each materialman or each subcontractor.

Article IV—Particular Undertakings of the Bidder

Section 1. Protection to Persons and Property. The Bidder shall at all times take all reasonable precautions for the safety of employees on the work and of the public, and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building and construction codes, as well as the safety rules and regulations of the Owner. All machinery and equipment and other physical hazards shall be guarded in accordance with the ''Manual of Accident Prevention in Construction'' of the Associated General Contractors of America unless such instructions are incompatible with Federal, State, or Municipal laws or regulations.

The following provisions shall not limit the generality of the above requirements:

a. The Bidder shall at no time and under no circumstances cause or permit any employee of the Bidder to perform any work upon energized lines, or upon poles carrying energized lines, unless otherwise specified in the Notice and Instructions to Bidders.

b. The Bidder shall so conduct the construction of the Project as to cause the least possible obstruction of public highways.

c. The Bidder shall provide and maintain all such guard lights and other protection for the public as may be required by applicable statutes, ordinances and regulations or by local conditions.

d. Temporary water, light, power and other utility service shall be arranged for by the Bidder for construction purposes at its own expense.

e. The Bidder shall do all things necessary or expedient to properly protect any and all adjacent lines, highways and any and all property of others from damage, and in the event that any such lines, highways or other property are damaged in the course of construction of the Project, the Bidder shall at its own expense restore any or all of such damaged property immediately to as good a state as before such damage occurred.

f. The Project, from the commencement of work to completion, or to such earlier date or dates when the Owner may take possession and control in whole or in part as hereinafter provided shall be under the charge and control of the Bidder and during such period of control by the Bidder all risks in connection with the construction of the Project and the materials to be used therein shall be borne by the Bidder. The Bidder shall make good and fully repair all injuries and damages to the Project or any portion thereof under the control of the Bidder by reason of any act of God or other casualty or

[3] The Owner shall insert a rate equal to the lowest ''Prime Rate'' listed in the ''Money Rates'' section of the Wall Street Journal on the date such invitation to bid is issued.

[4] See Footnote 3.

cause whether or not the same shall have occurred by reason of the Bidder's negligence.

(i) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Bidder's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Bidder's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Bidder, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Bidder liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner.

(ii) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Bidder, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Bidder shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Bidder does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Bidder.

(iii) Bidder shall provide to Owner's satisfaction evidence of Bidder's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.

g. Any and all excess earth, rock, debris, underbrush and other useless material shall be removed by the Bidder from the site of the Project as rapidly as practicable as the work progresses.

h. Upon violation by the Bidder of any of the provisions of this Section, after written notice of such violation given to the Bidder by the Engineer or the Owner, the Bidder shall immediately correct such violation. Upon failure of the Bidder so to do the Owner may correct such violation at the Bidder's expense: Provided, however, that the Owner may, if it deems it necessary or advisable, correct such violation at the Bidder's expense without such prior notice to the Bidder.

i. The Bidder shall submit to the Owner monthly reports in duplicate of all accidents, giving such data as may be prescribed by the Owner.

Section 2. Insurance. The Bidder shall take out and maintain throughout the contract period insurance of the following types and minimum amounts:

(a) Workers' compensation and employers' liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

(b) Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

(c) Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million per occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection ''b'' and ''c'' of this Section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Owner shall be named as Additional Insured on all policies of insurance required in subsections ''b'' and ''c'' of this Section.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.

Section 3. Delivery of Possession and Control to Owner.

a. Upon written request of the Owner the Bidder shall deliver to the Owner full possession and control of any portion of the Project provided the Bidder shall have been paid at least ninety percent (90%) of the cost of construction of such portion. Upon such delivery of the possession and control of any portion of the Project to the Owner, the risk and obligations of the Bidder as set forth in Article IV, Section 1f hereof with respect to such portion of the Project so delivered to the Owner shall be terminated: Provided, however, that nothing herein contained shall relieve the Bidder of any liability with respect to defective materials and workmanship as contained in Article II, Section 6 hereof.

b. Where the construction of a Station as hereinbefore defined in Article II, Section lc and Article III, Section 1c shall have been completed by the Bidder, the Owner agrees, after receipt of a written request from the Bidder, to accept delivery of possession and control of such Station upon the issuance by the Engineer of a written statement that the Station has been inspected and found acceptable by the Engineer. Upon such delivery of the possession and control of any such Station to the Owner, the risk and obligations of the Bidder as set forth in Article IV, Section 1f hereof with respect to such Station so delivered to the Owner shall be terminated: Provided, however, that nothing herein contained shall relieve the Bidder of any liability with respect to defective materials or workmanship as contained in Article II, Section 6 hereof.

Section 4. Assignment of Guarantees. All guarantees of materials and workmanship running in favor of the Bidder shall be transferred and assigned to the Owner prior to the time the Bidder receives final payment.

Article V—Remedies

Section 1. Completion on Bidder's Default. If default shall be made by the Bidder or by any subcontractor in the performance of any of the terms of this Proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Bidder and the Surety or Sureties, if any, upon the Contractor's Bond or Bonds a written notice requiring the Bidder to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Bidder such default shall be corrected or arrangements for the correction thereof satisfactory, to both the Owner and the Administrator shall be made by the Bidder or its Surety or Sureties, if any, the Owner may take over the construction of the Project and prosecute the same to completion by Contract or otherwise for the account and at the expense of the Bidder, and the Bidder and its Surety or Sureties, if any, shall be liable to the Owner for any cost or expense in excess of the Contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the Project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Bidder or any of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims or demands which the Bidder may have against third persons in connection with this Contract and for such purpose the Bidder does hereby assign, transfer and set over unto the Owner all such rights, claims and demands.

Section 2. Liquidated Damages. The time of the Completion of Construction of the Project is of the essence of the Contract. Should the bidder neglect, refuse or fail to complete the construction within the time herein agreed upon, after giving effect to extensions of time, if any, herein provided, then, in that event and in view of the difficulty of estimating with exactness damages caused by such delay, the Owner shall have the right to deduct from and retain out of such moneys

which may be then due, or which may become due and payable to the Bidder the sum of _____ dollars (_____) per day for each and every day that such construction is delayed on its completion beyond the specified time, as liquidated damages and not as a penalty; if the amount due and to become due from the Owner to the Bidder is insufficient to pay in full any such liquidated damages, the Bidder, shall pay to the Owner the amount necessary to effect such payment in full: Provided, however, that the owner shall promptly notify the Bidder in writing of the manner in which the amount retained, deducted or claimed as liquidated damages was computed.

Section 3. Cumulative Remedies. Every right or remedy herein conferred upon or reserved to the Owner or the Government or the Administrator shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election: Provided, however, that the provisions of Section 2 of this Article shall be the exclusive measure of damages for failure by the Bidder to complete the construction of the Project within the time herein agreed upon.

Article VI—Miscellaneous

Section 1. Definitions.

a. The term ''Administrator'' shall mean the Administrator of the Rural Utilities Service of the United States of America and his duly authorized representatives or any other person in whom or authority in which may be vested the duties and functions which the Administrator is now authorized by law to perform.

b. The term ''Engineer'' shall mean the engineer employed by the Owner, with the approval of the Administrator, to provide engineering services for the Project, and said Engineer's duly authorized assistants and representatives.

c. The term ''Supervisor'' shall mean the person, if any, appointed by the Administrator as the representative of the Government under the provisions of the Loan Contract providing for such appointment in special cases. The term is limited to such special representative of the Government, if any, who is responsible exclusively to the Administrator and does not refer to the Manager or any other person employed by the Owner and responsible to it.

d. The term ''Project'' shall mean the substations or other major facilities described in the Plans, Specifications for Construction, and Construction Drawings.

e. The term ''Completion of Construction'' shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof except the Bidder's obligations in respect of (1) Releases of Liens and Certificate of Contractor under Article III, Section 2 hereof, (2) the inventory referred to in Article III, Section I hereof, and (3) other final documents. The term ''Completion of the Project'' shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof. The Certificate of Completion, signed by the Engineer and approved in writing by the Owner and the Administrator, shall be the sole and conclusive evidence as to the date of Completion of Construction and as to the fact of Completion of the Project.

Section 2. Materials and Supplies. In the performance of this contract there shall be furnished only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, Mexico, or Canada, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States, Mexico, or Canada; provided that other articles, materials, or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. The Seller agrees to submit to the Purchaser such certificates with respect to compliance with the foregoing provision as the Administrator from time to time may require.

Section 3. Patent Infringement. The Bidder shall save harmless and indemnify the Owner from any and all claims, suits and proceedings for the infringement of any patent or patents covering any materials or equipment used in construction of the Project.

Section 4. Permits for Explosives. All permits necessary for the handling or use of dynamite or other explosives in connection with the construction of the Project shall be obtained by and at the expense of the Bidder.

Section 5. Compliance with Statutes and Regulations. The Bidder shall comply with all applicable statutes, ordinances, rules, and regulations pertaining to the work. The Bidder acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the so-called ''Kick-Back'' Statute (48 Stat. 948), and regulations issued pursuant thereto, and 18 U.S.C. §§ 287, 1001, as amended. The Bidder understands that the obligations of the parties hereunder are subject to the applicable regulations and orders of Governmental Agencies having jurisdiction in the premises.

Section 6. Equal Opportunity Provisions.

a. Bidder's Representations.

The Bidder represents that:

It has ____, does not have ____, 100 or more employees, and if it has, that it has ____, has not ____, furnished the Equal Employment Opportunity-Employers Information Report EEO–1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964.

The Bidder agrees that it will obtain, prior to the award of any subcontract for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100.

The Bidder agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than $10,000, the Bidder will file such report, as required by law, and notify the Owner in writing of such filing prior to the Owner's acceptance of this Proposal.

b. Equal Opportunity Clause. During the performance of this Contract, the Bidder agrees as follows:

(1) The Bidder will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Bidder will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

(2) The Bidder will, in all solicitations or advertisements for employees placed by or on behalf of the Bidder, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The Bidder will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Bidder's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Bidder will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(5) The Bidder will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the Bidder's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations or orders, this Contract may be cancelled, terminated or suspended in whole or in part and the Bidder may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Bidder will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Secretary of Labor

issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Bidder will take such action with respect to any subcontractor purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Bidder becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Bidder may request the United States to enter into such litigation to protect the interests of the United States.

c. Certificate of Nonsegregated Facilities. The Bidder certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term ''segregated facilities'' means any waiting room, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

Section 7. Franchises. The Bidder shall be under no obligation to obtain or assist in obtaining: Any franchises, authorizations, permits or approvals required to be obtained by the Owner from Federal, State, County, Municipal or other authorities; or any agreements between the Owner and third parties with respect to any matters incident to the construction and operation of the Project.

Section 8. Nonassignment of Contract. The Bidder shall perform directly and without subcontracting not less than twenty-five per centum (25%) of the construction of the Project, to be calculated on the basis of the total Contract price. The Bidder shall not assign the Contract effected by an acceptance of this Proposal or any interest in any funds that may be due or become due hereunder or enter into any contract with any person, firm or corporation for the performance of the Bidder's obligations hereunder or any part thereof, without the approval in writing of the Owner and of the Surety and Sureties, if any, on any bond furnished by the Bidder for the faithful performance of the Bidder's obligations hereunder. If the Bidder, with the consent of the Owner and any Surety or Sureties on the Contractor's Bond or Bonds, shall enter into a subcontract with any subcontractor for the performance of any part of this Contract, the Bidder shall be as fully responsible to the Owner and the Government for the acts and omissions of such subcontractor and of persons employed by such subcontractor as the Bidder would be for its own acts and omissions and those of persons directly employed by it.

Section 9. Extension to Successors and Assigns. Each and all of the covenants and agreements herein contained shall extend to and be binding upon the successors and assigns of the parties hereto.

Section 10. Contractor. Upon acceptance of this Proposal, the successful Bidder shall be the Contractor and all references in the Proposal to the Bidder shall apply to the Contractor.

Section 11. Approval by the Administrator. No acceptance of this Proposal shall become effective until approved in writing by the Administrator: Provided, however, that no obligations shall arise hereunder unless such approval is given within forty-five (45) days from the date of acceptance by the Owner.

_____ (Bidder)
By _____ (President)
_____ (Address)
Attest: _____ (Secretary)
Date _____

The Proposal must be signed with the full name of the Bidder. If the Bidder is a partnership, the Proposal must be signed in the partnership name by a partner. If the Bidder is a corporation, the Proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

Specifications for Construction

Section 1. Scope of Work. The work covered by this Proposal embraces the complete construction of one or more substations or other major facilities as specified in the Acceptance, any omissions or discrepancies notwithstanding. All material furnished by the Bidder shall be new and in conformance with the Specifications for Construction. All construction work shall be done in a thorough and workmanlike manner in accordance with the Plans, Specifications for Construction and Construction Drawings. Deviations from the Plans, Specifications for Construction, and Construction Drawings shall not be permitted except upon the written permission of the Owner given with the approval of the Administrator.

This contract does not include _____ which is to be done by others.

Section 2. Materials. It is the intent of these specifications that insofar as materials required are included in the Rural Utilities Service ''List of Materials Acceptable for use on Systems of RUS Electrification Borrowers,'' such materials only shall be used. In the event that any materials are required beyond the scope of the ''List of Materials Acceptable for use on Systems of RUS Electrification Borrowers,'' specifications for such materials will be included on the drawings or in a supplement to these specifications.

Section 3. Drawings. The Drawings and Specifications collectively, show the specifications of the material and equipment shown thereon, and include schedules of conduit, cable and other items not readily ascertained from the picture drawings. Such schedules show the quantities, sizes, types and other pertinent information; method of installation, and construction details are indicated clearly. The drawings and specifications in the attached List of Drawings are made a part of these contract Specifications.

Section 4. Description of Construction Units. Each Construction Unit consists of a complete installation of the designated portion of a substation or switching station as specified on the drawings, together with connections to associated equipment. Each Construction Unit represents all labor and material including necessary accessories completely installed and tested in satisfactory operation. Full identification of each Construction Unit and all necessary specifications of the installation shall be shown on the drawings. Items of material in each Construction Unit shall be of the designated size, rating, type, voltage, or other specification in accordance With the drawings. The bill of material drawing for each station should contain adequate identification of the Construction Units under which the material is to be installed and should show what items of material may be partly or entirely found in the lists of owner-furnished materials. All items of equipment, unless otherwise specified, are mounted on a structure which shall be a Construction Unit of Group A.

Each Construction Unit shall be designated by the letter of the Group to which it belongs and an identifying number. The same item of equipment shall carry the same Construction Unit designation in all the stations. Items of equipment designated by the same Construction Unit in one station shall be of only one kind as to voltage, type and other specifications. The bid sheet for each station shall be prepared separately from other stations and shall contain all unit prices for Construction Units contained in the station. It is intended that in all cases the ''Name and Description of Construction Unit'' column of the Bid Sheets shall contain sufficient information to identify the Construction Unit.

Additional description to one or more of the Groups may be provided by the Engineer if deemed necessary to clarify the intent of these Specifications for Construction.

Group A. Structures. A Construction Unit consists of a structure, or structures, with bus supports including insulators and fittings, buses, conductors and overhead ground wires to adjacent structures within the station, grounding material to connect equipment with the ground bus, and associated material including mounting brackets, supports for equipment, clamps and connectors, all as specified in the drawings.

Group B. Three-Pole Group Operated Air Break Switches. A Construction Unit consists of one 3-pole group operated air break switch with all accessories and operating mechanisms as specified in the drawings.

Group C. Lightning Arresters. A Construction Unit consists of one single-phase lightning arrester.

Group D. Single Pole Disconnecting Switches. A Construction Unit consists of one single pole disconnecting or by-pass switch as specified in the drawings. If a fuse disconnect switch is specified, the fuse is included with the switch.

Group E. Oil Circuit Breakers. A Construction Unit consists of one complete three-phase power circuit breaker complete with supporting frame and control cabinet, unless shown otherwise in the drawings, mounted as specified in the drawings.

Group F. Oil Circuit Reclosers. A Construction Unit consists of a complete single-phase or three-phase oil circuit recloser as specified in the drawings.

Group G. Meters, Relays and Instrument Transformers. A Construction Unit consists of one meter, relay, potential transformer or current transformer.

Group H. Transformers. A Construction Unit consists of one power transformer or one station service transformer either single-phase or three-phase as specified in the drawings.

Group I. Voltage Regulators. A Construction Unit consists of one single-phase or three-phase voltage regulator as specified in the drawings.

Group J. Communications and Supervisory Control Equipment. A Construction Unit consists of carrier current equipment, microwave, or other types of communications and supervisory control equipment as specified in the drawings.

Group K. Conduit and Cable. A Construction Unit consists of the wire, cable, conduit and accessories necessary to complete the installation of equipment in accordance with the specifications and drawings, where such installation has not been included in other Groups.

Group L. Foundations. A Construction Unit consists of concrete footings and foundations except for the fence, as specified in the drawings.

Group M. Site Preparation. A Construction Unit consists of clearing, grading, drainage work, and surfacing, as specified in the drawings.

Group N. Fence. A Construction Unit consists of the complete installation of the fence, gates, etc., as specified in the drawings.

Group O. Station Grounding. A Construction Unit consists of the complete ground bus including ground rods, grounding mats or platforms, except as otherwise provided in other Groups, with connections to structures, equipment, and fence as specified in the drawings.

Group P. Building. A Construction Unit consists of a control building or cabinet, on a foundation of Group L and the facilities and equipment installed therein as specified in the drawings, except as otherwise provided in other Groups.

Other Groups. The Engineer shall specify such additional Groups as may be necessary for the completion of the Project. Description of these Groups shall be provided by an addition to this Section of the Specifications for Construction.

_____ Station construction Units
Unit No. _____
Name and Description of Construction Unit
_____
No. of Units _____
Unit Prices
Labor _____
Materials _____
Labor and Materials _____
Extended Price—Labor and Materials
_____
Total Price _____

Acceptance

Subject to the approval of the Administrator, the Owner hereby accepts the foregoing Proposal of the Bidder, _____ for the construction of the following substations or other major facilities:

_____ Substation, $_____
_____ $_____
The total contract price is $_____
_____ Owner
By _____ President
_____ Secretary
_____ Date of Contract

[End of clause]

§ 1726.341 Electric system communications and control equipment contract, RUS Form 786.

The contract form in this section shall be used when required by this part.

Electric System Communications and Control Equipment Contract (Including Installation)

Proposal to Furnish, Deliver, and Install Equipment and Materials

To:_____ (hereinafter called the ''Purchaser'')

The undersigned (hereinafter called the ''Seller'') hereby proposes to furnish, deliver, install, align and test the equipment and materials, (hereinafter called the ''Equipment'') described in the plans, specifications and drawings (hereinafter called the ''Specifications'') attached hereto identified as _____ and made a part hereof, and other Attachments identified as _____ and made a part hereof, for the electric system designated _____, financed in whole or in part by a loan to the Purchaser by the United States of America, acting through the Administrator of the Rural Utilities Service (hereinafter called the ''Administrator'').

The Seller has become informed as to the location and characteristics of the proposed Equipment and the facilities over which the Equipment is to perform, has become informed as to the kind of facilities required before and during the delivery and installation of the Equipment and has become acquainted with the labor conditions which would affect the work as well as the ecological and environmental criteria to be followed. The Seller agrees that if its Proposal is accepted the following terms and conditions shall govern.

If, in submitting this Proposal, the Seller has made any change in the form of Proposal furnished by the Purchaser, the Seller understands that the Purchaser and the Administrator may evaluate the effect of such change as they see fit or they may exclude the Proposal from consideration.

Article I

Section 1. Proposal Price. The Seller will furnish, deliver, install, align and test the Equipment described in the Specifications for the following sum:

Total Contract Price $_____
Delivery time is _____ calendar days.
Completion time is _____ calendar days.

A detailed price breakdown by locations, showing equipment pricing and installation pricing, is given in the Attachment identified as _____ and made a part hereof.

Section 2. Changes. The Purchaser, subject to the approval of the Administrator,[1] may from time to time during the performance of the work make such changes, additions to or subtractions from the Specification's which are part of the Proposal as conditions may warrant; provided, however, that, if any change in the work shall require an extension of time, a reasonable extension will be granted if the Seller shall make a written request therefor to the purchaser within ten (10) days after any such change is made and, provided further, that, if the cost to the Seller shall be increased or decreased by any such change or addition, the contract price shall be increased or decreased by the reasonable cost thereof, in accordance with a contract amendment signed by the Purchaser and the Seller and approved by the Administrator,[2] but no claim for additional compensation for any such change or addition will be considered unless the Seller shall have made a written request therefor to the Purchaser prior to the commencement of work in connection with such change or addition.

Section 3. Taxes. The prices herein set forth do not include any sums which are or may be payable by the Seller or the Purchaser on account of taxes imposed by any taxing authority upon the sale, purchase or use of the Equipment or labor of installation. If any such tax is applicable, the amount thereof shall be stated separately and added to the Proposal price and paid by the Purchaser.

Article II—Delivery and Installation

Section 1. Time of Completion. The time of delivery of the Equipment and of completion of the work is of the essence of this Contract. The seller will deliver the Equipment within the number of calendar days specified in Article I, Section 1, after the Administrator shall have approved this contract in writing and will prosecute

[1] As long as the total price of this contract including all amendments is less than 120 percent of the original contract price as stated in the acceptance hereto, amendments executed on RUS Form 238 are not subject to the approval of the Administrator. Whenever an amendment to this contract causes the total amended contract to exceed 120 percent of the original contract price, that amendment and all subsequent amendments to this contract shall be made subject to the approval of the Administrator.

[2] See Footnote 1.

diligently and complete the work within the number of calendar days specified in Article I, Section 1, after such approval. The time for such delivery and completion shall be extended for the period of any reasonable delay due exclusively to causes beyond the control and without the fault of the Seller, including, but not limited to, acts of God, fires, strikes, floods, changes in the Specifications as herein provided, and acts or omissions of the Purchaser with respect to matters for which the Purchaser is solely responsible; provided, however, that no delay in such time for delivery or completion of the work or in the progress of the work shall result in any liability on the part of the Purchaser, and provided further that any claim for extension of time shall be adjusted at the time any such delay occurs or any such change is made.

Section 2. Supervision and Inspection. The Seller will give adequate supervision to the work. He will carefully study and compare all drawings, specifications, and other instructions and will at once report to the Purchaser any error, inconsistency or omission which he may discover. The Seller will keep on his work during its progress a competent superintendent and any necessary assistants, all satisfactory to the Purchaser. The Superintendent shall represent the Seller in his absence and all directions given to him shall be as binding as if given to the Seller. When requested, such directions shall be confirmed in writing.

Section 3. The Purchaser will make available during installation a competent representative to coordinate installation activities with the Seller.

Section 4. Alignment, Inspection and Tests. The Seller shall adjust and align the Equipment to perform in accordance with the Specifications and furnish in writing to the Purchaser data to show the state of adjustment of the Equipment. Immediately upon completion of the installation and alignment of the Equipment the Seller shall provide the necessary test equipment and perform the inspections and tests specified in the Specifications under the direct supervision of the Purchaser or its Engineer. A competent representative of the Purchaser or his Engineer will be available to supervise and witness these tests immediately upon completion of installation and alignment by the Seller and to determine for the purchaser that the performance of the equipment meets the Specifications. Such determination, however, shall not preclude subsequent rejection pursuant to Section 7 of this Article II. The Seller shall furnish in writing to the Purchaser the results of all tests. All Equipment furnished hereunder shall be subject to the inspection, tests, and approval of the Purchaser and the Administrator. The Purchaser and the Administrator shall have the right to inspect all records of the Seller and of any subcontractor relevant to the installation work. The Seller shall provide all reasonable facilities necessary for such inspection and tests.

Section 5. If as a result of the tests and measurements set forth in Section 4 above, the Performance Specifications of the Equipment cannot be met due to inaccuracies, or inadequacies in the system data provided in the Specifications, the Purchaser and Seller shall determine what corrective measures are necessary and whether these corrections shall be made by the Purchaser or the Seller.

If it is determined that the Seller shall make the corrections, the Purchaser will reimburse the Seller pursuant to a contract amendment, subject to the approval of the Administrator,[3] for such reasonable additional expenses for the corrections, realignment and retesting the Seller is required to perform pursuant to this amendment.

Where it is determined that the Purchaser will make the corrections, the Purchaser will reimburse the Seller pursuant to a contract amendment, subject to the approval of the Administrator,[4] for such reasonable additional expenses for realignment and retesting the Seller is required to perform pursuant to this amendment, including, if necessary, the added expense of returning to the project, where necessary, for reperforming alignment and testing.

Section 6. Employees. The Purchaser shall have the right to require the removal from the work of any employee of the Seller if in the judgment of the Purchaser such removal shall be necessary in order to protect the interest of the Purchaser.

Section 7. Defective Workmanship and Materials. Notwithstanding the acceptance of workmanship, materials or equipment or the giving of any certificate with respect to the Completion of the Work, if during performance hereunder or within one year after completion or within such longer period as the Equipment or any part thereof may be guaranteed by the Seller and Manufacturer, the workmanship, materials or equipment, except as may be otherwise provided in the Specifications, shall be found to be defective or not in conformity with the Specifications, the Seller shall remedy or replace at its expense such workmanship, materials or equipment within thirty (30) days after notice of the existence thereof shall have been given to the Seller by the Purchaser.

Article III—Payments and Releases of Liens

Section 1. Payment to Seller.

(a) The Purchaser shall pay the Seller upon the basis of estimates by the Seller recommended by the supervising engineer, if any, and approved by the Purchaser of the work completed, the following percentages of the price of the equipment for each location set forth in Article I, Section 1, as and if revised: 45% when 50% of the equipment for each location has been delivered at the site of the Project; 90% when all the equipment for each location has been delivered at the site of the Project.

(b) Upon completion of installation of the equipment for each location, the Purchaser shall pay the Seller 90% of the Total price for such location.

(c) Upon Completion of the Installation of the Equipment, but prior to the payment to the Seller of any amount in excess of ninety percent (90%) of the Total Contract Price, the supervising engineer, if any, of the Purchaser or the Purchaser shall inspect the work performed hereunder and if the work shall be found acceptable and all provisions hereunder fully performed, the supervising engineer, if any, of the Purchaser shall certify as to that fact and as to the amount of the balance found to be due to the Seller. Upon acceptance by the Purchaser, the Purchaser shall pay to the Seller all unpaid amounts to which the Seller shall be entitled hereunder; provided, however, such final payments shall be made not later than 120 days after completion of the work, unless such acceptance by the Purchaser shall be withheld because of the fault of the Seller.

Section 2. Release of Liens. Upon the Completion of the Installation of the Equipment by the Seller, but prior to the payment to the Seller of any amount in excess of ninety percent (90%) of the Total Contract Price, the Seller will deliver to the Purchaser, in duplicate, releases of all liens and of rights to claim any lien from manufacturers, materialmen and subcontractors who have furnished materials or services for the work and a certificate by the Seller in a form approved by the Administrator, to the effect that all labor has been paid and that all such releases have been submitted to the Purchaser for approval.

In lieu of releases of liens, and if the Administrator shall so approve, the Seller may deliver to the Purchaser, in duplicate, (1) a certificate, in a form approved by the Administrator, that all manufacturers, materialmen and subcontractors who have furnished materials or services for the Project have been paid in full, and (2) an agreement to hold the Purchaser harmless against any liens arising out of the Seller's performance hereunder which may have been or may be filed against the Purchaser.

Article IV—Particular Undertakings of the Seller

Section 1. Protection to Persons and Property. At all times when Equipment is being delivered and installed the Seller will exercise reasonable precautions for the safety of employees on the work and of the public, and will comply with all applicable provisions of Federal, State and Municipal safety laws and building and construction codes. All machine and equipment and other physical hazards shall be guarded in accordance with the ''Manual of Accident Prevention in Construction'' of the Associated General Contractors of America, unless such instructions are incompatible with Federal, State, or Municipal laws or regulations.

The following provisions shall not limit the generality of the above requirements:

(a) The Seller will at all times keep the premises free from accumulations of waste material or rubbish caused by his employees or work, and at the completion of the work he will remove all rubbish and all his tools, scaffolding and surplus materials and will leave his work ''broom clean.''

(b) The Seller will perform work in such manner as to maximize preservation of aesthetics and conservation of natural resources, and minimize marring and scarring of the landscape and silting of streams. There will be no depositing of trash in streams or waterways. Herbicides, other

[3] See Footnote 1.

[4] See Footnote 1.

chemicals or their containers will not be deposited in or near streams, waterways or pastures. The Seller will follow, under the general direction of the Purchaser, the criteria relating to environmental protection as specified herein by the Purchaser.

(c) The work, from its commencement to completion, or to such earlier date or dates when the Purchaser may take possession and control, shall be under the charge and control of the Seller and during such period of control by the Seller all risks in connection therewith and the materials to be used therein, whether owned by the Seller or Purchaser, shall be borne by the Seller. The Seller will make good and fully repair all injuries and damages to the work or any portion thereof under the control of the Seller by reasons of any act of God, or any other casualty or cause whether or not the same shall have occurred by reason of the Seller's negligence.

(i) To the maximum extent permitted by law, Seller shall defend, indemnify, and hold harmless Purchaser and Purchaser's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Seller's employees) and loss, damage to or destruction of Purchaser's property or the property of any other person or entity (including but not limited to Seller's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Seller, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Seller liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Purchaser.

(ii) To the maximum extent permitted by law, Seller shall defend, indemnify, and hold harmless Purchaser and Purchaser's directors, officers, and employees from all liens and claims filed or asserted against Purchaser, its directors, officers, and employees, or Purchaser's property or facilities, for services performed or materials or equipment furnished by Seller, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Seller shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Purchaser promptly when it has done so. If Seller does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Purchaser shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Seller.

(iii) Seller shall provide to Purchaser's satisfaction evidence of Seller's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.

(d) Monthly reports of all accidents will be promptly submitted by the Seller, giving such data as may be prescribed by the Purchaser.

Section 2. Delivery of Possession and Control to Purchaser. Upon written request of the Purchaser, the Seller shall deliver to the Purchaser full possession and control of any completed location included in the work, provided the Seller shall have been paid at least 90% of such Total Location Price. Upon such delivery of the possession and control of any such location to the Purchaser, the risks and obligations of the Seller, as set forth in Article IV, Section 1(b) hereof, with respect to such location shall be terminated; provided however, that nothing herein contained shall relieve the Seller of any liability with respect to defective workmanship or materials as specified in Article II, Section 7, hereof.

Section 3. Insurance. The Seller shall take out and maintain throughout the contract period insurance of the following types and minimum amounts:

(a) Workers' compensation and employers' liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

(b) Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

(c) Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million per occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

The Purchaser shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection ''b'' and ''c'' of this Section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Purchaser shall be named as Additional Insured on all policies of insurance required in subsections ''b'' and ''c'' of this Section.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Purchaser. The Seller shall furnish the Purchaser a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Purchaser of any cancellation or material change in the insurance.

Section 4. Purchase of Materials. The Seller shall purchase all materials and supplies outright and not subject to any conditional sales agreements, bailment lease or other agreement reserving unto the Seller any right, title or interest therein. Materials and Supplies shall become the property of the Purchaser as the Purchaser makes payments therefor to the Seller in accordance with Article III, Section 1(a). Unless otherwise specified, all materials shall be new.

Section 5. Assignment of Guarantees. All guaranties of materials and workmanship running in favor of the Seller shall be transferred and assigned to the Purchaser on completion of the work and at such time as the Seller receives final payment.

Section 6. Patent Infringement. The Seller shall hold harmless and indemnify the Purchaser from any and all claims, suits, and proceedings for the infringement of any patent or patents covering any, equipment, materials, supplies, or installation methods used in the work. The Seller shall, at its own cost (and Purchaser agrees to permit Seller to do so) defend any suits which may be instituted by any, party against the Seller for alleged infringement of patents relating to the Seller's performance hereunder.

Section 7. Compliance with Statutes and Regulations. The Seller shall comply with all applicable statutes, ordinances, rules and regulations pertaining to the work. The Seller acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the so-called ''Kick-Back'' Statutes (48 Stat. 948), and all regulations issued pursuant thereto, and 18 U.S.C. §§ 287,1001 as amended and the Seller agrees to comply with the provisions of all of such statutes and regulations.

Article V—Remedies

Section 1. Completion on Seller's Default. If default shall be made by the Seller or by any subcontractor in the performance of any of the work hereunder, the Purchaser, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Seller and the surety or sureties upon the Seller's Bond or Bonds, if any, a written notice requiring the Seller to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Seller such default shall be corrected or arrangements for the correction thereof, satisfactory to both the Purchaser and the Administrator, shall be made by the Seller or its surety or sureties, the Purchaser may take over the performance of the Seller's obligations hereunder and prosecute the same to completion by contract or otherwise for the account and at the expense of the Seller, and the Seller and its surely or sureties shall be liable to the Purchaser for any cost or expense in excess of the contract price occasioned thereby. In such event, the purchaser may take possession of and utilize, in completing the work, any tools, supplies, equipment, appliances and plant belonging to the Seller which may be situated at the site of the installation work. The Purchaser, in such contingency, may exercise any rights, claims

or demands which the Seller may have against third persons in connection herewith and for such purpose the Seller does hereby assign, transfer and set over unto the Purchaser all such rights, claims and demands.

Section 2. Enforcement of Remedies by Administrator. The Administrator may on behalf of the Purchaser exercise any right or enforce any remedy which the Purchaser may exercise or enforce hereunder.

Section 3. Cumulative Remedies. Every right or remedy herein conferred upon or reserved to the Purchaser or the Administrator shall be cumulative and shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election.

Article VI—Miscellaneous

Section 1. Definitions. (a) The contract documents shall consist of the Proposal and Acceptance, the Contractor's Bond and the Specifications.

(b) The term ''Completion of Installation'' shall mean full performance by the Seller of the Seller's obligations under the Contract and all amendments and revisions thereof, except that it shall not include the final acceptance tests nor performance of the Seller's obligations in respect of (i) releases of liens and Certificate of Seller under Article III, Section 2 hereof, (ii) other final documents. The term ''Completion of the Work'' shall mean full performance by the Seller of the Seller's obligations under the Contract and all amendments and revisions thereof. The Certificate of Completion signed by the supervising engineer and approved by the Purchaser or signed by the Purchaser, if the Purchaser shall not employ an Engineer, and approved in writing by the Administrator within a reasonable time after completion shall be conclusive evidence as to the fact of completion and the date thereof.

Section 2. Materials and Supplies. In the performance of this contract there shall be furnished only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, Mexico, or Canada, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States, Mexico, or Canada; provided that other articles, materials, or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. The Seller agrees to submit to the Purchaser such certificates with respect to compliance with the foregoing provision as the Administrator from time to time may require.

Section 3. Equal Opportunity Provisions. (a) Seller's Representations.

The Seller represents that:

It has ____, does not have ____, 100 or more employees, and if it has, that it has ____, has not ____, furnished the Equal Employment Opportunity—Employers Information Report EEO–1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964.

The Seller agrees that it will obtain, prior to the award of any subcontract for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100.

The Seller agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than $10,000 the Seller will file such report, as required by law, and notify the Purchaser in writing of such filing prior to the Purchaser's acceptance of this Proposal.

(b) Equal Opportunity Clause. During the performance of this Contract, the Seller agrees as follows:

(1) The Seller will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Seller will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited, to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Seller agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

(2) The Seller will, in all solicitations or advertisements for employees placed by or on behalf of the Seller, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The Seller will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Seller's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Seller will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Seller will furnish all information and reports required by Executive Order 11246 of September 21, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Seller's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations or orders, this Contract may be cancelled, terminated or suspended in whole or in part, and the Seller may be declared ineligible for further Government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Seller will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Seller will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Seller becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Seller may request the United States to enter into such litigation to protect the interests of the United States.

(c) Certificate of Nonsegregated Facilities. The Seller certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Seller certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Seller agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term ''segregated facilities'' means any waiting room, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Seller agrees that (except where it has obtained identical certificates from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

Section 4. Bond. The Seller will furnish to the Purchaser, for a contract in excess of $100,000 a bond in a penal sum not less than the Proposal price and in the form attached hereto and with a Surety or Sureties listed by the United States Treasury Department as acceptable Sureties.

Section 5. License. The Seller shall comply with all applicable construction codes.

(a) The Seller warrants that he possesses contractor's license number ____ issued to him by the State of ____ in which the work is located, and said license expires on ____, 19____.

(b) The Seller warrants that no license is required in the State in which the work is located.

(Cross out that subsection which does not apply.)

Section 6. Nonassignment of Contract. The Seller will not assign the Contract effected by acceptance of this Proposal, or any part thereof, or enter into any contract with any person, firm or corporation, for the performance of the Seller's obligations hereunder or any part hereof, without the approval in writing of the Purchaser and the Surety or Sureties on the Contractor's Bond or Bonds, if any; provided, however, the Seller may subcontract the whole or any part of the installation work to be performed at the installation site (as distinguished from furnishing and delivery of equipment and materials). If the Seller, with the consent of the Purchaser and the Surety or Sureties on the Contractor's Bond or Bonds, if any, shall enter into any subcontract with any subcontractor for the Performance of any part of the installation work to be performed at the installation site, the Seller shall be as fully responsible to the Purchaser and the United States of America for the acts and omissions of such subcontractor and of persons employed by such subcontractor as the Seller would be for its own acts and omissions and those of persons directly employed by it.

Section 7. Approval of the Administrator. The acceptance of this Proposal by the Purchaser shall not create a contract unless such acceptance shall be approved in writing by the Administrator within ninety (90) days after the date of the Proposal.

_____ Seller
By _____
_____ Title
Date of Proposal _____

(If executed by one other than President, Vice-President, a partner or the individual owner, a power of attorney authorizing execution should accompany this proposal.)

Acceptance

Subject to the approval of the Administrator, the Purchaser hereby accepts the Proposal of _____ (Dated _____) for the Equipment herein described for the Total Base Price of $_____ and the following options for:
Spare Parts $_____
Maintenance Tools $_____
Test Equipment $_____
Other Options: (Describe) $_____
Total Contract Price $_____
_____ Purchaser
By _____ President
Attest _____ Secretary
Date of Acceptance _____

[End of clause]

§ 1726.342 Distribution line extension construction contract (labor and materials), RUS Form 790.

The contract form in this section shall be used when required by this part.

Distribution Line Extension Construction Contract (Labor and Materials)

Proposal

To: _____ (hereinafter called the ''Owner'').

Article I—General

Section 1—Offer to Construct. The undersigned (hereinafter called the ''Contractor'') hereby proposes to furnish labor, materials, and equipment for, and construct for the prices hereinafter stated, the rural electric project ____—19____ Line Extensions (hereinafter called ''Project'') in strict accordance with the Plans, Specifications, and Construction Drawings hereinafter referred to. The Contractor understands and agrees that the Project will consist of line extensions and additions and line changes or similar work usually associated with overhead or underground distribution system improvement or extension work all located within the area served or ultimately to be served by the Owner and that the exact location and scope of individual sections of the Project (hereinafter called ''Sections'') will be made known to the Contractor from time to time as provided in Article II, Section 1 hereof; and provided, however, that the Contractor shall not be obligated to start construction of any Section unless the cost of construction of the Section computed on the unit prices of this Proposal shall amount to at least ____ dollars ($____) and provided further that the Owner shall be obligated to release to the Contractor for construction at least one Section pursuant to the provisions of this Proposal.

Section 2—Additional Projects. From time to time the owner and the Contractor may enter into negotiations for the performance of work at prices which may differ from those in the Proposal (such work being hereinafter called ''Additional Projects''). Except as may otherwise be agreed upon in writing by the Owner and the Contractor at the time the supplemental contract for the Additional Project is negotiated, the provisions of the Contract for the Project shall apply.

Section 3—Proposal on Unit Basis. The Contractor understands and agrees that the various Construction Units considered in this Proposal are defined by symbols and descriptions in this Proposal, that the Proposal is made on a unit basis, and that the Owner may specify, as provided in Article II, Section 1 hereof, any number or combination of Construction Units which the Owner, may deem necessary for the construction of the Project. If kinds of Construction Units for which prices are not established in this Proposal are necessary for the construction of the Project, the prices of such additional Units shall be as agreed upon in writing by the Owner and the Contractor prior to the time of installation. The unit labor prices herein set forth are applicable to work performed on unenergized lines. Such unit labor prices shall be increased by ____ (____) percent for all units installed on energized lines in accordance with instructions of the Owner, as provided in Article II, Section 1g.

Section 4—Description of Contract. The Specifications and Construction Drawings set forth in: RUS Form 804, Specifications and Drawings for 7.2/12.5 kV Line Construction; RUS Form 803, Specifications and Drawings for 14.4/24.9 kV Line Construction; RUS Form 806, Specifications and Drawings for Underground Electric Distribution; as applicable, which by this reference are incorporated herein, together with the Plans, Proposal and Acceptance constitute the Contract. The Plans, consisting of maps and special drawings, and approved modifications in standard specifications are attached hereto and identified as follows:

____

Section 5—Familiarity with Conditions. The Contractor acknowledges that it has made a careful examination of the site of the Project and of the Plans, Specifications and Construction Drawings, and has become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be encountered, the kind of equipment, tools, and other facilities required before and during the construction of the Project and has become acquainted with the availability status of materials and with the labor conditions which would effect work on the Project.

Section 6—License. The Contractor warrants that a Contractor's license is ____ is not ____ required, and if required, it possesses Contractor's License No. ____ for the State of ____ in which the Project is located, and said license expires on ____, 19____.

Section 7—Contractor's Resources. The Contractor warrants that it possesses adequate financial resources for the performance of the work covered by this Proposal and that it will provide necessary tools and equipment and a qualified superintendent and other employees.

Section 8—Changes in Construction. The Contractor agrees to make such changes in construction previously installed in the Project by the Contractor as required by the Owner on the following basis: The cost of labor shall be the reasonable cost thereof as agreed upon by the Contractor and the Owner but in no event shall it exceed two (2) times the labor price quoted in the Proposal for the installation of the unit to be changed. Such compensation shall be in lieu of any other payment for the installation and removal of the original unit but shall not include the cost of the installation, if any, of a new or replacing unit, payment for which shall be made at the unit price as quoted in the Proposal.

No payment shall be made to the contractor for correcting errors or omissions on the part of the Contractor which result in construction not in accordance with the Plans and Specifications.

Section 9—Materials and Equipment. The Contractor agrees to furnish and use in the construction of the Project under this Proposal, only such materials and equipment as are included on the current ''List of

Materials Acceptable for Use on Systems of RUS Electrification Borrowers,'' including revisions adopted prior to construction.

The Contractor further agrees to furnish and use guy wire with ASTM Class ____ (Owner to insert A or B) zinc coating.

All leads on equipment such as transformers, reclosers, etc., shall be of #6 minimum copper conductivity using ____ (Owner to insert stranded soft drawn copper or aluminum alloy) conductor. All conductor ties on insulators shall be of the materials and methods shown in the following Type Guide Drawings: ____ (Owner to insert appropriate drawing numbers.)

Ground rods and butt-type grounding plates shall be ____.(Owner to insert galvanized steel or copper.)

Underground primary cables shall have ____ coated copper neutral (Owner to insert round or flat.)

The Contractor further agrees to furnish poles, crossarms, and other timber products, of which the physical characteristics, method of treatment, type of preservative, instructions on inspection and general procedure shall be in accordance with RUS standards and requirements.

Crossarms shall be ____ (Owner to insert Douglas Fir or Southern Yellow Pine), treated with ____ (Owner to insert type of preservative.)

The Contractor agrees that the prices for poles, crossarms, and other timber products set forth herein shall include the cost of preservative treatment and inspection or insured warranty. The Contractor further agrees to obtain from the supplier inspection and treatment reports or insured warranties, for checking against the delivery timber, and to submit such reports or warranties to the Owner as one of the prerequisites to monthly and final payments.

Section 10—Owner-Furnished Materials. a. The Contractor understands and agrees that the Owner may, with approval of the Contractor, furnish to the Contractor some of the materials and equipment required for construction of the Project, (hereinafter called ''Owner-Furnished Materials''). The quantity, type, and value of Owner-Furnished Materials for each Section shall be as agreed upon by the Contractor and Owner prior to the start of construction of each Section of the Project. The Owner shall make such materials and equipment available to the Contractor as provided in Article II, Section 1, b, and the Contractor will give to the Owner a receipt in such form as the Owner shall approve.

b. The value of the completed Construction Units certified to by the Contractor each month pursuant to Article III, Section 1, a, of this Proposal shall be reduced by an amount equal to the value of the Owner-Furnished Materials installed by the Contractor during the preceding month. Only ninety percent (90%) of the remainder shall be paid prior to the Completion of the Section. Owner-Furnished Materials, if any, not required for the Section, shall be returned to the Owner by the Contractor upon Completion of Construction of the Section. The value of all Owner-Furnished Materials not installed in the Section of the Project or returned to the Owner shall be deducted from the final payment to the Contractor for the Section.

Section 11—References to Materials. The references in this Proposal to ''Materials'', except in Article IV, Section 1.f, shall be understood to mean only materials to be furnished by the Contractor.

Section 12—Taxes. The unit prices for Construction Units in this Proposal include provisions for the payment of all monies which will be payable by the Contractor or the Owner in connection with construction of the Project on account of taxes imposed by any taxing authority upon the sale, purchase or use of materials, supplies or equipment to be incorporated in the Project as part of such Construction Units. The Contractor agrees to pay all such taxes except on Owner-Furnished Materials and it is understood that, as to Owner-Furnished Materials, the values as agreed to by the Owner and Contractor for such materials include such taxes, if applicable. The Contractor will furnish to the appropriate taxing authorities all required information and reports pertaining to materials used on construction of the Project except as to Owner-Furnished Materials.

Article II—Construction

Section 1—Time and Manner of Work. The Contractor agrees to be prepared to commence the construction of the Project within fifteen (15) calendar days after written notice by the Owner of the acceptance of the Proposal. The Contractor agrees to commence construction of a Section within ____ (____) days after receipt in writing from the Owner of the following:

a. Location and number of the various Construction Units required for construction of the Section (hereinafter called the ''Staking Sheets'').

b. Itemized list including appropriate Unit prices, of the Owner-Furnished Materials to be used in the construction of the Section and an authorization by the Owner for the Contractor to obtain such materials from the Owner's warehouse located at ____.

c. A schedule showing the rate at which construction of the Section shall proceed and the total number of calendar days (excluding Sundays) to be allowed for completion; provided, however, that the required completion time for any Section shall not be less than ____ (____) days or ____ (____) days per mile of line, whichever is the greater, which days shall be calendar days (excluding Sundays). The time of the completion of the Section is of the essence of the contract to be effected by acceptance of this Proposal.

d. A statement that all required easements and rights-of-way have been obtained from the owners of the properties across which the Section is to be constructed (including tenants who may reasonably be expected to object to such construction).

e. A statement that all necessary staking has been completed.

f. A statement that all necessary funds for prompt payment for the construction of the Section will be available.

g. Specific instruction as to location and extent of work to be performed on energized lines, if any. The Contractor will not be required to dig holes, set poles, install anchors, install underground conduit, perform any plowing for the installation of underground cable, or dig trenches if there are more than six (6) inches of frost in the ground nor to perform any construction on such days when in the judgment of the Owner snow, rain, or wind, or the results of snow, rain, or frost make it impracticable to perform any operation of construction; provided further that the Contractor will not perform any plowing for the installation of underground cable on public roads or highways if there are more than two (2) inches of frost in the ground. To the extent of the time lost due to the conditions described herein and approved in writing by the Owner, the time of completion set out above will be extended. The time for completion shall be extended for a period of any reasonable delay (other than a delay resulting from the failure of the Contractor to secure sufficient labor) which is due exclusively to causes beyond the control and without the fault of the Contractor including acts of God, fires, floods, inability to obtain materials, direction of the Owner to cease construction as herein provided, and acts or omissions of the Owner with respect to matters for which the Owner is solely responsible; Provided, however, that no such extension of time for completion shall be granted the Contractor unless within ten (10) days after the happening of any event relied upon by the Contractor for such an extension of time the Contractor shall have made a request therefor in writing to the Owner, and provided further that no delay in such time of completion or in the progress of the work which results from any of the above causes except acts or omissions of the Owner, shall result in any liability on the part of the Owner.

Section 2—Changes in Plans, Specifications and Drawings. The Owner may, from time to time during the progress of the construction of the Project, make such changes in, additions to, or subtractions from the Plans, Specifications, and Construction Drawings as conditions may warrant: Provided, however, that if the cost to the Contractor shall be materially increased by any such change or addition, the Owner shall pay the Contractor for the reasonable cost thereof in accordance with a construction contract amendment signed by the Owner and the Contractor, but no claim for additional compensation for any such change or addition will be considered unless the Contractor shall have made a written request therefor to the Owner prior to the commencement of work in connection with such change or addition.

Section 3—Supervision and Inspection. a. The Contractor shall cause the construction work on the Project to receive constant supervision by a competent superintendent (hereinafter called the ''Superintendent'') who shall be present at all times during working hours where construction is being carried on. The Contractor shall also employ, in connection with the construction of the Project, capable, experienced, and reliable foremen and such skilled workmen as may be required for the various classes of work to be performed. Directions and instructions given to the Superintendent by the Owner shall be binding upon the Contractor.

b. The Owner reserves the right to require the removal from the Project of any employee

of the Contractor if in the judgment of the Owner such removal shall be necessary in order to protect the interest of the Owner. The Owner shall have the right to require the Contractor to increase the number of his employees and to increase or change the amount or kinds of tools and equipment if at any time the progress of the work shall be unsatisfactory to the Owner; but the failure of the Owner to give any such directions shall not relieve the Contractor of his obligations to complete the work within the time and in the manner specified in this Proposal.

c. The manner of construction of the Project and all materials and equipment used therein, shall be subject to the inspection, tests, and approval of the Owner. The Owner shall have the right to inspect all payrolls and other data and records of the Contractor relevant to the work. The Contractor will provide all reasonable facilities necessary for such inspection and tests. The Contractor shall have an authorized agent accompany the inspector when final inspection is made and, if requested by the Owner, when any other inspection is made.

d. In the event that the Owner shall determine that the construction contains or may contain numerous defects, it shall be the duty of the Contractor, if requested by the Owner, to have an inspection made by an engineer approved by the Owner for the purpose of determining the exact nature, extent, and location of such defects.

Section 4—Defective Materials and Workmanship. a. The acceptance of any materials, equipment (except owner-furnished materials) or any workmanship by the Owner shall not preclude the subsequent rejection thereof if such materials, equipment, or workmanship shall be found to be defective after delivery or installation, and any such materials, equipment or workmanship found defective before final acceptance of the construction shall be replaced or remedied, as the case may be, by and at the expense of the Contractor. Any such condemned material or equipment shall be immediately removed from the site of the Project by the Contractor at the Contractor's expense. The Contractor shall not be entitled to any payment hereunder so long as any defective materials, equipment or workmanship in respect to the Project, of which the Contractor shall have had notice, shall not have been replaced or remedied, as the case may be.

b. Notwithstanding any certificate which may have been given by the Owner, if any materials, equipment (except owner-furnished materials) or any workmanship which does not comply with the requirements of this Contract shall be discovered within one (1) year after Completion of Construction of the Project, the Contractor shall replace such defective materials or equipment or remedy any such defective workmanship within thirty (30) days after notice in writing of the existence thereof shall have been given by the Owner. If the Contractor shall be called upon to replace any defective materials or equipment or to remedy defective workmanship as herein provided, the Owner, if so requested by the Contractor shall deenergize that section of the Project involved in such work. In the event of failure by the Contractor to do so, the Owner may replace such defective materials or equipment or remedy such defective workmanship, as the case may be, and in such event the Contractor shall pay to the Owner the cost and expense thereof.

Section 5—Materials Removed. The Contractor will return to the Owner or reuse in the construction of other assembly units all materials removed from the lines under Section H—Conversion Assembly Units and Section I—Removal Assembly Units. Upon completion of each Section of the Project the Contractor will return to the Owner all materials, including usable materials as well as scrap, furnished by the Owner in excess of those required for the construction of the Section as determined from the Final Inventory approved by the Owner. The Contractor will reimburse the Owner at the current invoice cost to the Owner for loss and for breakage through Contractor's negligence of materials furnished by the Owner to the Contractor and for materials removed from the lines by the Contractor.

Section 6—Term of Contract. It is understood and agreed that, notwithstanding any other provisions of this Contract, the Contractor will not be required to commence any construction after the expiration of one year ____, two years ____ following acceptance of this Proposal by the Owner.

Article III—Payment

Section 1—Payments to Contractor. a. Within the first fifteen (15), days of each calendar month, the Owner shall make partial payment to the Contractor for construction accomplished during the preceding calendar month on the basis of completed Construction Units furnished and certified to by the Contractor and approved by the Owner solely for the purpose of payment: Provided, however, that such approval by the Owner shall not be deemed approval of the workmanship or materials. Only ninety percent (90%) of each such estimate approved during the construction of a Section shall be paid by the Owner to the Contractor prior to completion of the Section. Upon completion by the Contractor of the construction of a Section, the Contractor will prepare a Final Inventory of the Section showing the total number and character of Construction Units and, will certify it to the Owner together with a certificate of the total cost of the construction performed. Upon the approval of such certificates, the Owner shall make payment to the Contractor of all amounts to which the Contractor shall be entitled thereunder which shall not have been paid.

b. The Contractor shall be paid on the basis of the number of Construction Units actually installed at the direction of the Owner, as shown by the Inventory based on the Staking Sheets: Provided, however, that the total cost shall not exceed the maximum Contract price for the construction of the Project, unless such excess shall have been approved in writing by the Owner. It is understood and agreed that this maximum Contract price is ____ dollars ($____). It is also agreed that the Contractor shall not be entitled to any claim for damages on account of any reasonable additions to or subtractions from the Project, or of any delay occasioned thereby, or of any changes in the routing of the lines.

c. No payment shall be due while the Contractor is in default in respect of any of the provisions of this Contract and the Owner may withhold from the Contractor the amount of any claim by a third party against either the Contractor the Owner based upon an alleged failure of the Contractor to perform the work hereunder in accordance with the provisions of this Contract.

Section 2—Certificate of Contractor and Indemnity Agreement—Line Extensions. Upon the completion of Construction of any Section of the Project but prior to payment to the Contractor of any amount in excess of 90 percent (90%) of the total cost of all Construction Units comprising the completed Section, the Contractor shall deliver to the Owner in the form attached hereto, (1) a certificate that all persons who have furnished labor in connection with the Project and all manufacturers, materialmen, and subcontractors who have furnished materials or services for the Project have been paid in full, and (2) an agreement to hold the Owner harmless against any liens arising out of the Contractor's performance hereunder which may have been or may be filed against the Owner.

Article IV—Particular Undertakings of the Contractor

Section 1—Protection to Persons and Property. The Contractor shall at all times take all reasonable precautions for the safety of employees on the work and of the public, and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building and construction codes, as well as the safety rules and regulations of the Owner. All machinery and equipment and other physical hazards shall be guarded in accordance with the ''Manual of Accident Prevention in Construction'' of the Associated General Contractors of America unless such instructions are incompatible with Federal, State, or Municipal laws or regulations.

The following provisions shall not limit the generality of the above requirements:

a. The Contractor shall at no time and under no circumstances cause or permit any employee of the Contractor to perform any work upon energized lines, or upon poles carrying energized lines, unless otherwise specified in accordance with Article II, Section 1, subsection g.

b. The Contractor shall so conduct the construction of the Project as to cause the least possible obstruction of public highways.

c. The Contractor shall provide and maintain all such guard lights and other protection for the public as may be required by applicable statutes, ordinances, and regulations or by local conditions.

d. The Contractor shall do all things necessary or expedient to protect properly any and all parallel, converging, and intersecting lines, joint line poles, highways, and any and all property of others from damage, and in the event that any such parallel, converging and intersecting lines, joint line poles, highways, or other property are damaged in the course of the construction of the Project, the Contractor shall at its own expense restore any or all of such damaged

property immediately to as good a state as before such damage occurred.

e. Where the right-of-way of the Project traverses cultivated lands, the Contractor shall limit the movement of his crews and equipment so as to cause as little damage as possible to crops, orchards, or property and shall endeavor to avoid marring the lands. All fences which are necessarily opened or moved during the construction of the Project shall be replaced in as good condition as they were found and precautions shall be taken to prevent the escape of livestock. Except as otherwise provided in the descriptions of underground plowing and trenching assembly units, the Contractor shall not be responsible for loss of or damage to crops, orchards, or property (other than livestock) on the right-of-way necessarily incident to the construction of the Project and not caused by negligence or inefficient operation of the Contractor. The Contractor shall be responsible for all other loss of or damage to crops, orchards, or property, whether on or off the right-of-way, and for all loss of or damage to livestock caused by the construction of the Project.

f. The Project, from the commencement of work to completion, or to such earlier date or dates when the Owner may take possession and control in whole or in part as hereinafter provided shall be under the charge and control of the Contractor and during such period of control by the Contractor all risks in connection with the construction of the Project and the materials to be used therein shall be borne by the Contractor. The Contractor shall make good and fully repair all injuries and damages to the Project or any portion thereof under the control of the Contractor by reason of any Act of God or other casualty or cause whether or not the same shall have occurred by reason of the Contractor's negligence.

(i) To the maximum extent permitted by law, Contractor shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Contractor's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Contractor's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Contractor, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Contractor liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner.

(ii) To the maximum extent permitted by law, Contractor shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Contractor, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Contractor shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Contractor does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Contractor.

(iii) Contractor shall provide to Owner's satisfaction evidence of Contractor's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.

g. Any and all excess earth, rock, debris, underbrush, and other useless material shall be removed by the Contractor from the site of the Project as rapidly as practicable as the work progresses.

h. Upon violation by the Contractor of any provisions of this section, after written notice of such violation given to the Contractor by the Owner, the Contractor shall immediately correct such violation. Upon failure of the Contractor to do so the Owner may correct such violation at the Contractor's expense.

i. The Contractor shall submit to the Owner monthly reports in duplicate of all accidents, giving such data as may be prescribed by the Owner.

j. The Contractor shall not proceed with the cutting of trees or clearing of right-of-way without written notification from the Owner that proper authorization has been received from the owner of the property, and the Contractor shall promptly notify the Owner whenever any landowner objects to the trimming or felling of any trees or the performance of any other work on his land in connection with the Project and shall obtain the consent in writing of the Owner before proceeding in any such case.

Section 2—Insurance. The Bidder shall take out and maintain throughout the period of this Agreement the following types and minimum amounts of insurance:

a. Workers' compensation and employer's liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employee or employee is not subject to workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

b. Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

c. Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million each occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy of policies of insurance, primary and excess including the umbrella or catastrophe form. The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection ''b'' and ''c'' of this Section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Owner shall be named as Additional Insured on all policies of insurance required in subsections ''b'' and ''c'' of this Section.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.

Section 3—Bond. If the estimated cost of the construction of a Section shall exceed $100,000, the Contractor agrees to furnish prior to the commencement of such construction, a bond in the penal sum not less than the estimated cost of such section in the form attached hereto with a Surety or Sureties listed by the United States Treasury Department as acceptable sureties. In the event that the Surety or Sureties on the performance bond delivered to the Owner shall at any time become unsatisfactory to the Owner, the Contractor agrees to deliver to the Owner another or an additional bond.

Section 4—Delivery of Possession and Control to the Owner. Upon written request of the Owner, the Contractor will deliver to the Owner full possession and control of any portion of the Project provided the Contractor shall have been paid at least ninety percent (90%) of the cost of construction of such portion. Upon such delivery of possession and control to the Owner, the risks and obligations of the Contractor as set forth in Section 1f of this Article IV with respect to such portion so delivered to the Owner, shall be terminated; Provided, however, that nothing herein contained shall relieve the Contractor of any liability with respect to defective workmanship as specified in Article II, Section 4.

Section 5—Purchase of Materials. The Contractor shall purchase all materials and supplies outright and not subject to any conditional sales agreement, bailment lease, or other agreement reserving to the seller any right, title, or interest therein. All materials and supplies shall become the property of the Owner when erected in place.

Section 6—Assignment of Guarantees. All guarantees of materials and workmanship running in favor of the Contractor shall be transferred and assigned to the Owner on Completion of Construction and at such times as the Contractor receives final payment.

Article V—Remedies

Section 1—Completion on Contractor's Default. If default shall be made by the Contractor or by any subcontractor in the performance of any of the terms of this Proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Contractor and the Surety, if any, a written notice requiring the Contractor to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Contractor and the Surety, if any, such default shall be corrected or arrangements for the correction thereof satisfactory to the Owner shall be made, the Owner may take over the construction of the Project and prosecute the same to completion by contract or otherwise for the account and at the expense of the Contractor, and the Contractor shall be liable to the Owner for any cost or expense in excess of the Contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the Project, any materials, tools, supplies, equipment, appliance, and plant belonging to the Contractor or any of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims, or demands which the Contractor may have against third persons in connection with this Proposal and for such purpose the Contractor does hereby assign, transfer, and set over unto the Owner all such rights, claims, and demands.

Article VI—Miscellaneous

Section 1—Patent Infringement. The Contractor will save harmless and indemnify the Owner from any and all claims, suits, and proceedings for the infringement of any patent or patents covering any equipment used in the work.

Section 2. Materials and Supplies. In the performance of this contract there shall be furnished only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, Mexico, or Canada, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States, Mexico, or Canada; provided that other articles, materials, or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. The Contractor agrees to submit to the Purchaser such certificates with respect to compliance with the foregoing provision as the Administrator from time to time may require.

Section 3—Permits for Explosives. All permits necessary for the handling or use of dynamite or other explosives in connection with the construction of the Project shall be obtained by and at the expense of the Contractor.

Section 4—Compliance with Statutes and Regulations. The Contractor will comply with all applicable statutes, ordinances, rules, and regulations pertaining to the work. The Contractor acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the so-called ''Kick-Back'' Statute (48 Stat. 948), and regulations issued pursuant thereto, and 18 U.S.C. §§ 287, 1001, as amended. The Contractor understands that the obligations of the parties hereunder are subject to the applicable regulations and orders of Governmental agencies having jurisdiction in the premises.

Section 5. Equal Opportunity Provisions. a. Contractor's Representations.

The Contractor represents that:

It has ____, does not have ____, 100 or more employees, and if it has, that it has ____, has not ____, furnished the Equal Employment Opportunity—Employers Information Report EEO–1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964. The Contractor agrees that it will obtain, prior to the award of any subcontract for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100.

The Contractor agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than $10,000, the Contractor will file such report, as required by law, and notify the Owner in writing of such filing prior to the Owner's acceptance of this Proposal.

b. Equal Opportunity Clause. During the performance of this Contract, the Contractor agrees as follows: (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

(7) The Contractor will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by the rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

c. Certificate of Nonsegregated Facilities. The Contractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Contractor certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term ''segregated facilities'' means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or

entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion. or national origin, because of habit, local custom, or otherwise. The Contractor agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

Section 6—Franchises and Rights-of-way. The Contractor will be under no obligation to obtain or assist in obtaining any franchises, authorizations, permits, or approvals required to be obtained by the Owner from Federal, State, County, municipal or other authority; any rights-of-way over private lands or any agreements between the Owner and third parties with respect to the joint use of poles, crossings or any other matter incident to the construction and operation of the Project.

Section 7—Nonassignment of Contract. The Contractor will not assign the Contract effected by an acceptance of this Proposal or any part thereof or enter into any contract with any person, firm or corporation for the performance of the Contractor's obligations thereunder, or any part thereof, without the approval in writing of the Owner.

Section 8—Definitions. a. The term ''Owner'' shall also include an engineer employed by the Owner, or a firm or engineer retained by the Owner, and designated by the Owner to act in that capacity. The Contractor will be notified in writing by the Owner of those designated to act for the Owner at the time of acceptance of this Proposal.

b. The term ''Completion of Construction'' shall mean full performance by the Contractor of the Contractor's obligations under the contract and all amendments and revisions thereof relating to any Section of the Project or to the Project except the Contractor's obligations in respect of (i) Certificate of Contractor and Indemnity Agreement—Line Extensions under Article III, Section 2 hereof and (ii) the Final Inventory referred to in Article III, Section 1a hereof.

c. The term ''Completion'' shall mean full performance by the Contractor of the Contractor's obligations under the Contract and all amendments and revisions thereof relating to any Section of the Project or to the Project.

Section 9—Extension to Successors and Assigns. Each and all of the covenants and agreements contained in the Contract effected by the acceptance of the Proposal shall extend to and be binding upon the successors and assigns of the parties thereto.

_____ (Contractor)
By _____ (President)
_____ (Address)
Attest: _____ (Secretary)
_____ Date of Proposal

This Proposal must be signed with the full name of the Contractor. If the Contractor is a partnership, the Proposal must be signed in the partnership name by a partner. If the Contractor is a corporation, the Proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

Construction Units—New Construction

Section 1—Pole Units

A pole unit consists of one pole in place. It does not include pole-top assembly unit or other parts attached to the pole. The first two digits indicate the length of the pole; the third digit shows the classification per A.S.A. (Example: 25–6 means a pole 25 feet long, class 6.)

Species of Timber: _____
Kind of Preservative: (Check one)
1. Creosote _____; 2. Pentachlorophenol _____; 3. Copper Naphthenate _____; 4. Waterborne preservative—CCA _____ ACZA _____
Method of Treatment: (Check one)
1. Pressure _____; 2. Thermal process: _____
Pole Plan Under Which the Poles are to be Furnished: (Check one)
1. Insured Warranted _____; 2. Independently Inspected _____; 3. Quality Assured _____; 4. Either Insured Warranted, Independently Inspected, or Quality Assured _____
(Owner to complete above)

Unit No.	Unit price		
	Labor	Materials	Labor & materials

Section A—Single Phase Pole Top Assembpy Units

Section B—V Phase Pole Top Assembly Units

A pole top assembly unit consists of the hardware, crossarms, and their appurtenances, insulators, etc., except tie wire, required to support the primary conductors. It does not include the pole. Crossarm pins include 2x2x1/8 inch washer, nut, and locknut.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
A B			

Section C—Three Phase Pole Top Assembly Units

A pole top assembly unit consists of the hardware, crossarms, and their appurtenances, insulators, etc., except tie wire, required to support the primary conductors. It does not include the pole. Crossarm pins include 2x2x1/8 inch washer, nut, and locknut.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
C			

Section D—Conductor Assembly Units

A conductor assembly unit consists of 1,000 feet of conductor or cable for primaries, secondaries or services, and includes tie wires, sleeves for splicing, connectors, and armor rods with clips or armor wire where necessary. Tree trimming necessary for installing services and secondaries on poles not carrying primary line is included with the conductor assembly unit and shall be performed in accordance with the directions of the Owner. The service shall be connected to the secondary or transformer and 2 feet of conductor or cable shall be left for connecting to the consumer's service entrance. In computing the compensation to the Contractor for conductor assembly units only the horizontal distance between conductor supports or pole stakes shall be used. The conductor or cable sizes and types listed are the manufacturer's designation.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
D			

Section E—Guy Assembly Units

A guy assembly unit consists of the hardware and wire, and guy insulator where necessary. An overhead guy assembly consists of an overhead guy, a pole, and a down guy, each of which is listed separately. Guy guards are designated separately.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
E			

Section F—Anchor Assembly Units

An anchor assembly unit consists of the anchor with rod complete, ready for attaching the guy wire.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
F			

Section G—Transformer Assembly Units

A transformer assembly unit consists of the transformer, its protective equipment, and its hardware and leads with their connectors and supporting insulators and pins. This unit does not include the pole top, secondary, service, or grounding assemblies.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
G			

Section J—Secondary Assembly Units

A secondary assembly unit consists of the hardware, insulators, etc., to support the secondary conductors or cable. It does not include the secondary conductor or cable, or any hardware, insulators, etc., required to support service conductors or cable.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
J			

Section K—Service Assembly Units

A service assembly unit consists of the hardware, insulators, etc., required to support the service conductors or cable. It does not include the service conductor or cable, or any hardware, insulators, etc., required to support secondary conductors or cable.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
K			

Section M—Miscellaneous Assembly Units

A miscellaneous assembly unit consists of an additional unit needed in the Project for new line construction but not otherwise listed in the Proposal. This section includes grounding assemblies consisting of the conductor, ground rod, grounding plate, connectors and clamps as shown on the respec tive drawings for the various types. It also includes fuse cutouts, reclosers, sectionalizers, switches, capacitors, regulators, metering and other assembly units.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
M			

Section R—Right-of-Way Clearing Units

R1–10. The unit is 1,000 feet in length and 10 feet in width (to be measured on one side of the pole line) of actual clearing of right-of-way. This includes clearing of underbrush, tree removal, and such tree trimming as is required so that the right-of-way, except for tree stumps which shall not exceed ____ in height, shall be clear from the ground up on one side of the line of poles carrying primary conductors of the width specified. This unit does not include clearing or trimming associated with secondaries or services which is included with conductor units. The length of actual clearing shall be measured in a straight line parallel to the horizontal line between stakes and across the maximum dimension of foliage cleared projected to the ground line. All trees and underbrush across the width of the right-of-way, as designated by the Owner, shall be considered to be grouped together as a single length in measuring the total length of clearing. Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement. All length thus arrived at, added together and divided by 1,000, shall give the number of 1,000-foot R1–10 units of clearing. This unit includes the removal or topping, at the option of the Contractor, of danger trees outside of the right-of-way when so designated by the Owner. (Danger trees are defined as dead or leaning trees which, in falling, will affect the operation of the line.)

The Contractor shall not remove or trim shade, fruit, or ornamental trees unless so directed by the Owner.

R1–20. This unit is identical with R1–10 except that width is 20 feet (to be measured 10 feet on each side of the pole line).

R1–30. This unit is identical with R1–10 except that width is 30 feet (to be measured 15 feet on each side of the pole line).

R1–40. This unit is identical with R1–10 except that width is 40 feet (to be measured 20 feet on each side of the pole line).

RC1–10, RC1–20, RC1–30, RC1–40. These units are identical to the respective R1 units except that chemical treatment of stumps is required in addition to the clearing of underbrush, tree removal and tree trimming.

Additional Requirements (When specifying R1 units denote type of disposal (A or B).)

A. Trees, brush, branches and refuse shall, without delay, be disposed of by such of the following methods as the Owner will direct (Owner to strike out methods not to be used):

1. Burned.
2. Piled on one side of right-of-way.
3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
4. Other (describe) ____.

B. Trees that are felled shall be cut to commercial wood lengths, stacked neatly, and left on the right-of-way for the landowner. Commercial wood length means the length designated by the Owner but in no case shall it be required to be less than ____ (____) feet. Brush, branches, and refuse shall, without delay, be disposed of by such of the following methods as the Owner will direct (Owner to strike out methods not to be used):

1. Burned.
2. Piled on one side of right-of-way.
3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
4. Other (describe) ____.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
R			

Section S—Substation Assembly Units

A substation assembly unit consists of the complete substation ready for connection of the line conductors, as shown on the substation drawings attached.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
S			

Section UD—Underground Cable Assembly Units

An underground cable assembly unit consists of 1,000 feet of cable for underground primaries, secondaries or services. It does not include the conduit, plowing, trenching and backfilling, or the termination of the primary cable which are provided for in other assembly units. It includes the termination, connection and sealing of secondary and service cables and conductors as shown in the specifications and construction drawings, and all primary, secondary and service cable splices (buried cable may be spliced only when and where permitted by the Owner).[1,2] In computing the compensation to the Contractor for underground cable assembly units, only the distance between stakes, paralleling the cable shall be used. The number of units so computed will include all cable installed in place in all specified trenches, risers, conduits, crossings, manholes, transformers, terminal housings and meter boxes.[3]) The conductor or cables listed are the manufacturer's designation of types, size, voltage rating and material. The Contractor and the Owner shall jointly perform cable acceptance tests on installed cable in accordance with the specifications using test equipment furnished by the ____. (Owner to insert Owner or Contractor.)

Unit No.	Unit price		
	Labor	Materials	Labor & materials
UD			

Section UG—Underground Transformer Assembly Units

An underground transformer assembly unit consists of the transformer, its housing, warning sign, switches, over-current protective devices, grounding loop, and hardware and leads with their connectors and supporting insulators installed in place. This unit includes the cable terminations but does not include lightning arresters, fault indicators, ground rods or trenching. For submersible transformers, it includes the cable terminations, the enclosure and cover, drainable material (when specified [4]), and the excavation when required. For pad-mount transformers, it does not include the pad, site preparation, drainable material, backfilling or

[1] ___ Owner check here if primary splices are permitted;

[2] ___ Owner check here if secondary and service splices are permitted.

[3] ___ Owner check here if 12 feet of service conductor is to be left as a coil three feet from the building with ends capped instead of connection to meter box.

[4] ___ Owner check here if drainable material is specified.

compaction which are included in the pad assembly units.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
UG			

Section UK—Underground Secondary and Service Assembly Units

An underground secondary and service assembly unit consists of secondary or service cable terminal housing mounted in place. It includes the power pedestal, stake (when required), mounting hardware, warning sign, directional marker, housing identification marking, and the cable identification tags. It does not include the cable terminations, ground rod, or pad, when required.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
UK			

Section UM—Miscellaneous Underground Assembly Units

A miscellaneous underground assembly unit consists of an additional unit needed in the Project for new construction but not otherwise listed in the Proposal. This section includes the miscellaneous assembly units as shown on the respective underground construction drawings. Where miscellaneous units consist of or include a primary cable termination, the unit includes the preparation of the cable to accommodate the termination, the stress cone and the connection of the cable to the terminal equipment. Pad assembly units are in this section and include the site preparation, bedding, drainable material when specified, cable slot, backfilling, tamping and the pad in place.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
UM			

Section UR—Underground Excavation Assembly Units

UR1–S (D) Plowing Assembly Unit, Soil—Consists of one (1) lineal foot of plowing in soil, measured parallel to the surface of the ground, to a specified depth (D), in inches, including the compacting, except as specifically provided for in other units. This unit includes all material and labor required in the repair and/or replacement of streets, roads, drives, fences, lawns, shrubbery, watermains, pipes, pipelines and contents, underground power and telephone facilities, buried sewerage and drainage facilities, and any other property damaged during the plowing of the cable, except as specifically provided for in other units. This unit does not include underground cable facilities installed in the slot.

Note: Where in the judgment of the Owner greater than normal difficulty will be involved in plowing because of the presence of underground facilities of other utilities, this unit will be suffixed by the letter ''T''. This will be applicable only in those areas predesignated by the Owner on the detail maps herein. All plowing outside of the predesignated area on the map, regardless of the difficulty in placement actually experienced, will be inventoried as the regular UR1–S (D) units. If field conditions show the existence of rock to prevent the placing of the cable in soil to the depth required in the specifications the Owner may specify UR2–R units. Where more than one cable is to be installed in the slot, the UR1–S unit designation should be modified by a suffix corresponding to the number of cables installed. For example, UR1–S (D)3c for 3 cables plowed at one time.

UR2–S (D&W) Trenching Assembly Unit, Soil—Consists of one (1) lineal foot of trenching in soil, measure parallel to the surface of the ground, to a specified depth (D) and width (W), in inches, including the excavation, and backfilling and compacting. This unit includes all material and labor required in the repair and/or replacement of streets, roads, drives, fences, lawns, shrubbery, watermains, pipes, pipelines and contents, underground power and telephone facilities, buried sewerage and drainage facilities, and any other property damaged by the trenching, except as specifically provided for in other units. This unit does not include underground cable facilities installed in the trench or cable bedding assembly units, when required.

Note: Where in the judgment of the Owner greater than normal difficulty will be involved in trenching because of the presence of underground facilities of other utilities, this unit will be suffixed by the letter ''T''. This will be applicable only in those areas predesignated by the Owner on the detail maps herein. Where more than one cable is to be installed in the trench, the regular UR2–S unit designation should be modified by a suffix corresponding to the construction drawing for the type of cable placement desired.

UR2–R (D&W) Trenching Assembly Unit, Rock—Consists of one (1) lineal foot of trenching in rock, measured parallel to the surface of the ground, to specified depth (D) and width (W), in inches, including the excavation, and backfilling and compacting to place cable to the depth specified in the Specifications. This unit will be specified by the Owner only when field conditions at the site show the existence of rock at a depth preventing the placing of the cable in soil to the depths required in the Specifications. This unit includes all material and labor required in the repair and/or replacement of streets, roads, drives fences, lawns, shrubbery, watermains, pipes, pipelines and contents, underground power and telephone facilities, buried sewerage and drainage facilities, and any other property damaged by the trenching, except as specifically provided for in other units. This unit does not include underground cable facilities installed in the trench or cable bedding assembly units, when required.

UR–3 Cable Bedding Assembly Unit—Consists of one (1) lineal foot of a two-inch bed of clean and or soil placed in the trench under the cable and a four-inch layer of clean sand or soil backfill over the cable to the width of the trench.

Note: The exact location and number of units shall be determined by the Owner after the trenches are open in those areas where rock or other conditions make special bedding necessary.

UR–4a Pavement Assembly Unit, Asphalt—Consists of the labor and material necessary to remove and restore one (1) lineal foot of asphalt pavement, measured along the route of the cable, including any trenching necessary to place the cable at the required depth. All work shall be performed in accordance with the requirements of state or local authorities.

UR–4c Pavement Assembly Unit, Concrete—Consists of the labor and material necessary to remove and restore one (1) lineal foot of concrete pavement, measured along the route of the cable, including any trenching necessary to place the cable at the required depth. All work shall be performed in accordance with the requirements of state or local authorities.

UR–5 ( ) Underground Pipe Crossing Assembly Unit—Consists of one (1) lineal foot of steel pipe, of the inside diameter, in inches, specified in the last digit of the assembly unit designation, installed in place. This unit includes the pushing of pipe and any excavation, backfilling and tamping necessary for the installation of the pipe. The pipe will be installed at the depth specified by the Owner. Underground cable installed in the pipe is not included in this unit.

UR–6 Underground Nonpipe Crossing Assembly Unit—Consists of the labor in providing a hole in soil one (1) foot in length of a diameter sufficient to accommodate the cable to be installed therein. The depth of the hole below the surface of the ground shall be specified by the Owner. This unit includes any excavation, backfilling and tamping necessary for the installation. This unit may be used where the permanent installation of a steel pipe under the UR–5 unit is not required. Underground cable installed in the hole is not included in this unit.

Unit No.	Unit price		
	Labor	Materials	Labor & materials
UR			

Construction Units—Line Changes

The general heading of Line Changes applies to the changing of existing lines or portions thereof from their existing phasing, wire size, and type to new phasing, wire size, and type and the removal of existing lines or portions thereof and replacing with new lines in close proximity thereto. In general line changes involve three types of assembly units as follows:

Section H—Conversion assembly units;

Section I—Removal assembly units;

Section N—New construction assembly units on existing lines or in replacing lines.

The assembly units that are included in Sections H, I, and N are defined by symbols and descriptions which follow together with the applicable descriptions included under

New Construction. Where the descriptions are not correct or sufficiently explicit, or when special units are not covered by Construction Drawings, descriptions have been provided by the Owner in the respective sections.

Work included in these sections shall be performed under a schedule of deenergization and operating procedures as set forth by the Owner at the time of release of any Section involving work on existing lines. The Contractor will so plan and perform its work that it will be possible to safely reenergize all lines involved at the expiration of the time limits set up in the schedule to resume service to all consumers being served prior to deenergization. Prior to commencement of work each day on lines to be deenergized, and upon completion of work each day on such lines, the Contractor will notify the Owner thereof in writing or in such other manner as the circumstances permit.

Section H—Conversion Assembly Units

Conversion assembly units are pole-top assemblies and cover the furnishing of all labor and additional materials for changing an existing assembly unit to a new assembly unit, utilizing certain items of materials of the existing assembly unit on poles to be left in place. Any materials removed from the existing assembly units which are not required in the construction of the conversion assembly unit are to be reused by the Contractor in the construction of other assembly units, or returned to Owner's warehouse, as directed by the Owner.

Conversion assembly units are specified by the prefix H with the new construction assembly unit designation shown first and the existing assembly unit designation shown last. For example, an H B1–A1 signifies the conversion of an existing A1 assembly unit to a B1 assembly unit (as was defined in the description of construction assembly units). In this instance the Contractor utilizes the existing pin-type insulator, single upset bolt and neutral spool and furnishes the additional crossarm, crossarm pins, braces, machine bolt, carriage bolts, lag screw, and insulator required for the new unit. The Contractor transports the pole-top pin and two machine bolts to the warehouse or uses them on the Project as directed by the Owner.

The Conversion assembly units also include the furnishing of all labor and materials in the transferring, resagging and retying of conductors from one position on the pole to a different position on the pole where such transfers are required. Where replacement of conductor is required, the existing conductor will be removed under Section I and the new conductor installed under Section N.

Where replacement of a pole is required, the existing pole and pole-top assembly will be removed under Section I and the new pole and pole-top assembly will be installed according to Section N and no H units will be involved.

Conversion assemblies are listed in three subsections for converting pole-top assemblies from single to V phase, single to three phase, and V to three phase. The following descriptions apply to only those conversion units not sufficiently explicit:

Unit	Description

Subsection H (B–A)—1 Phase to V Phase

Unit No.	Unit price		
	Labor	Materials	Labor & materials
H			

Subsection H (C–A)—1 Phase to 3 Phase

Unit No.	Unit price		
	Labor	Materials	Labor & materials
H			

Subsection H (C–B)—V Phase to 3 Phase

Unit No.	Unit price		
	Labor	Materials	Labor & materials
H			

Section I—Removal Assembly Units

Removal assembly units cover the furnishing of all labor for the removal of existing units of construction from existing lines, disassembling into material items, and all labor and transportation for the returning of all materials to the warehouse of the Owner in an orderly manner or transporting elsewhere to the site of the Project for reuse in the prosecution of this Contract as directed by the Owner. All materials removed remain the property of the Owner. The provisions for Owner-Furnished materials in the Proposal shall apply if such materials are reused for construction of the Project.

The unit removal prices shall include all materials and labor required to reinstall in accordance with specifications any conductors temporarily detached. The Contractor will reinstall at his own expense any other units removed by him for his own convenience.

The removal units are specified by the prefix I and followed by the assembly unit designation of existing assembly unit to be removed. For example, an I–A1 signifies the removal of an A1 assembly unit. The following special notes apply to specific removal units:

a. Poles. All poles of the same height, regardless of pole class, are designated by the same unit. Thus an I–30-foot pole signifies the removal of a 30-foot pole of any class. The Contractor is not required under this unit to remove from the pole any ground wire or pole numbering attached to the pole. This unit includes the refilling and tamping of holes in a workmanlike manner unless they are to be reused.

b. Pole-top Assemblies. The unit of removal of pole-top assemblies includes, in addition to the removal of the assembly itself, any necessary handling, resagging, and retying of conductors in those cases where an existing pole-top assembly will be removed and replaced by a new pole-top assembly and where any existing conductor is to be reused.

The unit of removal of pole-top assemblies also includes any holding or handling of mainline or tap conductors at tap lines, angles, and deadends where such is involved, and the reinstalling of such conductor in accordance with the specifications; for example, an I–A5–4 will include the disconnection of the tap conductors, snubbing off the tap line at the nearest practical point and the reconnection and resagging of these tap conductors if necessary to the new tap assembly when installed. The new unit of construction, however, will be specified separately in Section N.

c. Conductor. The conductor removal unit covers the removal of 1,000 feet of conductor or cable and reeling or coiling it in a workmanlike manner in such a way that it can be reused by the Contractor or the Owner. The Owner will furnish to the Contractor reels if it is to be returned to the Owner's warehouse on reels. The removal unit for each size of conductor or cable is shown by the prefix I followed by D and the conductor or cable type; thus an I–D 6ACWC signifies the removal unit for 1,000 feet of 6 A Copperweld-copper conductor.

d. Guys. All guys regardless of length, type of attachment, or size of guy strand are specified by the same unit; thus an I–E signifies the removal of any guy.

e. Anchors. Only anchor rods are to be removed by the Contractor in anchor removal units. The anchors will be left in the ground; thus an I–F signifies the removal of any anchor rod. If the rod cannot be unscrewed, the end of the rod shall either be cut off or bent down so that the rod will be at least 18 inches below ground.

f. Transformers. The unit for removal of transformer assembly units is divided into two sections, (1) Conventional Transformer Assembly, and (2) Self-protected Transformer Assembly. Only one unit is specified for each type, and all sizes of transformers from 1 to 15 kVA within each group will be covered by the same unit. ''Self-protected'' refers to transformers where all protective equipment is mounted on or within the transformer. ''Conventional'' refers to transformers where protective equipment is mounted separately from the transformer. The unit is designated by the prefix I followed by the description of the unit to be removed; thus I–G Conventional signifies the removal of a conventional transformer assembly for any size transformer from 1 to 15 kVA.

g. Secondary Units. The unit for removal of secondary assemblies includes, in addition to the removal of the assembly itself, all necessary handling such as untying, resagging, and retying of secondary conductor or cables where existing secondary conductor or cable is to be reused. In addition, the unit for removal of the secondary assembly includes the handling or holding of any conductor at tap lines where such is involved, and the reinstalling of such tap conductor in accordance with the specifications.

h. Service Unit. The unit for removal of service assemblies includes, in addition to the removal of the assembly itself, all

necessary handling such as untying, resagging, and retying of service conductor or cable where existing service conductor or cable is to be reused.

The following descriptions apply only to those removal units not sufficiently explicit:

Unit	Description

Unit No.	Unit labor price
I	

Section N—New Assembly Units

The purpose of this section is to list complete new units of construction where such units are to be added to existing lines or installed in replacing lines.

The units as covered by this section are the same as the units described in Construction Units—New Construction, except that these units are prefixed by the letter N.

For example, an N40–6 unit covers the furnishing of all material and labor for the installation of a 40–6 pole either in an existing distribution line being operated by the Owner or in a new line being constructed to replace an existing distribution line being operated by the Owner.

The following descriptions apply only to those new units not sufficiently explicit:

Unit	Description

Unit No.	Unit price		
	Labor	Materials	Labor & materials
N			

Acceptance

The undersigned hereby accepts the foregoing Proposal of _____, dated _____, to construct the rural electric Project _____ 19____ Line Extensions.

_____ (Owner)

By _____ (President)

_____ Secretary

_____ Date of Contract

[End of clause]

§ 1726.343 Distribution line extension construction contract (labor only), RUS Form 792.

The contract form in this section shall be used when required by this part.

Distribution Line Extension Construction Contract (Labor Only)

Proposal

To: _____ (hereinafter called the ''Owner'').

Article I—General

Section 1—Offer to Construct. The undersigned (hereinafter called the ''Contractor'') hereby proposes to construct for the prices hereinafter stated, with materials furnished by the Owner, the rural electric project _____, 19____ Line Extensions (hereinafter called ''Project'') in strict accordance with the Plans, Specifications, and Construction Drawings hereinafter referred to. The Contractor understands and agrees that the Project will consist of line extensions and additions and line changes or similar work usually associated with overhead or underground distribution system improvement or extension work all located within the area served or ultimately to be served by the Owner and that the exact location and scope of individual sections of the Project (hereinafter called ''Sections'') will be made known to the Contractor from time to time as provided in Article II, Section 1 hereof; and provided, however, that the Contractor shall not be obligated to start construction of any Section unless the cost of construction of the Section computed on the unit prices of this Proposal shall amount to at least _____ dollars ($_____) and provided further that the Owner shall be obligated to release to the Contractor for construction at least one Section pursuant to the provisions of this Proposal.

Section 2—Additional Projects. From time to time the Owner and the Contractor may enter into negotiations for the performance of work at labor prices which may differ from those in the Proposal (such work being hereinafter called ''Additional Projects''). Except as may otherwise be agreed upon in writing by the Owner and the Contractor at the time the supplemental contract for the Additional Project is negotiated, the provisions of the Contract for the Project shall apply.

Section 3—Proposal on Unit Basis. The Contractor understands and agrees that the various Construction Units considered in this Proposal are defined by symbols and descriptions in this Proposal, that the Proposal is made on a unit basis, and that the Owner may specify, as provided in Article II, Section 1 hereof, any number or combination of Construction Units which the Owner, may deem necessary for the construction of the Project. If kinds of Construction Units for which prices are not established in this Proposal are necessary for the construction of the Project, the prices of such additional Units shall be as agreed upon in writing by the Owner and the Contractor prior to the time of installation. The unit prices herein set forth are applicable to work performed on unenergized lines. Such unit prices shall be increased by _____ (_____) percent for all units installed on energized lines in accordance with instructions of the Owner, as provided in Article II, Section 1g.

Section 4—Description of Contract. The Specifications and Construction Drawings set forth in: RUS Form 804, Specifications and Drawings for 7.2/12.5 kV Line Construction; RUS Form 803, Specifications and Drawings for 14.4/24.9 kV Line Construction; RUS Form 806, Specifications and Drawings for Underground Electric Distribution; as applicable, which by this reference are incorporated herein, together with the Plans, Proposal and Acceptance constitute the Contract. The Plans, consisting of maps and special drawings, and approved modifications in standard specifications are attached hereto and identified as follows:

_____

Section 5—Familiarity with Conditions. The Contractor acknowledges that it has made a careful examination of the site of the Project and of the Plans, Specifications and Construction Drawings, and has become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be encountered, the kind of equipment, tools, and other facilities required before and during the construction of the Project and has become acquainted with the availability status of materials to be furnished by the Owner and with the labor conditions which would affect work on the Project.

Section 6—License. The Contractor warrants that a Contractor's license is ____ is not ____ required, and if required, it possesses Contractor's License No. _____ for the State of _____ in which the Project is located, and said license expires on _____, 19____.

Section 7—Contractor's Resources. The Contractor warrants that it possesses adequate financial resources for the performance of the work covered by this Proposal and that it will provide necessary tools and equipment and a qualified superintendent and other employees.

Section 8—Changes in Construction. The Contractor agrees to make such changes in construction previously installed in the Project by the Contractor as required by the Owner on the following basis: The cost of labor shall be the reasonable cost thereof as agreed upon by the Contractor and the Owner but in no event shall it exceed two (2) times the labor price quoted in the Proposal for the installation of the unit to be changed. Such compensation shall be in lieu of any other payment for the installation and removal of the original unit but shall not include the cost of the installation, if any, of a new or replacing unit, payment for which shall be made at the unit price as quoted in the Proposal. No payment shall be made to the Contractor for correcting errors or omissions on the part of the Contractor which result in construction not in accordance with the Plans and Specifications.

Article II—Construction

Section 1—Time and Manner of Work. The Contractor agrees to be prepared to commence the construction of the Project within fifteen (15) calendar days after written notice by the Owner of acceptance of the Proposal. The Contractor agrees to commence construction of a Section within _____ (_____) days after receipt in writing from the Owner of the following:

a. Location and number of the various Construction Units required for construction of the Section (hereinafter called the ''Staking Sheets'').

b. Itemized list of the materials required for the construction of the Section and an authorization by the Owner for the Contractor to obtain such materials from the Owner's warehouse located at ____.

c. A schedule showing the rate at which construction of the Section shall proceed and the total number of calendar days (excluding Sundays) to be allowed for completion; provided, however, that the required completion time for any Section shall not be

less than _____ (_____) days or _____ (_____) days per mile of line, whichever is the greater, which days shall be calendar days (excluding Sundays). The time of the completion of the Section is of the essence of the contract to be effected by acceptance of this Proposal.

d. A statement that all required easements and rights-of-way have been obtained from the owners of the properties across which the Section is to be constructed (including tenants who may reasonably be expected to object to such construction).

e. A statement that all necessary staking has been completed.

f. A statement that all necessary funds for prompt payment for the construction of the Section will be available.

g. Specific instruction as to location and extent of work to be performed on energized lines, if any. The Contractor will not be required to dig holes, set poles, install anchors, install underground conduit, perform any plowing for the installation of underground cable, or dig trenches if there are more than six (6) inches of frost in the ground nor to perform any construction on such days when in the judgment of the Owner snow, rain, or wind or the results of snow, rain, or frost make it impracticable to perform any operations of construction; provided further that the contractor will not perform any plowing for the installation of underground cable on public roads or highways if there are more than two (2) inches of frost in the ground. To the extent of the time lost due to the conditions described herein and approved in writing by the Owner, the time of completion set out above will be extended. The time for completion shall be extended for a period of any reasonable delay (other than a delay resulting from the failure of the Contractor to secure sufficient labor) which is due exclusively to causes beyond the control and without the fault of the Contractor including acts of God, fires, floods, inability to obtain materials, direction of the Owner to cease construction as herein provided, and acts or omissions of the Owner with respect to matters for which the Owner is solely responsible: Provided, however, that no such extension of time for completion shall be granted the Contractor unless within ten (10) days after the happening of any event relied upon by the Contractor for such an extension of time the Contractor shall have made a written request therefor in writing to the Owner, and provided further that no delay in such time of completion or in the progress of the work which results from any of the above causes, except acts or omissions of the Owner, shall result in any liability on the part of the Owner.

Section 2—Changes in Plans, Specifications and Drawings. The Owner may, from time to time during the progress of the construction of the Project, make such changes in, additions to, or subtractions from the Plans, Specifications, and Construction Drawings as conditions may warrant: Provided, however, that if the cost to the Contractor shall be materially increased by any such change or addition, the Owner shall pay the Contractor for the reasonable cost thereof in accordance with a construction contract amendment signed by the Owner and the Contractor, but no claim for additional compensation for any such change or addition will be considered unless the Contractor shall have made a written request therefor to the Owner prior to the commencement of work in connection with such change or addition.

Section 3—Supervision and Inspection. a. The Contractor shall cause the construction work on the Project to receive constant supervision by a competent superintendent (hereinafter called the ''Superintendent'') who shall be present at all times during working hours where construction is being carried on. The Contractor shall also employ, in connection with the construction of the Project, capable, experienced, and reliable foremen and such skilled workmen as may be required for the various classes of work to be performed. Directions and instructions given to the Superintendent by the Owner shall be binding upon the Contractor.

b. The Owner reserves the right to require the removal from the Project of any employee of the Contractor if in the judgment of the Owner such removal shall be necessary in order to protect the interest of the Owner. The Owner shall have the right to require the Contractor to increase the number of his employees and to increase or change the amount or kind of tools and equipment if at any time the progress of the work shall be unsatisfactory to the Owner; but the failure of the Owner to give any such directions shall not relieve the Contractor of his obligations to complete the work within the time and in the manner specified in this Proposal.

c. The manner of performance of the work, and all equipment used therein, shall be subject to the inspection, tests, and approval of the Owner. The Owner shall have the right to inspect all payrolls and other data and records of the Contractor relevant to the work. The Contractor will provide all reasonable facilities necessary for such inspection and tests. The Contractor shall have an authorized agent accompany the inspector when final inspection is made and, if requested by the Owner, when any other inspection is made.

d. In the event that the Owner shall determine that the construction contains or may contain numerous defects, it shall be the duty of the Contractor, if requested by the Owner, to have an inspection made by an engineer approved by the Owner for the purpose of determining the exact nature, extent, and location of such defects.

Section 4—Defective Workmanship. The acceptance of any workmanship by the Owner shall not preclude the subsequent rejection thereof if such workmanship shall be found to be defective after installation, and any such workmanship found defective before final acceptance of the work or within one (1) year after completion shall be remedied or replaced, as the case may be, by and at the expense of the Contractor. In the event of failure by the Contractor so to do, the Owner may remedy such defective workmanship and in such event the Contractor shall pay to the Owner the cost and expense thereof. The Contractor shall not be entitled to any payment hereunder so long as any defective workmanship, in respect of the Project, of which the Contractor shall have had notice, shall not have been remedied or replaced, as the case may be.

Section 5—Materials. At or prior to the commencement of construction of each Section, the Owner shall make available to the Contractor all materials for such Section which the Owner has on hand, and from time to time as such additional deliveries of materials, if any, are received by the Owner, the Owner shall make such materials available to the Contractor: Provided, however, that the Contractor or his authorized representative will give to the Owner a receipt in such form as the Owner shall approve for all materials furnished by the Owner to the Contractor. The Contractor will return to the Owner or reuse in the construction of other assembly units all materials removed from the lines under Section H—Conversion Assembly Units and Section I—Removal Assembly Units. Upon completion of each Section of the Project the Contractor will return to the Owner all materials, including usable materials as well as scrap, furnished by the Owner in excess of those required for the construction of the Section as determined from the Final Inventory approved by the Owner. The Contractor will reimburse the Owner at the current invoice cost to the Owner for loss and for breakage through Contractor's negligence of materials furnished by the Owner to the Contractor and for materials removed from the lines by the Contractor.

Section 6—Term of Contract. It is understood and agreed that, notwithstanding any other provisions of this Contract, the Contractor will not be required to commence any construction after the expiration of 1 year _____, 2 years _____ following acceptance of this Proposal by the Owner.

Article III—Payment

Section 1—Payments to Contractor. a. Within the first fifteen (15) days of each calendar month, the Owner shall make partial payment to the Contractor for construction accomplished during the preceding calendar month on the basis of completed Construction Units furnished and certified to by the Contractor and approved by the Owner solely for the purpose of payment: Provided, however, that such approval by the Owner shall not be deemed approval of the workmanship or materials. Only ninety percent (90%) of each such estimate approved during the construction of a Section shall be paid by the Owner to the Contractor prior to completion of the Section. Upon completion by the Contractor of the construction of a Section, the Contractor will prepare a Final Inventory of the Section showing the total number and character of Construction Units and, will certify it to the Owner together with a certificate of the total cost of the construction performed. Upon the approval of such certificates, the Owner shall make payment to the Contractor of all amounts to which the Contractor shall be entitled thereunder which shall not have been paid.

b. The Contractor shall be paid on the basis of the number of Construction Units actually installed at the direction of the Owner, as shown by the Inventory based on the Staking

Sheets: Provided, however, that the total cost shall not exceed the maximum Contract price for the construction of the Project, unless such excess shall have been approved in writing by the Owner. It is understood and agreed that this maximum Contract price is _____ dollars ($_____). It is also agreed that the Contractor shall not be entitled to any claim for damages on account of any reasonable additions to or subtractions from the Project, or of any delay occasioned thereby, or of any changes in the routing of the lines.

c. No payment shall be due while the Contractor is in default in respect of any of the provisions of this Contract and the Owner may withhold from the Contractor the amount of any claim by a third party against either the Contractor or the Owner based upon an alleged failure of the Contractor to perform the work hereunder in accordance with the provisions of this Contract.

Section 2—Certificate of Contractor and Indemnity Agreement—Line Extensions. Upon the Completion of Construction of any Section of the Project but prior to payment to the Contractor of any amount in excess of ninety percent (90%) of the total cost of all Construction Units comprising the completed Section, the Contractor shall deliver to the Owner in the form attached hereto, (1) a certificate that all persons who have furnished labor in connection with the Project and subcontractors who have furnished services for the Project have been paid in full, and (2) an agreement to hold the Owner harmless against any liens arising out of the Contractor's performance hereunder which may have been or may be filed against the Owner.

Article IV—Particular Undertakings of the Contractor

Section 1. Protection to Persons and Property. The Contractor shall at all times take all reasonable precautions for the safety of employees on the work and of the public, and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building and construction codes, as well as the safety rules and regulations of the Owner. All machinery and equipment and other physical hazards shall be guarded in accordance with the ''Manual of Accident Prevention in Construction'' of the Associated General Contractors of America unless such instructions are incompatible with Federal, State, or Municipal laws or regulations.

The following provisions shall not limit the generality of the above requirements:

a. The Contractor shall at no time and under no circumstances cause or permit any employee of the Contractor to perform any work upon energized lines, or upon poles carrying energized lines, unless otherwise specified in accordance with Article II, Section 1, subsection g.

b. The Contractor shall so conduct the construction of the Project as to cause the least possible obstruction of public highways.

c. The Contractor shall provide and maintain all such guard lights and other protection for the public as may be required by applicable statutes, ordinances, and regulations or by local conditions.

d. The Contractor shall do all things necessary or expedient to protect properly any and all parallel, converging, and intersecting lines, joint line poles, highways, and any and all property of others from damage, and in the event that any such parallel, converging and intersecting lines, joint line poles, highways, or other property are damaged in the course of the construction of the Project the Contractor shall at its own expense restore any or all of such damaged property immediately to as good a state as before such damage occurred.

e. Where the right-of-way of the Project traverses cultivated lands, the Contractor shall limit the movement of his crews and equipment so as to cause as little damage as possible to crops, orchards, or property and shall endeavor to avoid marring the lands. All fences which are necessarily opened or moved during the construction of the Project shall be replaced in as good condition as they were found and precautions shall be taken to prevent the escape of livestock. Except as otherwise provided in the descriptions of underground plowing and trenching assembly units, the Contractor shall not be responsible for loss of or damage to crops, orchards, or property (other than livestock) on the right-of-way necessarily incident to the construction of the Project and not caused by negligence or inefficient operation of the Contractor. The Contractor shall be responsible for all other loss of or damage to crops, orchards, or property, whether on or off the right-of-way, and for all loss of or damage to livestock caused by the construction of the Project.

f. The Project, from the commencement of work to completion, or to such earlier date or dates when the Owner may take possession and control in whole or in part as hereinafter provided shall be under the charge and control of the Contractor and during such period of control by the Contractor all risks in connection with the construction of the Project and the materials to be used therein shall be borne by the Contractor. The Contractor shall make good and fully repair all injuries and damages to the Project or any portion thereof under the control of the Contractor by reason of any act of God or other casualty or cause whether or not the same shall have occurred by reason of the Contractor's negligence.

(i) To the maximum extent permitted by law, Contractor shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Contractor's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Contractor's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Contractor, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Contractor liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner.

(ii) To the maximum extent permitted by law, Contractor shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Contractor, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Contractor shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Contractor does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Contractor.

(iii) Contractor shall provide to Owner's satisfaction evidence of Contractor's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.

g. Any and all excess earth, rock, debris, underbrush, and other useless material shall be removed by the Contractor from the site of the Project as rapidly as practicable as the work progresses.

h. Upon violation by the Contractor of any provisions of this section, after written notice of such violation given to the Contractor by the Owner, the Contractor shall immediately correct such violation. Upon failure of the Contractor so to do the Owner may correct such violation at the Contractor's expense.

i. The Contractor shall submit to the Owner monthly reports in duplicate of all accidents, giving such data as may be prescribed by the Owner.

j. The Contractor shall not proceed with the cutting of trees or clearing of right-of-way without written notification from the Owner that proper authorization has been received from the owner of the property, and the Contractor shall promptly notify the Owner whenever any landowner objects to the trimming or felling of any trees or the performance of any other work on his land in connection with the Project and shall obtain the consent in writing of the Owner before proceeding in any such case.

Section 2—Insurance. The Bidder shall take out and maintain throughout the period of this Agreement the following types and minimum amounts of insurance:

a. Workers' compensation and employer's liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

b. Public liability insurance covering all operations under the contract shall have

limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

c. Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million each occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies or insurance, primary and excess including the umbrella or catastrophe form. The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection ''b'' and ''c'' of this Section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Owner shall be named as Additional Insured on all policies of insurance required in subsections ''b'' and ''c'' of this Section.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.

Section 3—Bond. If the estimated cost of the construction of a Section shall exceed $100,000, the Contractor agrees to furnish prior to the commencement of such construction, a bond in the penal sum not less than the estimated cost of such Section in the form attached hereto with a Surety or Sureties listed by the United States Treasury Department as acceptable sureties. In the event that the Surety or Sureties on the performance bond delivered to the Owner shall at any time become unsatisfactory to the Owner, the Contractor agrees to deliver to the Owner another or an additional bond.

Section 4—Delivery of Possession and Control to the Owner. Upon written request of the Owner, the Contractor will deliver to the Owner full possession and control of any portion of the Project provided the Contractor shall have been paid at least ninety percent (90%) of the cost of construction of such portion. Upon such delivery of possession and control to the Owner, the risks and obligations of the Contractor as set forth in Section 1f of this Article IV with respect to such portion so delivered to the Owner, shall be terminated; Provided, however, that nothing herein contained shall relieve the Contractor of any liability with respect to defective workmanship as specified in Article 11, Section 4.

Article V—Remedies

Section 1—Completion on Contractor's Default. If default shall be made by the Contractor or by any subcontractor in the performance of any of the terms of this Proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Contractor and the Surety, if any, a written notice requiring the Contractor to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Contractor and the Surety, If any, such default shall be corrected or arrangements for the correction thereof satisfactory to the Owner shall be made, the Owner may take over the construction of the Project and prosecute the same to completion by contract or otherwise for the account and at the expense of the Contractor, and the Contractor shall be liable to the Owner for any cost or expense in excess of the Contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the Project, any materials, tools, supplies, equipment, appliance, and plant belonging to the Contractor or any of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims, or demands which the Contractor may have against third persons in connection with this Proposal and for such purpose the Contractor does hereby assign, transfer, and set over unto the Owner all such rights, claims, and demands.

Article VI—Miscellaneous

Section 1—Patent Infringement. The Contractor will save harmless and indemnify the Owner from any and all claims, suits, and proceedings for the infringement of any patent or patents covering any equipment used in the work.

Section 2—Permits for Explosives. All permits necessary for the handling or use of dynamite or other explosives in connection with the construction of the Project shall be obtained by and at the expense of the Contractor.

Section 3—Compliance with Statutes and Regulations. The Contractor will comply with all applicable statutes, ordinances, rules, and regulations pertaining to the work. The Contractor acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the so-called ''Kick-Back'' Statute (48 Stat. 948), and regulations issued pursuant thereto, and 18 U.S.C. §§ 287,1001, as amended. The Contractor understands that the obligations of the parties hereunder are subject to the applicable regulations and orders of Governmental agencies having jurisdiction in the premises.

Section 4—Equal Opportunity Provisions.

a. Contractor's Representations.

The Contractor represents that:

It has ____, does not have ____, 100 or more employees, and if it has, that it has ____, has not ____, furnished the Equal Employment Opportunity—Employers Information Report EEO–1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964.

The Contractor agrees that it will obtain, prior to the award of any subcontract for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100. The Contractor agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than $10,000, the Contractor will file such report, as required by law, and notify the Owner in writing of such filing prior to the Owner's acceptance of this Proposal.

b. Equal Opportunity Clause. During the performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies

invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

(7) The Contractor will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by the rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

c. Certificate of Nonsegregated Facilities. The Contractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Contractor certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term ''segregated facilities'' means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Contractor agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

Section 5—Franchises and Rights-of-way. The Contractor will be under no obligation to obtain or assist in obtaining any franchises, authorizations, permits, or approvals required to be obtained by the Owner from Federal, State, County, Municipal or other authority; any rights-of-way over private lands or any agreements between the Owner and third parties with respect to the joint use of poles, crossing or any other matter incident to the construction and operation of the Project.

Section 6—Nonassignment of Contract. The Contractor will not assign the Contract effected by an acceptance of this Proposal or any part thereof or enter into any contract with any person, firm or corporation for the performance of the Contractor's obligations thereunder, or any part thereof, without the approval in writing of the Owner.

Section 7—Definitions.

a. The term ''Owner'' shall also include an engineer employed by the Owner, or a firm or engineer retained by the Owner, and designated by the Owner to act in that capacity. The Contractor will be notified in writing by the Owner of those designated to act for the Owner at the time of acceptance of this Proposal.

b. The term ''Completion of Construction'' shall mean full performance by the Contractor of the Contractor's obligations under the contract and all amendments and revisions thereof relating to any Section of the Project or to the Project except the Contractor's obligations in respect of (i) Certificate of Contractor and Indemnity Agreement—Line Extensions under Article III, Section 2 hereof and (ii) the Final Inventory referred to in Article III, Section 1a hereof.

c. The term ''Completion'' shall mean full performance by the Contractor of the Contractor's obligations under the Contract and all amendments and revisions thereof relating to any Section of the Project or to the Project.

Section 8—Extension to Successors and Assigns. Each and all of the covenants and agreements contained in the Contract effected by the acceptance of the Proposal shall extend to and be binding upon the successors and assigns of the parties thereto.

_____ (Contractor)
By _____ (President)
_____ (Address)
Attest: _____ (Secretary)
_____ Date of Proposal

This Proposal must be signed with the full name of the Contractor. If the Contractor is a partnership, the Proposal must be signed in the partnership name by a partner. If the Contractor is a corporation, the Proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

Construction Units—New Construction

Section 1—Pole Units

A pole unit consists of the installation of one pole. The first two digits indicate the length of the pole; the third digit shows the classification per A.S.A. (Example: 25–6 means a pole 25 feet long, class 6.)

Unit No.	Unit labor price

Pole Top Assembly Units

A pole top assembly unit consists of the installation of the hardware, crossarms and their appurtenances, insulators, etc., except tie wire, required to support the primary conductors.

Section A—1 Phase

Unit No.	Unit labor price

Section B—V Phase

Unit No.	Unit labor price

Section C—3 Phase

Unit No.	Unit labor price

Section D—Conductor

A conductor assembly unit consists of the installation of 1,000 feet of conductor or cable for primaries, secondaries or services. Tree trimming necessary for installing services and secondaries on poles not carrying primary line is included with the conductor assembly unit and shall be performed in accordance with the directions of the Owner. The service shall be connected to the secondary or transformer and 2 feet of conductor or cable shall be left for connecting to the consumer's service entrance. In computing the compensation to the Contractor for conductor assembly units only the horizontal distance between conductor supports or pole stales shall be used. The conductor or cable sizes and types listed are the manufacturer's designation.

Unit No.	Unit labor price

Section E—Guy Assembly Units

A guy assembly unit consists of the installation of the hardware and wire, and guy insulator where necessary. An overhead guy assembly unit does not include the associated pole and down guy, each of which is listed separately. Guy guards are designated separately.

Unit No.	Unit labor price

Section F—Anchor Assembly Units

An anchor assembly unit consists of the installation of an anchor with rod complete, ready for attaching the guy wire.

Unit No.	Unit labor price

Section G—Transformer Assembly Units

A transformer assembly unit consists of the installation of the transformer, its protective equipment and its hardware and leads with their connectors and supporting insulators and pins. This unit does not include the installation of the pole top, secondary, service, or grounding assemblies.

Unit No.	Unit labor price

Section J—Secondary Assembly Units

A secondary assembly unit consists of the installation of the hardware, insulators, etc., to support the secondary conductor or cable. It does not include the installation of the secondary conductor or cable, or of any hardware, insulators, etc., required to support service conductors or cable.

Unit No.	Unit labor price

Section K—Service Assembly Units

A service assembly unit consists of the installation of the hardware, insulators, etc. to support the service conductors or cable. It does not include the installation of the service conductor or cable, or of any hardware, insulators etc. required to support secondary conductors or cable.

Unit No.	Unit labor price

Section M—Miscellaneous Assembly Units

A miscellaneous assembly unit consists of the installation of an additional unit needed in the Project for new line construction but not otherwise listed in the Proposal. This section includes the installation of grounding assemblies, fuse cutouts, reclosers, sectionalizers, switches, capacitors, regulators, metering and other assembly units.

Unit No.	Unit labor price

Section R—Right-of-Way Clearing Units

R1–10. The unit is 1,000 feet in length and 10 feet in width (to be measured on one side of the pole line) of actual clearing of right-of-way. This includes clearing of underbrush, tree removal, and such tree trimming as is required so that the right-of-way, except for tree stumps which shall not exceed ____ in height, shall be clear from the ground up on one side of the line of poles carrying primary conductors.

This unit does not include clearing or trimming associated with secondaries or services which is included with conductor units. The length of actual clearing shall be measured in a straight line parallel to the horizontal line between stakes and across the maximum dimension of foliage cleared projected to the ground line. All trees and underbrush across the width of the right-of-ways as designated by the Owner shall be considered to be grouped together as a single length in measuring the total length of clearing. Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement. All length thus arrived at, added together and divided by 1,000, shall give the number of 1,000-foot R1–10 units of clearing. This unit includes the removal or topping, at the option of the Contractor, of danger trees outside of the right-of-way when so designated by the Owner. (Danger trees are defined as dead or leaning trees which, in falling, will affect the operation of the line.)

The Contractor shall not remove or trim shade, fruit, or ornamental trees unless so directed by the Owner.

R1–20. This unit is identical with R1–10 except that width is 20 feet (to be measured 10 feet on each side of the pole line).

R1–30. This unit is identical with R1–10 except that width is 30 feet (to be measured 15 feet on each side of the pole line).

R1–40. This unit is identical with R1–10 except that width is 40 feet (to be measured 20 feet on each side of the pole line).

RC1–10, RC1–20, RC1–30, RC1–40. These units are identical to the respective R1 units except that chemical treatment of stumps is required in addition to the clearing of underbrush, tree removal and tree trimming.

Additional Requirements (When specifying R1 units denote type of disposal (A or B).)

A. Trees, brush, branches and refuse shall, without delay, be disposed of by such of the following methods as the Owner will direct (Owner to strike out methods not to be used):

1. Burned.
2. Piled on one side of right-of-way.
3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
4. Other (describe) ____.

B. Trees that are felled shall be cut to commercial wood lengths, stacked neatly, and left on the right-of-way for the landowner. Commercial wood length means the length designated by the Owner but in no case shall it be required to be less than ____ (____) feet. Brush, branches, and refuse shall, without delay, be disposed of by such of the following methods as the Owner will direct (Owner to strike out methods not to be used):

1. Burned.
2. Piled on one side of right-of-way.
3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
4. Other (describe)____.

Unit No.	Unit labor price

Section S—Substation Assembly Units

A substation assembly unit consists of the complete substation ready for connection of the line conductors, as shown on the substation drawings attached.

Unit No.	Unit labor price

Section UD—Underground Cable Assembly Units

An underground cable assembly unit consists of the installation of 1,000 feet of cable for underground primaries, secondaries or services. It does not include the plowing, trenching and backfilling, or the termination of the primary cable which are provided for in other assembly units. It includes the labor for the termination, connection and sealing of secondary and service cables and conductors as shown in the specifications and construction drawings, and the labor for making all primary, secondary and service cable splices (buried cable may be spliced only when and where permitted by the Owner [1,2].) In computing the compensation to the Contractor for underground cable assembly units, only the distance between stakes, paralleling the cable shall be used. The number of units so computed includes all installation of cable in all specified trenches, risers, conduits, crossings, manholes, transformers, terminal housings and meter boxes [3]. The conductor or cables listed are the manufacturer's designation of types, size, voltage rating and material. The Contractor and the Owner shall jointly perform cable acceptance tests on installed cable in accordance with the specifications using test equipment furnished by the ____ (Owner to insert Owner or Contractor).

Unit No.	Unit labor price

Section UG—Underground Transformer Assembly Units

An underground transformer assembly unit consists of the installation of the transformer, its housing, warning sign, switches, over-current protective devices, grounding loop, and its hardware and leads with their connectors and supporting insulators. This unit also includes the installation of primary cable terminations but not of lightning arresters, fault indicators or ground rods, nor does it include any trenching. For pad-mount transformers, it does not include installation of the pad, drainable material, backfilling, compaction, or site preparation which are included in the pad assembly units. For submersible transformers it includes the installation of cable terminations, of the enclosure and cover, of drainable material (when specified [4]) and the excavation.

Unit No.	Unit labor price

Section UK—Underground Secondary and Service Assembly Units

An underground secondary and service assembly unit consists of the installation of the secondary or service cable terminal housing. It includes the installation of the power pedestal, stake (when required), mounting hardware, warning sign, directional marker, housing identification marking, and the cable identification tags. It does not include the installation of the cable terminations, ground rod, or pad, when required.

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[1] ____ Owner check here if primary splices are permitted.

[2] ____ Owner check here if secondary and service splices are permitted.

[3] ____ Owner check here if 12 feet of service conductor is to be left as a coil 3 feet from the building with ends capped instead of connection to meter box.

[4] ____ Owner check here if drainable material is specified.

Unit No.	Unit labor price

Section UM—Miscellaneous Underground Assembly Units

A miscellaneous underground assembly unit consists of the installation of an additional unit needed in the Project for new construction, but not otherwise listed in the Proposal. This section includes the installation of the miscellaneous assembly units as shown on the respective underground construction drawings. Where miscellaneous units consist of or include the installation of a primary cable termination, the unit includes the preparation of the cable to accommodate the termination, the installation of the stress cone, and the connection of the cable to the terminal equipment. Pad assembly units are in this section and include the installation of the bedding, drainable material (when specified), cable slot, and site preparation, backfilling and tamping.

Unit No.	Unit labor price

Section UR—Underground Excavation Assembly Units

UR1–S (D) Plowing Assembly Unit, Soil—Consists of one (1) lineal foot of plowing in soil, measured parallel to the surface of the ground, to a specified depth (D), in inches, including the compacting, except as specifically provided for in other units. This unit includes all labor required in the repair and/or replacement of streets, roads, drives, fences, lawns, shrubbery, watermains, pipes, pipelines and contents, underground power and telephone facilities, buried sewerage and drainage facilities, and any other property damaged during the plowing of the cable, except as specifically provided for in other units.

Note: Where in the judgment of the Owner greater than normal difficulty will be involved in plowing because of the presence of underground facilities of other utilities, this unit will be suffixed by the letter ''T''. This will be applicable only in those areas predesignated by the Owner on the detail maps herein. All plowing outside of the predesignated area on the map, regardless of the difficulty in placement actually experienced, will be inventoried as the regular UR1–S (D) units. If field conditions show the existence of rock to prevent the placing of the cable in soil to the depth required in the specifications the Owner may specify UR2–R units. Where more than one cable is to be installed in the slot, the UR1–S unit designation should be modified by a suffix corresponding to the number of cables installed. For example, UR1–S (D) 3c for 3 cables plowed at one time.

UR2–S (D&W) Trenching Assembly Unit, Soil—Consists of one (1) lineal foot of trenching in soil, measured parallel to the surface of the ground, to a specified depth (D) and width (W), in inches, including the excavation, and backfilling and compacting. This unit includes all labor required in the repair and/or replacement of streets, roads, drives, fences, lawns, shrubbery, watermains, pipes, pipelines and contents, underground power and telephone facilities, buried sewerage and drainage facilities, and any other property damaged by the trenching, except as specifically provided for in other units.

Note: Where in the judgment of the Owner greater than normal difficulty will be involved in trenching because of the presence of underground facilities of other utilities, this unit will be suffixed by the letter ''T''. This will be applicable only in those areas predesignated by the Owner on the detail maps herein. Where more than one cable is to be installed in the trench, the regular UR2–S unit designation should be modified by a suffix corresponding to the construction drawing for the type of cable placement desired.

UR2–R (D&W) Trenching Assembly Unit, Rock—Consists of one (1) lineal foot of trenching in rock, measured parallel to the surface of the ground, to specified depth (D) and width (W), in inches, including the excavation, and backfilling and compacting to place cable to the depth specified in the Specifications. This unit will be specified by the Owner only when field conditions at the site show the existence of rock at a depth preventing the placing of the cable in soil to the depths required in the Specifications. This unit includes all labor required in the repair and/or replacement of streets, roads, drives, fences, lawns, shrubbery, watermains, pipes, pipelines and contents, underground power and telephone facilities, buried sewerage and drainage facilities, and any other property damaged by the trenching, except as specifically provided for in other units. This unit does not include underground cable facilities installed in the trench or cable bedding assembly units, when required.

UR–3 Cable Bedding Assembly Unit—Consists of the installation of one (1) lineal foot of a 2-inch bed of clean sand or soil placed in the trench under the cable and a 4-inch layer of clean sand or soil backfill over the cable to the width of the trench.

Note: The exact location and number of units shall be determined by the Owner after the trenches are open in those areas where rock or other conditions make special bedding necessary.

UR–4a Pavement Assembly Unit, Asphalt—Consists of the labor necessary to remove and restore one (1) lineal foot of asphalt pavement, measured along the route of the cable, including any trenching necessary to place the cable at the required depth. All work shall be performed in accordance with the requirements of State or local authorities.

UR–4c Pavement Assembly Unit, Concrete—Consists of the labor necessary to remove and restore one (1) lineal foot of concrete pavement, measured along the route of the cable, including any trenching necessary to place the cable at the required depth. All work shall be performed in accordance with the requirements of State or local authorities.

UR–5 ( ) Underground Pipe Crossing Assembly Unit—Consists of the installation of one (1) lineal foot of steel pipe, of the inside diameter, in inches, specified in the last digit of the assembly unit designation, installed in place. This unit includes the pushing of pipe and any excavation, backfilling and tamping necessary for the installation of the pipe. The pipe will be installed at the depth specified by the Owner. The installation of underground cable in the pipe is not included in this unit.

UR6 Underground Nonpipe Crossing Assembly Unit—Consists of the labor in providing a hole in soil one (1) foot in length of a diameter sufficient to accommodate the cable to be installed therein. The depth of the hole below the surface of the ground shall be specified by the Owner. This unit includes any excavation, backfilling and tamping necessary for the installation. This unit may be used where the permanent installation of a steel pipe under the UR–5 unit is not required. The installation of underground cable in the pipe is not included in this unit.

Unit No.	Unit labor price

Construction Units—Line Changes

The general heading of Line Changes applies to the changing of existing lines or portions thereof from their existing phasing, wire size, and type to new phasing, wire size, and type and the removal of existing lines or portions thereof and replacing with new lines in close proximity thereto. In general line changes involve three types of assembly units as follows:

Section H—Conversion assembly units;

Section I—Removal assembly units;

Section N—New construction assembly units on existing lines or in replacing lines.

The assembly units that are included in Sections H, I, and N are defined by symbols and descriptions which follow together with the applicable descriptions included under New Construction. Where the descriptions are not correct or sufficiently explicit, or when special units are not covered by Construction Drawings, descriptions have been provided by the Owner in the respective sections.

Work included in these sections shall be performed under a schedule of deenergization and operating procedures as set forth by the Owner at the time of release of any Section involving work on existing lines.

The Contractor will so plan and perform its work that it will be possible to safely reenergize all lines involved at the expiration of the time limits set up in the schedule to resume service to all consumers being served prior to deenergization. Prior to commencement of work each day on lines to be deenergized, and upon completion of work each day on such lines, the Contractor will notify the Owner thereof in writing or in such other manner as the circumstances permit.

Section H—Conversion Assembly Units

Conversion assembly units are pole-top assemblies and cover the furnishing of all labor for changing an existing assembly unit to a new assembly unit, utilizing certain items of materials of the existing assembly unit on poles to be left in place. Any materials removed from the existing assembly units which are not required in the construction of the conversion assembly unit are to be reused by the Contractor in the construction of other assembly units, or returned to Owner's warehouse, as directed by the Owner. Conversion assembly units are specified by the prefix H with the new construction assembly unit designation shown first and the existing assembly unit designation shown last. For example, an H B1–A1 signifies the conversion of an existing A1 assembly unit to a B1 assembly unit (as was defined in the description of construction assembly units). In this instance the Contractor utilizes the existing pin-type insulator, single upset bolt and neutral spool and installs the additional crossarm, crossarm pins, braces, machine bolt, carriage bolts, lag screw, and insulator supplied by the Owner required for the new unit. The Contractor transports the pole-top pin and two machine bolts to the warehouse or uses them on the Project as directed by the Owner.

The Conversion assembly units also include the furnishing of all labor in the transferring, resagging and retying of conductors from one position on the pole to a different position on the pole where such transfers are required. Where replacement of conductor is required, the existing conductor will be removed under Section I and the new conductor installed under Section N.

Where replacement of a pole is required, the existing pole and pole-top assembly will be removed under Section I and the new pole and pole-top assembly will be installed according to Section N and no H units will be involved.

Conversion assemblies are listed in three subsections for converting pole-top assemblies from single to V phase, single to three phase, and V to three phase. The following descriptions apply to only those conversion units not sufficiently explicit:

Unit	Description

Subsection H (B–A)—1 Phase to V Phase

Unit No.	Unit labor price

Subsection H (C–A)—1 Phase to 3 Phase

Unit No.	Unit labor price

Subsection H (C–B)—V Phase to 3 Phase

Unit No.	Unit labor price

Section I—Removal Assembly Units

Removal assembly units cover the furnishing of all labor for the removal of existing units of construction from existing lines, disassembling into material items, and all labor and transportation for the returning of all materials to the warehouse of the Owner in an orderly manner or transporting elsewhere to the site of the Project for reuse in the prosecution of this Contract as directed by the Owner.

The unit removal prices shall include all labor required to reinstall in accordance with specifications any conductors temporarily detached. The Contractor will reinstall at his own expense any other units removed by him for his own convenience.

The removal units are specified by the prefix I and followed by the assembly unit designation of existing assembly unit to be removed. For example, an I–A1 signifies the removal of an A1 assembly unit. The following special notes apply to specific removal units:

a. Poles. All poles of the same height, regardless of pole class, are designated by the same unit. Thus an I–30-foot pole signifies the removal of a 30-foot pole of any class. The Contractor is not required under this unit to remove from the pole any ground wire or pole numbering attached to the pole. This unit includes the refilling and tamping of holes in a workmanlike manner unless they are to be reused.

b. Pole-top Assemblies. The unit of removal of pole-top assemblies includes, in addition to the removal of the assembly itself, any necessary handling, resagging, and retying of conductors in those cases where an existing pole-top assembly will be removed and replaced by a new pole-top assembly and where any existing conductor is to be reused.

The unit of removal of pole-top assemblies also includes any holding or handling of mainline or tap conductors at tap lines, angles, and deadends where such is involved, and the reinstalling of such conductor in accordance with the Specifications; for example, an I–A5–4 will include the disconnection of the tap conductors, snubbing off the tap line at the nearest practical point and the reconnection and resagging of these tap conductors if necessary to the new tap assembly when installed. The new unit of construction, however, will be specified separately in Section N.

c. Conductor. The conductor removal unit covers the removal of 1,000 feet of conductor or cable and reeling or coiling it in a workmanlike manner in such a way that it can be reused by the Contractor or the Owner. The Owner will furnish to the Contractor reels if it is to be returned to the Owner's warehouse on reels. The removal unit for each size of conductor or cable is shown by the prefix I followed by D and the conductor or cable type; thus an I–D 6ACWC signifies the removal unit for 1,000 feet of 6 A Copperweld-copper conductor.

d. Guys. All guys regardless of length, type of attachment, or size of guy strand are specified by the same unit; thus an I–E signifies the removal of any guy.

e. Anchors. Only anchor rods are to be removed by the Contractor in anchor removal units. The anchors will be left in the ground; thus an I–F signifies the removal of any anchor rod. If the rod cannot be unscrewed, the end of the rod shall either be cut off or bent down so that the rod will be at least 18 inches below ground.

f. Transformers. The unit for removal of transformer assembly units is divided into two sections, (1) Conventional Transformer Assembly, and (2) Self-protected Transformer Assembly. Only one unit is specified for each type, and all sizes of transformers from 1 to 15 kVA within each group will be covered by the same unit. ''Self-protected'' refers to transformers where all protective equipment is mounted on or within the transformer. ''Conventional'' refers to transformers where protective equipment is mounted separately from the transformer. The unit is designated by the prefix I followed by the description of the unit to be removed; thus, I–G Conventional signifies the removal of a conventional transformer assembly for any size transformer from 1 to 15 kVA.

g. Secondary Units. The unit for removal of secondary assemblies includes, in addition to the removal of the assembly itself, all necessary handling such as untying, resagging, and retying of secondary conductor or cables where existing secondary conductor or cable is to be reused.

In addition, the unit for removal of the secondary assembly includes the handling or holding of any conductor at tap lines where such is involved, and the reinstalling of such tap conductor in accordance with the Specifications.

h. Service Unit. The unit for removal of service assemblies includes, in addition to the removal of the assembly itself, all necessary handling such as untying, resagging, and retying of service conductor or cable where existing service conductor or cable is to be reused.

The following descriptions apply only to those removal units not sufficiently explicit:

Unit	Description

Unit No.	Unit labor price

Section N—New Assembly Units

The purpose of this section is to list complete new units of construction where such units are to be added to existing lines or installed in replacing lines.

The units as covered by this section are the same as the units described in Construction Units—New Construction, except that these units are prefixed by the letter N.

For example, an N40–6 unit covers the furnishing of all labor for the installation of a 40–6 pole either in an existing distribution line being operated by the Owner or in a new line being constructed to replace an existing distribution line being operated by the Owner.

The following descriptions apply only to those new units not sufficiently explicit:

Unit	Description

Unit No.	Unit labor price

Acceptance

The undersigned hereby accepts the foregoing Proposal of ____, dated ____, to construct the rural electric Project ____19____ Line Extensions.

____ (Owner)
By ____ President
____ Secretary
____ Date of Contract

[End of clause]

§ 1726.344 [Reserved]

§ 1726.345 Certificate of contractor and indemnity agreement (line extensions), RUS Form 792b.

The closeout form in this section shall be used when required by this part.

Certificate of Contractor and Indemnity Agreement (Line Extensions)

____, certifies that he is the ____ (title or designation), of ____ (name of contractor), the Contractor, in a contract dated ____ 19____ entered into between the Contractor and ____ (name of RUS Borrower) ____, the Owner, for the construction of a rural electric Project (hereinafter referred to as Project), which bears the Project Designation ____ 19____ Line Extensions, and that he is authorized to and does make this Certificate and Indemnity Agreement on behalf of said Contractor in order to induce the Owner to make payment to the Contractor, in accordance with the provisions of the said contract.

Undersigned further says that all persons who have furnished labor in connection with the Section of the Project represented by the Final Inventory dated ____, in the amount of $____, have been paid in full; that all manufacturers, materialmen and subcontractors which furnished any materials or services, or both, for the said Section of the Project have been paid in full; that no lien has been filed against the Project and no person has any right to claim any lien against the Project.

Undersigned further says that if the Owner pays the Contractor the contract price for the said Section of the Project the Contractor will indemnify and hold harmless and does hereby undertake and agree to indemnity and hold harmless the Owner from any claim or lien arising out of the negligence or other fault of the Contractor in respect of the performance of the contract which may have been or may be filed against the Owner.

____ Signature of Contractor (President, Vice-President, Partner or Owner, or, if signed by other than one of foregoing, Power of Attorney signed by one of the foregoing should be attached. Indicate applicable designation.)

[End of clause]

§ 1726.346 Supplemental contract for additional project, RUS Form 792c.

The form in this section shall be used when required by RUS Form 201, 790, or 792.

Supplemental Contract For Additional Project

Date ____
To: ____ Contractor

Pursuant to Article I, Section 2 of the Contractor's Proposal dated ____, for the rural electric Project ____, we request that you construct Additional Project No. ____, consisting of approximately the following system improvement and line extension work: ____.

The Additional Project is to be constructed in accordance with all of the provisions of the Contractor's Proposal, except:

1. The time for completion of the Additional Project shall be ____

2. The prices for Construction Units for the Additional Project are attached.

Please indicate your acceptance of the foregoing by signing below, return two signed copies and retain one copy.

Sincerely,
____ Owner
By ____ President, Vice President (strike out inapplicable designation.)

Acceptance:

____ Contractor
By ____ President, Vice President, Partner (strike out inapplicable designation.)
Date ____

[End of clause]

§§ 1726.347–1726.350 [Reserved]

§ 1726.351 Electric system construction contract (labor and materials), RUS Form 830.

The contract form in this section shall be used when required by this part. This form refers to guide drawings, which do not contain requirements, and, hence, are not included in this part. The guide drawings are included in the printed form available from GPO (See § 1726.300.).

Electric System Construction Contract (Labor and Materials)

Notice And Instructions To Bidders

1. Sealed proposals for the construction, including the supply of necessary labor, materials and equipment, of a rural electric project of ____ (hereinafter called the ''Owner'') to be known as ____ Project will be received by the Owner on or before ____ o'clock ____ M., ____, 19____, at its office at ____ at which time and place the proposals will be publicly opened and read. Any proposals received subsequent to the time specified will be promptly returned to the Bidder unopened.

2. Description of Project: The Project will consist of approximately:

Overhead Distribution Line Construction

____ miles of ____ kV Single Phase Lines
____ miles of ____ kV V-Phase Lines
____ miles of ____ kV Three-Phase Lines
____ miles of secondary on secondary poles
____ miles of services for ____ consumers

Underground Distribution Facilities

____ miles of ____ kV Single-Phase Construction
____ miles of ____ kV V-Phase Construction
____ miles of ____ kV Three-Phase Construction
____ miles of ____ Volt Secondary and Service
Construction for ____ Consumers.

Distribution Line Changes, Conversion, and Removal

____ miles of ____

Transmission Line Construction

____ miles ____ kV; ____ miles ____ kV
____ miles ____ kV underbuild

Substations and Other Major Facilities

____ kVA ____ Voltage ____ Name

This Project is located in ____ Counties, in the State(s) of ____ all as more fully described in the Plans, Specifications, Construction Drawings, and Contractor's Proposal therefore hereinafter referred to.

3. Work on Energized Lines. Unless stated below all construction work including attachments to existing poles and line changes, is to be done with the line deenergized. The hours during which existing lines will be deenergized are shown in the Contractor's Proposal. Approximately ____ miles of the line changes are to be made with the lines energized and such lines are in the following locations or areas: ____ and are more fully described in the Plans, Specifications, and Contractor's Proposal. For work in these locations the Bidder must provide personnel capable of working on energized lines. All such work shall be performed to meet at least the safety rules and regulations prescribed by the Owner for its own employees including the use of rubber gloves, hot sticks and associated protective equipment, a copy of which rules and regulations may be examined at the office of the Owner.

4. Owner-Furnished Materials. The unit prices in the Contractor's Proposal should include provisions for Owner-Furnished Materials since as stated in Article I, Section 3 of the Contractor's Proposal, the value of the Owner-Furnished Materials, if any, will be deducted from payments to the Bidder for completed Construction Units.

5. Obtaining Documents. The Plans, Specifications and Construction Drawings, together with all necessary forms and other documents for bidders may be obtained from the Owner, or from the Engineer ____ at the latter's office at ____ upon the payment of $____, which payment will not be subject to refund. The Plans, Specifications, and Construction Drawings may be examined at the office of the Owner or at the office of the Engineer. A copy of the Loan Contract (if the Project is to be financed, in whole or in part, pursuant to a loan contract) between the Owner and the United States of America acting through the Administrator of the Rural Utilities Service and of the loan contract between the Owner and any other lender may be examined at the office of the Owner. Each

set of Plans, Specifications and Construction Drawings will have a serial number, given by the Engineer, and the number of each set with the name of the purchaser will be recorded by the Engineer. Bids will be accepted only from the original purchaser.

6. Manner of Submitting Proposals. Proposals and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner. The name and address of the Bidder, its license number if a license is required by the State, and the date and hour of the opening of bids must appear on the envelope in which the Proposal is submitted. Proposals must be filled in in ink or typewritten. No alterations or interlineations will be permitted, unless made before submission, and initialed and dated.

7. Familiarity with Conditions. Prior to the submission of the Proposal the Bidder shall make and shall be deemed to have made a careful examination of the site of the Project and of the Plans, Specifications, Construction Drawings, and forms of Contractor's Proposal and Contractor's Bond on file with the Secretary of the Owner and with the Engineer, and shall become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be encountered, the kind of facilities required before and during the construction of the Project, general local conditions and all other matters that may affect the cost and time of completion of the Project. Bidders will be required to comply with all applicable statutes, regulations, etc., including those pertaining to the licensing of contractors, and the so-called ''Kick-Back Statute'' (48 State. 948) and regulations issued pursuant thereto.

8. Proposals will be accepted only from those prequalified bidders invited by the Owner to submit a proposal.

9. Alternate Designs. The Owner reserves the right to confine its consideration of the several bids to one type of design regardless of alternate types of design which may be specified in the Plans and Specifications and offered in the Proposals.

10. Proposals for Distribution and Transmission Facilities. If the Project includes both distribution and transmission facilities, bidders shall bid on both of the facilities and the Owner will evaluate the Proposals on the basis of low total bid for both facilities.

11. The Time for Completion of Construction of the Project shall be as specified by the Engineer in the Proposal.

12. Bid Bond. Each Proposal must be accompanied by a Bid Bond in the form attached or a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the Owner, in an amount equal to ten percent (10%) of the maximum bid price. Each Bidder agrees, provided its Proposal is one of the three low Proposals, that, by filing its Proposal together with such Bid Bond or check in consideration of the Owner's receiving and considering such Proposals, said Proposal shall be firm and binding upon each such Bidder and such Bid Bond or check shall be held by the Owner until a Proposal is accepted and a satisfactory Contractor's Bond is furnished (where required) by the successful Bidder and such acceptance has been approved by the Administrator, or for a period not to exceed sixty (60) days from the date hereinbefore set for the opening of Proposals, whichever period shall be the shorter. If such Proposal is not one of the three low Proposals, the Bid Bond or check will be returned in each instance within a period of ten (10) days to the Bidder furnishing same.

13. Contractor's Bond. The successful Bidder will be required to execute two additional counterparts of the Proposal and, for a Contract in excess of $100,000, to furnish a Contractor's Bond in triplicate in the form attached hereto with sureties listed by the United States Treasury Department as Acceptable Sureties, in a penal sum not less than the contract price.

14. Failure to Furnish Contractor's Bond. Should the successful Bidder fail or refuse to execute such counterparts or to furnish a Contractor's Bond (where required) within ten (10) days after written notification of the acceptance of the Proposal by the Owner, the Bidder will be considered to have abandoned the Proposal. In such event, the Owner shall be entitled (a) to enforce the Bid Bond in accordance with its terms, or (b) if a certified check has been delivered with the Proposal, to retain from the proceeds of the certified check, the difference (not exceeding the amount of the certified check) between the amount of the Proposal and such larger amount for which the Owner may in good faith contract with another party to construct the Project. The term ''Successful Bidder'' shall be deemed to include any Bidder whose Proposal is accepted after another Bidder has previously refused or has been unable to execute the counterparts or to furnish a satisfactory Contractor's Bond (where required.)

15. Contract is Entire Agreement. The Contract to be effected by the acceptance of the Proposal shall be deemed to include the entire agreement between the parties thereto, and the Bidder shall not claim any modifications thereof resulting from any representation or promise made at any time by any officer, agent or employee of the Owner or by any other person.

16. Minor Irregularities. The Owner reserves the right to waive minor irregularities or minor errors in any Proposal, if it appears to the Owner that such irregularities or errors were made through inadvertence. Any such irregularities or errors so waived must be corrected on the Proposal in which they occur prior to the acceptance thereof by the Owner.

17. Balanced Bid. The Owner reserves the right to reject any or all Proposals. The attention of Bidders is specially called to the desirability of a proper balance between prices for labor and materials and between the total prices for the respective Construction Units. Lack of such balance may be considered as a reason for rejecting a Proposal.

18. Discrepancy in Unit Prices. Where the unit prices in the Contractor's Proposal are separated into three columns designated as ''Labor,'' ''Materials,'' and ''Labor and Materials,'' and where a discrepancy appears between the sum shown in the ''Labor and Materials'' column and the correct addition of the sums appearing in the ''Labor'' column and the ''Materials'' column, the correct addition of the sums appearing in the ''Labor'' column and the ''Materials'' column shall control.

19. Definition of Terms. The terms ''Administrator,'' ''Engineer,'' ''Supervisor,'' ''Project,'' ''Completion of Construction,'' and ''Completion of the Project'' as used throughout this Contract shall be as defined in Article VI, Section 1, of the Contractor's Proposal.

20. The Owner Represents: a. If by provisions of the Contractor's Proposal the Owner shall have undertaken to furnish any materials for the construction of the Project, such materials are on hand at locations specified or if such materials are not on hand they will be made available by the Owner to the successful Bidder at the locations specified before the time such materials are required for construction.

b. All easements and rights-of-way, except as shown on maps included in the Plans and Specifications, have been obtained from the owners of the properties across which the Project is to be constructed (including tenants who may reasonably be expected to object to such construction). The remaining easements and rights-of-way, if any, will be obtained as required to avoid delay in construction.

c. All staking, except as shown on the maps included in the Plans and Specifications, has been completed and sufficient staking crews will be available to maintain stakes at all times in advance of construction.

d. Where underground distribution construction is required, permission has been obtained from state and local highway and road authorities to install underground distribution power facilities and set pedestals, if any, on the highway and road right-of-way in the Project area. Notwithstanding such permission granted to the Owner, each Bidder is responsible for ascertaining that the equipment, methods of construction, and repair proposed to be used on the Project will meet all requirements of public authorities having jurisdiction over highway and road right-of-way. The successful Bidder will be required to furnish proof satisfactory to the Owner of compliance with this requirement. If required by highway or road authorities, the successful Bidder will furnish to such authorities a bond or meet other guaranty requirements to assure the prompt repair of all damages to highways and roads and their associated rights-of-way caused by the Bidder during construction of the Project. This requirement is in addition to and independent of the Contractor's Bond required under this Contract. The acceptance of a bid from any Bidder is not to be construed as approval of the Bidder's equipment or proposed construction methods by or on behalf of the highway and road authorities. Bidders may obtain information concerning the requirements of highway and road authorities by communicating with the following ____.

e. All funds necessary for prompt payment for the construction of the Project will be

available. If the Owner shall fail to comply with any of the undertakings contained in the foregoing representation or if any of such representations shall be incorrect, the Bidder will be entitled to an extension of time of completion for a period equal to the delay, if any, caused by the failure of the Owner to comply with such undertakings or by any such incorrect representation; provided the Bidder shall have promptly notified the Owner in writing of its desire to extend the time of completion in accordance with the foregoing; provided, however, that such extension, if any, of the time of completion shall be the sole remedy of the Bidder for the Owner's failure, because of conditions beyond the control and without the fault of the Owner, to furnish materials in accordance with subparagraph a. above.

Owner ____
By ____
____. 19____

Contractor's Proposal

(Proposal shall be submitted in ink or typewritten)

To: ____ (hereinafter called the ''Owner'')

Article I—General

Section 1. Offer to Construct. The undersigned (hereinafter called the ''Bidder'') hereby proposes to receive and install such materials and equipment as may hereinafter be specified to be furnished by the Owner, and to furnish all other materials and equipment, all machinery, tools, labor, transportation and other means required to construct the rural electric project ____ in strict accordance with the Plans, Specifications and Construction Drawings for the prices hereinafter stated.

The total length of the project lines shall be determined by taking the sum of all straight horizontal span distances between pole stakes or from center to center of poles, or centerline of structures, carrying conductors, plus the length of service drops, if any, measured horizontally from center of last pole to the point of attachment to the consumer's building.

Section 2. Materials and Equipment. The Bidder agrees to furnish and use in the construction of the Project under this Proposal, in the event the Proposal is accepted, only such ''fully listed'' and ''conditionally listed'' materials and equipment as are included in the current ''List of Materials Acceptable for Use on Systems of RUS Electrification Borrowers,'' including revisions adopted prior to the Bid Opening. The use of ''conditionally listed'' materials and equipment requires prior consent by the Owner or Engineer. For distribution lines, the Bidder further agrees to furnish and use guy wire with ASTM Class ____ (Engineer to insert A or B) zinc coating.

All leads on equipment such as transformers, reclosers, etc., shall be of #6 minimum copper conductivity using ____ (Engineer to insert standard soft drawn copper or aluminum alloy) conductor. All conductor ties on insulators shall be of the materials and methods shown in the following Tying Guide Drawings: ____ (Engineer to insert appropriate drawing numbers).

Ground rods and butt-type pole grounding plates shall be ____ (Engineer to insert galvanized steel or copper).

Underground primary cable shall have ____ coated copper neutral (Engineer to insert round or flat).

For transmission lines, the Bidder further agrees to furnish and use guy wire, overhead ground wire, and pole ground wire with ASTM Class ____ (Engineer to insert A, B, or C) zinc coating. Guy wire shall be the same size and grade as the overhead ground wire. Where overhead ground wire is not specified, the guy wire shall be ____ size, ____ grade.

The Bidder further agrees to furnish and use poles, crossarms, and other timber products, of which the physical characteristics, method of treatment, type of preservative, instructions on inspection and general procedure shall be in accordance with RUS standards and requirements.

Crossarms shall be ____ (Engineer to insert Douglas fir or Southern Yellow Pine), treated with ____ (Engineer to insert type of preservative.)

The Bidder agrees that the prices for poles, crossarms, and other timber products set forth herein shall include the cost of preservative treatment and inspection, insured warranty, or quality assurance. The Bidder further agrees to obtain from the supplier inspection and treatment reports or insured warranties, for checking against the delivered timber, and to submit such reports or warranties to the Owner as one of the prerequisites to monthly and final payments.

Section 3. Owner-Furnished Materials. The Bidder understands and agrees that, if this Proposal is accepted, the Owner will furnish to the Bidder the material set forth in the attached ''List of Owner's Materials on Hand'' (see page ____) and the Bidder will give a receipt (see page ____) therefore in writing to the Owner. The Bidder, further, will on behalf of the Owner accept delivery of such of the materials set forth in the attached ''List of Materials Ordered by Owner but Not Delivered'' (see page ____) as may be subsequently delivered and will promptly forward to the Owner for payment the supplier's invoice, together with the Bidder's receipt in writing for such materials. The materials referred to are on hand at, or will be delivered to, the locations specified in the List and the Bidder will use such materials in constructing the Project.

The value of the completed Construction Units certified by the Bidder each month pursuant to Article III, Section 1.a of the Proposal shall be reduced by an amount equal to the value of the materials installed by the Bidder during the preceding month which have been furnished by the Owner or the delivery of which has been accepted by the Bidder on behalf of the Owner. Only ninety percent (90%) of the remainder shall be paid prior to the Completion of the Project. The value of such materials shall be computed on the basis of the unit prices stated in the Lists. Materials, if any, not required for the Project, which have been furnished to the Bidder by the Owner or delivery of which has been accepted by the Bidder on behalf of the Owner, shall be returned to the Owner by the Bidder upon completion of construction of the Project. The value of all materials not installed in the Project nor returned to the Owner shall be deducted from the final payment to the Bidder.

The Owner shall not be obligated to furnish materials in excess of the quantities, size, kind and type set forth in the attached Lists. If the Owner furnishes, and the Bidder accepts, materials in excess thereof, the values of such excess materials shall be their actual cost as stated by the Owner.

Information on the shipping schedules of materials on the ''List of Materials Ordered by Owner But Not Delivered'' will be furnished to the Bidder as necessary during progress of the work. Upon delivery the Bidder shall promptly receive, unload, transport and handle all materials and equipment on the ''List of Materials Ordered by Owner But Not Delivered'' at its expense and shall be responsible for demurrage, if any.

Section 4. Purchase of Materials Not Furnished By Owner. The Bidder will purchase all materials and equipment (other than Owner-furnished materials) outright and not subject to any conditional sales agreements, bailment, lease or other agreement reserving unto the seller any right, title or interest therein.

Section 5. Proposal on Unit Basis. The Bidder understands and agrees that the various Construction Units on which bids are made are defined by symbols and descriptions in this Proposal, that all said bids are on a unit basis, and that the Owner may specify any number or combination of Construction Units that the Owner may deem necessary for the construction of the Project. Separate Construction Units are designated for each different arrangement which may be used in the construction of the Project. This Proposal is based on a consideration of each unit in place and includes only the materials listed on the corresponding Construction Drawings or description of unit where no drawing exists.

Section 6. Description of Contract. The Notice and Instructions to Bidders and Plans attached hereto and made a part hereof, and the Specifications and Construction Drawings set forth in:

RUS Bulletin 50–3, Specifications and Drawings for 12.5/7.2 kV Line Construction;

RUS Form 803, Specifications and Drawings for 14.4/24.9 kV Line Construction;

RUS Form 806, Specifications and Drawings for Underground Electric Distribution;

RUS Bulletin 50–2, RUS Specifications T–805A, Electric Transmission Specifications and Drawings, 34.5 kV through 69 kV;

RUS Bulletin 50–1, RUS Specification T–805B, Electric Transmission Specifications and Drawings for 115 kV through 230 kV; as applicable, which by this reference are incorporated herein, together with the Proposal and Acceptance constitute the Contract. The Plans, consisting of maps and special drawings, and approved modifications in standard specifications are attached hereto and identified as follows: _____.

Section 7. Familiarity with Conditions. The Bidder has made a careful examination of the site of the Project to be constructed and of

the Plans, Specifications, Construction Drawings, and form of Contractor's Bond attached hereto, and has become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be encountered, and the kind of facilities required before and during the construction of the Project, and has become acquainted with the labor conditions, state and local laws, and regulations which would affect work on the proposed construction.

Section 8. License. The Bidder warrants that a Contractor's License is ____ is not ____ required, and if required it posses Contractor's License No. ____ for the State of ____ in which the Project is located and said license expires on ____, 19____.

Section 9. Warranty of Good Faith. The Bidder warrants that this Proposal is made in good faith and without collusion or connection with any person or persons bidding for the same work.

Section 10. Warranty of Financial Resources. The Bidder warrants that it possesses adequate financial resources and agrees that in the event this Proposal is accepted and a Contractor's Bond is required, it will furnish a Contractor's Bond in the form attached hereto, in a penal sum not less than the maximum Contract price, with a surety or sureties listed by the United States Department of Treasury as Acceptance Sureties.

In the event that the surety or sureties on the performance bond delivered to the Owner contemporaneously with the execution of the Contract or on any bond or bonds delivered in substitution thereof or in addition thereto shall at any time become unsatisfactory to the Owner or the Administrator, the Bidder agrees to deliver to the Owner another or an additional bond.

Section 11. Taxes. The unit prices for Construction Units in this Proposal include provisions for the payment of all monies which will be payable by the Bidder or the Owner in connection with the construction of the Project on account of taxes imposed by any taxing authority upon the sale, purchase or use of materials, supplies and equipment, or services or labor of installation thereof, to be incorporated in the Project as part of such Construction Units. The Bidder agrees to pay all such taxes, except taxes upon the sale, purchase or use of owner-furnished materials and it is understood that, as to owner-furnished materials, the values stated in the attached ''List of Owner's Materials on Hand'' and ''List of Materials Ordered by Owner But Not Delivered'' include taxes upon the sale, purchase or use of owner-furnished materials, if applicable. The Bidder will furnish to the appropriate taxing authorities all required information and reports pertaining to the Project, except as to the Owner-furnished materials.

Section 12. Changes in Quantities. The Bidder understands and agrees that the quantities called for in this Proposal are approximate, and that the total number of units upon which payment shall be made shall be as set forth in the inventory. If the Owner changes the quantity of any unit or units specified in this Proposal by more than fifteen percent (15%) and the materials cost to the Bidder is increased thereby to an extent which would not be adequately compensated by application of the unit prices in this Proposal to the revised quantity of such unit or units, such change, to the extent of the quantities of such units in excess of such fifteen percent (15%) shall be regarded as a change in the construction within the meaning of Article II, Section 1(d) of this proposal.

LIST OF OWNER'S MATERIALS ON HAND

Item [1]	Description of material	Catalog No.	Quantity	Unit price	Extended price
Total: Above Materials are Located at:					

Notes: 1. Item corresponds with item in list of materials in construction drawings. Under Article I, Section 3, the value of these materials will be deducted from payments to the Bidder for completed Construction Units.

LIST OF MATERIALS ORDERED BY OWNER BUT NOT DELIVERED

Item [1]	Supplier name and address	Scheduled delivery date	Description of material	Catalog No.	Quantity	Unit price	Extended price
Total: Above Material to be Delivered to:							

Notes: 1. Item corresponds with item in list of materials in construction drawings. Under Article I, Section 3, the value of these materials will be deducted from payments to the Bidder for completed Construction Units.

Article II—Construction

Section 1. Time and Manner of Construction.

a. The Bidder agrees to commence construction of the Project on a date (hereinafter called the ''Commencement Date'') which shall be determined by the Engineer after notice in writing from the Bidder that the Bidder has sufficient materials to warrant commencement and continuation of construction, but in no event will the Commencement Date be later than _____ calendar days after date of approval of the Contract by the Administrator. The Bidder further agrees to prosecute diligently and to complete construction in strict accordance with the Plans, Specifications and Construction Drawings within _____ (_____) calendar days (excluding Sundays) after Commencement Date: Provided, however, that the Bidder will not be required to dig holes, set poles, install anchors, install underground conduit, perform any plowing for the installation of underground cable, or dig trenches if there are more than six (6) inches of frost on the ground nor to perform any construction on such days when in the judgment of the Engineer snow, rain, or wind, or the results of snow, rain, or frost make it impracticable to perform any operation of construction; provided further that the Bidder will not be required to perform any plowing for the installation of underground cable on public roads or highways if there are more than two (2) inches of frost in the ground. To the extent of the time lost due to the conditions described herein and approved in writing by the Engineer, the time of completion set out above will be extended if the Bidder makes a written request therefore to the Owner as provided in subsection b of this Section 1.

b. The time for Completion of Construction shall be extended for the period of any reasonable delay which is due exclusively to causes beyond the control and without the fault of the Bidder, including Acts of God, fires, floods, inability to obtain materials and acts or omissions of the Owner with respect to matters for which the Owner is solely responsible: Provided, however that no such extension of time for completion shall be granted the Bidder unless within ten (10) days after the happening of any event relied upon by the Bidder for such an extension of time the Bidder shall have made a request therefore in writing to the Owner, and provided further that no delay in such time of completion or in the progress of the work which results from any of the above causes except acts or omissions of the Owner, shall result in any liability on the part of the Owner.

c. The sequence of construction shall be as set forth below, the number or names being the designations of extensions or areas (hereinafter called the ''Sections'') corresponding to the numbers or names shown on the maps attached hereto, or if no Sections are set forth below, the sequence of construction shall be as determined by the Bidder, subject to the approval of the Engineer. _____

d. The Owner, acting through the Engineer may from time to time during the progress of the construction of the Project make such changes, additions or subtractions from the Plans, Specifications, Construction Drawings, List of Materials and sequence of construction provided for in the previous paragraph which are part of the Contractor's Proposal as conditions may warrant: Provided, however, that if any change in the construction to be done shall require an extension of time, a reasonable extension will be granted if the Bidder shall make a written request therefore to the Owner within (10) days after any such change is made. And provided further, that if the cost to the Bidder of construction of the project shall be materially increased by any such change or addition, the Owner shall pay the Bidder for the reasonable cost thereof in accordance with a Construction Contract Amendment signed by the Owner and the Bidder, but no claim for additional compensation for any such change or addition will be considered unless the Bidder shall have made a written request therefore to the Owner prior to the commencement of work in connection with such change or addition.

e. The Bidder will not perform any work hereunder on Sundays unless there is urgent need for such Sunday work and the Owner consents thereto in writing. The time for completion specified in subsection a of this Section 1 shall not be affected in any way by inclusion of this subsection nor by the Owner's consent or lack of consent to Sunday work hereunder.

Section 2. Environmental Protection. The Bidder shall perform work in such a manner as to maximize preservation of beauty, consideration of natural resources and minimize marring and scarring of the landscape and silting of streams. The Bidder shall not deposit trash in streams or waterways, and shall not deposit herbicides or other chemicals or their containers in or near streams, waterways or pastures. The Bidder shall follow the criteria relating to environmental protection as specified herein by the Engineer.

Section 3. Tools, Equipment, and Qualified Personnel. The Bidder agrees that in the event this Proposal is accepted it will make available for use in connection with the proposed construction all necessary tools and equipment and qualified superintendents and foremen.

Section 4. Changes in Construction. The Bidder agrees to make such changes in construction previously erected in the Project by the Bidder as required by the Owner for prices arrived at as follows:

a. For substations and other units where only a portion of the complete unit is affected by the change, the compensation for such change shall be as agreed upon in writing by the Bidder and the Owner prior to the commencement of work in connection with such change.

b. For all other units, the compensation for such change shall be the reasonable cost thereof as agreed upon by the Bidder and the Owner, but in no event shall it exceed two (2) times the labor price quoted in the Proposal for the installation of the unit to be changed. Such compensation shall be in lieu of any other payment for the installation and removal of the original unit. (If a new or replacing unit is installed, payment for such new or replacing unit shall be made as shown in the final inventory.)

No payment shall be made to the Bidder for materials or labor involved in correcting errors or omissions on the part of the Bidder which result in construction not in accordance with the Plans and Specifications. Section 5. Construction Not in Proposal. The Bidder also agrees that when it is necessary to construct units not shown in the Proposal it will construct such units for a price arrived at as follows:

a. The cost of materials shall be determined by the invoices.

b. The cost of labor shall be the reasonable cost thereof, but in no event shall it exceed an amount determined by calculating the ratio of the total labor costs to the total material costs in the section of the Proposal involved, and multiplying the cost of materials for the unit in question by this ratio: Provided, however, that in respect of sections H, M, and N, the ratio shall be calculated for only those units of the section which are similar to the new unit for which a price is to be determined.

Section 6. Supervision and Inspection.

a. The Bidder shall cause the construction work on the Project to receive constant supervision by a competent superintendent (hereinafter called the ''Superintendent'') who shall be present at all times during working hours where construction is being carried on. The Bidder shall also employ, in connection with the construction of the Project, capable, experienced and reliable foremen and such skilled workmen as may be required for the various classes of work to be performed. Directions and instructions given to the Superintendent shall be binding upon the Bidder.

b. The Owner reserves the right to require the removal from the Project of any employee of the Bidder if in the judgment of the Owner such removal shall be necessary in order to protect the interest of the Owner. The Owner or the Supervisor, if any, shall have the right to require the Bidder to increase the number of its employees and to increase or change the amount or kind of tools and equipment if at any time the progress of the work shall be unsatisfactory to the Owner or Supervisor; but the failure of the Owner or Supervisor to give any such directions shall not relieve the Bidder of its obligations to complete the work within the time and in the manner specified in this Proposal.

c. The construction of the Project and all materials and equipment used therein, shall be subject to the inspection, tests, and acceptance by the Owner and the Administrator and the Bidder shall furnish all information required by the Owner or by the Administrator concerning the nature or source of any materials incorporated or to be incorporated in the Project. The Owner and the Administrator shall have the right to inspect all payrolls, invoices of materials, and other data and records of the Bidder and of any subcontractor, relevant to the construction of the Project. The Bidder shall provide all reasonable facilities necessary for such inspection and tests and shall maintain an office at the site of the Project, with telephone service where obtainable and at least one office employee to whom directions and instructions of the Owner may be delivered. Delivery of such directions or instructions in writing to the employee of the Bidder at such office shall constitute delivery to the Bidder. The Bidder shall have an authorized agent accompany the Engineer when final inspection is made and, if requested by the Owner, when any other inspection is made.

d. In the event that the Owner, or the Administrator, shall determine that the construction contains or may contain numerous defects, it shall be the duty of the Bidder and the Bidder's Surety or Sureties, if any, to have an inspection made by an engineer approved by the Owner for the purpose of determining the exact nature, extent and location of such defects.

e. The Engineer may recommend to the Owner that the Bidder suspend the work wholly or in part for such period or periods as the Engineer may deem necessary due to unsuitable weather or such other conditions as are considered unfavorable for satisfactory prosecution of the work or because of the failure of the Bidder to comply with any of the provisions of the Contract: Provided, however, that the Bidder shall not suspend work pursuant to this provision without written authority from the Owner so to do. The time of completion hereinabove set forth shall be increased by the number of days of any such suspension, except when such suspension is due to the failure of the Bidder to comply with any of the provisions of this Contract. In the event that work is suspended by the Bidder with the consent of the Owner, the Bidder before resuming work shall give the Owner at least twenty-four (24) hours notice thereof in writing.

Section 7. Defective Materials and Workmanship.

a. The acceptance of any materials, equipment (except Owner-furnished materials) or any workmanship by the Owner or the Engineer shall not preclude the subsequent rejection thereof if such materials, equipment, or workmanship shall be found to be defective after delivery or installation, and any such materials, equipment or workmanship found defective before final acceptance of the construction shall be replaced or remedied, as the case may be, by and at the expense of the Bidder. Any such condemned material or equipment shall be immediately removed from the site of the Project by the Bidder at the Bidder's expense. The Bidder shall not be entitled to any payment hereunder so long as any defective materials, equipment or workmanship in respect to the Project, of which the Bidder shall have had notice, shall not have been replaced or remedied, as the case may be.

b. Notwithstanding any certificate which may have been given by the Owner or the Engineer, if any materials, equipment (except Owner-furnished materials) or any workmanship which does not comply with the requirements of this Contract shall be discovered within one (1) year after Completion of Construction of the Project, the Bidder shall replace such defective materials or equipment or remedy any such defective workmanship within thirty (30) days after notice in writing of the existence thereof shall have been given by the Owner. If the Bidder shall be called upon to replace any defective materials or equipment or to remedy defective workmanship as herein provided, the Owner, if so requested by the Bidder shall deenergize that section of the Project involved in such work. In the event of failure by the Bidder so to do, the Owner may replace such defective materials or equipment or remedy such defective workmanship, as the case may be, and in such event the Bidder shall pay to the Owner the cost and expense thereof.

Article III—Payments and Release of Liens

Section 1. Payments to Bidder

a. Within the first fifteen (15) days of each calendar month, the Owner shall make partial payment to the Bidder for construction accomplished during the preceding calendar month on the basis of completed Construction Units furnished and certified to by the Bidder, recommended by the Engineer and approved by the Owner solely for the purposes of payment: Provided, however, that such approval shall not be deemed approval of the workmanship or materials. Only ninety percent (90%) of each such estimate approved during the construction of the Project shall be paid by the Owner to the Bidder prior to Completion of the Project: Provided, however, that at any time after work, which, in the sole determination of the Engineer, amounts to fifty percent (50%) of the maximum Contract price has been completed, the Owner may elect, in lieu of paying ninety percent (90%) of each such subsequent estimate, to pay each such subsequent estimate in full. Upon completion by the Bidder of the construction of the Project, the Engineer will prepare an inventory of the Project showing the total number and character of Construction Units and, after checking such inventory with the Bidder, will certify it to the Owner. Upon the approval by the Owner and the Administrator of a Certificate of Completion—Contract Construction, RUS Form 187, showing the total cost of the construction performed, the Owner shall make payment to the Bidder of all amounts to which the Bidder shall be entitled thereunder which shall not have been paid: Provided, however, that such final payment shall be made not later than ninety (90) days after the date of Completion of Construction of the Project, as specified in the Certificate of Completion, unless withheld because of the fault of the Bidder.

b. The Bidder shall be paid on the basis of the number of Construction Units actually installed at the direction of the Owner shown by the inventory based on the staking sheets or structure lists; Provided, however, that the total cost shall not exceed the maximum Contract price for the construction of the Project as set forth in the Acceptance plus the costs of any additional change orders, unless such excess shall have been approved in writing by the Owner.

c. Notwithstanding the provisions of Section 1.a above, the Bidder may, by giving written notice thereof to the Owner, elect to receive payment in full for any Section of the Project upon:

(1) completion of such Section as certified by the Engineer and approved by the Owner;

(2) submission to the Owner of the releases of lien and the certificate referred to in Section 2 hereof;

(3) approval by the Owner of the inventory in respect of such Section; and

(4) submission to the Owner and the Administrator of the consent in writing by the Surety or Sureties, if any, on the Contractor's Bond to payment in full for such Section prior to Completion of the Project. If no Sections are designated in Article II, Section 1c, the term ''Section'' shall mean for purposes of this subsection c and Article IV, Section 3b only, a part of the Project as designated by the Owner which represents at least twenty-five percent (25%) of the maximum Contract price as stated in Article III, Section 1, and which is capable of being energized and operated by the Owner.

d. Interest at the rate of ____ percent [1] (____%) per annum shall be paid by the Owner to the Bidder on all unpaid balances due on monthly estimates, commencing fifteen (15) days after the due date; provided the delay in payment beyond the due date is not caused by any condition within the control of the Bidder. The due date for purposes of such monthly payment or interest on all unpaid balances shall be the fifteenth (15) day of each calendar month provided (1) the Bidder on or before the fifth (5) day of such month shall have submitted its certification of Construction Units completed during the preceding month and (2) the Owner on or before the fifteenth (15) day of such month shall have approved such certification. If, for reasons not due to the Bidder's fault, such approval shall not have been given on or before the fifteenth (15) day of such month, the due date for purposes of this subsection d shall be the fifteenth (15) day of such month notwithstanding the absence of the approval of the certification.

e. Interest at the rate of ____ percent [2] (____%) per annum shall be paid by the Owner to the Bidder on the final payment for the Project or any completed Section thereof, commencing fifteen (15) days after the due date. The due date for purposes of such final payment or interest on all unpaid balances shall be the date of approval by the Owner of all of the documents requiring such approval, as a condition precedent to the making of final payment, or ninety (90) days after the date of Completion of Construction of the Project, as specified in the Certificate of Completion, whichever date is earlier.

f. No payment shall be due while the Bidder is in default in respect of any of the provisions of this Contract and the Owner may withhold from the Bidder the amount of any claim by a third party against either the Bidder or the Owner based upon an alleged failure of the Bidder to perform the work hereunder in accordance with the provisions of this Contract.

Section 2. Release of Liens and Certificate of Contractor. (See RUS Form 224, Waiver and Release of Lien and RUS Form 231, Certificate of Contractor). Upon the completion by the Bidder of the construction of the Project (or any Section thereof if the Bidder shall elect to receive payment in full for any Section when completed as provided above) but prior to final payment to the Bidder, the Bidder shall deliver to the Owner, in duplicate, releases of all liens and of rights to claim any lien, in the form attached hereto from all manufacturers, material suppliers, and subcontractors furnishing services or materials for the Project or such Section and a certificate in the form attached hereto to the effect that all labor used on or for the Project or such Section has been paid and that all such releases have been submitted to the Owner.

Section 3. Payments to Material Suppliers and Subcontractors. The Bidder shall pay each material supplier, if any, within five (5) days after receipt of any payment from the Owner, the amount thereof allowed the Bidder for and on account of materials furnished or construction performed by each material supplier or each subcontractor.

Article IV—Particular Undertakings of the Bidder

Section 1. Protection to Persons and Property. The Bidder shall at all times take all reasonable precautions for the safety of employees on the work and of the public, and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building and construction codes, as well as the safety rules and regulations of the Owner. All machinery and equipment and other physical hazards shall be guarded in accordance with the ''Manual of Accident Prevention in Construction'' of the Associated General Contractors of America unless such instructions are incompatible with Federal, State, or Municipal laws or regulations.

The following provisions shall not limit the generality of the above requirements:

a. The Bidder shall at no time and under no circumstances cause or permit any employee of the Bidder to perform any work upon energized lines, or upon poles carrying energized lines, unless otherwise specified in the Notice and Instructions to Bidders.

b. The Bidder shall so conduct the construction of the Project as to cause the least possible obstruction of public highways.

c. The Bidder shall provide and maintain all such guard lights and other protection for the public as may be required by applicable statutes, ordinances and regulations or by local conditions.

d. The Bidder shall do all things necessary or expedient to properly protect any and all parallel, converging and intersecting lines, joint line poles, highways and any and all property of others from damage, and in the event that any such parallel, converging and intersecting lines, joint line poles, highways

[1] The Owner shall insert a rate equal to the lowest ''Prime Rate'' listed in the ''Money Rates'' section of the Wall Street Journal on the date such invitation to bid is issued.

[2] See Footnote 1.

or other property are damaged in the course of the construction of the Project the Bidder shall at its own expense restore any or all of such damaged property immediately to as good a state as before such damage occurred.

e. Where the right-of-way of the Project traverses cultivated lands, the Bidder shall limit the movement of its crews and equipment so as to cause as little damage as possible to crops, orchards or property and shall endeavor to avoid marring the lands. All fences which are necessarily opened or moved during the construction of the Project shall be replaced in as good condition as they were found and precautions shall be taken to prevent the escape of livestock. Except as otherwise provided in the descriptions of underground plowing and trenching assembly units, the Bidder shall not be responsible for loss of or damage to crops, orchards or property (other than livestock) on the right-of-way necessarily incident to the construction of the Project and not caused by negligence or inefficient operation of the Bidder. The Bidder shall be responsible for all other loss of or damage to crops, orchards, or property, whether on or off the right-of-way, and for all loss of or damage to livestock caused by the construction of the Project. The right-of-way for purposes of this said section shall consist of an area extending ____ feet on both sides of the center line of the poles along the route of the Project lines, plus such area reasonably required by the Bidder for access to the route of the Project lines from Public roads to carry on construction activities.

f. The Project, from the commencement of work to completion, or to such earlier date or dates when the Owner may take possession and control in whole or in part as hereinafter provided shall be under the charge and control of the Bidder and during such period of control by the Bidder all risks in connection with the construction of the Project and the materials to be used therein shall be borne by the Bidder. The Bidder shall make good and fully repair all injuries and damages to the Project or any portion thereof under the control of the Bidder by reason of any act of God or other casualty or cause whether or not the same shall have occurred by reason of the Bidder's negligence.

(i) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Bidder's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Bidder's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Bidder, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Bidder liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner.

(ii) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Bidder, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Bidder shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Bidder does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Bidder.

(iii) Bidder shall provide to Owner's satisfaction evidence of Bidder's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.

g. Any and all excess earth, rock, debris, underbrush and other useless materials shall be removed by the Bidder from the site of the Project as rapidly as practicable as the work progresses.

h. Upon violation by the Bidder of any of the provisions of this section, after written notice of such violation given to the Bidder by the Engineer or the Owner, the Bidder shall immediately correct such violation. Upon failure of the Bidder so to do the Owner may correct such violation at the Bidder's expense: Provided, however, that the Owner may, if it deems it necessary or advisable, correct such violation at the Bidder's expense without such prior notice to the Bidder.

i. The Bidder shall submit to the Owner monthly reports in duplicate of all accidents, giving such data as may be prescribed by the Owner.

j. The Bidder shall not proceed with the cutting of trees or clearing of right-of-way without written notification from the Owner that proper authorization has been received from the owner of the property, and the Bidder shall promptly notify the Owner whenever any landowner objects to the trimming or felling of any trees or the performance of any other work on its land in connection with the Project and shall obtain the consent in writing of the Owner before proceeding in any such case.

k. The Bidder will furnish, prior to the commencement of underground distribution construction, proof, satisfactory to the Owner, of compliance with requirements of highway and road authorities having jurisdiction, including without limitation, the furnishing of a bond or other guaranty, and approval by such authorities of the equipment and methods of construction and repair to be used by the Bidder.

Section 2. Insurance. The Bidder shall take out and maintain throughout the period of this Agreement the following types and minimum amounts of insurance:

a. Workers' compensation and employers' liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

b. Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

c. Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million each occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection ''b'' and ''c'' of this Section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Owner shall be named as Additional Insured on all policies of insurance required in subsections ''b'' and ''c'' of this Section.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.

Section 3. Delivery of Possession and Control to Owner.

a. Upon written request of the Owner the Bidder shall deliver to the Owner full possession and control of any portion of the Project provided the Bidder shall have been paid at least ninety percent (90%) of the cost of construction of such portion. Upon such delivery of the possession and control of any portion of the Project to the Owner, the risk and obligations of the Bidder as set forth in Article IV, Section 1f hereof with respect to such portion of the Project so delivered to the Owner shall be terminated; Provided, however, that nothing herein contained shall relieve the Bidder of any liability with respect to defective materials and workmanship as contained in Article II, Section 6 hereof.

b. Where the construction of a Section as hereinbefore defined in Article II, Section 1c

and Article III, Section 1c shall have been completed by the Bidder, the Owner agrees, after receipt of a written request from the Bidder, to accept delivery of possession and control of such Section upon the issuance by the Engineer of a written statement that the Section has been inspected and found acceptable by the Engineer. Upon such delivery of the possession and control of any such Section to the Owner, the risk and obligations of the Bidder as set forth in Article IV, Section 1f hereof with respect to such Section so delivered to the Owner shall be terminated: Provided, however, that nothing herein contained shall relieve the Bidder of any liability with respect to defective materials or workmanship as contained in Article II, Section 6 hereof.

Section 4. Energizing the Project.

a. Prior to Completion of the Project the Owner, upon written notice to the Bidder, may test the construction thereof by temporarily energizing any portion or portions thereof. During the period of such test the portion or portions of the Project so energized shall be considered as within the possession and control of the Owner and governed by the provisions of Section 3 of this Article. Upon written notice to the Bidder by the Owner of the completion of such test and upon deenergizing the lines involved therein said portion or portions of the Project shall be considered as returned to the possession and control of the Bidder unless the Owner shall elect to continue possession and control in the manner provided in Section 3 of this Article.

b. The Owner shall have the right to energize permanently any portion or portions of the Project delivered to its possession and control pursuant to the provisions of Section 3 of this Article.

Section 5. Assignment of Guarantees. All guarantees of materials and workmanship running in favor of the Bidder shall be transferred and assigned to the Owner prior to the time the Bidder receives final payment.

Article V—Remedies

Section 1. Completion on Bidder's Default. If default shall be made by the Bidder or by any subcontractor in the performance of any of the terms of this Proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Bidder and the Surety or Sureties, if any, upon the Contractor's Bond or Bonds a written notice requiring the Bidder to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Bidder such default shall be corrected or arrangements for the correction thereof satisfactory to both the Owner and the Administrator shall be made by the Bidder or its Surety or Sureties, if any, the Owner may take over the construction of the Project and prosecute the same to completion by Contract or otherwise for the account and at the expense of the Bidder, and the Bidder and its Surety or Sureties, if any, shall be liable to the Owner for any cost or expense in excess of the Contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the Project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Bidder or any of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims or demands which the Bidder may have against third persons in connection with this Contract and for such purpose the Bidder does hereby assign, transfer and set over unto the Owner all such rights, claims and demands.

Section 2. Liquidated Damages. The time of the Completion of Construction of the Project is of the essence of the Contract. Should the Bidder neglect, refuse or fail to complete the construction within the time herein agreed upon, after giving effect to extensions of time if any, herein provided, then, in that event and in view of the difficulty of estimating with exactness damages caused by such delay, the Owner shall have the right to deduct from and retain out of such moneys which may be then due, or which may become due and payable to the Bidder the sum of _____ dollars (_____) per day for each and every day that such construction is delayed in its completion beyond the specified time, as liquidated damages and not as a penalty; if the amount due and to become due from the Owner to the Bidder is insufficient to pay in full any such liquidated damages, the Bidder shall pay to the Owner the amount necessary to effect such payment in full: Provided, however, that the Owner shall promptly notify the Bidder in writing of the manner in which the amount retained, deducted or claimed as liquidated damages was computed.

Section 3. Cumulative Remedies. Every right or remedy herein conferred upon or reserved to the Owner or the Government or the Administrator shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election: Provided, however, that the provisions of Section 2 of this Article shall be the exclusive measure of damages for failure by the Bidder to complete the construction of the Project within the time herein agreed upon.

Article VI—Miscellaneous

Section 1. Definitions.

a. The term ''Administrator'' shall mean the Administrator of the Rural Utilities Service of the United States of America and his duly authorized representative or any other person in whom or authority in which may be vested the duties and functions which the Administrator is now authorized by law to perform.

b. The term ''Engineer'' shall mean the Engineer employed by the Owner, to provide engineering services for the Project and said Engineer's duly authorized assistants and representatives.

c. The term ''Supervisor'' shall mean the person, if any, appointed by the Administrator as the representative of the Government under the provisions of the Loan Contract providing for such appointment in special cases. The term is limited to such special representative of the Government, if any, who is responsible exclusively to the Administrator and does not refer to the Manager or any other person employed by the Owner and responsible to it.

d. The term ''Project'' shall mean the rural electric system, or portion thereof, described in the Plans and Specifications, Construction Drawings.

e. The term ''Completion of Construction'' shall mean full performance by the Bidder's obligations under the Contract and all amendments and revisions thereof except the Bidder's obligations in respect of (1) Releases of Liens and Certificate of Contractor under Article III, Section 2 hereof, (2) the inventory referred to in Article III, Section 1 hereof, and (3) other final documents. The term ''Completion of the Project'' shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof. The Certificate of Completion, signed by the Engineer and approved in writing by the Owner, shall be the sole and conclusive evidence as to the date of Completion of Construction and as to the fact of Completion of the Project.

Section 2. Materials and Supplies. In the performance of this contract there shall be furnished only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, Mexico, or Canada, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States, Mexico, or Canada; provided that other articles, materials, or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. The Seller agrees to submit to the Purchaser such certificates with respect to compliance with the foregoing provision as the Administrator from time to time may require.

Section 3. Patent Infringement. The Bidder shall hold harmless and indemnify the Owner from any and all claims, suits and proceedings for the infringement of any patent or patents covering any materials or equipment used in construction of the Project.

Section 4. Permits for Explosives. All permits necessary for the handling or use of dynamite or other explosives in connection with the construction of the Project shall be obtained by and at the expense of the Bidder.

Section 5. Compliance with Statutes and Regulations. The Bidder shall comply with all applicable statutes, ordinances, rules, and regulations pertaining to the work. The Bidder acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the so-called ''Kick-Back'' Statute (48 Stat. 948), and regulations issued pursuant thereto, and 18 U.S.C. §§ 287, 1001, as amended. The Bidder understands that the obligations of the parties hereunder are subject to the applicable regulations and orders of Governmental Agencies having jurisdiction in the premises.

Section 6. Equal Opportunity Provisions.

(a) Bidder's Representations.

The Bidder represents that:

It has ____, does not have ____, 100 or more employees, and if it has, that it has ____, has

not ____ furnished the Equal Employment Opportunity-Employers Information Report EEO–1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964.

The Bidder agrees that it will obtain, prior to the award of any subcontract for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100.

The Bidder agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than $10,000, the Bidder will file such report, as required by law, and notify the owner in writing of such filing prior to the Owner's acceptance of this Proposal.

(b) Equal Opportunity Clause. During the performance of this Contract, the Bidder agrees as follows:

(1) The Bidder will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Bidder will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

(2) The Bidder will, in all solicitations or advertisements for employees placed by or on behalf of the Bidder, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The Bidder will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Bidder's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Bidder will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.

(5) The Bidder will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Bidder's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part, and the Bidder may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

(7) The Bidder will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by the rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Bidder will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; Provided, however, that in the event Bidder becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Bidder may request the United States to enter into such litigation to protect the interests of the United States.

(c) Certificate of Nonsegregated Facilities. The Bidder certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term ''segregated facilities'' means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

Section 7. Franchises and Rights-of-Way. The Bidder shall be under no obligation to obtain or assist in obtaining: Any franchises, authorizations, permits or approvals required to be obtained by the Owner from Federal, State, County, Municipal or other authorities; any rights-of-way over private lands; or any agreements between the Owner and third parties with respect to the joint use of poles, crossings, or other matter incident to the construction and operation of the Project.

Section 8. Nonassignment of Contract. The Bidder shall perform directly and without subcontracting not less than twenty-five percent (25%) of the construction of the Project, to be calculated on the basis of the total Contract price. The Bidder shall not assign the Contract effected by an acceptance of this Proposal or any interest in any funds that may be due or become due hereunder or enter into any contract with any person, firm or corporation for the performance of the Bidder's obligations hereunder or any part thereof, without the approval in writing of the Owner and of the Surety or Sureties, if any, on any bond furnished by the Bidder for the faithful performance of the Bidder's obligations hereunder. If the Bidder, with the consent of the Owner and any Surety or Sureties on the Contractor's Bond or Bonds, shall enter into a subcontract with any subcontractor for the performance of any part of this Contract, the Bidder shall be as fully responsible to the Owner and the Government for the acts and omissions of such subcontractor and of persons employed by such subcontractor as the Bidder would be for its own acts and omissions and those of persons directly employed by it.

Section 9. Extension to Successors and Assigns. Each and all of the covenants and agreements herein contained shall extend to and be binding upon the successors and assigns of the parties hereto.

Section 10. Contractor. Upon acceptance of this Proposal, the successful Bidder shall be the Contractor and all references in the Proposal to the Bidder shall apply to the Contractor.

_____ (Bidder)
By _____ (President)
_____ (Address)
Attest: _____ (Secretary)
Date _____

The Proposal must be signed with the full name of the Bidder. If the Bidder is a partnership, the Proposal must be signed in the partnership name by a partner. If the Bidder is a corporation, the Proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

Distribution Construction Units—New Construction

Section 1—Pole Units

A pole unit consists of one pole in place. It does not include pole-top assembly unit or other parts attached to the pole. The first two digits indicate the length of the pole; the third digit shows the classification per ANSI (Example: 35–5 means a pole 35 feet long, class 5.)

Species of Timber: _____

Kind of Preservative: (Check one)
1. Creosote ____; 2. Pentachlorophenol ____; 3. Copper Naphthenate ____; 4. Waterborne preservative—CCA ____ ACZA ____
Method of Treatment: (Check one)
1. Pressure ____; 2. Thermal Process ____

Pole Plan Under Which the Poles are to be Furnished: (Check one)
1. Insured Warranted ____; 2. Independently Inspected ____; 3. Quality Assured ____; 4. Either Insured Warranted, Independently Inspected, or Quality Assured ____

(Engineer to complete above)

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	

Total, Section 1—_____

Section A—Single Phase Pole Top Assembly Units

A pole top assembly unit consists of the hardware, crossarms, and their appurtenances, insulators, etc., except tie wire, required to support the primary conductors. It does not include the pole. Crossarm pins include washer, nut, and locknut.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	

Total, Section A—_____

Section B—V Phase Pole Top Assembly Units

A pole top assembly units consists of the hardware, crossarms, and their appurtenances, insulators, etc., except tie wire, required to support the primary conductors. It does not include the pole. Crossarm pins include washer, nut, and locknut.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	

Total, Section B—_____

Section C—Three Phase Pole Top Assembly Units

A pole top assembly unit consists of the hardware, crossarms, and their appurtenances, insulators, etc., except tie wire, required to support the primary conductors. It does not include the pole. Crossarm pins include washer, nut, and locknut.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	

Total, Section C—_____

Section D—Conductor Assembly Units

A conductor assembly unit consists of 1,000 feet of conductor or cable for primaries, secondaries or services, and includes tie wires, sleeves for splicing, connectors, and armor rods with clips or armor wire where necessary.

Tree trimming necessary for installing services and secondaries on poles not carrying primary line is included with the conductor assembly unit and shall be performed in accordance with the directions of the Engineer. The service shall be connected to the secondary or transformer and 2 feet of conductor or cable shall be left for connecting to the consumer's service entrance. In computing the compensation to the Bidder for conductor assembly units only the horizontal distance between conductor supports or pole stakes shall be used. The conductor or cable sizes and types listed are the manufacturer's designation.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	

Total, Section D—_____

Section E—Guy Assembly Units

A guy assembly unit consists of the hardware and wire, and guy insulator where necessary. An overhead guy assembly consists of an overhead guy, a pole, and a down guy, each of which is listed separately. Guy markers are designated separately.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
E					

Total, Section E—_____

Section F—Anchor Assembly Units

An anchor assembly unit consists of the anchor with rod complete, ready for attaching the guy wire.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
F					

Total, Section F—_____

Section G—Transformer Assembly Units

A transformer assembly units consists of the transformer, its protective equipment, and its hardware and leads with their connectors and supporting insulators and pins. this units does not include the pole top, secondary, service, or grounding assemblies.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	

Total, Section G—_____

Section J—Secondary Assembly Units

A secondary assembly unit consists of the hardware, insulators, etc., to support the secondary conductors or cable. It does not include the secondary conductor or cable, or any hardware, insulators, etc. required to support service conductors or cable.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
J					

Total, Section J—_____

Section K—Service Assembly Units

A service assembly unit consists of the hardware, insulators, etc., required to support the service conductors or cable. It does not include the service conductor or cable, or any hardware, insulators, etc., required to support secondary conductors or cable.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
K					

Total, Section K—_____

Section M—Miscellaneous Assembly Units

A miscellaneous assembly unit consists of an additional unit needed in the Project for new line construction but not otherwise listed in the Proposal. This section includes grounding assemblies consisting of the conductor, ground rod, grounding plate, connectors and clamps as shown on the respective drawings for the various types. It also includes fuse cutouts, reclosers, sectionalizers, switches, capacitors, regulators, metering and other assembly units.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
M					

Total, Section M—_____

Section R—Right-of-Way Clearing Units

R1–10. The unit is 1,000 feet in length and 10 feet in width (to be measured on one side of the pole line) of actual clearing of right-of-way. This includes clearing of underbrush, tree removal, and such tree trimming as is required so that the right-of-way, except for tree stumps which shall not exceed _____ in height, shall be clear from the ground up on one side of the line of poles carrying primary conductors of the width specified. This unit does not include clearing or trimming associated with secondaries or services which is included with conductor units. The segmental length of actual clearing shall be measured in a straight line parallel to the transmission centerline using the maximum dimension of foliage cleared and projected to the ground line. All trees and underbrush across this width of the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing. Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement. All length thus arrived at, added together and divided by 1,000, shall give the number of 1,000-foot R1–10 units of clearing. This unit includes the removal or topping, at the option of the Bidder, of danger trees outside of the right-of-way when so designated by the Engineer. (Danger trees are defined as dead or leaning trees which, in falling, will affect the operation of the line.) The Bidder shall not remove or trim shade, fruit, or ornamental trees unless so directed by the Engineer.

R1–20. This unit is identical with R1–10 except that the width is 20 feet (to be measured 10 feet on each side of the pole line).

R1–30. This unit is identical with R1–10 except that the width is 30 feet (to be measured 15 feet on each side of the pole line).

R1–40. This unit is identical with R1–10 except that width is 40 feet (to be measured 20 feet on each side of the pole line).

RC1–10, RC1–20, RC1–30, RC1–40. These units are identical to the respective R1 units except that chemical treatment of stumps is required in addition to the clearing of underbrush, tree removal and tree trimming.

Additional Requirements (When specifying R1 units denote type of disposal (A or B).)

A. Trees, brush, branches and refuse shall, without delay, be disposed of by one of the following methods as the Engineer will direct (Engineer to strike out methods not to be used):

1. Burned
2. Piled on one side of right-of-way
3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
4. Other (describe) _____

B. Trees that are felled shall be cut to commercial wood lengths, stacked neatly, and left on the right-of-way for the landowner. Commercial wood length means the length designated by the Engineer but in no case shall it be required to be less than ____ (____) feet. Brush, branches, and refuse shall, without delay, be disposed of by such of the following methods as the Engineer will direct (Engineer to strike out methods not to be used):

1. Burned
2. Piled on one side of right-of-way
3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
4. Other (describe) _____

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
R					

Total, Section R—_____

Section UD—Underground Cable Assembly Units

An underground cable assembly unit consists of 1,000 feet of cable for underground primaries, secondaries or services. It does not include the conduit, plowing, trenching and backfilling, or the termination of the primary cable which are provided for in other assembly units. It includes the termination, connection and sealing of secondary and service cables and conductors as shown in the specifications and construction drawings, and all primary, secondary and service cable splices (buried cable may be spliced only when and where permitted by the Owner[3, 4].) In computing the compensation to the Bidder for underground cable assembly units, only the distance between stakes, paralleling the cable shall be used. The number of units so computed will include all cable installed in place in all specified trenches, risers, conduits, crossings, manholes, transformers, terminal housings and meter boxes.[5] The conductor or cables listed are the manufacturer's designation of types, size, voltage rating and material. The Bidder and the Owner shall jointly perform cable acceptance tests on installed cable in accordance with the specifications using test equipment furnished by the _____. (Engineer to insert Owner or Bidder).

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
UD					

Total, Section UD_____

Section UG—Underground Transformer Assembly Units

An underground transformer assembly unit consists of the transformer, its housing, warning sign, switches, over-current protective devices, grounding loop, and hardware and leads with their connectors and supporting insulators installed in place.

[3] ____ Engineer check here if primary splices are permitted.

[4] ____ Engineer check here if secondary and service splices are permitted.

[5] ____ Engineer check here if 12 feet of service conductor is to be left as a coil 3 feet from the building with ends capped instead of connection to meter box.

This unit includes the cable terminations but does not include lightning arresters, fault indicators, ground rods or trenching. For submersible transformers, it includes the cable terminations, the enclosure and cover, drainable material (when specified [6]), and the excavation when required. For pad-mount transformers, it does not include the pad, site preparation, drainable material, backfilling or compaction which are included in the pad assembly units.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
UG					

Total, Section UG—_____

Section UK—Underground Secondary and Service Assembly Units

An underground secondary and service assembly unit consists of secondary or service cable terminal housing mounted in place. It includes the power pedestal, stake (when required), mounting hardware, warning sign, directional marker, housing identification marking and the cable identification tags. It does not include the cable terminations, ground rod, or pad, when required.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
UK					

Total, Section UK _____

Section UM—Miscellaneous Underground Assembly Units

A miscellaneous underground assembly unit consists of an additional unit needed in the Project for new construction but not otherwise listed in the Proposal. This section includes the miscellaneous assembly units as shown on the respective underground construction drawings. Where miscellaneous units consist of or include a primary cable termination, the unit includes the preparation of the cable to accommodate the termination, the stress cone and the connection of the cable to the terminal equipment. Pad assembly units are in this section and include the site preparation, bedding, drainable material when specified, cable slot, backfilling, tamping and the pad in place.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
UM					

Total, Section UM—_____

Section UR—Underground Excavation Assembly Units

UR 1–S(d) Plowing Assembly Unit, Soil—Consists of one (1) lineal foot of plowing in soil, measured parallel to the surface of the ground, to a specified depth (D), in inches, including the compacting, except as specifically provided for in other units. This unit includes all material and labor required in the repair and/or replacement of streets, roads, drives, fences, lawns, shrubbery, watermains, pipes, pipelines and contents, underground power and telephone facilities, buried sewerage and drainage facilities, and any other property damaged during the plowing of the cable, except as specifically provided for in other units. This unit does not include underground cable facilities installed in the slot.

Note: Where in the judgment of the Owner greater than normal difficulty will be involved in plowing because of the presence of underground facilities of other utilities, this unit will be suffixed by the letter ''T''. This will be applicable only in those areas predesignated by the Owner on the detail maps herein. All plowing outside of the predesignated area on the map, regardless of the difficulty in placement actually experienced, will be inventoried as the regular UR 1–S(D) units. If field conditions show the existence of rock to prevent the placing of the cable in soil to the depth required in the specifications, the Owner may specify UR 2–R units. Where more than one cable is to be installed in the slot, the UR1–S unit designation should be modified by a suffix corresponding to the number of cables installed. Example: UR1–S(D) 3c for 3 cables plowed at one time.

UR 2–S(D&W) Trenching Assembly Unit, Soil—Consists of one (1) lineal foot of trenching in soil, measured parallel to the surface of the ground, to a specified depth (D) and width (W), in inches, including the excavation, and backfilling and compacting. This unit includes all material and labor required in the repair and/or replacement of streets, roads, drives, fences, lawns, shrubbery, watermains, pipes, pipelines and contents, under-ground power and telephone facilities, buried sewerage and drainage facilities, and any other property damaged by the trenching, except as specifically provided for in other units. This unit does not include underground cable facilities installed in the trench or cable bedding assembly units, when required.

Note: Where in the judgment of the Owner greater than normal difficulty will be involved in trenching because of the presence of underground facilities of other utilities, this unit will be suffixed by the letter ''T''. This will be applicable only in those areas predesignated by the Owner on the detail maps herein. Where more than one cable is to be installed in the trench, the regular UR 2–S unit designation should be modified by a suffix corresponding to the construction drawing for the type of cable placement desired.

UR 2–R (D&W) Trenching Assembly Unit, Rock—Consists of one (1) lineal foot of trenching in rock, measured parallel to the surface of the ground, to specified depth (D) and width(W), in inches, including the excavation, and backfilling and compacting to place cable to the depth specified in the Specifications. This unit will be specified by the Owner only when field conditions at the site show the existence of rock at a depth preventing the placing of the cable in soil to the depths required in the Specifications. This unit includes all material and labor required in the repair and/or replacement of

[6] ___ Engineer check here if drainable material is specified.

streets, roads, drives, fences, lawns, shrubbery, watermains, pipes, pipelines and contents, underground power and telephone facilities, buried sewerage and drainage facilities, and any other property damaged by the trenching, except as specifically provided for in other units. This unit does not include underground cable facilities installed in the trench or cable bedding assembly units, when required.

UR–3 Cable Bedding Assembly Unit—Consists of one (1) lineal foot of a 2-inch bed of clean sand or soil placed in the trench under the cable and a 4-inch layer of clean sand or soil backfill over the cable to the width of the trench.

Note: The exact location and number of units shall be determined by the Owner after the trenches are open in those areas where rock or other conditions make special bedding necessary.

UR–4a Pavement Assembly Unit, Asphalt—Consists of the labor and material necessary to remove and restore one (1) lineal foot of asphalt pavement, measured along the route of the cable. All work shall be performed in accordance with the requirements of state or local authorities. Any trenching which may be necessary is included in this unit.

UR–4c Pavement Assembly Unit, Concrete—Consists of the labor and material necessary to remove and restore one (1) lineal foot of concrete pavement, measured along the route of the cable. All work shall be performed in accordance with the requirements of state or local authorities. Any trenching which may be necessary is included in this unit.

UR–5( ) Underground Pipe Crossing Assembly Unit—Consists of one (1) lineal foot of steel pipe, of the inside diameter, in inches, specified in the last digit of the assembly unit designation, installed in place. This unit includes the pushing of pipe and any excavation, backfilling and tamping necessary for the installation of the pipe. The pipe will be installed at the depth specified by the Owner. Underground cable installed in the pipe is not included in this unit.

UR–6 Underground Nonpipe Crossing Assembly Unit—Consists of the labor in providing a hole in soil one (1) foot in length of a diameter sufficient to accommodate the cable to be installed therein. The depth of the hole below the surface of the ground shall be specified by the Owner. This unit includes any excavation, backfilling and tamping necessary for the installation. This unit may be used where the permanent installation of a steel pipe under the UR–5 unit is not required. Underground cable installed in the hole is not included in this unit.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
UR					

Total, Section UR—_____

Distribution Construction Units—Line Changes

The general heading of Line Changes applies to the changing of existing lines or portion thereof from their existing phasing, wire size, and type to new phasing, wire size, and type and the removal of existing lines or portion thereof and replacing with new lines in close proximity thereto. In general line changes involve three types of assembly units as follows:

Section H—Conversion assembly units;
Section I—Removal assembly units;
Section N—New construction assembly units on existing lines or in replacing lines.

The assembly units that are included in Section H, I, and N are defined by symbols and descriptions which follow together with the applicable descriptions included under New construction. Where the descriptions are not correct or sufficiently explicit, or when special units are not covered by Construction Drawings, descriptions have been provided by the Engineer in the respective sections.

Work included in these sections shall be performed under the schedule as set forth below: _____.

Schedule of Deenergization of Existing Distribution Lines Under Which Work Under Sections H, I, and N Shall be Performed

Line section (To be designated by point to point description on detail map)	Hours and days of week when lines will be deenergized to permit line changes

The Bidder will so plan and perform its work on the above lines that it will be possible for the Owner to safely reenergize all lines involved at the expiration of the time limits set up in the above schedule to resume service to all consumers being served prior to deenergization. Prior to commencement of work each day on lines to be deenergized, the Bidder will notify the Owner in writing thereof, designating the lines to be deenergized and upon receipt of such notice, the Owner will deenergize such lines. Upon completion of work each day on such deenergized lines, the Bidder will notify the Owner thereof in writing or in such other manner as the circumstances permit designating the lines to be reenergized and stating that such lines may be safely reenergized and upon receipt of such notice, the Owner will reenergize such lines.

Section H—Conversion Assembly Units

Conversion assembly units are pole-top assemblies and cover the furnishing of all labor and additional materials for changing an existing assembly unit to a new assembly unit, utilizing certain items of materials of the existing assembly unit on poles to be left in place. The unit prices for materials should include only additional material that is required to complete the new unit, less suitable allowance for material removed. Any materials removed from the existing assembly units which are not required in the construction of the conversion assembly unit become the property of the Bidder and may, with the permission of the Engineer, be reused by the Bidder in the construction of other assembly units called for in the Construction Contract. Conversion assembly units are specified by the prefix H with the new construction assembly unit designation shown first and the existing assembly unit designation shown last. For example, a H B1–A1 signifies the conversion of an existing A1 assembly unit to a B1 assembly unit (as was defined in the description of construction assembly units). In this instance the Bidder utilizes the existing pin-type insulator, single upset bolt and neutral spool in the construction of the new assembly unit. The Bidder furnishes the additional crossarm, crossarm pins, braces, machine bolt, carriage bolts, lag screw, and insulator required for the new unit. The Bidder takes possession of the pole-top pin and two machine bolts and with the permission of the Engineer may reuse these elsewhere in the construction of the Project. The Bidder will not be held accountable to the Owner for the materials he so acquires.

The Conversion assembly units also include the furnishing of all labor and materials in the transferring, resagging and retying of conductors from one position on the pole to a different position on the pole where such transfers are required. Where replacement of conductor is required, the existing conductor will be removed under Section I and the new conductor installed under Section N.

Where replacement of a pole is required, the existing pole and pole-top assembly will be removed under Section I and the new pole and pole-top assembly will be installed according to Section N and no H units will be involved.

Conversion assemblies are listed in three subsections for converting pole-top assemblies from single to V phase, single to three phase, and V to three phase. The following descriptions apply to only those units not sufficiently explicit.

Unit	Description
H	

Section H—Conversion Assembly Units

Subsection H (B–A) 1 Phase to V Phase

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
H					

*Total, Section H (B–A)—*_____

Section H—Conversion Assembly Units

Subsection H (C–A) 1 Phase to 3 Phase

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
H					

*Total, Subsection H (C–A)——*_____

Section H—Conversion Assembly Units

Subsection H (C–B) V Phase to 3 Phase

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
H					

Total, Subsection H (C-B)—_____
Total, Subsection H (B-A)—_____
Total, Subsection H (C-A)—_____
Total, Section H—_____

Section I—Removal Assembly Units

Removal assembly units cover the furnishing of all labor for the removal of existing units of construction from existing lines, disassembling into material items, and all labor and transportation for the returning of all materials to the warehouse of the Owner in an orderly manner or transporting elsewhere to the site of the Project for reuse in the prosecution of this Contract as approved by the Engineer.

The Bidder will be charged by the Owner for the full value of all materials removed under this section at the value shown in Table C. Such charges will be placed against the Bidder as units are removed and the value will be deducted from the total value of installed assembly units for determination of the work accomplished for purposes of monthly progress payments to the Bidder.

Of the materials listed in Table C to be removed from existing lines, certain materials will be reused in the construction of the Project. Such materials to be reused are listed in Table C–1. Materials other than those listed in Table C–1 shall, if not damaged in handling, be returned to the Owner for full credit at the values shown in Table D. The Bidder will be allowed full credit for all material items, other than those listed in Table C–1, returned to the Owner which, in the opinion of the Engineer, were not damaged by the Bidder in removal and handling even though the materials may not be reusable for reasons of obsolescence or deterioration. Such credits shall be allowed the Bidder as materials are returned to the Owner's warehouse and shall be added to the total value of installed assembly units for determination of the work accomplished for purposes of monthly progress payments to the Bidder.

The unit removal prices shall include all material and labor required to reinstall in accordance with specifications any conductors temporarily detached. The Bidder will reinstall at his own expense any other units removed by him for his own convenience.

The removal units are specified by the prefix I and followed by the assembly unit designation of existing assembly unit to be removed. For example, an I-A1 signifies the removal of an A1 assembly unit. The following special notes apply to specific removal units: _____.

a. Poles. All poles of the same height, regardless of pole class, are designated by the same unit. Thus an I–30-foot pole signifies the removal of a 30-foot pole of any class. The Bidder is not required under this unit to remove from the pole any ground wire or pole numbering attached to the pole. This unit includes the refilling and tamping of holes in a workmanlike manner unless they are to be reused.

b. Pole-Top Assemblies. The unit of removal of pole-top assemblies includes, in addition to the removal of the assembly itself, any necessary handling, resagging, and retying of conductors in those cases where an existing pole-top assembly will be removed and replaced by a new pole-top assembly and where any existing conductor is to be reused.

The unit of removal of pole-top assemblies also includes any holding or handling of mainline or tap conductors at tap lines, angles, and deadends where such is involved, and reinstalling of such conductor in accordance with the specifications; for example, an I-A5–4 will include the disconnection of the tap conductors, snubbing off the tap line at the nearest practical point and the reconnection and resagging of these tap conductors if necessary to the new tap assembly when installed. The new unit of construction, however, will be specified separately in Section N.

c. Conductor. The conductor removal unit covers the removal of 1,000 feet of conductor or cable and reeling or coiling it in a workmanlike manner in such a way that it can be reused by the Bidder or the Owner. The Owner will furnish to the Bidder reels if it is to be returned to the Owner's warehouse on reels. The Bidder will retain possession of all jumpers, tie wire, armor rods, connectors, and other conductor accessories removed. These items will not be returned to the Owner. The removal unit for each size of conductor or cable is shown by the prefix I followed by D and the conductor or cable type; thus an I-D–6ACWC signifies the removal unit for 1,000 feet of 6A Copperweld-copper conductor.

d. Guys. All guys regardless of length, type of attachment, or size of guy strand are specified by the same unit; thus an I-E signifies the removal of any guy.

e. Anchors. Only anchor rods are to be removed by the Bidder in anchor removal units. The anchor will be left in the ground; thus an I-F signifies the removal of any anchor rod. If the rod cannot be unscrewed, the end of the rod shall either be cut off or bent down so that the rod will be at least 18 inches below ground.

f. Transformers. The unit for removal of transformer assembly units is divided into two sections, (1) Conventional Transformer Assembly, and (2) Self-Protected Transformer

Assembly. Only one unit is specified for each type, and all sizes of transformers from 1 to 25 kVA within each group will be covered by the same unit. ''Self-protected'' refers to transformers where all protective equipment is mounted on or within the transformer. ''Conventional'' refers to transformers where protective equipment is mounted separately from the transformer. The unit is designated by the prefix I followed by the description of the unit to be removed; thus IG Conventional signifies the removal of a conventional transformer assembly for any size transformer from 1 to 25 kVA.

g. Secondary Units. The unit for removal of secondary assemblies includes, in addition to the removal of the assembly itself, all necessary handling such as untying, resagging, and retying of secondary conductor or cables where existing secondary conductor or cable is to be reused.

In addition, the unit for removal of the secondary assembly includes the handling or holding of any conductor at tap lines where such is involved, and the reinstalling of such tap conductor in accordance with the specifications.

h. Service Unit. The unit for removal of service assemblies includes, in addition to the removal of the assembly itself, all necessary handling such as untying, resagging, and retying of service conductor or cable where existing service conductor or cable is to be reused.

The following descriptions apply only to those removal units not sufficiently explicit:

Unit	Description

Unit No.	No. of units	Labor	
		Unit price	Extended price

Total, Section I—_____

TABLE C.—UNIT MATERIAL VALUES OF I UNITS CHARGEABLE TO BIDDER

Unit No.	No. of units	Unit material value [1]	Extended value

Notes: 1. Unit values are based on item values from Table D.

TABLE C–1—MATERIAL ITEMS TO BE REUSED

RUS Item letter designation [1]	Description of material item	No. of items

Notes: 1. See ''List of Materials Acceptable for Use on Systems of RUS Electrification Borrowers''.

TABLE D. VALUES OF MATERIAL ITEMS CREDITABLE TO BIDDER

RUS Item letter designation [1]	Description of material item	Item value

Notes: 1. See ''List of Materials Acceptable for Use on Systems of RUS Electrification Borrowers''.

Section N—New Assembly Units

The purpose of this section is to list complete new units of construction where such units are to be added to existing lines or installed in replacing lines.

The units as covered by this section are the same as the units described in Distribution Construction Units—New Construction, except that these units are prefixed by the letter N.

For example, an N40–6 unit covers the furnishing of all material and labor for the installation of a 40–6 pole either in an existing distribution line being operated by the Owner or in a new line being constructed to replace an existing distribution line being operated by the Owner.

The following descriptions apply only to those new units not sufficiently explicit:

Unit	Description

Section N—New Assembly Units

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
N					

Total, Section N—_____

Proposal Summary

Recapitulation of Sections

New Construction

Overhead

Section—1 _____ $_____
Section—A _____ _____
Section—B _____ _____
Section—C _____ _____
Section—D _____ _____
Section—E _____ _____
Section—F _____ _____
Section—G _____ _____
Section—J _____ _____
Section—K _____ _____
Section—M _____ _____
Section—R _____ _____
Total Overhead _____

Underground

Section—UD _____ $_____
Section—UG _____ _____
Section—UK _____ _____
Section—UM _____ _____
Section—UR _____ _____
Total Underground _____
Total New Construction $_____

Line Changes

Section—H _____ $_____
Section—I _____ _____
Section—N _____ _____
Total Line Changes $_____
Total Distribution Line Construction $_____

Transmission Construction Units

Section 1—Pole Units

A pole unit consists of one pole in place. It does not include pole-top assembly unit or other parts attached to the pole. The first two digits indicate the length of the pole; the third digit shows the classification per ANSI (Example: 60–3 means a pole 60 feet long, class 3.)

Species of Timber: _____

Kind of Preservative: (Check one)

1. Creosote ___; 2. Pentachlorophenol ___; 3. Copper Naphthenate ___; 4. Waterborne preservative—CCA ___ ACZA ___

Method of Treatment: (Check one)

1. Pressure _____; 2. Thermal Process _____

Pole Plan Under Which the Poles are to be Furnished: (Check one)

1. Insured Warranted ___; 2. Independently Inspected ___; 3. Quality Assured ___; 4. Either Insured Warranted, Independently Inspected, or Quality Assured ___

(Engineer to complete above)

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor and materials	
Total, Section 1—					

Section 2—Pole Top Assembly Units

A pole top assembly unit consists of the hardware, crossarms and their appurtenances, insulators, etc., except tie wire, required to support the power conductors and overhead ground wire. It does not include the pole, the downlead, and butt coil, which are separate units.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor and materials	
TH TP TS TSS TSZ Total, Section 2—					

Section 3—Conductor Assembly Units

A conductor assembly unit consists of 1,000 feet of a single conductor or overhead ground wire, and includes tie wire, sleeves for splicing, and armor rods with clips or armor wire where necessary. The length of conductor or overhead ground wire shall be determined by taking the sum of all straight horizontal span distances between pole stakes or from center to center of the poles carrying the conductors. The conductor sizes and types listed are the manufacturer's designation.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor and materials	
Total, Section 3—					

As provided for in the specifications, prior to beginning of work the Bidder will furnish the Engineer the following data on tension equipment:
Diameter Bull Wheel _____ in.
Diameter Groove _____ in.
Conductor Bending Radius _____ in.
Thickness of Neoprene at Bottom of Groove _____ in.
Stringing Sheave Diameter; Tangent _____ in., Large Angle _____ in.

Section 4—Guy Assembly Units (TG Units)

A guy assembly unit consists of the hardware and wire. Guy guards are designated separately.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor and materials	
TG–1 TG–2 TG–3 TG–4 TG–5 Total, Section 4—					

Section 5—Anchor Assembly Units

An anchor assembly unit consists of the anchor with rod or rods, complete, ready for attaching the guy wire.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor and materials	
TA–1–5 TA–1–8 TA–3 Total, Section 5—					

Section 6—Miscellaneous Assembly Units

A miscellaneous assembly unit consists of an additional unit needed in the Project for line construction but not otherwise listed in the Proposal.

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor and materials	
TM Total, Section 6—					

Section 7—Right-of-Way Clearing Units

TM–12. The unit is 1,000 feet in length and _____ (_____) feet in width (to be measured _____ (_____) feet on one side of pole line or centerline of structures) of actual clearing of right-of-way. This includes clearing of underbrush, tree removal, and such tree trimming as is required so that the right-of-way, except for tree stumps which shall not exceed _____ in height, shall be clear from the ground up on one side of the line of poles carrying conductors. (See Detail A, Drawing TM–12–2A.) The length of actual clearing shall be measured in a straight line parallel to the horizontal line between poles or centerline of structures and across the maximum dimension of foliage cleared projected to the ground line. (See Detail B, Drawing TM–12–2A.) All trees and underbrush across the width of the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing. (See Detail C, Drawing TM–12–2A.) Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement. All length thus arrived at, added together and divided by 1,000 shall give the number of 1,000-foot TM–12 units of clearing. The Bidder shall not remove or trim shade, fruit, or ornamental trees unless so directed by the Engineer in writing.

TM–12 (1). This unit is identical with TM–12, except the full width of the right-of-way to be cleared shall be _____ (_____) feet wide (to be measured _____ (_____) feet on each side of the pole line or centerline of structures). (See Detail D, Drawing TM–12–2A.) TMC–12, TMC–12 (1). These units are identical to the respective TM units except that chemical treatment of stumps is required in addition to the clearing of underbrush, tree removal and tree trimming.

TM–13. The unit, for purpose of quoting, is 1,000 feet in length of clearing off the right-of-way. The Engineer will select those trees off the right-of-way that he deems to be a hazard to the line and will designate them to the Bidder in writing as danger trees. When so designated, the Bidder shall remove or top such trees at his option except that the Bidder shall trim and not remove shade, fruit, or ornamental trees unless otherwise directed by the Engineer in writing. (See Drawings TM–12–2A and TM–13 for examples of danger trees.)

The measurement of the length of clearing off the right-of-way shall be considered as a straight line parallel to the horizontal line between poles or centerline of structures, such measurement of length to be based on maximum dimension of foliage (not trunk) projected to the ground line. (See Details E, F, G, and H, Drawing TM–12–2A.) Dead trees having no foliage shall be measured across the maximum dimension and multiplied by two. (See Detail F, Drawing TM–12–2A.) Each tree so removed shall be added together to determine the total length of clearing. All length thus arrived at, added together and divided by 1,000, shall give the number of TM–13 units. (Example: Details E, F, G, and H, Drawing TM–12–2A, total .1 of a TM–13 unit.)

TM–14. The unit is 1,000 feet in length and _____ (_____) feet in width (to be measured _____ (_____) feet on one side of right-of-way centerline) of actual clearing of right-of-way. Trees and underbrush should be cleared from the ground up within 10 feet of any structure location. The Engineer will mark the trees and brush to be cleared to provide ''undulating'' boundaries. Low growing trees and brush are to be left in the right-of-way to the extent it will not be hazardous to the line or will not interfere with the access road. The length of actual clearing shall be measured in a straight line parallel to the horizontal line between poles or centerline of structures and across the maximum dimension of foliage cleared projected to the ground line (See Detail B, Drawing TM–12–2A.) All trees and underbrush cleared across the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing (See Detail C, Drawing TM–12–2A.) Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement.

TM–14 (1). This unit is identical with TM–14 except the full width of the right-of-way to be cleared shall be _____ (_____) feet in width (to be measured _____ (_____) feet wide (See Detail D, Drawing TM–12–2A.)

TM–15. The unit is 1,000 feet in length and _____ (_____) feet in width (to be measured _____ (_____) feet on one side of the right-of-way centerline) of actual clearing of the right-of-way. Trees and underbrush should be cleared from ground up within 10 feet of any structure location. The Engineer will mark the trees and brush to be cleared to provide a ''feathered'' appearance in the right-of-way. Low growing trees and brush are to be left in the right-of-way to the extent it will not be hazardous to the line or will not interfere with the access road.

The length of actual clearing shall be measured in a straight line parallel to the horizontal line between poles or centerline of structures and across the maximum dimension of foliage cleared projected to ground line (See Detail B, Drawing TM–12–2A). All trees and underbrush cleared across the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing (See Detail C, Drawing TM–12–2A). Spaces along the right-of-way which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement.

TM–15 (1). This unit is identical to TM–15 except the full width of the right-of-way to be cleared shall be _____ (_____) feet wide (See Detail D, Drawing TM–12–2A).

Additional Requirements (When specifying TM units denote type of disposal (A or B).)

A. Trees, brush, branches and refuse shall, without delay, be disposed of by such of the following methods as the Engineer will direct (Engineer to strike out methods not to be used):

1. Burned
2. Piled on one side of right-of-way
3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
4. Other (describe) _____

B. Trees that are felled shall be cut to commercial wood lengths, stacked neatly, and left on the right-of-way for the landowner. Commercial wood length means

the length designated by the Engineer but in no case shall it be required to be less than _____ (_____) feet. Brush, branches, and refuse shall, without delay, be disposed of by such of the following methods as the Engineer will direct (Engineer to strike out methods not to be used):

1. Burned
2. Piled on one side of right-of-way
3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
4. Other (describe) _____

Unit No.	No. of units	Unit price			Extended price—labor & materials
		Labor	Materials	Labor and materials	
Total, Section 6—					

Proposal Summary

Recapitulation of Sections:

Section—1 _____ $_____
Section—2 _____ _____
Section—3 _____ _____
Section—4 _____ _____
Section—5 _____ _____
Section—6 _____ _____
Section—7 _____ _____
Total Transmission Line Construction _____

Section 8—Substation Assembly Units

Description of Construction Units. Each Construction Unit consists of a complete installation of the designated portion of a substation as specified on the drawings, together with connections to associated equipment. Each Construction Unit represents all labor and material including necessary accessories completely installed and tested in satisfactory operation. Full identification of each Construction Unit and all necessary specifications of the installation is shown on the drawings.

Items of material in each Construction Unit shall be of the designated size, rating, type, voltage, or other specification in accordance with the drawings. The bill of material drawing for each substation shows the identification of the Construction Units under which the material is to be installed and shows which items of material may be partly or entirely found on the lists of Owner-furnished materials. All items of equipment, unless otherwise specified, are mounted on a structure which shall be a Construction Unit of Group A.

Each Construction Unit is designated by the letter of the Group to which it belongs and an identifying number. The same item of equipment carries the same Construction Unit designation in all the substations. Items of equipment designated by the same Construction Unit in one substation are of only one kind as to voltage, type and other specifications. The tabulation of Construction units for each substation is separate and contains all units necessary for construction of that substation.

Group A. Structures. A Construction Unit consists of a structure, or structures, with bus supports including insulators and fittings, buses, conductors and overhead ground wires to adjacent structures within the substation, grounding material to connect equipment with the ground bus, and associated material including mounting brackets, supports for equipment, clamps and connectors, all as specified in the drawings.

Group B. Three-Pole Group Operated Air Break Switches. A Construction Unit consists of one 3-pole group operated air break switch with all accessories and operating mechanisms as specified in the drawings.

Group C. Lightning Arresters. A Construction Unit consists of one single arrester.

Group D. Single Pole Disconnecting Switches. A Construction Unit consists of one single pole disconnecting or by-pass switch as specified in the drawings. If a fuse disconnect switch is specified, the fuse is included with the switch.

Group E. Oil Circuit Breakers. A Construction Unit consists of one complete three-phase power circuit breaker complete with supporting frame and control cabinet, unless shown otherwise in the drawings, mounted as specified in the drawings.

Group F. Oil Circuit Reclosers. A Construction Unit consists of a complete single-phase or three phase oil circuit recloser as specified in the drawings.

Group G. Meters, Relays and Instrument Transformers. A Construction Unit consists of one meter, relay potential transformer or current transformer.

Group H. Transformers. A Construction Unit consists of one power transformer or one station service transformer either single-phase or three-phase as specified in the drawings.

Group I. Voltage Regulators. A Construction Unit consists of one single-phase or three-phase voltage regulator as specified in the drawings.

Group J. Communications and Supervisory Control Equipment. A Construction Unit consists of carrier current equipment, microwave, or other types of communications and supervisory control equipment as specified in the drawings.

Group K. Conduit and Cable. A Construction Unit consists of the wire, cable, conduit and accessories necessary to complete the installation of equipment in accordance with the specifications and drawings, where such installation has not been included in other Groups.

Group L. Foundations. A Construction Unit consists of concrete footings and foundations except for the fence, as specified in the drawings.

Group M. Site Preparation. A Construction Unit consists of clearing, grading, drainage work, and surfacing, as specified in the drawings.

Group N. Fence. A Construction Unit consists of the complete installation of the fence, gates, etc., as specified in the drawings.

Group O. Station Grounding. A Construction Unit consists of the complete ground bus including ground rods, grounding mats or platforms, except as otherwise provided in other Groups, with connections to structures, equipment, and fence as specified in the drawings.

Group P. Building. A Construction Unit consists of a control building or cabinet, on a foundation of Group L and the facilities and equipment installed therein as specified in the drawings, except as otherwise provided in other Groups.

Other Groups. The Engineer shall specify such additional Groups as may be necessary for the completion of the Project. Description of these Groups shall be provided by an addition to this Section of the Specifications for Construction.

_____ Station Construction Units

Unit No. _____
Name and Description of Construction Unit
_____
No. of Units _____
Unit Prices
Labor _____
Materials _____
Labor and Materials _____
Extended Price—Labor and Materials
_____
Total Price _____

Proposal Summary

_____ Substation $_____
_____ Substation _____
_____ Substation _____
_____ Switching Station _____
_____ Switching Station _____
Total Station Construction $_____

Proposed Recapitulation

Distribution line construction $_____
Transmission line construction _____
Substation and Switching Station Construction _____
Total $_____

Acceptance

The Owner hereby accepts the foregoing Proposal of the Bidder, _____ for the construction of the following:

Distribution Construction Units: Sections:
_____
Transmission Construction Units: Sections:
_____
Substation and Switching Station Construction: Stations (name): _____
_____ Owner
By _____ President
_____ Secretary
_____ Date of Contract

[End of clause]

§ 1726.352 Electric transmission construction contract (labor and materials), RUS Form 831.

The contract form in this section shall be used when required by this part. This form refers to guide drawings, which do not contain requirements, and, hence, are not included in this part. The guide drawings are included in the printed form available from GPO (See § 1726.300.).

Electric Transmission Construction Contract (Labor and Materials)

Notice and Instructions to Bidders

1. Sealed proposals for the construction, including the supply of necessary labor, materials and equipment, of a rural electric project of _____ (hereinafter called the ''Owner'') to be known as Project will be received by the Owner on or before _____ o'clock _____ M., _____, 19_____ at its office at _____ at which time and place the proposals will be publicly opened and read. Any proposal received subsequent to the time specified will be promptly returned to the Bidder unopened.

2. Description of Project: The Project will consist of approximately:

Transmission Line Construction

_____ miles _____ kV; _____ miles _____ kV

_____ miles _____ kV underbuild

Substations and Other Major Facilities

_____ kVA _____ Voltage _____ Name

The Project is located in _____ Counties, in the State of _____ all as more fully described in the Plans, Specifications, Construction Drawings and Contractor's Proposal therefore hereinafter referred to.

3. Owner Furnished Materials. The unit prices in the Contractor's Proposal shall include provisions for Owner Furnished Materials since as stated in Article 1, Section 3 of the Contractor's Proposal, the value of the Owner Furnished Materials, if any, will be deducted from payments to the Bidder for completed Construction Units.

4. Obtaining Documents. The Plans, Specifications and Construction Drawings together with all necessary forms and other documents for bidders may be obtained from the Owner, or from the Engineer, _____ at the latter's office at _____ upon the payment of $_____, which payment will not be subject to refund. The Plans, Specifications and Construction Drawings may be examined at the office of the Owner or at the office of the Engineer. A copy of the Loan Contract (if the Project is to be financed, in whole or in part, pursuant to a loan contract) between the Owner and the United States of America acting through the Administrator of the Rural Utilities Service (hereinafter called the Administrator) and of the loan contract between the Owner and any other lender may be examined at the office of the Owner. Each set of Plans, Specifications and Construction Drawings will have a serial number, given by the Engineer, and the number of each set with the name of the Purchaser will be recorded by the Engineer. Bids will be accepted only from the original purchaser.

5. Manner of Submitting Proposals. Proposals and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner. The name and address of the Bidder, its license number if a license is required by the State, and the date and hour of the opening of bids must appear on the envelope in which the Proposal is submitted. Proposals must be filled in in ink or typewritten. No alterations or interlineations will be permitted, unless made before submission, and initialed and dated.

6. Familiarity with Conditions. Prior to the submission of the Proposal the Bidder shall make and shall be deemed to have made a careful examination of the site of the Project and of the Plans, Specifications, Construction Drawings, and forms of Contractor's Proposal and Contractor's Bond on file with the Secretary of the Owner and with the Engineer, and shall become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be encountered, the kind of facilities required before and during the construction of the Project, general local conditions and all other matters that may affect the cost and the time of completion of the Project. Bidders will be required to comply with all applicable statutes, regulations, etc., including those pertaining to the licensing of contractors, and the so-called ''Kick-back Statute'' (48 Stat. 948) and regulations issued pursuant thereto.

7. Proposals will be accepted only from those prequalified bidders invited by the Owner to submit a proposal.

8. Alternate Designs. The Owner reserves the right to confine its consideration of the several bids to one type of design regardless of alternate types of design which may be specified in the Plans and Specifications and offered in the Proposals.

9. The Time for Completion of Construction of the Project shall be as specified by the Engineer in the Proposal.

10. Bid Bond. Each Proposal must be accompanied by a Bid Bond in the form attached or a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the Owner, in an amount equal to ten percent (10%) of the maximum bid price. Each Bidder agrees, provided its Proposal is one of the three low Proposals, that, by filing its Proposal together with such Bid Bond or check in consideration of the owner's receiving and considering such Proposals, said Proposal shall be firm and binding upon each such Bidder and such Bid Bond or check shall be held by the Owner until a Proposal is accepted and a satisfactory Contractor's Bond is furnished (where required) by the successful Bidder and such acceptance has been approved by the Administrator, or for a period not to exceed sixty (60) days from the date hereinbefore set for the opening of Proposals, whichever period shall be the shorter. If such Proposal is not one of the three low Proposals, the Bid Bond or check will be returned in each instance within a period of ten (10) days to the Bidder furnishing same.

11. Contractor's Bond. The successful Bidder will be required to execute two additional counterparts of the Proposal and, for a Contract in excess of $100,000, to furnish a Contractor's Bond in triplicate in the form attached hereto with sureties listed by the United States Treasury Department as Acceptable Sureties, in a penal sum not less than the contract price.

12. Failure to Furnish Contractor's Bond. Should the successful Bidder fail or refuse to execute such counterparts or to furnish a Contractor's Bond (where required) within ten (10) days after written notification of the acceptance of the Proposal by the Owner, the Bidder will be considered to have abandoned the Proposal. In such event, the Owner shall be entitled (a) To enforce the Bid Bond in accordance with its terms, or (b) if a certified check has been delivered with the Proposal, to retain from the proceeds of the certified check, the difference (not exceeding the amount of the certified check) between the amount of the Proposal and such larger amount for which the Owner may in good faith contract with another party to construct the Project. The term ''Successful Bidder'' shall be deemed to include any Bidder whose Proposal is accepted after another Bidder has previously refused or has been unable to execute the counterparts or to furnish a satisfactory Contractor's Bond (where required.)

13. Contract is Entire Agreement. The Contract to be effected by the acceptance of the Proposal shall be deemed to include the entire agreement between the parties thereto, and the Bidder shall not claim any modification thereof resulting from any representation or promise made at any time by any officer, agent or employee of the Owner or by any other person.

14. Minor Irregularities. The Owner reserves the right to waive minor irregularities or minor errors in any Proposal, if it appears to the Owner that such irregularities or errors were made through inadvertence. Any such irregularities or errors so waived must be corrected on the Proposal in which they occur prior to the acceptance thereof by the Owner.

15. Balanced Bid. The Owner reserves the right to reject any or all Proposals. The attention of Bidders is specially called to the desirability of a proper balance between prices for labor and materials and between the total prices for the respective Construction Units. Lack of such balance may be considered as a reason for rejecting a Proposal.

16. Discrepancy in Unit Prices. Where the unit prices in the Contractor's Proposal are separated into three columns designated as ''Labor,'' ''Materials'' and ''Labor and Materials,'' and where a discrepancy appears between the sum shown in the ''Labor and Materials'' column and the correct addition of the sums appearing in the ''Labor'' column and the ''Materials'' column, the correct addition of the sums appearing in the ''Labor'' column and the ''Materials'' column shall control.

17. Definition of Terms. The terms ''Administrator,'' ''Engineer,'' ''Supervisor,''

''Project,'' ''Completion of Construction'' and ''Completion of the Project'' as used throughout this Contract shall be as defined in Article VI, Section 1, of the Contractor's Proposal.

18. The Owner Represents:

a. If by provisions of the Contractor's Proposal the Owner shall have undertaken to furnish any materials for the construction of the Project, such materials are on hand at locations specified or if such materials are not on hand they will be made available by the Owner to the successful Bidder at the locations specified before the time such materials are required for construction.

b. All easements and rights-of-way, except as shown on maps included in the Plans and Specifications, have been obtained from the owners of the properties across which the Project is to be constructed (including tenants who may reasonably be expected to object to such construction). The remaining easements and rights-of-way, if any, will be obtained as required to avoid delay in construction.

c. All staking, except as shown on the maps included in the Plans and Specifications, has been completed and sufficient staking crews will be available to maintain stakes at all times in advance of construction.

d. Prompt payment for the construction of the Project will be made with funds pursuant to the Loan Contract, or with funds otherwise available to the Owner.

If the Owner shall fail to comply with any of the undertakings contained in the foregoing representations or if any of such representations shall be incorrect, the Bidder will be entitled to an extension of time of completion for a period equal to the delay, if any, caused by the failure of the Owner to comply with such undertakings or by any such incorrect representation; provided the Bidder shall have promptly notified the Owner in writing of its desire to extend the time of completion in accordance with the foregoing; provided, however, that such extension, if any, of the time and completion shall be the sole remedy of the Bidder for the Owner's failure, because of conditions beyond the control and without the fault of the Owner, to furnish materials in accordance with subparagraph a hereof.

_____ Owner

By _____

_____, 19____

Contractor's Proposal

(Proposal shall be submitted in ink or typewritten)

To: _____ (Hereinafter called the ''Owner'')

Article I—General

Section 1. Offer to Construct. The undersigned (hereinafter called the ''Bidder'') hereby proposes to receive and install such materials and equipment as may hereinafter be specified to be furnished by the Owner, and to furnish all other materials and equipment, all machinery, tools, labor, transportation and other means required to construct the rural electric project _____ in strict accordance with the Plans, Specifications and Construction Drawings therefor, attached hereto and made a part hereof, for the prices hereinafter stated. The total length of the project lines shall be determined by taking the sum of all straight horizontal span distances between pole stakes or from center to center of poles, or centerline of structures, carrying conductors.

Section 2. Materials and Equipment. The Bidder agrees to furnish and use in the construction of the Project under this Proposal, in the event the Proposal is accepted, only such materials and equipment as are included in the current ''List of Materials Acceptable for Use on Systems of RUS Electrification Borrowers,'' including revisions adopted prior to the Bid Opening.

The Bidder further agrees to furnish:

	Type	Size	Galvanizing class
Overhead ground wire			
Guy wire			
Structure ground wire			

(Engineer to insert Type, Size and Galvanizing Class as appropriate)

The Bidder further agrees to furnish and use poles, crossarms, and other timber products, of which the physical characteristics, method of treatment, type of preservative, instructions on inspection and general procedure shall be in accordance with RUS standards and requirements.

Crossarms shall be _____ (Engineer to insert Douglas Fir or Southern Yellow Pine), treated with _____

(Engineer to insert type of preservative.)

Section 3. Owner-Furnished Materials. The Bidder understands and agrees that, if this Proposal is accepted, the Owner will furnish to the Bidder the material set forth in the attached ''List of Owner's Materials on Hand'' (see page ____) and the Bidder will give a receipt (see page ____) therefor in writing to the Owner. The Bidder, further, will on behalf of the Owner accept delivery of such of the materials set forth in the attached ''List of Materials Ordered by Owner but Not Delivered'' (see page ____) as may be subsequently delivered and will promptly forward to the Owner for payment the supplier's invoice, together with the Bidder's receipt in writing for such materials. The materials referred to are on hand at, or will be delivered to, the locations specified in the Lists and the Bidder will use such materials in constructing the Project.

The value of the completed Construction Units certified by the Bidder each month pursuant to Article III, Section 1(a) of this Proposal shall be reduced by an amount equal to the value of the materials installed by the Bidder during the preceding month which have been furnished by the Owner or the delivery of which has been accepted by the Bidder on behalf of the Owner. Only ninety percent (90%) of the remainder shall be paid prior to the Completion of the Project. The value of such materials shall be computed on the basis of the unit prices stated in the Lists, Materials, if any, not required for the Project, which have been furnished to the Bidder by the Owner or delivery of which has been accepted by the Bidder on behalf of the Owner, shall be returned to the Owner by the Bidder upon completion of construction of the Project. The value of all materials not installed in the Project nor returned to the Owner shall be deducted from the final payment to the Bidder.

The Owner shall not be obligated to furnish materials in excess of the quantities, size, kind and type set forth in the attached Lists. If the Owner furnished, and the Bidder accepts, materials in excess therefor, the values of such excess materials shall be their actual cost as stated by the Owner.

Information on the shipping schedules of materials on the ''List of Materials Ordered by Owner But Not Delivered'' will be furnished to the Bidder as necessary during progress of the work.

Upon delivery the Bidder shall promptly receive, unload, transport and handle all materials and equipment on the ''List of Materials Ordered by Owner But Not Delivered'' at its expense and shall be responsible for demurrage, if any.

Section 4. Purchase of Materials Not Furnished by Owner. The Bidder will purchase all materials and equipment (other than owner-furnished materials) outright and not subject to any conditional sales agreements, bailment, lease or other agreement reserving unto the seller any right, title or interest therein. All such materials and equipment shall become the property of the Owner when erected in place.

Section 5. Proposal on Unit Basis. The Bidder understands and agrees that the various Construction Units on which bids are made are defined by symbols and descriptions in this Proposal, that all said bids are on a unit basis, and that the Owner may specify any number or combination of Construction Units that the Owner may deem necessary for the construction of the Project. Separate Construction Units are designated for each different arrangement which may be used in the construction of the Project. This Proposal is based on a consideration of each unit in place and includes only the materials listed on the corresponding Construction Drawings or description of unit where no drawing exists.

Section 6. Description of Contract. The Notice and Instructions to Bidders and Plans attached hereto and made a part hereof, and the Specifications and Construction Drawings set forth in the Electric Transmission Specifications & Drawings, RUS Form 805, as applicable, together with the Proposal and Acceptance constitute the Contract. The plans, consisting of maps and special drawings, are identified as follows:

_____.

Section 7. Familiarity with Conditions. The Bidder has made a careful examination of the site of the Project to be constructed and of the Plans, Specifications, Construction Drawings, and form of Contractor's Bond attached hereto, and has become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be encountered, and the kind of facilities required before and during the construction of the Project, and has become acquainted

with the labor conditions, state and local laws and regulations which would affect work on the proposed construction.

Section 8. License. The Bidder warrants that a Contractor's License is ____ is not ____ required, and if required it possesses Contractor's License No. _____ for the State of _____ in which the Project is located and said license expires on _____, 19___.

Section 9. The Bidder warrants that this Proposal is made in good faith and without collusion or connection with any person or persons bidding for the same work.

Section 10. The Bidder warrants that it possesses adequate financial resources and agrees that in the event this Proposal is accepted and a Contractor's Bond is required, it will furnish a Contractor's Bond in the form attached hereto, in a penal sum not less than the maximum Contractor price, with a surety or sureties listed by the United States Treasury Department as Acceptance Sureties.

In the event that the surety or sureties on the performance bond delivered to the Owner contemporaneously with the execution of the Contract or on any bond or bonds delivered in substitution therefor or in addition thereto shall at any time become unsatisfactory to the Owner or the Administrator, the Bidder agrees to deliver to the Owner another or an additional bond.

Section 11. Taxes. The unit prices for Construction Units in this Proposal include provisions for the payment of all monies which will be payable by the Bidder or the Owner in connection with the construction of the Project on account of taxes imposed by any taxing authority upon the sale, purchase or use of materials, supplies and equipment, or services or labor of installation thereof, to be incorporated in the Project as part of such Construction Units. The Bidder agrees to pay all such taxes, except taxes upon the sale, purchase or use of owner-furnished materials and it is understood that, as to owner-furnished materials, the values stated in the attached ''List of Owner's Materials on Hand'' and ''List of Materials Ordered by Owner But Not Delivered'' include taxes upon the sale, purchase or use of owner-furnished materials, if applicable. The Bidder will furnish to the appropriate taxing authorities all required information and reports pertaining to the Project, except as to the owner-furnished materials.

Section 12. Changes in Quantities. The Bidder understands and agrees that the quantities called for in this Proposal are approximate, and that the total number of units upon which payment shall be made shall be as set forth in the Inventory. If the Owner changes the quantity of any Assembly Unit or Assembly Units specified in this Proposal by more than 15%, and the materials cost to the Bidder is increased thereby to an extent which would not be adequately compensated by application of the unit prices in this Proposal to the revised quantity of such unit or units, such change, to the extent of the quantities of such units in excess of such 15%, shall be regarded as a change in the construction within the meaning of Article II, Section 1(d) of this proposal.

Section 13. Description of Contract. The Notice and Instructions to Bidders, Plans, Specifications for Construction and Construction Drawings, all attached hereto and made a part hereof together with the Proposal and Acceptance constitute the contract. The Plans and Construction Drawings are identified as follows: _____

LIST OF OWNER'S MATERIALS ON HAND

Item [1]	Description of material	Catalog No.	Quantity	Unit price	Extended price
Total Above materials are located at:					

Notes: 1. Item corresponds with item in list of materials in construction drawings. Under Article I, Section 3, the value of these materials will be deducted from payments to the Bidder for completed Construction Units.

LIST OF MATERIALS ORDERED BY OWNER BUT NOT DELIVERED

Item [2]	Supplier name and address	Scheduled delivery date	Description of material	Catalog No.	Quantity	Unit price	Extended price
Total Above material to be delivered to:							

Notes: 2. Item corresponds with item in list of materials in construction drawings. Under Article I, Section 3, the value of these materials will be deducted from payments to the Bidder for completed Construction Units.

Article II—Construction

Section 1. Time and Manner of Construction

a. The Bidder agrees to commence construction of the Project on a date (hereinafter called the ''Commencement Date'') which shall be determined by the Engineer after notice in writing of approval of the Contract by the Administrator and notice in writing from the Bidder that the Bidder has sufficient materials to warrant commencement and continuation of construction, but in no event will the Commencement Date be later than ____ calendar days after date of approval of the Contract by the Administrator. The Bidder further agrees to prosecute diligently and to complete construction in strict accordance with the Plans, Specifications and Construction Drawings within ____ (____) calendar days (excluding Sundays) after Commencement Date: Provided, however, that the Bidder will not be required to dig holes, set poles or install anchors if there are more than six (6) inches of frost in the ground nor to perform any construction on such days when in the judgment of the Engineer snow, rain, or wind, or the results of snow, rain, or frost make it impracticable to perform any operation of construction and to the extent of the time lost due to the conditions described herein and approved in writing by the Engineer, the time of completion set out above will be extended if the Bidder makes a written request therefor to the Owner as provided in subsection b of this Section 1.

b. The time for Completion of Construction shall be extended for the period of any reasonable delay which is due exclusively to causes beyond the control and without the fault of the Bidder, including Acts of God, fires, floods, inability to obtain materials and acts or omissions of the Owner with respect to matters for which the Owner is solely responsible: *Provided, however,* that no such extension of time for completion shall be granted the Bidder unless within ten (10) days after the happening of any event relied upon by the Bidder for such an extension of time the Bidder shall have made a request therefor in writing to the Owner, and provided further that no delay in such time of completion or in the progress of the work which results from any of the above causes except acts or omissions of the Owner, shall result in any liability on the part of the Owner.

c. The sequence of construction shall be as set forth below, the numbers or names being the designations of extensions or areas (hereinafter called the ''Sections'') corresponding to the numbers or names shown on the maps attached hereto, or if no

Sections are set forth below, the sequence of construction shall be as determined by the Bidder, subject to the approval of the Engineer. _____

d. The Owner, acting through the Engineer and with the approval of the Administrator,[1] may from time to time during the progress of the construction of the Project make such changes in, additions to or subtractions from the Plans, Specifications, Construction Drawings, List of Materials and sequence of construction provided for in the previous paragraph which are part of the Contractor's Proposal as conditions may warrant: Provided, however, that if any change in the construction to be done shall require an extension of time, a reasonable extension will be granted if the Bidder shall make a written request therefor to the Owner within ten (10) days after any such change is made. And provided further, that if the cost to the Bidder of construction of the Project shall be materially increased by any such change or addition, the Owner shall pay the Bidder for the reasonable cost thereof in accordance with a Construction Contract Amendment signed by the Owner and the Bidder and approved by the Administrator,[2] but no claim for additional compensation for any such change or addition will be considered unless the Bidder shall have made a written request therefor to the Owner prior to the commencement of work in connection with such change or addition.

e. The Bidder will not perform any work hereunder on Sundays unless there is urgent need for such Sunday work and the Owner consents thereto in writing. The time for completion specified in subsection a of this Section 1 shall not be affected in any way by inclusion of this subsection nor by the Owner's consent or lack of consent to Sunday work hereunder.

Section 2. Environmental Protection. The Bidder shall perform work in such a manner as to maximize preservation of beauty, conservation of natural resources and minimize marring and scarring of the landscape and silting of streams. The Bidder shall not deposit trash in streams or waterways, and shall not deposit herbicides or other chemicals or their containers in or near streams, waterways or pastures. The Bidder shall follow, under the general direction of the Engineer, the criteria relating to environmental protection as specified herein by the Engineer.

Section 3. The Bidder agrees that in the event this Proposal is accepted it will make available for use in connection with the proposed construction all necessary tools and equipment and qualified superintendents and foremen.

Section 4. Changes in Construction. The Bidder agrees to make such changes in construction previously installed in the Project by the Bidder as required by the Owner for prices arrived at as follows:

a. For substations and other units where only a portion of the complete unit is affected by the change, the compensation for such change shall be as agreed upon in writing by the Bidder and the Owner and approved by the Administrator[3] prior to the commencement of work in connection with such change.

b. For all other units, the compensation for such change shall be the reasonable cost thereof as agreed upon in writing by the Bidder and the Owner prior to the commencement of work in connection with such change, but in no event shall it exceed two (2) times the labor price quoted in the Proposal for the installation of the unit to be changed. Such compensation shall be in lieu of any other payment for the installation and removal of the original unit. (If a new or replacing unit is installed, payment for such new or replacing unit shall be made as shown in the final inventory.)

No payment shall be made to the Bidder for materials or labor involved in correcting errors or omissions on the part of the Bidder which result in construction not in accordance with the Plans and Specifications.

Section 5. Construction Not in Proposal. The Bidder also agrees that when it is necessary to construct units not shown in the Proposal it will construct such units for a price arrived at as follows:

a. The cost of materials shall be determined by the invoices.

b. The cost of labor shall be the reasonable cost thereof, but in no event shall it exceed an amount determined by calculating the ratio of the total labor costs to the total material costs in the section of the Proposal involved, and multiplying the cost of materials for the unit in question by this ratio.

Section 6. Supervision and Inspection.

a. The Bidder shall cause the construction work on the Project to receive constant supervision by a competent superintendent (hereinafter called the ''Superintendent'') who shall be present at all times during working hours where construction is being carried on. The Bidder shall also employ, in connection with the construction of the Project, capable, experienced and reliable foremen and such skilled workmen as may be required for the various classes of work to be performed. Directions and instructions given to the Superintendent shall be binding upon the Bidder.

b. The Owner reserves the right to require the removal from the Project of any employee of the Bidder if in the judgment of the Owner such removal shall be necessary in order to protect the interest of the Owner. The Owner or the Supervisor, if any, shall have the right to require the Bidder to increase the number of its employees and to increase or change the amount or kind of tools and equipment if at any time the progress of the work shall be unsatisfactory to the Owner or Supervisor; but the failure of the Owner or Supervisor to give any such directions shall not relieve the Bidder of its obligations to complete the work within the time and in the manner specified in this Proposal.

c. The manner of construction of the Project, and all materials and equipment used therein, shall be subject to the inspection, tests and approval of the Owner and the Administrator, and the Bidder shall furnish all information required by the Owner or by the Administrator concerning the nature or source of any materials incorporated or to be incorporated in the Project. The Owner and the Administrator shall have the right to inspect all payrolls, invoices of materials, and other data and records of the Bidder and of any subcontractor, relevant to the construction of the Project. The Bidder shall provide all reasonable facilities necessary for such inspection and tests and shall maintain an office at the site of the Project, with telephone service where obtainable and at least one office employee to whom directions and instructions of the Owner may be delivered. Delivery of such directions or instructions in writing to the employee of the Bidder at such office shall constitute delivery to the Bidder. The Bidder shall have an authorized agent accompany the Engineer when final inspection is made and, if requested by the Owner, when any other inspection is made.

d. In the event that the Owner, or the Administrator, shall determine that the construction contains or may contain numerous defects, it shall be the duty of the Bidder and the Bidder's Surety or Sureties, if any, to have an inspection made by an engineer approved by the Owner and the Administrator for the purpose of determining the exact nature, extent and location of such defects.

e. The Engineer may recommend to the Owner that the Bidder suspend the work wholly or in part for such period or periods as the Engineer may deem necessary due to unsuitable weather or such other conditions as are considered unfavorable for the satisfactory prosecution of the work or because of the failure of the Bidder to comply with any of the provisions of the Contract: Provided, however, that the Bidder shall not suspend work pursuant to this provision without written authority from the Owner so to do. The time of completion hereinabove set forth shall be increased by the number of days of any such suspension, except when such suspension is due to the failure of the Bidder to comply with any of the provisions of this Contract. In the event that work is suspended by the Bidder with the consent of the Owner, the Bidder before resuming work shall give the Owner at least twenty-four (24) hours notice thereof in writing.

Section 7. Defective Materials and Workmanship.

a. The acceptance of any materials, equipment (except owner furnished materials) or any workmanship by the Owner or the Engineer shall not preclude the subsequent rejection thereof if such materials, equipment, or workmanship shall be found to be defective after delivery or installation, and any such materials, equipment or workmanship found defective before final acceptance of the construction

[1] As long as the total price of this contract including all amendments is less than 120 percent of the original contract price as stated in the acceptance hereto, amendments executed on RUS Form 238 are not subject to the approval of the Administrator. Whenever an amendment to this contract causes the total amended contract to exceed 120 percent of the original contract price, that amendment and all subsequent amendments to this contract shall be made subject to the approval of the Administrator.

[2] See Footnote 1.

[3] See Footnote 1.

shall be replaced or remedied, as the case may be, by and at the expense of the Bidder. Any such condemned material or equipment shall be immediately removed from the site of the Project by the Bidder at the Bidder's expense. The Bidder shall not be entitled to any payment hereunder so long as any defective materials, equipment or workmanship in respect to the Project, of which the Bidder shall have had notice, shall not have been replaced or remedied, as the case may be.

b. Notwithstanding any certificate which may have been given by the Owner or the Engineer, if any materials, equipment (except owner-furnished materials) or any workmanship which does not comply with the requirements of this Contract shall be discovered within one (1) year after Completion of Construction of the Project, the Bidder shall replace such defective materials or equipment or remedy any such defective workmanship within thirty (30) days after notice in writing of the existence thereof shall have been given by the Owner. If the Bidder shall be called upon to replace any defective materials or equipment or to remedy defective workmanship as herein provided, the Owner, if so requested by the Bidder shall deenergize that section of the Project involved in such work. In the event of failure by the Bidder so to do, the Owner may replace such defective materials or equipment or remedy such defective workmanship, as the case may be, and in such event the Bidder shall pay to the Owner the cost and expense thereof.

Article III—Payments and Release of Liens

Section 1. Payments to Bidder.

a. Within the first fifteen (15) days of each calendar month, the Owner shall make partial payment to the Bidder for construction accomplished during the preceding calendar month on the basis of completed Assembly Units furnished and certified to by the Bidder, recommended by the Engineer and approved by the Owner solely for the purposes of payment: Provided, however, that such approval shall not be deemed approval of the workmanship or materials. Only ninety percent (90%) of each such estimate approved during the construction of the Project shall be paid by the Owner to the Bidder prior to Completion of the Project: Provided, however, that at any time after work, which, in the sole determination of the Engineer, amounts to fifty percent (50%) of the Maximum Contract Price has been completed, the Owner may elect, in lieu of paying ninety percent (90%) of each such subsequent estimate, to pay each such subsequent estimate in full. Upon completion by the Bidder of the construction of the Project, the Engineer will prepare a Final Inventory of the Project showing the total number and character of Assembly Units and, after checking such Inventory with the Bidder, will certify it to the Owner, together with a certificate of the total cost of the construction performed. Upon the approval of such certificates by the Owner and the Administrator, the Owner shall make payment to the Bidder of all amounts to which the Bidder shall be entitled thereunder which shall not have been paid: Provided, however, that such final payment shall be made not later than ninety (90) days after the date of Completion of Construction of the Project, as specified in the Certificate of Completion, unless withheld because of the fault of the Bidder.

b. The Bidder shall be paid on the basis of the number of Construction Units actually installed at the direction of the Owner shown by the inventory based on the staking sheets or structure lists; Provided, however, that the total cost shall not exceed the maximum Contract price for the construction of the Project as set forth in the Acceptance, unless such excess shall have been approved in writing by the Administrator[4].

c. Notwithstanding the provisions of Section 1a above, the Bidder may, by giving written notice thereof to the Owner, elect to receive payment in full for any Section of the Project upon:

(1) completion of construction of such Section as certified by the Engineer and approved by the Owner and the Administrator;

(2) submission to the Owner and the Administrator of the releases of lien and the certificate referred to in Section 2 hereof;

(3) approval by the Owner and the Administrator of the inventory in respect of such Section; and

(4) submission to the Owner and the Administrator of the consent in writing by the Surety or Sureties, if any, on the Contractor's Bond to payment in full for such Section prior to Completion of the Project.

If no Sections are designated in Article II, Section lc, the term ''Section'' shall mean for purposes of this subsection c and Article IV, Section 3b only, a part of the Project as designated by the Owner which represents at least twenty-five percent (25%) of the maximum Contract price as stated in Article III, Section 1, and which is capable of being energized and operated by the Owner.

d. Interest at the rate of ____ percent[5] (____%) per annum shall be paid by the Owner to the Bidder on all unpaid balances due on monthly estimates, commencing fifteen (15) days after the due date; provided the delay in payment beyond the due date is not caused by any condition within the control of the Bidder. The due date for purposes of such monthly payment shall be the fifteenth day of each calendar month provided (1) the Bidder on or before the fifth day of such month shall have submitted its certification of Construction Units completed during the preceding month and (2) the Owner on or before the fifteenth day of such month shall have approved such certification. If, for reasons not due to the Bidder's fault, such approval shall not have been given on or before the fifteenth day of such month, the due date for purposes of this subsection d shall be the fifteenth day of such month notwithstanding the absence of the approval of the certification.

e. Interest at the rate of ____ percent[6] (____%) per annum shall be paid by the Owner to the Bidder on the final payment for the Project or any completed Section thereof, commencing fifteen (15) days after the due date. The due date for purposes of such final payment shall be the date of approval by the Administrator of all of the documents requiring such approval, as a condition precedent to the making of final payment, or ninety (90) days after the date of Completion of Construction of the Project, as specified in the Certificate of Completion, whichever date is earlier.

f. No payment shall be due while the Bidder is in default in respect of any of the provisions of this Contract and the Owner may withhold from the Bidder the amount of any claim by a third party against either the Bidder or the Owner based upon an alleged failure of the Bidder to perform the work hereunder in accordance with the provisions of this Contract.

Section 2. Release of Liens and Certificate of Contractor. (See sample RUS Form 224, Waiver and Release of Lien and sample RUS Form 231, Certificate of Contractor.) Upon the completion by the Bidder of the Project (or any Section thereof if the Bidder shall elect to receive payment in full for any Section when completed as provided above) but prior to final payment to the Bidder, the Bidder shall deliver to the Owner, in duplicate, releases of all liens and of rights to claim any lien, in the form attached hereto from all manufacturers, materialmen, and subcontractors furnishing services or materials for the Project or such Section and a certificate in the form attached hereto to the effect that all labor used on or for the Project or such Section has been paid and that all such releases have been submitted to the Owner for approval.

Section 3. Payments to Materialmen and Subcontractors. The Bidder shall pay each materialman, and each subcontractor, if any, within five (5) days after receipt of any payment from the Owner, the amount thereof allowed the Bidder for and on account of materials furnished or construction performed by each materialman or each subcontractor.

Article IV—Particular Undertakings of the Bidder

Section 1. Protection to Persons and Property. The Bidder shall at all times take all reasonable precautions for the safety of employees on the work and of the public, and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building and construction codes, as well as the safety rules and regulations of the Owner. All machinery and equipment and other physical hazards shall be guarded in accordance with the ''Manual of Accident Prevention in Construction'' of the Associated General Contractors of America unless such instructions are incompatible with Federal, State, or Municipal laws or regulations.

The following provisions shall not limit the generality of the above requirements.

a. The Bidder shall at no time and under no circumstances cause or permit any employee of the Bidder to perform any work upon energized lines, or upon poles carrying energized lines, unless otherwise specified in the Notice and Instructions to Bidders.

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[4] See Footnote 1.

[5] The Owner shall insert a rate equal to the lowest ''Prime Rate'' listed in the ''Money Rates'' section of the Wall Street Journal on the date such invitation to bid is issued.

[6] See Footnote 5.

b. The Bidder shall so conduct the construction of the Project as to cause the least possible obstruction of public highways.

c. The Bidder shall provide and maintain all such guard lights and other protection for the public as may be required by applicable statutes, ordinances and regulations or by local conditions.

d. The Bidder shall do all things necessary or expedient to properly protect any and all parallel, converging and intersecting lines, joint line poles, highways and any and all property of others from damage, and in the event that any such parallel, converging and intersecting lines, joint line poles, highways or other property are damaged in the course of the construction of the Project the Bidder shall at its own expense restore any or all of such damaged property immediately to as good a state as before such damage occurred.

e. Where the right-of-way of the Project traverses cultivated lands, the Bidder shall limit the movement of its crews and equipment so as to cause as little damage as possible to crops, orchards or property and shall endeavor to avoid marring the lands. All fences which are necessarily opened or moved during the construction of the Project shall be replaced in as good condition as they were found and precautions shall be taken to prevent the escape of livestock. The Bidder shall not be responsible for loss of or damage to crops, orchards or property (other than livestock) on the right-of-way necessarily incident to the construction of the Project and not caused by negligence or inefficient operation of the Bidder. The Bidder shall be responsible for all other loss of or damage to crops, orchards, or property, whether on or off the right-of-way, and for all loss of or damage to livestock caused by the construction of the Project. The right-of-way for purposes of this said section shall consist of an area extending ____ feet on both sides of the center line of the poles along the route of the Project lines, plus such area reasonably required by the Bidder for access to the route of the Project lines from Public roads to carry on construction activities.

f. The Project, from the commencement of work to completion, or to such earlier date or dates when the Owner may take possession and control in whole or in part as hereinafter provided shall be under the charge and control of the Bidder and during such period of control by the Bidder all risks in connection with the construction of the Project and the materials to be used therein shall be borne by the Bidder. The Bidder shall make good and fully repair all injuries and damages to the Project or any portion thereof under the control of the Bidder by reason of any Act of God or other casualty or cause whether or not the same shall have occurred by reason of the Bidder's negligence.

(i) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Bidder's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Bidder's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Bidder, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Bidder liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner.

(ii) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Bidder, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Bidder shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Bidder does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Bidder.

(iii) Bidder shall provide to Owner's satisfaction evidence of Bidder's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.

g. Any and all excess earth, rock, debris, underbrush and other useless material shall be removed by the Bidder from the site of the Project as rapidly as practicable as the work progresses.

h. Upon violation by the Bidder of any of the provisions of this Section, after written notice of such violation given to the Bidder by the Engineer or the Owner, the Bidder shall immediately correct such violation. Upon failure of the Bidder so to do the Owner may correct such violation at the Bidder's expense: Provided, however, that the Owner may, if it deems it necessary or advisable, correct such violation at the Bidder's expense without such prior notice to the Bidder.

i. The Bidder shall submit to the Owner monthly reports in duplicate of all accidents, giving such data as may be prescribed by the Owner.

j. The Bidder shall not proceed with the cutting of trees or clearing of right-of-way without written notification from the owner that proper authorization has been received from the owner of the property, and the Bidder shall promptly notify the Owner whenever any landowner objects to the trimming or felling of any trees or the performance of any other work on its land in connection with the Project and shall obtain the consent in writing of the Owner before proceeding in any such case.

Section 2. Insurance. The Bidder shall take out and maintain throughout the period of this Agreement the following types and minimum amounts of insurance:

a. Workers' compensation and employers' liability insurance as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

b. Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million for each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or polices of insurance, primary and excess including umbrella or catastrophe form.

c. Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million for each occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection ''b'' and ''c'' of this Section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Owner shall be named as Additional Insured on all policies of insurance required in subsections ''b'' and ''c'' of this Section.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.

Section 3. Delivery of Possession and Control to Owner.

a. Upon written request of the Owner the Bidder shall deliver to the Owner full possession and control of any portion of the Project provided the Bidder shall have been paid at least ninety percent (90%) of the cost of construction of such portion. Upon such delivery of the possession and control of any portion of the Project to the Owner, the risk and obligations of the Bidder as set forth in Article IV, Section 1f hereof with respect to such portion of the Project so delivered to the Owner shall be terminated: Provided, however, that nothing herein contained shall relieve the Bidder of any liability with respect to defective materials and workmanship as contained in Article II, Section 6 hereof.

b. Where the construction of a Section as hereinbefore defined in Article II, Section 1c and Article III, Section 1c shall have been completed by the Bidder, the Owner agrees, after receipt of a written request from the Bidder, to accept delivery of possession and control of such Section upon the issuance by the Engineer of a written statement that the Section has been inspected and found acceptable by the Engineer. Upon such delivery of the possession and control of any such Section to the Owner, the risk and obligations of the Bidder as set forth in Article IV, Section 1f hereof with respect to such Section so delivered to the Owner shall be terminated: Provided, however, that nothing herein contained shall relieve the Bidder of any liability with respect to defective materials or workmanship as contained in Article II, Section 6 hereof.

Section 4. Energizing the Project.

a. Prior to Completion of the Project the Owner, upon written notice to the Bidder, may test the construction thereof by temporarily energizing any portion or portions thereof. During the period of such test the portion or portions of the Project so energized shall be considered as within the possession and control of the Owner and governed by the provisions of Section 3 of this Article. Upon written notice to the Bidder by the Owner of the completion of such test and upon deenergizing the lines involved therein said portion, or portions of the Project shall be considered as returned to the possession and control of the Bidder unless the Owner shall elect to continue possession and control in the manner provided in Section 3 of this Article.

b. The Owner shall have the right to energize permanently any portion or portions of the Project delivered to its possession and control pursuant to the provisions of Section 3 of this Article.

Section 5. Assignment of Guarantees. All guarantees of materials and workmanship running in favor of the Bidder shall be transferred and assigned to the Owner prior to the time the Bidder receives final payment.

Article V—Remedies

Section 1. Completion on Bidder's Default. If default shall be made by the Bidder or by any subcontractor in the performance of any of the terms of this Proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Bidder and the Surety or Sureties, if any, upon the Contractor's Bond or Bonds a written notice requiring the Bidder to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Bidder such default shall be corrected or arrangements for the correction thereof satisfactory to both the Owner and the Administrator shall be made by the Bidder or its Surety or Sureties, if any, the Owner may take over the construction of the Project and prosecute the same to completion by Contract or otherwise for the account and at the expense of the Bidder, and the Bidder and its Surety or Sureties, if any, shall be liable to the Owner for any cost or expense in excess of the Contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the Project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Bidder or any of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims or demands which the Bidder may have against third persons in connection with this Contract and for such purpose the Bidder does hereby assign, transfer and set over unto the Owner all such rights, claims and demands.

Section 2. Liquidated Damages. The time of the Completion of Construction of the Project is of the essence of the Contract. Should the Bidder neglect, refuse or fail to complete the construction within the time herein agreed upon, after giving effect to extensions of time, if any, herein provided, then, in that event and in view of the difficulty of estimating with exactness damages caused by such delay, the Owner shall have the right to deduct from and retain out of such moneys which may be then due, or which may become due and payable to the Bidder the sum of ____ dollars (____) per day for each and every day that such construction is delayed in its completion beyond the specified time, as liquidated damages and not as a penalty; if the amount due and to become due from the Owner to the Bidder is insufficient to pay in full any such liquidated damages, the Bidder shall pay to the Owner the amount necessary to effect such payment in full; Provided, however, that the Owner shall promptly notify the Bidder in writing of the manner in which the amount retained, deducted or claimed as liquidated damages was computed.

Section 3. Cumulative Remedies. Every right or remedy herein conferred upon or reserved to the Owner or the Government or the Administrator shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election: Provided, however, that the provisions of Section 2 of this Article shall be the exclusive measure of damages for failure by the Bidder to complete the construction of the Project within the time herein agreed upon.

Article VI—Miscellaneous

Section 1. Definitions.

a. The term ''Administrator'' shall mean the Administrator of the Rural Utilities Service of the United States of America and his duly authorized representatives or any other person in whom or authority in which may be vested the duties and functions which the Administrator is now authorized by law to perform.

b. The term ''Engineer'' shall mean the engineer employed by the Owner, with the approval of the Administrator, to provide engineering services for the Project and said Engineer's duly authorized assistants and representatives.

c. The term ''Supervisor'' shall mean the person, if any, appointed by the Administrator as the representative of the Government under the provisions of the Loan Contract providing for such appointment in special cases. The term is limited to such special representative of the Government, if any, who is responsible exclusively to the Administrator and does not refer to the Manager or any other person employed by the Owner and responsible to it.

d. The term ''Project'' shall mean the rural electric system, or portion thereof, described in the Plans and Specifications, Construction Drawings and maps attached hereto.

e. The term ''Completion of Construction'' shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof except the Bidder's obligations in respect of (1) Releases of Liens and Certificate of Contractor under Article III, Section 2 hereof, (2) the inventory referred to in Article III, Section 1 hereof, and (3) other final documents. The term ''Completion of the Project'' shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof. The Certificate of Completion, signed by the Engineer and approved in writing by the Owner and the Administrator, shall be the sole and conclusive evidence as to the date of Completion of Construction and as to the fact of Completion of the Project.

Section 2. Materials and Supplies. In the performance of this contract there shall be furnished only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, Mexico, or Canada, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States, Mexico, or Canada; provided that other articles, materials, or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. The Seller agrees to submit to the Purchaser such certificates with respect to compliance with the foregoing provision as the Administrator from time to time may require.

Section 3. Patent Infringement. The Bidder shall save harmless and indemnify the Owner from any and all claims, suits and proceedings for the infringement of any patent or patents covering any materials or equipment used in construction of the Project.

Section 4. Permits for Explosives. All permits necessary for the handling or use of dynamite or other explosives in connection with the construction of the Project shall be obtained by and at the expense of the Bidder.

Section 5. Compliance with Statutes and Regulations. The Bidder shall comply with all applicable statutes, ordinances, rules and regulations pertaining to the work. The Bidder acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the so-called ''Kick-Back'' Statute thereto, and 18 U.S.C. §§ 287, 1001, as amended. The Bidder understands that the obligations of the parties hereunder are subject to the applicable regulations and orders of Governmental Agencies having jurisdiction in the premises.

Section 6. Equal Opportunity Provisions.

a. Bidder's Representations.

The Bidder represents that:

It has ____, does not have ____, 100 or more employees, and if it has, that it has ____, has not ____, furnished the Equal Employment Opportunity-Employers Information Report EEO–1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 and Title VII of the Civil Rights Act of 1964.

The Bidder agrees that it will obtain, prior to the award of any subcontract for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100.

The Bidder agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than $10,000, the Bidder will file such report, as required by law, and notify the owner in writing of such filing prior to the Owner's acceptance of this Proposal.

b. Equal Opportunity Clause. During the performance of this Contract, the Bidder agrees as follows:

(1) The Bidder will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Bidder will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

(2) The Bidder will, in all solicitations or advertisements for employees placed by or on behalf of the Bidder, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The Bidder will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Bidder's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Bidder will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.

(5) The Bidder will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Bidder's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part, and the Bidder may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

(7) The Bidder will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by the rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Bidder will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; Provided, however, that in the event Bidder becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Bidder may request the United States to enter into such litigation to protect the interests of the United States.

c. Certificate of Nonsegregated Facilities. The Bidder certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term ''segregated facilities'' means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

Section 7. Franchises and Rights-of-Way. The Bidder shall be under no obligation to obtain or assist in obtaining: Any franchises, authorizations, permits or approvals required to be obtained by the Owner from Federal, State, County, Municipal or other authorities; any rights-of-way over private lands; or any agreements between the Owner and third parties with respect to the joint use of poles, crossings, or other matter incident to the construction and operation of the Project.

Section 8. Nonassignment of Contract. The Bidder shall perform directly and without subcontracting not less than twenty-five per centum (25%) of the construction of the Project, to be calculated on the basis of the total Contract price. The Bidder shall not assign the Contract effected by an acceptance of this Proposal or any interest in any funds that may be due or become due hereunder or enter into any contract with any person, firm or corporation for the performance of the Bidder's obligations hereunder or any part thereof, without the approval in writing of the Owner and of the Surety or Sureties, if any, on any bond furnished by the Bidder for the faithful performance of the Bidder's obligations hereunder. If the Bidder, with the consent of the Owner and any Surety or Sureties on the Contractor's Bond or Bonds, shall enter into a subcontract with any subcontractor for the performance of any part of this Contract, the Bidder shall be as fully responsible to the Owner and the Government for the acts and omissions of such subcontractor and of persons employed by such subcontractor as the Bidder would be for its own acts and omissions and those of persons directly employed by it.

Section 9. Extension to Successors and Assigns. Each and all of the covenants and agreements herein contained shall extend to and be binding upon the successors and assigns of the parties hereto.

Section 10. Contractor. Upon acceptance of this Proposal, the successful Bidder shall be the Contractor and all references in the Proposal to the Bidder shall apply to the Contractor.

Section 11. Approval by the Administrator. No acceptance of this Proposal shall become effective until approval in writing of the Administrator: Provided, however, that no obligations shall arise hereunder unless such approval is given within forty-five (45) days from the date of acceptance by the Owner.

_____ (Bidder)
By _____ (President)
_____ (Address)
Attest: _____ (Secretary)
Date _____

The Proposal must be signed with the full name of the Bidder. If the Bidder is a partnership, the Proposal must be signed in the partnership name by a partner. If the Bidder is a corporation, the Proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

Transmission Construction Units

Section 1—Pole Units

A pole unit consists of one pole in place. It does not include pole-top assembly unit or other parts attached to the pole. The first two digits indicate the length of the pole; the third digit shows the classification per A.S.A.

(Example: 45–3 means a pole 45 feet long, class 3.)
Species of Timber: _____
Kind of Preservative: (Check one)
1. Creosote ____; 2. Pentachlorophenol ____; 3. Copper Naphthenate ____; 4. Waterborne preservative—CCA ____ ACZA ____

Method of Treatment: (Check one)
1. Pressure ____; 2. Thermal process: ____

Pole Plan Under Which the Poles are to be Furnished: (Check one)
1. Insured Warranted ____; 2. Independently Inspected ____; 3. Quality Assured ____; 4. Either Insured Warranted, Independently Inspected, or Quality Assured ____
(Engineer to complete above)

Unit No.	No. of units	Unit Price			Extended price—labor & materials
		Labor	Materials	Labor & materials	

Total, Section 1— _____

Section 2—Pole-Top Assembly Units

A pole-top assembly unit consists of the hardware, crossarms and their appurtenances, insulators, etc., except tie wire, required to support the power conductors and overhead ground wire. It does not include the pole, the downlead, and butt coil, which are separate units.

Unit No.	No. of units	Unit Price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
TH					
TP					
TS					
TSS					
TSZ					
TUS–1					
TUS–2					

Total, Section 2— _____

Section 3—Conductor Assembly Units

A conductor assembly unit consists of 1,000 feet of a single conductor or overhead ground wire, and includes tie wire, sleeves for splicing, and armor rods with clips or armor wire where necessary. The length of conductor or overhead ground wire shall be determined by taking the sum of all straight horizontal span distances between pole stakes or from center to center of the poles carrying the conductors. The conductor sizes and types listed are the manufacturer's designation.

____ Tension Stringing (Engineer check when required.)

Unit No.	No. of units	Unit Price			Extended price—labor & materials
		Labor	Materials	Labor & materials	

Total, Section 3— _____

As provided for in the specifications, prior to beginning of work the Bidder will furnish the Engineer the following data on tension equipment:
Diameter Bull Wheel _____ in.
Diameter Groove _____ in.
Conductor Bending Radius _____ in.
Thickness of Neoprene at Bottom of Groove _____ in.
Stringing Sheave Diameter; Tangent _____ in., Large Angle _____ in.

Section 4—Guy Assembly Units

A guy assembly unit consists of the hardware and wire. Guy guards are designated separately.

Unit No.	No. of units	Unit Price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
TG–1					
TG–2					
TG–3					
TG–4					
TG–5					

Total, Section 4— _____

Section 5—Anchor Assembly Units

An anchor assembly unit consists of the anchor with rod or rods, complete, ready for attaching the guy wire.

Unit No.	No. of units	Unit Price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
TA–1–5 TA–1–8 TA–3					

Total, Section 5— _____

Section 6—Miscellaneous Assembly Units

A miscellaneous assembly unit consists of an additional unit needed in the Project for line construction but not otherwise listed in the Proposal.

Unit No.	No. of units	Unit Price			Extended price—labor & materials
		Labor	Materials	Labor & materials	
TM					

Total, Section 6— _____

Section 7—Right-of-Way Clearing Units

TM–12. The unit is 1,000 feet in length and _____ (_____) feet in width (to be measured _____ (_____) feet on one side of pole line or centerline of structures) of actual clearing of right-of-way. This includes clearing of underbrush, tree removal, and such tree trimming as is required so that the right-of-way, except for tree stumps which shall not exceed _____ in height, shall be clear from the ground up on one side of the line of poles carrying conductors (See Detail A, Drawing TM–12–2A.) The length of actual clearing shall be measured in a straight line, parallel to the horizontal line between poles or centerline of structures and across the maximum dimension of foliage cleared projected to the ground line (See Detail B, Drawing TM–12–2A.) All trees and underbrush across the width of the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing (See Detail C, Drawing TM–12–2A.) Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement. All lengths thus arrived at, added together and divided by 1,000 shall give the number of TM–12 units of clearing. The Bidder shall not remove or trim shade, fruit, or ornamental trees unless so directed by the Engineer in writing.

TM–12 (1). This unit is identical with TM–12, except the full width of the right-of-way to be cleared shall be _____ (_____) feet wide (to be measured _____ (_____) feet on each side of the pole line or centerline of structures) (See Detail D, Drawing TM–12–2A.)

TM–13. The unit, for purpose of quoting, is 1,000 feet in length of clearing off the right-of-way. The Engineer will select those trees off the right-of-way that he deems to be a hazard to the line and will designate them to the Bidder in writing as danger trees. When so designated, the Bidder shall remove or top such trees at his option except that the Bidder shall trim and not remove shade, fruit or ornamental trees unless otherwise directed by the Engineer in writing (See Drawings TM–12–2A and TM–13 for examples of danger trees.)

The measurement of length of right-of-way to be cleared shall be considered as a straight line parallel to the horizontal line between poles or centerline of structures, such measurement of length to be based on maximum dimension of foliage (not trunk) projected to the ground line (See Details E, F, G and H, Drawing TM–12–2A.) Dead trees having no foliage shall be measured across the maximum dimension and multiplied by two. (See Detail F, Drawing TM–12–2A.) Each tree so removed shall be added together to determine the total length of clearing. All lengths thus arrived at, added together and divided by 1,000 shall give the number of TM–13 units (Example: Details E, F, G and H, Drawing TM–12–2A, total 0.10 of a TM–13 unit.)

TMC–12, TMC–12 (1). These units are identical to the respective TM units except that chemical treatment of stumps is required in addition to the clearing of underbrush, tree removal and tree trimming. TM–14. The unit is 1,000 feet in length and _____ (_____) feet in width (to be measured feet on one side of right-of-way center line) of actual clearing of right-of-way. Trees and underbrush should be cleared from the ground up within 10 feet of any structure location. The Engineer will mark the trees and brush to be cleared to provide ''undulating'' boundaries. Low growing trees and brush are to be left in the right-of-way to the extent it will not be hazardous to the line or will not interfere with the service road. The length of actual clearing shall be measured in a straight line parallel to the horizontal line between poles or center line of structures and across the maximum dimension of foliage cleared projected to the ground line (See Detail B, Drawing TM–12–2A.) All trees and underbrush cleared across the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing (See Detail C, Drawing TM–12–2A.) Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement.

TM–14 (1). This unit is identical with TM–14 except the full width of the right-of-way to be cleared shall be _____ (_____) feet wide (See Detail D, Drawing TM–12–2A.)

TM–15. The unit is 1,000 feet in length and _____ feet in width (to be measured _____ (_____) feet on one side of the right-of-way center line) of actual clearing of the right-of-way. Trees and underbrush should be cleared from ground up within 10 feet of any structure location. The Engineer will mark the trees and brush to be cleared to provide a ''feathered'' appearance in the right-of-way. Low growing trees and brush are to be left in the right-of-way to the extent it will not be hazardous to the line or will not interfere with the service road.

The length of actual clearing shall be measured in a straight line parallel to the horizontal line between poles or center line of structures and across the maximum dimension of foliage cleared projected to ground line (See Detail B, Drawing TM–12–2A). All trees and underbrush cleared across the right-of-way shall be considered to be grouped together as a single length in measuring the total length of clearing (See Detail C, Drawing TM–12–2A). Spaces along the right-of-way in which no trees are to be removed or trimmed or underbrush cleared shall be omitted from the total measurement.

TM–15 (1). This unit is identical to TM–15 except the full width of the right-of-way, to be cleared shall be _____ (_____) feet wide (See Detail D, Drawing TM–12–2A).

Additional Requirements. (When specifying TM units denote type of disposal A or B).

A. Trees, brush, branches and refuse shall, without delay, be disposed of by such of the following methods as the Engineer will direct Engineer to strike out methods not to be used)
   1. Burned
   2. Piled on one side of right-of-way
   3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
   4. Other (Describe)_____

B. Trees that are felled shall be cut to commercial wood lengths, stacked neatly, and left on the right-of-way for the landowner. Commercial wood length means the length designated by the Engineer but in no case shall it be required to be less than _____ (_____) feet. Brush, branches and refuse shall, without delay, be disposed of by such of the following methods as the Engineer will direct (Engineer to strike out methods not to be used).

1. Burned
2. Piled on one side of right-of-way
3. Roller chopped and left on right-of-way in such a manner as not to obstruct roads, ditches, drains, etc.
4. Other (Describe)_____

Transmission Right-of-Way Unit

Unit No.	No. of units	Unit Price			Extended price—labor & materials
		Labor	Materials	Labor & materials	

Total Section 7—_____

Section 8—Substation Assembly Units

Description of Construction Units. Each Construction Unit consists of a complete installation of the designated portion of a substation as specified on the drawings, together with connections to associated equipment. Each Construction Unit represents all labor and material including necessary accessories completely installed and tested in satisfactory operation. Full identification of each Construction Unit and all necessary specifications of the installation is shown on the drawings.

Items of material in each Construction Unit shall be of the designated size, rating, type, voltage, or other specification in accordance with the drawings. The bill of material drawing for each substation shows the identification of the Construction Units under which the material is to be installed and shows which items of material may be partly or entirely found in the lists of owner-furnished materials. All items of equipment, unless otherwise specified, are mounted on a structure which shall be a Construction Unit of Group A.

Each Construction Unit is designated by the letter of the Group to which it belongs and an identifying number. The same item of equipment carries the same Construction Unit designation in all the substations. Items of equipment designated by the same Construction Unit in one substation are of only one kind as to voltage, type and other specifications. The tabulation of construction units for each substation is separate and contains all units necessary for construction of that substation.

Group A. Structures. A Construction Unit consists of a structure, or structures, with bus supports including insulators and fittings, buses, conductors and overhead ground wires to adjacent structures within the substation, grounding material to connect equipment with the ground bus, and associated material including mounting brackets, supports for equipment, clamps and connectors, all as specified in the drawings.

Group B. Three-Pole Group Operated Air Break Switches. A Construction Unit consists of one 3-pole group operated air break switch with all accessories and operating mechanisms as specified in the drawings.

Group C. Lightning Arresters. A Construction Unit consists of one single-phase lightning arrester.

Group D. Single Pole Disconnecting Switches. A Construction Unit consists of one single pole disconnecting or by-pass switch as specified in the drawings. If a fuse disconnect switch is specified, the fuse is included with the switch.

Group E. Oil Circuit Breakers. A Construction Unit consists of one complete three-phase power circuit breaker complete with supporting frame and control cabinet, unless shown otherwise in the drawings, mounted as specified in the drawings.

Group F. Oil Circuit Reclosers. A Construction Unit consists of a complete single-phase or three-phase oil circuit recloser as specified in the drawings.

Group G. Meters, Relays and Instrument Transformers. A Construction Unit consists of one meter, relay, potential transformer or current transformer.

Group H. Transformers. A Construction Unit consists of one power transformer or one station service transformer either single-phase or three-phase as specified in the drawings.

Group I. Voltage Regulators. A Construction Unit consists of one single-phase or three-phase voltage regulator as specified in the drawings.

Group J. Communications and Supervisory Control Equipment. A Construction Unit consists of carrier current equipment, microwave, or other types of communications and supervisory control equipment as specified in the drawings.

Group K. Conduit and Cable. A Construction Unit consists of the wire, cable, conduit and accessories necessary to complete the installation of equipment in accordance with the specifications and drawings, where such installation has not been included in other Groups.

Group L. Foundations. A Construction Unit consists of concrete footings and foundations except for the fence, as specified in the drawings.

Group M. Site Preparation. A Construction Unit consists of clearing, grading, drainage work, and surfacing, as specified in the drawings.

Group N. Fence. A Construction Unit consists of the complete installation of the fence, gates, etc., as specified in the drawings.

Group O. Station Grounding. A Construction Unit consists of the complete ground bus including ground rods, grounding mats or platforms, except as otherwise provided in other Groups, with connections to structures, equipment, and fence as specified in the drawings.

Group P. Building. A Construction Unit consists of a control building or cabinet, on a foundation of Group L and the facilities and equipment installed therein as specified in the drawings, except as otherwise provided in other Groups.

Other Groups. The Engineer shall specify such additional Groups as may be necessary for the completion of the Project. Description of these Groups shall be provided by an addition to this Section of the Specifications for Construction.

_____ Station Construction Units
Unit No. _____
Name and Description of Construction Unit
_____
No. of Units _____
Unit Prices _____
Labor _____
Materials _____
Labor and Materials _____
Extended Price—Labor and Materials
_____
Total Price _____

Proposal Summary

Recapitulation of Sections:

Section—1 _____ $ _____
Section—2 _____ $ _____
Section—3 _____ $ _____
Section—4 _____ $ _____
Section—5 _____ $ _____
Section—6 _____ $ _____
Section—7 _____ $ _____
Section—8 _____ $ _____
Total _____ $ _____

Acceptance

Subject to the approval of the Administrator, the Owner hereby accepts the foregoing Proposal of the Bidder, _____ for the construction of the following:

Transmission Construction Units: Sections:
_____

The total contract price is $ _____
_____ Owner
By _____ President
_____ Secretary
_____ Date of Contract

[End of clause]

§§ 1726.353–1726.399 [Reserved]

Subpart J—Contract Closeout

§ 1726.400 Final contract amendment.

As needed, a final contract amendment will be prepared and processed in accordance with § 1726.24(b) prior to or in conjunction with the closeout of the contract.

§ 1726.401 Material contract closeout.

This section is applicable to contracts executed on RUS Form 173.

(a) *Delivery inspection.* The borrower (acting through its engineer, if applicable) will verify that all materials are delivered in proper quantities, in good condition, and in compliance with applicable specifications.

(b) *Closeout documents.* The borrower (acting through its engineer, if

applicable) will obtain from the supplier a ''Buy American'' certificate, RUS Form 213, any manufacturer's guarantee(s) and, if applicable, a copy of RUS Form 224, Waiver and Release of Lien. Closeout documents for materials contracts need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

(c) *Final payment.* Upon completion of the actions required under paragraphs (a) and (b) of this section, the borrower shall make final payment to the supplier in accordance with the provisions of the material contract or written purchase order.

§ 1726.402 Equipment contract closeout.

This section is applicable to contracts executed on RUS Form 198.

(a) *Final inspection and testing of equipment.* The borrower (acting through its engineer, if applicable) will perform the final inspection and testing of equipment as appropriate for the specific equipment. The borrower (acting through its engineer, if applicable) will schedule such inspection and testing at a time mutually agreeable to the borrower, engineer, and the supplier or manufacturer. Within thirty (30) days after completion of the inspection and testing, the borrower (acting through its engineer, if applicable) will prepare a report of the inspection and testing, obtain a copy of the report from the engineer, and submit a copy to the supplier or manufacturer. This report must include a detailed description of the methods of conducting the test(s), observed data, comparison of guaranteed and actual performance, and recommendations concerning acceptance. The borrower will obtain from the engineer a written certification stating that the equipment has been installed, placed in satisfactory operation and tested, and meets the contract requirements. Where more than one-hundred and eighty (180) days have elapsed since the delivery of the equipment and the equipment has not been installed or tested, the contract may be closed out upon certification by the engineer that the equipment has been inspected and appears to be in accordance with the contract requirements.

(b) *Closeout documents.* (1) The borrower (acting through its engineer, if applicable) will obtain the following executed documents:

(i) Certification by the project engineer in accordance with paragraph (a) of this section.

(ii) All guarantees or warranties.

(iii) A ''Buy American'' certificate, RUS Form 213, from the supplier or manufacturer.

(2) Closeout documents for materials contracts need not be submitted to RUS unless specifically requested by RUS.

(c) *Final payment.* Upon completion of the actions required under paragraphs (a) and (b) of this section, the borrower will make final payment to the supplier or manufacturer in accordance with the provisions of the equipment contract.

§ 1726.403 Project construction contract closeout.

This section is applicable to contracts executed on RUS Forms 200, 203, 257, 764, 786, 830, and 831.

(a) *Final test of equipment supplied under a construction contract.* If equipment is supplied under a construction contract, the borrower (acting through its architect or engineer, if applicable) will perform the final inspection and testing of equipment as appropriate for the specific equipment. The borrower (acting through its architect or engineer, if applicable) will schedule such inspection and testing at a time mutually agreeable to the borrower, architect or engineer, and the contractor. Within thirty (30) days after completion of the inspection and testing, the borrower (acting through its architect or engineer, if applicable) will prepare a report of the inspection and testing, obtain a copy of the report from its architect or engineer, and submit a copy to the contractor. This report must include a detailed description of the methods of conducting the test(s), observed data, comparison of guaranteed and actual performance, and recommendations concerning acceptance. The borrower will obtain from its architect or engineer a written certification stating that the equipment has been installed, placed in satisfactory operation and tested, and meets the contract requirements. Where more than one-hundred and eighty (180) days have elapsed since the delivery of the equipment and the equipment has not been installed or tested, the contract may be closed out upon certification by its architect or engineer that the equipment has been inspected and appears to be in accordance with the contract requirements.

(b) *Final inspection of construction.* The borrower will require the contractor to notify the architect or engineer when construction is complete. The borrower (acting through the architect or engineer, if applicable) will schedule such final inspection at a time mutually agreeable to the borrower, architect or engineer, contractor, and the respective RUS General Field Representative (GFR), if the GFR has notified the borrower or its architect or engineer of a desire to observe the final inspection. The borrower (acting through its architect or engineer, if applicable) will perform a final inspection of the construction and notify the contractor of any required changes or corrections.

(c) *Closeout documents.* (1) Upon satisfactory completion of construction (including all changes and corrections by the contractor), the borrower (acting through its architect or engineer, if applicable) will obtain executed copies of the following documents:

(i) RUS Form 181, Certificate of Completion, Contract Construction for Buildings (for contracts executed on RUS Form 257), or RUS Form 187, Certificate of Completion, Contract Construction (for contracts executed on all other forms under this section).

(ii) RUS Form 213, ''Buy American'' certificate.

(iii) RUS Form 224, Waiver and Release of Lien, from each manufacturer, supplier, and contractor which has furnished material or services or both in connection with the construction.

(iv) RUS Form 231, Certificate of Contractor.

(v) RUS Form 254, Construction Inventory, including all supporting documents, such as RUS Forms 254a-c, construction change orders, and amendments for contracts executed on RUS Forms 203, 764, 830 or 831.

(vi) Certification by the project architect or engineer in accordance with § 1726.403(a), if applicable.

(vii) Final design documents, as outlined in part 1724 of this chapter.

(2) *Distribution of closeout documents.* (i) The borrower will retain one copy of each of the documents identified in paragraph (c)(1) of this section in accordance with applicable RUS requirements regarding retention of records.

(ii) For contracts subject to RUS approval, the borrower will submit the following closeout documents for RUS approval (through the GFR except for generation projects):

(A) RUS Form 181, Certificate of Completion, Contract Construction for Buildings (for contracts executed on RUS Form 257), or RUS Form 187, Certificate of Completion, Contract Construction (for contracts executed on all other forms under this section).

(B) RUS Form 231, Certificate of Contractor.

(C) RUS Form 254, Construction Inventory, including all supporting documents, such as RUS Forms 254a-c and construction change orders, for

contracts executed on RUS Forms 203, 764, or 831.

(iii) For contracts not subject to RUS approval, the closeout is not subject to RUS approval. The borrower will send one copy of RUS Form 181 or RUS Form 187 (as applicable) to RUS for information prior to or in conjunction with the applicable RUS Form 219, Inventory of Work Orders. The remaining closeout documents need not be sent to RUS unless specifically requested by RUS.

(d) *Final payment.* (1) The borrower will make final payment to the contractor upon completion of approval of all closeout documents by the parties to the contract, in accordance with the terms of the construction contract.

(2)(i) Upon receipt of final payment by the contractor, the borrower will obtain from the contractor a certification of receipt of final payment in the following form:

''The undersigned acknowledges receipt of the final contract payment of $____ as satisfaction in full of all claims of the undersigned under the construction contract between the undersigned and ____ (borrower), dated as amended, and as complete performance by the latter of all obligations to be performed by it pursuant thereto. The total amount received under this contract is shown above.''

(ii) The certification in paragraph (d)(2)(i) of this section is to be executed for the contractor by: the sole owner, a partner, or an officer of the corporation. Where this certification is executed for the corporation by a person other than the president, a certified copy of the authorization from the corporate board must be included with the certification. This certification is not a replacement for itemized invoices.

§ 1726.404 Non-site specific construction contract closeout.

This section is applicable to contracts executed on RUS Forms 201, 790, and 792.

(a) *Final test of equipment supplied under a construction contract.* If equipment is supplied under a construction contract, the borrower (acting through its engineer, if applicable) will perform the final inspection and testing of equipment as appropriate for the specific equipment. The borrower (acting through its engineer, if applicable) will schedule such inspection and testing at a time mutually agreeable to the borrower, its engineer, and the contractor. Within thirty (30) days after completion of the inspection and testing, the borrower (acting through its engineer, if applicable) will prepare a report of the inspection and testing, obtain a copy of the report from its engineer, and submit a copy to the contractor. This report must include a detailed description of the methods of conducting the test(s), observed data, comparison of guaranteed and actual performance, and recommendations concerning acceptance. The borrower will obtain from the engineer a written certification stating that the equipment has been installed, placed in satisfactory operation and tested, and meets the contract requirements. Where more than one-hundred and eighty (180) days have elapsed since the delivery of the equipment and the equipment has not been installed or tested, the contract may be closed out upon certification by the engineer that the equipment has been inspected and appears to be in accordance with the contract requirements.

(b) *Final inspection of construction.* The borrower will require the contractor to notify its engineer when construction of a section of the project is complete. The borrower (acting through its engineer, if applicable) will schedule such final inspection at a time mutually agreeable to the borrower, its engineer, contractor, and the respective GFR, if the GFR has notified the borrower or its engineer of a desire to observe the final inspection. The borrower (acting through its engineer, if applicable) will perform a final inspection of the construction of that section of the project and notify the contractor of any required changes or corrections.

(c) *Closeout documents.* (1) Upon satisfactory completion of construction of a section of the project (including all changes and corrections by the contractor), the borrower (acting through its engineer, if applicable) will obtain executed copies of the following documents:

(i) RUS Form 792b, Certificate of Contractor and Indemnity Agreement

(ii) RUS Form 213, ''Buy American'' certificate.

(iii) Certification by the project engineer in accordance with paragraph (a) of this section, if applicable.

(iv) Final design documents, as outlined in part 1724 of this chapter.

(2) *Distribution of closeout documents.* (i) The borrower will retain one copy of each of the documents identified in paragraph (c)(1) of this section in accordance with applicable RUS requirements regarding retention of records.

(ii) For contracts not subject to RUS approval, the closeout is not subject to RUS approval and the closeout documents need not be sent to RUS unless specifically requested by RUS.

§ 1726.405 Inventory of work orders (RUS Form 219).

Upon completion of the contract closeout, the borrower shall complete RUS Form 219, Inventory of Work Orders, in accordance with part 1717, Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans, of this chapter.

Dated: February 1, 1995.

Bob J. Nash,

Under Secretary, Rural Economic and Community Development.

[FR Doc. 95–2843 Filed 2–22–95; 8:45 am]

BILLING CODE 3410–15–P

Federal Register

Thursday
February 23, 1995

Part III

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

February 1, 1995.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of February 1, 1995, of seven deferrals contained in two special messages for FY 1995. These messages were transmitted to Congress on October 18, and December 13, 1994.

Rescissions

As of February 1, 1995, no rescission proposals were pending before the Congress.

Deferrals (Table A and Attachment A)

As of February 1, 1995, $2,707.0 million in budget authority was being deferred from obligation. Attachment A shows the status of each deferral reported during FY 1995.

Information from Special Messages

The special messages containing information on the deferrals that are covered by this cumulative report are printed in the **Federal Register** cited below:

59 FR 54066, Thursday, October 27, 1994

59 FR 67108, Wednesday, December 29, 1994

Alice M. Rivlin,

Director.

BILLING CODE 3110–01–M

TABLE A

STATUS OF FY 1995 DEFERRALS
(in millions of dollars)

	Budgetary Resources
Deferrals proposed by the President.....	4,699.1
Routine Executive releases through February 1, 1995	-1,992.1
Overturned by the Congress.....	---
Currently before the Congress.....	2,707.0

[FR Doc. 95-4324 Filed 2-22-95; 8:45 am]
BILLING CODE 3110-01-C

ATTACHMENT A
Status of FY 1995 Deferrals - As of February 1, 1995
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 2-1-95
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D95-1	53,300		10-18-94					
	D95-1A		1,173,948	12-13-94	107,148				1,120,100
Foreign military financing grants	D95-2	3,139,279		10-18-94	1,800,000				1,339,279
Foreign military financing program account	D95-3	47,917		10-18-94					47,917
Military-to-military contact program	D95-4	2,000		10-18-94					2,000
Agency for International Development									
International disaster assistance, executive	D95-5	169,998		10-18-94	54,994				115,004
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses	D95-6	7,319		10-18-94					7,319
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund	D95-7	105,300		10-18-94	30,000				75,300
TOTAL, DEFERRALS		**3,525,113**	**1,173,948**		**1,992,142**				**2,706,919**

06-Feb-95

Federal Register

Thursday
February 23, 1995

Part IV

Department of Commerce

National Telecommunications and Information Administration

Advisory Council on the National Information Infrastructure Meeting; Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Advisory Council on The National Information Infrastructure

AGENCY: National Telecommunications and Information Administration (NTIA).

ACTION: Notice of Open Meeting: Notice is hereby given of a meeting of the United States Advisory Council on the National Information Infrastructure, created pursuant to Executive Order 12864, as amended.

SUMMARY: The President established the Advisory Council on the National Information Infrastructure (NII) to advise the Secretary of Commerce on matters related to the development of the NII. In addition, the Council shall advise the Secretary on a national strategy for promoting the development of the NII. The NII will result from the integration of hardware, software, and skills that will make it easy and affordable to connect people, through the use of communication and information technology, with each other and with a vast array of services and information resources. Within the Department of Commerce, the National Telecommunications and Information Administration has been designated to provide secretariat services to the Council.

DATES: The NII Advisory Council meeting will be held on Friday, March 10, 1995 from 9:00 a.m. until 4:15 p.m.

ADDRESSES: The NII Advisory Council meeting will take place at the Universal Amphitheatre, 100 Universal City Plaza, Building SC24, Universal City, California 91608.

FOR FURTHER INFORMATION CONTACT: Ms. Celia Nogales (or Ms. Tiffani Burke, alternate), Designated Federal Officer for the Advisory Council on the National Information Infrastructure, National Telecommunications and Information Administration (NTIA); U.S. Department of Commerce, Room 4892; 14th Street and Constitution Avenue NW.; Washington, DC 20230. Telephone: 202–482–1835; Fax: 202–482–0979; E-mail: nii@ntia.doc.gov.

Authority: Executive Order 12864, signed by President Clinton on September 15, 1993, and amended on December 30, 1993 and June 13, 1994.

SUPPLEMENTAL INFORMATION:

Agenda

1. *Opening Remarks by the Co-Chairs (Delano Lewis, Ed McCracken)*
2. *Discussion of 1995 Plan CAPstone-21 Project Outreach Program Mega-Project Work*
3. *Outreach Presentation*
4. *Public Discussion, Questions and Answers*
5. *Next Meeting Date and Agenda Items.*

PUBLIC PARTICIPATION: The meeting will be open to the public, with limited seating available on a first-come, first-served basis. Any member of the public requiring special services, such as sign language interpretation, should contact Tiffani Burke at 202–482–1835.

Any member of the public may submit written comments concerning the Council's affairs at any time before or after the meetings. Comments should be submitted through electronic mail to nii@ntia.doc.gov or to the Designated Federal Officer at the mailing address listed above.

Within thirty (30) days following the meeting, copies of the minutes of the Advisory Council meeting may be obtained through Bulletin Board Services at 202–501–1920, 202–482–1199, over the Internet at iitf.doc.gov, or from the U.S. Department of Commerce, National Telecommunications and Information Administration, Room 4892, 14th Street and Constitution Avenue NW.; Washington, DC 20230, Telephone 202–482–1835.

Larry Irving,

Assistant Secretary for Communications and Information.

[FR Doc. 95–4391 Filed 2–22–95; 8:45 am]

BILLING CODE 3510–60–P

Federal Register

Thursday
February 23, 1995

Part V

Department of the Interior

Fish and Wildlife Service

Coastal Barrier Improvement Act; Technical Corrections to the Coastal Barrier Resources System; Notice

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Coastal Barrier Improvement Act; Technical Corrections to the Coastal Barrier Resources System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior (Department), through the Fish and Wildlife Service (Service) has prepared a final map for a portion of the ''otherwise protected area'' designated as TX–06P, Matagorda Island, Texas, that was inadvertently not included in the set of final maps of the Coastal Barrier Resources System (System) printed and distributed June 6, 1991 (56 FR 26304) as required by Section 4 of the Coastal Barrier Improvement Act of 1990 (CBIA) (Pub. L. 101–591). In addition to this mapping change, the Service has completed modification to the boundaries of certain other areas within the System as required by Section 1 of Public Law 103–461, November 2, 1994. The purpose of this Notice is to give notice of the filing, distribution, and availability of these maps.

FOR FURTHER INFORMATION CONTACT: Linda Kelsey, U.S. Fish and Wildlife Service, Division of Habitat Conservation, 400 Arlington Square, Department of the Interior, Washington, DC 20240, (703) 358–2201.

SUPPLEMENTARY INFORMATION: Section 4 of the Coastal Barrier Improvement Act of 1990 (CBIA), describes a series of maps approved by Congress entitled ''Coastal Barrier Resources System'' dated October 24, 1990. These maps identify and depict those coastal barriers located on the coasts of the Atlantic, Gulf of Mexico, and the Great Lakes that are subject to the limitations outlined in the CBIA. These maps also depict those undeveloped coastal barriers on the Atlantic and Gulf coasts that are identified as ''otherwise protected areas'' held for conservation purposes under Federal, State, or local law, or held by an organization within the scope of section 170(h)(3) of the Internal Revenue Code of 1954 primarily for conservation purposes. Section 9 of the Act amends section 1321 of the National Flood Insurance Act of 1968, as amended, to state that structures built within these ''otherwise protected areas'' after November 16, 1991, will not be eligible for Federal flood insurance unless the structures ''are used in a manner consistent with the purpose for which the area is protected.'' These maps are in the official custody of the U.S. Fish and Wildlife Service.

Sections 3 and 4 of the CBIA define the Department's responsibilities regarding the System maps. These responsibilities include preparing and distributing copies of the maps. Using the original maps submitted to the Department by the Congress, the Department reproduced these maps for distribution. Notification of the filing, distribution, and availability of the maps entitled ''Coastal Barrier Resources System'' dated October 24, 1990, was published in the **Federal Register** on June 6, 1991, (56 FR 26304–26312).

In the course of preparing and distributing the final maps as required by Section 4 of the CBIA, the Department inadvertently failed to print and distribute the final map depicting a portion of the ''otherwise protected area'', Matagorda Island, TX–06P located in Calhoun County, Texas. This final map has subsequently been printed and distributed and is shown in Appendix B as ''TX–06P Matagorda Island (5 of 5 maps)—18E.''

Section 1 of Public Law 103–461, November 2, 1994, requires the Department of the Interior to revise the following maps of the Coastal Barrier Resources System:

NY–75, Butterfly Swamp
VA–62P, Back Bay
FL–05P, Butler Beach
P11A, Frank B. McGilvrey
FL–15, Blowing Rocks
FL–36P, El Radabob Key
P17, Lovers Key Complex
P17A, Bodwitch Point
P18P, Sanibel Island Complex
P19P, North Captiva Island
FL–72P, Lido Key
P31P, St. Andrew Complex
FL–95P, Grayton Beach
AL–01P, Perdido Key
MI–21, Arcadia Lake

The maps have been filed with the Committee on Resources and the Committee on Banking and Financial Services of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

Copies of these maps have been distributed to the Chief Executive Officer (or representative) of (a) each State and county (or equivalent jurisdiction) in which a System unit is located, (b) each State coastal zone management agency in those States which have a coastal zone management plan approved and in which a System unit is located, and (c) each appropriate Federal agency. Copies are also available for inspection through the U.S. Fish and Wildlife Service of the Department of the Interior and appropriate Regional Offices and Field Offices (see addresses in appendix A). Interested organizations and individuals may purchase System maps from the U.S. Geological Survey (see appendix B).

The prohibition on Federal flood insurance within the ''otherwise protected area'', Matagorda Island, TX–06P, became effective on November 16, 1991. The boundary revisions to the areas described in Public Law 103–461 became effective November 2, 1994.

Coastal Barrier Resources System Revised Maps

The Service has made the following revisions to System units and ''otherwise protected areas'' as required by Section 1 of Public Law 103–461:

New York

NY–75 Butterfly Swamp. A portion of this unit that was developed prior to enactment of CBIA has been excluded. The remainder of the unit will remain in the System.

Virginia

VA–62P Back Bay. The northeast boundary of this ''otherwise protected area'' is modified to only include lands owned by the City of Virginia Beach.

Florida

FL–05P Butler Beach. This ''otherwise protected area'' is removed from the System.

P11A Frank B. McGilvrey. The north boundary of this unit is modified to only include areas that were undeveloped at the time of their inclusion in the System.

FL–15 Blowing Rocks. The north and south boundaries of this unit are modified to only include areas that were undeveloped at the time of their inclusion in the System.

FL–36P El Radabob Key. The northwest boundary of this ''otherwise protected area'' is modified to only include lands owned by the State of Florida.

P17 Lovers Key Complex. The southwest boundary of this unit is modified to only include areas that were undeveloped at the time of their inclusion in the System.

P17A Bodwitch Point. The south boundary of this unit is modified to only include areas that were undeveloped at the time of their inclusion in the System.

P18P Sanibel Island Complex. The northwest boundary of this ''otherwise protected area'' is modified to only

include lands within the J.N. (Ding) Darling National Wildlife Refuge.

P19P North Captiva Island. The north boundary of this ''otherwise protected area'' is modified to only include areas that were undeveloped at the time of their inclusion in the System.

FL–72P Lido Key. The northwest boundary of this ''otherwise protected area'' is modified to only include areas that were undeveloped at the time of their inclusion in the System.

P31P St. Andrew Complex. The north boundary of this ''otherwise protected area'' is modified to only include areas that were undeveloped at the time of their inclusion in the System.

FL–95P Grayton Beach. The west boundary of this ''otherwise protected area'' is modified to only include lands owned by the State of Florida.

Alabama

AL–01P Perdido Key. The boundary of this ''otherwise protected area'' is modified to only include lands owned by the State of Alabama.

Michigan

MI–21 Arcadia Lake. A portion of this unit that was developed prior to enactment of CBIA has been excluded. The remainder of the unit will remain in the System.

APPENDIX A—LOCATION OF MAPS AVAILABLE FOR REVIEW

U.S. Fish and Wildlife Service	States of—
REGIONAL OFFICES	
Regional Director, Region 2, U.S. Fish & Wildlife Service, 500 Gold Ave. SW., Albuquerque, New Mexico 87103 (505) 766–2914.	Texas.
Regional Director, Region 3, U.S. Fish & Wildlife Service, BHW Federal Building, 1 Federal Dr., Ft. Snelling, Minnesota 55111–4056 (612) 725–3536.	Ohio, Michigan, Wisconsin, Minnesota.
Regional Director, Region 4, U.S. Fish & Wildlife Service, 1875 Century Blvd., Atlanta, Georgia 30345 (404) 679–7125.	North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Puerto Rico, Virgin Islands.
Regional Director, Region 5, U.S. Fish & Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589 (413) 253–8200.	Maine, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia.
FIELD OFFICES	
Field Supervisor, U.S. Fish & Wildlife Service, 10711 Burnet Rd., Suite 200, Hartland Bank Bldg., Austin, Texas 78758 (512) 490–0057.	Texas.
Field Supervisor, U.S. Fish & Wildlife Service, 6950–H Americana Parkway, Reynoldsburg, Ohio 43068 (614) 469–6923.	Ohio.
Field Supervisor, U.S. Fish & Wildlife Service, 1405 S. Harrison Rd., East Lansing, Michigan 48823–5202 (517) 337–6650.	Michigan.
Field Supervisor, U.S. Fish & Wildlife Service, 1015 Challenger Ct, Green Bay, Wisconsin 54311–8331 (414) 433–3803.	Wisconsin.
Field Supervisor, U.S. Fish & Wildlife Service, 4101 E. 80th St, Bloomington, Minnesota 55425–1665 (612) 725–3548.	Minnesota.
Field Supervisor, U.S. Fish & Wildlife Service, P.O. Box 33726, Raleigh, North Carolina 27636–3726 (919) 856–4520.	North Carolina.
Field Supervisor, U.S. Fish & Wildlife Service, P.O. Box 12559, Charleston, South Carolina 29412 (803) 727–4707.	South Carolina.
Field Supervisor, U.S. Fish & Wildlife Service, 801 Gloucester St., Brunswick, Georgia 31520 (912) 265–9336.	Georgia.
Field Supervisor, U.S. Fish & Wildlife Service, 6620 S. Point Dr. South, #310, Jacksonville, Florida 32216 (904) 232–2580.	Florida: Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Dixie, Levy, Pasco Counties.
Field Supervisor, U.S. Fish & Wildlife Service, 1360 U.S. Highway 1, #5, Vero Beach, Florida 32961 (407) 562–3909.	Florida: Pinellas, Hillsborough, Manatee, Sarasota, Charlotte, Lee, Collier, Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River Counties.
Field Supervisor, U.S. Fish & Wildlife Service, 1612 June Ave., Panama City, Florida 32405–3721 (904) 769–0552.	Florida: Wakulla, Franklin, Gulf, Bay, Walton, Okaloosa, Santa Rosa, Escambia Counties.
Field Supervisor, U.S. Fish & Wildlife Service, P.O. Drawer 1190, Daphne, Alabama 36526 (205) 441–5181.	Alabama, Mississippi,
Field Supervisor, U.S. Fish & Wildlife Service, 825 Kaliste Saloom, #102, Lafayette, Louisiana 70508 (318) 262–6630.	Louisiana.
Field Supervisor, U.S. Fish & Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico, 00622 (809) 851–7297.	Puerto Rico, Virgin Islands.
Field Supervisor, U.S. Fish & Wildlife Service, 22 Bridge St., Concord, New Hampshire 03301–4901 (603) 225–1411.	Maine, Massachusetts, Rhode Island, Connecticut.
Field Supervisor, U.S. Fish & Wildlife Service, 3817 Luker Rd., Cortland, New York 13045 (607) 753–9334.	New York (except Long Island; see below).
Field Supervisor, U.S. Fish & Wildlife Service, P.O. Box 608, Islip, NY 11751 (516) 581–2941.	Long Island, New York: Queens, Nassau & Suffolk Counties.
Field Supervisor, U.S. Fish & Wildlife Service, 927 N. Main St., Bldg. D–1, Pleasantville, New Jersey 08232 (609) 646–9310.	New Jersey.
Field Supervisor, U.S. Fish & Wildlife Service, 177 Admiral Cochrane Drive, Annapolis, Maryland 21401 (410) 573–4501.	Delaware, Maryland.
Field Supervisor, U.S. Fish & Wildlife Service, P.O. Box 480, White Marsh, Virginia 23183 (804) 693–6694.	Virginia.

Appendix B—Map Order Form

Coastal Barrier Resources System Maps

This order form replaces the order form published in the **Federal Register** on November 15, 1993 (58 FR 60288–60301) and may be used to order copies of some or all of the 625 Coastal Barrier Resources System (CBRS) maps adopted by Congress pursuant to the Coastal Barrier Improvement Act of 1990 (Pub. L. 101–591), as amended.

The price of *EACH* paper print is $4.00 and includes reproduction, shipping, and handling costs. All maps are cataloged by State, County (Town or Parish), Unit number and Unit name. The maps are approximately 22 inches by 27 inches in size. Please indicate the number of maps of each unit you want to order on the appropriate space. Copies of an entire State may be obtained by checking the space next to the State name.

Requests for copies must be prepaid by check or money order (no cash or stamps) and directed to: U.S. Geological Survey, ESIC–CBRS, P.O. Box 25286, Denver, CO 80225. Make checks payable to: Department of the Interior—USGS.

FOR PROMPT ACCURATE SHIPMENT, PLEASE PROVIDE YOUR MAILING ADDRESSES:
Name _____
Company _____
Street Address _____
_____
City _____
State _____
Zip Code _____

Please include a telephone number where you can be reached weekdays between 8:00 a.m. and 4:00 p.m. Mountain Standard Time.
Area Code (_____) Number _____

Information regarding your order or the availability of Coastal Barrier Resources Maps may be obtained by calling (303) 236–7476.

Unit number(s)	Unit name(s)
___STATE OF MAINE (22 maps)	
Washington County:	
___ME–02	Birch Point—1.
___A01	Lubec Barriers—2.
___A01A	Baileys Mistake—3.
___ME–03P & ME–04	Grassy Point & Seal Cove—4.
___A03	Jasper—5.
___A03B, ME–06 & ME–07P	Starboard, Bare Cove & Roque Bluffs—6.
___A03C & ME–08	Popplestone Beach/Roque Island and Flake Point—7.
___ME–01	Carrying Place Cove—8.
___ME–09P	Petit Manan/Bois Bubert—9.
___ME–10/ME–10P	Over Point—10.
Hancock County:	
___ME–11	Pond Island—11.
___ME–12	Thrumcap—12.
Waldo County:	
___A05A	Seven Hundred Acre Island—13.
Knox County:	
___ME–14	Nash Point—14.
Sagadahoc County:	
___ME–15P	Little River—15.
___ME–16/ME–16P, ME–17 & A058	Hunnewell Beach, Small Point Beach & Head Beach—16.
Cumberland County:	
___ME–18	Stover Point—17.
___A05C	Jenks Landing/Waldo Point—18.
___ME–19/ME–19P, A06, & A07	Crescent Beach, Cape Elizabeth, & Scarborough Beach—19.
York County:	
___A08 & ME–20P	Crescent Surf & Ogunquit Beach—20.
___ME–23	Phillips Cove—21.
___A09	Seapoint—22.
___STATE OF MASSACHUSETTS (44 maps)	
Town of Salisbury:	
___MA–01P	Salisbury Beach—1.
Town of Newbury:	
___MA–02P	Plum Island—2.
Town of Ipswich:	
___C00 & MA–03	Clark Pond & Castle Neck (MA–03 also in Essex)—3.
Town of Gloucester:	
___MA–03, C01 & C01B	Castle Neck, Wingersheek and Brace Cove—4.
___C01A	Good Harbor Beach/Milk Island (Milk Island in Rockport)—5.
Towns of Manchester & Beverly:	
___MA–04	West Beach—6.
Town of Swampscott:	
___MA–06	Phillips Beach—7.
Town of Quincy:	
___MA–08P, MA–09P & MA–10P	Snake Island (in Winthrop), Wollaston Beach & Merrymount Park—8.
Town of Boston:	
___C01C & MA–11	West Head Beach & Peddocks/Rainsford Islands (also in Hull)—9.
Town of Scituate:	
___MA–12 & C02	Cohasset Harbor (also in Cohasset) & North Scituate—10.
Town of Marshfield:	
___C03 & C03A	Rivermoor (also in Scituate) & Rexhame—11.
Town of Plymouth:	

Unit number(s)	Unit name(s)
____MA–13 & C04	Duxbury Beach (also in Marshfield & Duxbury) & Plymouth Bay—12.
____C06	Center Hill Complex—13.
Town of Sandwich:	
____MA–14P & C08	Town Neck & Scorton—14.
Town of Barnstable:	
____C09/C09P	Sandy Neck (also in Sandwich & Yarmouth)—15.
____C14 & C15/C15P	Squaw Island and Centerville—16.
____C16 & C17	Dead Neck & Popponesset Spit (also in Mashpee)—17.
Town of Dennis:	
____C09, MA–15P, MA–16 & C10	Sandy Neck (in Yarmouth), Chapin Beach, Nobscusset, and Freemans Pond (also in Brewster)—18.
Town of Eastham:	
____C11, C11A/C11AP MA–20P	Namskaket Spits (in Brewster & Orleans), Boat Meadow & Nauset Beach/Monomoy (also in Orleans)—19.
Town of Truro:	
____MA–17AP, MA–17P, MA–18 & MA–18P	Lieutenant Island (in Wellfleet), Griffin/Great Islands Complex (in Wellfleet), Pamet Harbor & Ballston Beach—20.
Town of Provincetown:	
____MA–19P	Provincetown (also in Truro) (1 of 2 maps)—21A.
____MA–19P	Provincetown (2 of 2 maps)—21B.
Town of Chatham:	
____MA–20P	Nauset Beach/Monomoy (1 of 2 maps)—22A.
____MA–20P	Nauset Beach/Monomoy (2 of 2 maps)—22B.
____C12	Chatham Road—23.
Town of Yarmouth:	
____MA–23P & C13/C13P	Davis Beach (also in Dennis) & Lewis Bay (also in Barnstable)—24.
Town of Falmouth:	
____C18/C18P C18A	Waquoit Bay (also in Mashpee) & Falmouth Ponds—25.
____C19 & MA–24	Black Beach & Naushon Island Complex (in Gosnold)—26.
Town of Gosnold:	
____MA–24	Naushon Island Complex—27.
____C31 & MA–25P	Elizabeth Islands & Penikese Island—28.
Town of Nantucket:	
____C20 & C21	Coatue Sesachacha Pond—29.
____C22 & C23	Cisco Beach & Esther Island Complex—30.
____C24 & C25	Tuckernuck Island & Muskeget Island—31.
Town of Edgartown:	
____MA–26, MA–27P, C26, C27, MA–28P & C28	Harthaven (in Oak Bluffs), Edgartown Beach (in Oak Bluffs), Eel Pond Beach, Cape Poge, Norton Point & South Beach—32.
Town of Chilmark:	
____C28	South Beach (also in West Tisbury)—33.
____C29/C29P & MA–29P	Squibnocket Complex (also in Gayhead) & Nomans Land—34.
Towns of Tisbury & West Tisbury:	
____C29A & C29B	James Pond (in West Tisbury) & Mink Meadows (in Tisbury)—35.
Town of Bourne:	
____MA–30, MA–31, MA–32 & MA–33	Herring Brook, Squeteague Harbor (in Falmouth), Bassetts Island & Phinneys Harbor—36.
Towns of Wareham, Marion & Mattapoisett:	
____C19A & MA–35	Buzzards Bay Complex & Planting Island (in Marion)—37.
Town of Fairhaven:	
____C19A & C31A	Buzzards Bay Complex (in Mattapoisett) & West Sconticut Neck—38.
____C31B	Harbor View—39.
Town of Dartmouth:	
____MA–36, C31, MA–37P & C33	Round Hill, Mishaum Point, Demarest Lloyd Park & Little Beach—40.
Town of Westport:	
____C33, C34/C34P & C35	Little Beach (in Dartmouth), Horseneck Beach & Richmond/Cockeast Ponds—41.
Town of Swansea:	
____C34A	Cedar Cove—42.
____RHODE ISLAND (15 maps)	
Town of Little Compton:	
____D01 & D01P	Little Compton Ponds & Tunipus Pond—1.
____RI–01, D02 & RI–02	Brown Point, Fogland Marsh (also in Tiverton), & Sapowet Point (in Tiverton)—2.
Town of Portsmouth:	
____RI–02A & RI–03P	McCurry Point & Sandy Point—3.
____D02B	Prudence Island Complex—4.
Towns of Barrington & Warwick:	
____D02B/D02BP	Prudence Island Complex—5.
Towns of Warwick & North Kingstown:	
____D02B	Prudence Island Complex—6.
Towns of Middletown & Newport:	

Unit number(s)	Unit name(s)
____RI–04P, RI–05P, RI–06	Sachuest Point, Easton Beach, Almy Pond & Hazards Beach—7.
Town of North Kingstown:	
____D02C	West Narragansett Bay Complex—8.
Towns of Jamestown & Narragansett:	
____RI–08/RI–08P, RI–09, & RI–10/RI–10P	Fox Hill Marsh, Bonnet Shores, & Narragansett Beach (also in South Kingstown)—9.
Town of Narragansett:	
____RI–11/RI–11P & RI–12/RI–12P	Seaweed Beach & East Matunick Beach (also in South Kingstown—10.
Town of South Kingstown:	
____D03/D03P & D04	Card Ponds & Green Hill Beach—11.
Towns of Charlestown & Westerly:	
____D05/D05P & D06	East Beach & Quonochontaug Beach—12.
Town of Westerly:	
____RI–13P & D07	Misquamicut Beach & Maschaug Ponds—13.
____D08/D08P	Napatree—14.
Town of New Shoreham:	
____D09/D09P	Block Island—15.
____CONNECTICUT (12 maps)	
Town of Stonington:	
____CT–00	Barn Island—1.
____E01, E01A & CT–01	Wilcox Beach, Ram Island & Mason Island—2.
Towns of Groton & Waterford:	
____CT–02/CT–02P & E02	Bluff Point & Goshen Cove—3.
Towns of Waterford & East Lyme:	
____E03, E03A & CT–03	Jordan Cove, Niantic Bay, & Old Black Point—4.
Towns of Old Lyme & Old Saybrook:	
____CT–04, CT–05, CT–06, CT–07 & E03B	Hatchett Point, Little Pond, Mile Creek, Griswold Point, & Lynde Point—5.
Towns of Old Saybrook & Westbrook:	
____CT–08 & E04	Cold Spring Brook & Menunketesuck Island—6.
Towns of Clinton & Madison:	
____CT–09, E05/E05P, CT–10 & CT–11	Harbor View, Hammonasset Point, Tom's Creek, & Seaview Beach—7.
Town of Branford:	
____CT–12 & CT–13	Lindsey Cove & Kelsey Island—8.
Towns of New Haven & West Haven:	
____CT–14P & CT–15P	Nathan Hale Park & Morse Park—9.
Town of Milford:	
____E07/E07P	Milford Point—10.
Town of Bridgeport:	
____CT–18P & E08A	Long Beach & Fayerweather Island—11.
Towns of Wesport & Norwalk:	
____E09/E09P	Norwalk Islands—12.
____NEW YORK (49 maps)	
Nassau County:	
____NY–03 & NY–04P	Sands Point & Prospect Point—1.
____NT–05P, NY–06/NY–06P, & NY–07P	Dosoris Pond, The Creek Beach, & Centre Island—2.
____NY–59	Fire Island (1 of 8 maps) (See Suffolk County for maps 3 through 8)—3A.
____NY–59/NY–59P	Fire Island (2 of 8 maps) (See Suffolk County for maps 3 through 8)—3B.
Suffolk County:	
____NY–09P & NY–10	Lloyd Beach & Lloyd Point—4.
____NY–11/NY–11P, NY–12, NY–13, & F02	Lloyd Harbor, Centerpoint Harbor, Hobart Beach & Eatons Neck—5.
____NY–14	Crab Meadow—6.
____NY–15 & NY–16	Sunken Meadow & Stony Brook Harbor—7.
____F04	Crane Neck—8.
____F05 & NY–17/NY–17P	Old Field Beach & Cedar Beach—9.
____NY–18 & NY–19	Wading River & Baiting Hollow—10.
____NY–20P & NY–21P	Luce Landing & Mattituck Inlet—11.
____NY–22P	Goldsmith Inlet—12.
____NY–23P	Truman Beach—13.
____NY–24 & NY–25	Plum Island & Orient Beach—14.
____NY–26, NY–27, NY–28, NY–29P, NY–30 & NY–31/NY–31P	Pipes Cove, Conking Point, Southold Bay, Cedar Beach Point, Hog Neck Bay & Little Creek—15.
____NY–32 & NY–33	Downs Creek & Robins Island—16.
____NY–34, NY–35, NY–36, NY–37, & NY–38	East Creek, Indian Island, Flanders Bay, Red Creek Pond & Squire Pond—17.
____NY–39 & NY–40/NY–40P	Cow Neck & North Sea Harbor—18.

Unit number(s)	Unit name(s)
____NY–41/NY41P, NY–42, NY–43/NY–43P, NY–44, NY–45, NY–46, NY–47, F06, NY–48, NY–49 & NY–50.	Clam Island, Mill Creek, Short Beach, Gleason Point, Shell Beach, Crab Creek, Hay Beach Point, Shelter Island Barriers, Mashomack Point, Smith Cove & Fresh Pond—19.
____NY—51/NY–51P, F08a, & NY–52	Northwest Harbor, Sammys Beach, & Hog Creek—20.
____F08B & F09	Acabonack Harbor & Gardiners Island Barriers—21.
____F01	Fisher Island Barriers—22.
____NY–53, NY–54 & NY–55	Big Reed Pond, Oyster Pound, & Montauk Point—23.
____F10	Napeague—24.
____NY–56/NY–56P & NY–57	Amagansett & Georgica/Wainscott Ponds—25.
____NY–58 & F11	Sagaponack Pond & Mecox—26.
____F12 & F13/F13P	Southampton Beach & Tiana Beach—27.
____NY–59P	Fire Island (3 of 8 maps) (See Nassau County for Maps 1 & 2)—28A.
____NY–59P	Fire Island (4 of 8 maps) (See Nassau County for maps 1 & 2)—28B.
____NY–59P	Fire Island (5 of 8 maps) (See Nassau County for maps 1 & 2)—28C.
____NY–59P	Fire Island (6 of 8 maps) (See Nassau County for maps 1 & 2)—28D.
____NY–59–/NY–59P	Fire Island (7 of 8 maps) (See Nassau County for maps 1 & 2)—28E.
____NY–59/NY–59P	Fire Island (8 of 8 maps) (See Nassau County for maps 1 & 2)—28F.
Queens County:	
____NY–60P	Jamaica Bay (1 of 2 maps)—29A.
____NY–60P	Jamaica Bay (2 of 2 maps)—29B.
Jefferson County:	
____NY–61, NY–62, NY–63, NY–64 & NY–65	Wilson Bay, Grenadier Island, Fox Island, The Isthmus & Point Peninsula—30.
____NY–66 & NY–67	Hounsfield & Dutch John Bay—31.
____NY–68 & NY–69	Sherwin Bay & Association Island—32.
Oswego County:	
____NY–72	North Pond—33.
____NY–73 & NY–74	Deer Creek Marsh & Grindstone Creek—34.
____NY–75	Butterfly Swamp—35.
____NY–76	Walker—36.
____NY–77	Snake Swamp—37.
Cayuga & Wayne Counties:	
____NY–78 & NY–79	Juniper Pond & Blind Sodus Bay (NY–79 in Wayne County)—38.
Wayne County:	
____NY–82	Port Bay—39.
____NY–84	Maxwell Bay—40.
Monroe County:	
____NY–86	Bogus Point—41.
Erie County:	
____NY–87	Big Sister Creek—42.
____NEW JERSEY (16 maps)	
Middlesex & Monmouth Counties:	
____NJ–02, NJ–03P & NJ–04	Seidler Beach, Cliffwood Beach & Conaskonk Point (NJ–03P & NJ–04 in Monmouth County—1.
Monmouth County:	
____NJ–01P	Sandy Hook—2.
____NJ–04A	Navesink/Shrewsbury Complex—3.
Ocean County:	
____NJ–04B/NJ–04BP	Metedeconk Neck—4.
____NJ–05P	Island Beach (1 of 2 maps)—5A.
____NJ–05P	Island Beach (2 of 2 maps)—5B.
____NJ–06/NJ–06P	Cedar Bonnet Island—6.
Ocean, Atlantic & Burlington Counties:	
____NJ–07P	Brigantine (1 of 4 maps)—7A.
____NJ–07P	Brigantine (2 of 4 maps)—7B.
____NJ–07P	Brigantine (3 of 4 maps)—7C.
____NJ–07P	Brigantine (4 of 4 maps)—7D.
Cape May County:	
____NJ–08P	Corson Inlet—8.
____NJ–09/NJ–09P	Stone Harbor—9.
____NJ–10P & NJ–11P	Cape May & Higbee Beach—10.
____NJ–12/NJ–12P & NJ–13	Del Haven & Kimbles Beach—11.
Cape May & Cumberland Counties:	
____NJ–14/NJ–14P	Moores Beach—12.
____DELAWARE (7 maps)	
Kent County:	
____DE–01/DE–01P	Little Creek—1.
____H00/H00P	Broadkill Beach (1 of 2 maps)—2A.
Sussex County:	
____H00/H00P	Broadkill Beach (2 of 2 maps)—2B.
____DE–02P	Plum Beach Island—3.

Unit number(s)	Unit name(s)
____DE–03P & DE–06	Cape Henlopen & Silver Lake—4.
____DE–07P & H01	Delaware Seashore & North Bethany Beach—5.
____DE–08P	Fenwick Island—6.
____MARYLAND (25 maps)	
Worcester County:	
____MD–01P	Assateague Island (1 of 3 maps)—1A.
____MD–01P	Assateague Island (2 of 3 maps)—1B.
____MD–01P	Assateague Island (3 of 3 maps)—1C.
Somerset County:	
____MD–02 & MD–03	Fair Island & Sound Shore—2.
____MD–04P	Cedar/Janes Island—3.
____MD–04P, MD–06, MD–07P, & MD–08P	Cedar/Janes Island, Joes Cove, Scott Point & Hazard Island—4.
____MD–09P	St. Pierre Point—5.
____MD–11 & MD–12	Little Deal Island & Deal Island—6.
____MD–14/MD–14P, MD–15, & MD–16	Franks Island, Long Point, & Stump Point (MD–16 in Wicomico County)—7.
____MD–17P	Martin—8.
____MD–18P	Marsh Island—9.
Dorchester County:	
____MD–19 & MD–20	Holland Island & Jenny Island—10.
____MD–21P	Barren Island—11.
____MD–22 & MD–24	Hooper Point & Covey Creek—12.
Talbot County:	
____MD–25, MD–26 & MD–27	Castle Haven Point (in Dorcester County), Boone Creek & Benoni Point—13.
____MD–28, MD–29 & MD–30	Lowes Point, Rich Neck & Kent Point (in Queen Annes County)—14.
Queen Annes County:	
____MD–32 & MD–33	Stevensville & Wesley Church—15.
Kent County:	
____MD–34P & MD–35	Eastern Neck Island & Wilson Pond—16.
Calvert County:	
____MD–37P & MD–38	Flag Ponds & Cove Point Marsh—17.
St. Marys County:	
____MD–39, MD–40 & MD–41	Drum Point (in Calvert County), Lewis Creek & Green Holly Pond—18.
____MD–44	St. Clarence Creek—19.
____MD–45, MD–46, MD–47 & MD–48P	Deep Point, Point Look-In, Tanner Creek & Point Lookout—20.
____MD–49 & MD–50	Bisco Creek & Chicken Cock Creek—21.
____MD–51, MD–52, MD–53 & MD–54	Piney Point Creek, McKay Cove, Blake Creek & Belvedere Creek—22.
____MD–55P & MD–56	St. Clements Island & St. Catherine Island—23.
____VIRGINIA (39 maps)	
Accomack County:	
____VA–01P	Assateague Island (1 of 2 maps)—1A.
____VA–01P	Assateague Island (2 of 2 maps)—1B.
____VA–02P & VA–03P	Assawoman Island & Metomkin Island—2.
____VA–03P	Metomkin Island—3.
____K03	Cedar Island—4.
____VA–16 & VA–17	Scarborough Neck & Craddock Neck—5.
____VA–18, VA–19 & VA–20P	Hacks Neck, Parkers/Finneys Islands & Parkers Marsh—6.
____VA–21 & VA–22	Beach Island & Russell Island—7.
____VA–23	Simpson Bend—8.
____VA–24	Drum Bay—9.
____VA–25	Fox Islands—10.
____VA–26	Cheeseman Island—11.
____VA–27 & VA–28	Watts Island & Tangier Island—12.
Northhampton County:	
____VA–04P	Parramore/Hog/Cobb Islands (also in Accomack County) (1 of 2 maps)—13A.
____VA–04P	Parramore/Hog/Cobb Islands (2 of 2 maps)—13B.
____VA–04P & K04	Parramore/Hog/Cobb Islands & Little Cobb Island—14.
____VA–05P	Wreck Island—15.
____VA–05P & VA–06P	Wreck Island & Smith Island (1 of 2 maps)—16A.
____VA–05P & VA–06P	Wreck Island & Smith Island (2 of 2 maps)—16B.
____VA–06P & K05/K05P	Smith Island & Fishermans Island—17.
____VA–09 & VA–10	Elliotts Creek & Old Plantation Creek—18.
____VA–11	Wescoat Point—19.
____VA–12, VA–13 & VA–14	Great Neck, Westerhouse Creek, & Shooting Point—20.
Westmoreland County:	
____VA–29	Elbow Point—21.
____VA–30, VA–31 & VA–32	White Point, Cabin Point, & Glebe Point—22.
____VA–33	Sandy Point—23.
Northumberland County:	

Unit number(s)	Unit name(s)
____VA–34	Judith Sound—24.
____VA–35, VA–36 & VA–37	Cod Creek, Presley Creek, & Cordreys Beach—25.
____VA–38 & VA–39P	Marshalls Beach & Ginny Beach—26.
____VA–40, VA–41, VA–42, VA–43, VA–44 & VA–45	Gaskin Pond, Owens Pond, Chesapeake Beach, Fleet Point, Bussel Point & Harveys Creek—27.
____VA–46, VA–47, VA–48 & VA–49	Ingram Cove, Bluff Point Neck, Barnes Creek & North Point (in Lancaster County)—28.
Lancaster & Middlesex Counties:	
____VA–50, VA–51, VA–52, VA–53 & VA–54	Windmill Point, Deep Hole Point, Sturgeon Creek, Jackson Creek & Stove Point—29.
Mathews County:	
____VA–55	Rigby Island/Bethal Beach—30.
____VA–55 & VA–56	Rigby Island/Bethal Beach & New Point Comfort—31.
Gloucester County:	
____VA–57 & VA–58	Ware Neck & Severn River—32.
Poquoson & Hampton Cities:	
____VA–59P & VA–60/VA–60P	Plum Island & Long Creek (in Hampton City)—33.
Virginia Beach City:	
____VA–61P	Cape Henry—34.
____VA–62P	Back Bay (1 of 2 maps)—35A.
____VA–62P	Back Bay (2 of 2 maps)—35B.
____NORTH CAROLINA (31 maps)	
Currituck County:	
____L01	Currituck Banks—1.
____L01/L01P	Currituck Banks—2.
____NC–01	Pine Island Bay—3.
Dare County:	
____NC–02	Nags Head Woods—4.
____NC–03P	Cape Hatteras (1 of 14 maps)—5A.
____NC–03P	Cape Hatteras (2 of 14 maps)—5B.
____NC–03P	Cape Hatteras (3 of 14 maps)—5C.
____NC–03P	Cape Hatteras (4 of 14 maps)—5D.
____NC–03P & L03	Cape Hatteras & Hatteras Island (5 of 14 maps)—5E.
____NC–03P & L03	Cape Hatteras & Hatteras Island (6 of 14 maps)—5F.
____NC–03P	Cape Hatteras (7 of 14 maps)—5G.
Hyde County:	
____NC–03P	Cape Hatteras (also in Dare County) (8 of 14 maps)—5H.
____NC–03P	Cape Hatteras (9 of 14 maps)—5I.
____NC–03P	Cape Hatteras (also in Carteret County) (10 of 14 maps)—5J.
Carteret County:	
____NC–03P	Cape Hatteras (11 of 14 maps)—5K.
____NC–03P	Cape Hatteras (12 of 14 maps)—5L.
____NC–03P	Cape Hatteras (13 of 14 maps)—5M.
____NC–03P	Cape Hatteras (14 of 14 maps)—5N.
____NC–03P & L03AP	Cape Hatteras & Shackleford Banks—6.
____L03AP & NC–04P	Shackleford Banks & Fort Macon—7.
____NC–05P	Roosevelt Natural Area—8.
Onslow County:	
____NC–06P	Hammocks Beach—9.
____L05	Onslow Beach Complex (1 of 2 maps)—10A.
____L05	Onslow Beach Complex (2 of 2 maps)—10B.
____L06	Topsail—11.
Pender County:	
____L07	Lea Island Complex—12.
New Hanover County:	
____L08 & L09	Wrightsville Beach & Masonboro Island—13.
____L09	Masonboro Island—14.
Brunswick County:	
____NC–07P	Cape Fear (also in New Hanover County) (1 of 2 maps)—15A.
____NC–07P	Cape Fear (2 of 2 maps)—15B.
____M01	Waites Island Complex (1 of 2 maps) (also in South Carolina)—16.
____SOUTH CAROLINA (25 maps)	
Horry County:	
____M01	Waites Island Complex (2 of 2 maps) (also in North Carolina)—1.
____SC–01	Long Pond—2.
Georgetown County:	
____SC–03	Huntington Beach—3.
____M02	Litchfield Beach—4.
____M03	Pawleys Inlet—5.
____M04 & SC–04	Debidue Beach & North/South Islands—6.
____SC–04	North-South Islands—7.

Unit number(s)	Unit name(s)
Charleston County:	
____SC–05P	Santee (also in Georgetown County) (1 of 2 maps)—8A.
____SC–05P	Santee (2 of 2 maps)—8B.
____SC–05P & SC–06P	Santee & Cape Romain (1 of 2 maps)—9A.
____SC–05P & SC–06P	Santee & Cape Romain (2 of 2 maps)—9B.
____SC–06P	Cape Romain (1 of 2 maps)—10A.
____SC–06P	Cape Romain (2 of 2 maps)—10B.
____SC–07P	Capers Island—11.
____M05	Dewees Island—12.
____M06	Morris Island Complex—13.
____M07/M07P	Bird Key Complex—14.
____M08	Captain Sams Inlet—15.
____M09/M09P	Edisto Complex—16.
Colleton County:	
____M10	Otter Island—17.
Beaufort County:	
____M11	Harbor Island—18.
____SC–09P	Hunting Island—19.
____M12	St. Phillips Island (1 of 2 maps)—20A.
____M12	St. Phillips Island (2 of 2 maps)—20B.
Beaufort & Jasper Counties:	
____M13 & SC–10P	Daufuski Island & Turtle Island (SC–10P in Jasper County)—21.
____GEORGIA (18 maps)	
Chatham County:	
____N01	Little Tybee Island (1 of 2 maps)—1A.
____N01	Little Tybee Island (2 of 2 maps)—1B.
____N01A/N01AP	Wassaw Island—2.
____GA–02P	Ossabaw Island (1 of 2 maps)—3A.
____GA–02P	Ossabaw Island (also in Bryan County) (2 of 2 maps)—3B.
Liberty County:	
____GA–02P & GA–03P	Ossabaw Island & St. Catherine Island (also in McIntosh County)—4.
McIntosh County:	
____GA–03P & GA–04P	St. Catherine Island & Blackbeard/Sapelo Islands—5.
____GA–04P	Blackbeard/Sapelo Islands (1 of 3 maps)—6A.
____GA–04P	Blackbeard/Sapelo Islands (2 of 3 maps)—6B.
____GA–04P	Blackbeard/Sapelo Islands (3 of 3 maps)—6C.
____GA–04P & GA–05P	Blackbeard/Sapelo Islands & Altamaha/Wolf Islands—7.
____GA–05P	Altamaha/Wolf Islands—8.
Glynn County:	
____N03	Little St. Simons Island—9.
____N04	Sea Island—10.
____GA–06P	Jekyll Island—11.
Camden County:	
____N05 & N06/N06P	Little Cumberland Island & Cumberland Island—12.
____N06/N06P	Cumberland Island (1 of 2 maps)—13A.
____N06/N06P	Cumberland Island (2 of 2 maps)—13B.
____FLORIDA–EAST COAST (52 maps)	
Nassau County:	
____FL–01P	Fort Clinch—1.
Duval County:	
____P02/P02P	Talbot Islands Complex (also in Nassau County)—2.
St. Johns County:	
____FL–03P	Guana River (1 of 3 maps)—3A.
____FL–03P	Guana River (2 of 3 maps)—3B.
____FL–03P	Guana River (3 of 3 maps)—3C.
____P04A & P05/P05P	Usinas Beach & Conch Island—4.
Flagler County:	
____P05A/P05AP & FL–06P	Matanzas River (also in St. Johns County) & Washington Oaks—6.
Volusia County:	
____P07/P07P	Ormond-by-the-Sea (P07P also in Flagler County)—7.
____P08	Ponce Inlet—8.
____FL–07P	Canaveral (1 of 6 maps)—9A.
Brevard County:	
____FL–07P	Canaveral (also in Volusia County) (2 of 6 maps)—9B.
____FL–07P	Canaveral (also in Volusia County) (3 of 6 maps)—9C.
____FL–07P	Canaveral (4 of 6 maps)—9D.
____FL–07P	Canaveral (5 of 6 maps)—9E.
____FL–07P	Canaveral (6 of 6 maps)—9F.
____FL–13P & P09A	Spessard Holland Park & Coconut Point—10.
Indian River County:	
____P10/P10P	Vero Beach (also in Brevard County)—11.

Unit number(s)	Unit name(s)
St. Lucie County:	
____P10A	Blue Hole (also in Indian River County)—12.
____FL–14P	Pepper Beach—13.
____P11	Hutchinson Island (1 of 2 maps)—14A.
____P11	Hutchinson Island (2 of 2 maps)—14B.
Martin County:	
____P11AP & P11A	Joes Point & Frank B. McGilvery—15.
____P12/P12P	Hobe Sound—16.
Palm Beach County:	
____FL–15, FL–16 & FL–17P	Blowing Rocks (in Martin County), Jupiter Beach & Carlin—17.
____FL–18P	Macarthur Beach—18.
Broward County:	
____FL–19P	Birch Park—19.
____FL–20P & P14A	Lloyd Beach & North Beach—20.
Dade County:	
____FL–21	Haulover Beach—21.
____FL–22P, FL–23P & FL–34P	Virginia Beach/Crandon Park, Cape Florida & Biscayne Bay—22.
____FL–34/FL–34P	Biscayne Bay—23.
____FL–34P	Biscayne Bay (1 of 3 maps)—24A.
____FL–34P	Biscayne Bay (2 of 3 maps)—24B.
____FL–34P	Biscayne Bay (3 of 3 maps)—24C.
Monroe County:	
____FL–34P & FL–35	Biscayne Bay & North Key Largo—25.
____FL–34P & FL–35/FL–35P	Biscayne Bay & North Key Largo—26.
____FL–35	North Key Largo—27.
____FL–35/FL–35P & FL–36P	North Key Largo & El Radabob Key—28.
____FL–36P & FL–37	El Radabob Key & Rodriquez Key—29.
____FL–39 & FL–40	Tavernier Key & Snake Creek—30.
____FL–41P	Lignumvitae/Shell Keys—31.
____FL–42P	Long Key—32.
____FL–43 & FL–44	Channel Key & Toms Harbor Keys—33.
____FL–45	Deer/Long Point Keys—34.
____FL–46	Boot Key—35.
____FL–47P, FL–48P & FL–50	Key Deer/White Heron, Bahia Honda Key & No Name Key—36.
____FL–51	Newfound Harbor Keys—37.
____FL–47P & FL–52	Key Deer/White Heron & Little Knockemdown/Torch Keys Complex—38.
____FL–53	Budd Keys—39.
____FL–47P, FL–54 & FL–55	Key Deer/White Heron, Sugarloaf Sound & Saddlebunch Keys—40.
____FL–47P, FL–55, & FL–57	Key Deer/White Heron, Saddlebunch Keys, & Cow Key—41.
____FL–47P, FL–59P & FL–60P	Key Deer/White Heron, Fort Taylor & Key West NWR—42.
____FL–61P	Tortugas—43.
____FLORIDA—WEST COAST (55 maps)	
Collier County:	
____P15 & FL–63P	Cape Romano & Tigertail—1.
____P16	Keewaydin Island (1 of 2 maps)—2A.
____P16	Keewaydin Island (2 of 2 maps)—2B.
____FL–64P	Clam Pass—3.
____FL–65P	Wiggins Pass—4.
Lee County:	
____P17/P17P	Lovers Key Complex—5.
____P17A & FL–67	Bodwitch Point & Bunch Beach—6.
____P18P	Sanibel Island Complex—7.
____P18/P18P	Sanibel Island Complex—8.
____P19/P19P	North Captiva Island—9.
____P20/P20P	Cayo Costa—10.
____FL–70P	Gasparilla Island—11.
Charlotte County:	
____P21/P21P	Bocilla Island—12.
Sarasota County:	
____P21A/P21AP	Manasota Key—13.
____FL–71P	Venice Inlet—14.
____P22	Casey Key—15.
____FL–72P	Lido Key—16.
Manatee County:	
____P23/P23P	Longboat Key—17.
____FL–73P, FL–78 & FL–82	De Soto, Rattlesnake Key & Bishop Harbor—18.
____FL–80P	Passage Key—19.
Hillsborough County:	
____FL–81/FL–81P	Egmont Key—20.
____FL–83	Cockroach Bay—21.
Pinellas County:	

Unit number(s)	Unit name(s)
____P24/P24P	The Reefs—22.
____FL–85P	Sand Key—23.
____P24A & FL–86P	Mandalay Point & Caladesi/Honeymoon Islands—24.
____FL–87P	Anclote Key (also in Pasco County)—25.
Levy County:	
____P25/P25P	Cedar Key (1 of 2 maps)—26A.
____P25/P25P	Cedar Keys (2 of 2 maps)—26B.
Dixie County:	
____P26	Pepperfish Keys—27.
Franklin County:	
____P27A	Ochlockonee Complex (also in Wakulla County)—28.
____FL–89	Peninsula Point—29.
____P28	Dog Island—30.
____FL–90P	St. George Island—31.
____FL–90/FL–90P	St. George Island—32.
____FL–90P & FL–91P	St. George Island & St. Vincent Island—33.
____FL–91P	St. Vincent Island—34.
Gulf County:	
____FL–92	Indiana Peninsula—35.
____P30/P30P	Cape San Blas (1 of 2 maps)—36A.
____P30/P30P	Cape San Blas (2 of 2 maps)—36B.
Bay County:	
____P31	St. Andrew Complex (1 of 2 maps)—37A.
____P31	St. Andrew Complex (2 of 2 maps)—37B.
____P31/P31P	St. Andrew Complex—38.
____FL–93P	Phillips Inlet—39.
Walton County:	
____FL–94	Deer Lake Complex—40.
____FL–95P & FL–96	Grayton Beach & Draper Lake—41.
____P31A	Four Mile Village—42.
____P32	Moreno Point (also in Okaloosa County)—43.
Escambia County:	
____FL–98P	Santa Rosa Island—44.
____FL–98/FL–98P	Santa Rosa Island—45.
____FL–98P & FL–103P	Santa Rosa Island & Perdido Key—46.
____FL–103P	Perdido Key—47.
Santa Rosa County:	
____FL–97	Navarre Beach—48.
____FL–99	Tom King—49.
____FL–98P & FL–100	Santa Rosa Island (also in Escambia County) & Town Point—50.
____FL–98P, FL–101 & FL–102	Santa Rosa Island, Garcon Point & Basin Bayou—51.
____ALABAMA (9 maps)	
Baldwin County:	
____AL–01P & AL–02P	Perdido Key & Gulf Park—1.
____AL–02P	Gulf Park—2.
____AL–03, AL–04P & Q01P	Skunk Bayou, Cypress Point & Mobile Point—3.
____Q01/Q01P	Mobile Point (1 of 2 maps)—4A.
____Q01/Q01P	Mobile Point (2 of 2 maps)—4B.
Mobile County:	
____Q01P, Q01A, & AL–05P	Mobile Point (in Baldwin County), Pelican Island & Alligator Lake—5.
____Q02/Q02P	Dauphin Island—6.
____Q02	Dauphin Island (1 of 2 maps)—7A.
____Q02	Dauphin Island (2 of 2 maps)—7B.
____MISSISSIPPI (10 maps)	
Jackson County:	
____MS–01P	Gulf Islands (1 of 4 maps)—1A.
____MS–01P	Gulf Islands (2 of 4 maps)—1B.
____MS–01P	Gulf Islands (3 of 4 maps)—1C.
____MS–01P	Gulf Islands (also in Harrison County) (4 of 4 maps)—1D.
____R01	Round Island—2.
____R01A	Belle Fontaine Point—3.
Harrison County:	
____MS–01P	Gulf Islands—4.
____MS–02 & R02	Marsh Point (in Jackson County) & Deer Island—5.
____R03	Cat Island—6.
Hancock County:	
____MS–04	Heron Bay Point—7.
____LOUISIANA (52 maps)	
St. Bernard Parish:	

Unit number(s)	Unit name(s)
____LA–01	Isle au Pitre—1.
____LA–02	Grand Island—2.
____LA–03P	Chandeleur Islands (1 of 7 maps)—3A.
____LA–03P	Chandeleur Islands (2 of 7 maps)—3B.
____LA–03P	Chandeleur Islands (3 of 7 maps)—3C.
____LA–03P	Chandeleur Islands (4 of 7 maps)—3D.
____LA–03P	Chandeleur Islands (also in Plaquemines Parish) (5 of 7 maps)—3E.
____LA–03P	Chandeleur Islands (6 of 7 maps)—3F.
____LA–03P	Chandeleur Islands (7 of 7 maps)—3G.
Plaquemines Parish:	
____S01	Bastian Bay Complex (1 of 2 maps)—4A.
____S01	Bastian Bay Complex (2 of 2 maps)—4B.
____S01 & S01A	Bastian Bay Complex & Bay Joe Wise Complex—5.
____S01A	Bay Joe Wise Complex—6.
Plaquemines & Jefferson Parishes:	
____S02 & LA–04P	Grand Terre Islands & Grand Isle (S02 in Plaquemines Parish)—7.
Lafourche Parish:	
____S03	Caminada (also in Jefferson Parish) (1 of 3 maps)—8A.
____S03	Caminada (2 of 3 maps)—8B.
____S03	Caminada (3 of 3 maps)—8C.
____S04	Timbalier Bay—9.
____S05	Timbalier Islands (1 of 3 maps)—10A.
____S05	Timbalier Islands (also in Terrebonne Parish) (2 of 3 maps)—10B.
Terrebonne Parish:	
____S05	Timbalier Islands (3 of 3 maps)—10C.
____S06	Isles Dernieres (1 of 3 maps)—11A.
____S06	Isles Dernieres (2 of 3 maps)—11B.
____S06	Isles Dernieres (3 of 3 maps)—11C.
____S07	Point au Fer (1 of 4 maps)—12A.
____S07	Point au Fer (2 of 4 maps)—12B.
____S07	Point au Fer (3 of 4 maps)—12C.
____S07	Point au Fer (4 of 4 maps)—12D.
Iberia Parish:	
____LA–05P	Marsh Island/Rainey (1 of 7 maps)—13A.
____LA–05P	Marsh Island/Rainey (2 of 7 maps)—13B.
____LA–05P	Marsh Island/Rainey (3 of 7 maps)—13C.
____LA–05P	Marsh Island/Rainey (4 of 7 maps)—13D.
____LA–05P	Marsh Island/Rainey (5 of 7 maps)—13E.
____LA–05P	Marsh Island/Rainey (also in Vermilion Parish) (6 of 7 maps)—13F.
Vermilion Parish:	
____LA–05P	Marsh Island/Rainey (7 of 7 maps)—13G.
____LA–05P, S08, & LA–07	Marsh Island/Rainey, Cheniere au Tigre & Freshwater Bayou—14.
____LA–07	Freshwater Bayou (1 of 2 maps)—15A.
____LA–07	Freshwater Bayou (2 of 2 maps)—15B.
____S09	Rollover—16.
Cameron Parish:	
____LA–08P	Rockefeller (also in Vermilion Parish) (1 of 3 maps)—17A.
____LA–08P	Rockefeller (2 of 3 maps)—17B.
____LA–08P	Rockefeller (3 of 3 maps)—17C.
____LA–08P & S10	Rockefeller & Mermentau River—18.
____S10	Mermentau River—19.
____LA–09	Cameron (1 of 2 maps)—20A.
____LA–09	Cameron (2 of 2 maps)—20B.
____LA–10	Calcasieu Pass (1 of 2 maps)—21A.
____LA–10	Calcasieu Pass (2 of 2 maps)—21B.
____S11	Sabine (1 of 4 maps)—22A.
____S11	Sabine (2 of 4 maps)—22B.
____S11	Sabine (3 of 4 maps)—22C.
____S11	Sabine (4 of 4 maps)—22D.
____TEXAS (55 maps)	
Jefferson County:	
____T01P	Sea Rim—1.
____T01/T01P	Sea Rim—2.
____TX–02P	McFaddin (1 of 2 maps)—3A.
____TX–02P	McFaddin (2 of 2 maps)—3B.
____TX–02P & T02A	McFaddin & High Island (also in Chambers County)—4.
Galveston County:	
____T02A	High Island—5.
____T03A	Bolivar Peninsula—6.
____T03A/T03AP	Bolivar Peninsula—7.
____TX–04/TX04P	Swan Lake—8.
____TX–05P	Galveston Island—9.

Unit number(s)	Unit name(s)
Brazoria County:	
____T04/T04P	Follets Island (1 of 2 maps)—10A.
____T04/T04P	Follets Island (2 of 2 maps)—10B.
____T05/T05P	Brazos River Complex—11.
____T05/T05P & T06P	Brazos River Complex & Sargent Beach (in Matagorda County)—12.
Matagorda County:	
____T06/T06P	Sargent Beach—13.
____T07/T07P	Matagorda Peninsula (1 of 6 maps)—14A.
____T07/T07P	Matagorda Peninsula (2 of 6 maps)—14B.
____T07/T07P	Matagorda Peninsula (3 of 6 maps)—14C.
____T07/T07P	Matagorda Peninsula (4 of 6 maps)—14D.
____T07/T07P	Matagorda Peninsula (5 of 6 maps)—14E.
____T07/T07P	Matagorda Peninsula (6 of 6 maps)—14F.
____T07	Matagorda Peninsula—15.
____TX–09	Coon Island Bay—16.
____TX–10	Shell Beach—17.
Calhoun County:	
____TX–06P	Matagorda Island (1 of 5 maps)—18A.
____TX–06P	Matagorda Island (2 of 5 maps)—18B.
____TX–06P	Matagorda Island (3 of 5 maps)—18C.
____TX–06P	Matagorda Island (4 of 5 maps)—18D.
____TX–06P	Matagorda Island (5 of 5 maps)—18E.
____TX–06P & T08	Matagorda Island & San Jose Island Complex—19.
____TX–06P & T08/T08P	Matagorda Island & San Jose Island Complex (also in Aransas County)—20.
Aransas County:	
____T08/T08P	San Jose Island Complex (also in Calhoun County) (1 of 5 maps)—21A.
____T08/08P	San Jose Island Complex (2 of 5 maps)—21B.
____T08/08P	San Jose Island Complex (3 of 5 maps)—21C.
____T08/08P	San Jose Island Complex (4 of 5 maps)—21D.
____T08/08P	San Jose Island Complex (5 of 5 maps)—21E.
Nueces County:	
____TX–15P	Mustang Island—22.
____TX–17/TX–17P	Shamrock Island–23.
Kleberg County:	
____TX–16P & T10/T10P	Four Mile Hill (in Nueces County) & North Padre Island—24.
____T10P	North Padre Island (1 of 7 maps)—25A.
____T10P	North Padre Island (also in Kennedy County) (2 of 7 maps)—25B.
____T10P	North Padre Island (3 of 7 maps)—25C.
____T10P	North Padre Island (4 of 7 maps)—25D.
____T10P	North Padre Island (5 of 7 maps)—25E.
____T10P	North Padre Island (6 of 7 maps)—25F.
____T10P	North Padre Island (7 of 7 maps)—25G.
____TX–19 & TX–21	Starvation Point & Kleberg Point—26.
Willacy County:	
____T10P & T11/T11P	North Padre Island & South Padre Island—27.
____T11P	South Padre Island—28.
Cameron County:	
____T11	South Padre Island (also in Willacy County)—29.
____T11/T11P	South Padre Island (also in Willacy County) (1 of 3 maps)—30A.
____T11/T11P	South Padre Island (2 of 3 maps)—30B.
____T11/T11P	South Padre Island (3 of 3 maps)—30C.
____T11/T11P & TX–22P	South Padre Island & Andy Bowie–31.
____T12/T12P	Boca Chica—32.
____PUERTO RICO (32 maps)	
Municipio de Rio Grande:	
____PR–02, PR–03 & PR–04P	Ensenada Comezon, Rio Mameyes & Punta la Bandera (in Luquillo Mun.)—1.
Municipio de Fajardo:	
____PR–05, PR–06, PR–07, PR–08P & PR–08AP	Luquillo Spit (in Luquillo Mun.), Juan Martin Spit (in Luquillo Mun.), Laguna Aquas Prietas, Cabo San Juan & La Cordillera—2.
____PR–08A/PR–08AP	La Cordillera—3.
____PR–09P & PR–10	Rio Fajardo & Punta Barrancas—4.
Municipio de Culebra:	
____PR–12P, PR–13P, PR–14P, PR–15P & PR–16P	Playa Flamenco, Playa Brava, Playa Larga, Isla Culebrita & Puerto del Manglar—5.
Isla de Vieques:	
____PR–17P	Ensenada Sombe—6.
Municipio de Naquabo:	
____PR–18P	Cayo Algodones—7.
Municipio de Yabucoa:	

Unit number(s)	Unit name(s)
____PR–39	Puerto Yabucoa—8.
Municipio de Maunabo:	
____PR–40 & PR–41	Punta Tuna & Rio Maunabo—9.
Municipio de Patillas:	
____PR–42 & PR–43/PR–43P	Punta Viento & Punta Guilarte—10.
Municipio de Guayama:	
____PR–44 & PR–45/PR–45P	Las Mareas & Bahia de Jobos—11.
Municipio de Salinas:	
____PR–45P & PR–46	Bahia de Jobos & Cayos de Barca/Ratones Complex—12.
____PR–47, PR–48P & PR–49P	Arenal, Arrecife Media Luna, & Punta Aguila (In Santa Isabel Mun.)—13.
Municipio de Juana Diaz:	
____PR–50, PR–50P, PR–51 & PR–52P	Chardon (in Santa Isabel Mun.), Cayo Berberia, Rio Descalabrado & Punta Pastillo—14.
Municipio de Ponce:	
____PR–53, PR–54, PR–55 & PR–56	Bajio de Marea (in Juana Diaz Mun.), Rio Jacaguas, Isla del Frio & Punta Cabullones—15.
____PR–57/PR–57P & PR–58P	Punta Cucharas & Bahia de Tallaboa (in Penuelas Mun.)—16.
Municipio de Guanica:	
____PR–59, PR–60P & PR–61	Punta Ballena (also in Yauco Mun.), Punta Jacinto & Ensenada las Pardas—17.
____PR–62P, PR–63P & PR–64P	Punta Manglillo, Cayo don Luis & Bahia Montalva (also in Lajas Mun.)—18.
Municipio de Cabo Rojo:	
____PR–65P	Islas Cueva/Guayacan (also in Lajas Mun.)—19.
____PR–65P & PR–66/PR–66P	Islas Cueva/Guayacan & Cabo Rojo—20.
____PR–67P, PR–68, PR–69 & PR–70	Bahia de Boqueron, Boca Prieta, Punta Carenero & Belvedere—21.
Municipio de Mayaquez:	
____PR–72	Rio Guanajibo—22.
Municipio de Aquadilla:	
____PR–75/PR–75P	Espinar—23.
Municipio de Isabela:	
____PR–76 & PR–77	Punta Agujereada (in Aguadilla Mun.), & Bajura—24.
____PR–78	Coto—25.
Municipio de Camuy & de Hatillo:	
____PR–79 & PR–80	Penon Brusi & Punta Maracayo—26.
Municipio de Arecibo:	
____PR–81	Puerto de Arecibo—27.
Municipio de Manati:	
____PR–82P	Punta Manati—28.
____PR–83 & PR–84	Tortuguero (Also in Vega Baja Mun.) & Punta Garza (in Vega Baja Mun.)—29.
Municipio de Toa Baja:	
____PR–86P	Punta Salinas—30.
Municipio de Loiza:	
____PR–87P	Punta Vacia Talega—31.
____PR–87	Punta Vacia Talega (also in Carolina Mun.)—32.
____U.S. VIRGIN ISLANDS (7 maps)	
St. Croix:	
____VI–01, VI–02, VI–03, VI–08 & VI–09	Rust Up Twist, Salt River Bay, Altona Lagoon, Canegarden Bay & Krause Lagoon—1.
____VI–04/VI–04P, VI–05, VI–06 & VI–07	Southgate Pond, Coakley Bay, Robin Bay & Great Pond—2.
____VI–10 & VI–11/VI–11P	Long Point & Westend Saltpond—3.
St. John:	
____VI–12P, VI–13P, VI–14P, VI–22P, VI–23P, VI–24P & VI–25	Cinnamon Bay, Maho Bay, Francis Bay, Great Lameshur Bay, Europa Bay, Reef Bay, & Fish Bay—4.
____VI–15P, VI–16, VI–17, VI–18, VI–19P, VI–20P, & VI–21P	Leinster Bay, Newfound Bay, Pond Bay, Lagoon Point, Ram Head, Kiddel Bay & Grootpan Bay—5.
St. Thomas:	
____VI–26, VI–27, VI–28 & VI–29	Sprat Point, Limestone Bay, Perseverance Bay & Magens Bay—6.
____VI–30, VI–31, VI–32, VI–33, VI–34 & VI–35P	Mandal Bay, Smith Bay, Vessup Bay, Great Bay, Jersey Bay & Buck Island—7.
____OHIO (7 maps)	
Lake County:	
____OH–01	Arcola Creek—1.
____OH–02	Mentor—2.
Erie County:	
____OH–03	North Pond—3.
____OH–04 & OH–05	Old Woman Creek & Sheldons Marsh—4.
Ottawa County:	
____OH–06	Bay Point—5.

Unit number(s)	Unit name(s)
____OH–07, OH–08 & OH–09	Middle Bass Island, North Bass Island & Fox Marsh—6.
____OH–10	Toussaint River—7.
____MICHIGAN (37 maps)	
Monroe County:	
____MI–02	Toledo Beach—1.
____MI–03	Enrico Fermi—2.
Wayne County:	
____MI–04	Sturgeon Bar—3.
Huron County:	
____MI–05	Huron City—4.
____MI–06 & MI–07	Alaska Bay & Pointe aux Barques—5.
Arenac County:	
____MI–08	Charity Island—6.
Alpena County:	
____MI–13	Squaw Bay—7.
____MI–14	Whitefish Bay—8.
Presque Isle County:	
____MI–17	Swan Lake—9.
Benzie County:	
____MI–20	Lower Herring Lake—10.
Manistee County:	
____MI–21	Arcadia Lake—11.
Muskegon County:	
____MI–22	Sadony Bayou—12.
Menominee County:	
____MI–24	Deadmans Point—13.
Delta County:	
____MI–25	Squaw Point—14.
Schoolcraft County:	
____MI–28 & MI–29	Goadreaus Harbor & Seul Choix—15.
Mackinac County:	
____MI–31	Fox Point—16.
____MI–32	McNeil Creek—17.
____MI–33, MI–34, & MI–35	Millecoquins Point, East Mile Creek & Mattix Creek—18.
____MI–36 & MI–37	Borgstrom Creek & Davenport Creek—19.
____MI–38 & MI–39	Hudson & Epoufette—20.
____MI–40	Green Island—21.
____MI–41	Big St. Martin Island—22.
____MI–42	Bass Cove Lake—23.
____MI–43	Whitefish Point—24.
____MI–44	Albany Island—25.
Chippewa County:	
____MI–45	St. Vital Bay—26.
____MI–46	Espanore Lake—27.
____MI–49, MI–51 & MI–52	Shelldrake, Marsh Lake, & Superior—28.
____MI–53	Vermilion—29.
Luce County:	
____MI–55	Little Two Hearted River—30.
Alger County:	
____MI–59	Laughing Whitefish River—31.
Marquette County:	
____MI–62	Saux Head—32.
____MI–63 & MI–64	Iron River & Squaw Beach—33.
____MI–65	Salmon Trout Bay—34.
Baraga County:	
____MI–66	Lightfoot Bay—35.
Keweenaw County:	
____MI–71	Jacobs Creek—36.
____MI–74	Gratiot River—37.
____WISCONSIN (5 maps)	
Manitowoc County:	
____WI–01	Two Creeks—1.
Brown County:	
____WI–02	Point au Sable—2.
Marinette County:	
____WI–03 & W–04	Peshtigo Point & Dyers Slough—3.
Bayfield County:	
____WI–05	Bark Bay—4.
____WI–06 & WI–07	Herbster & Flag River—5.

Unit number(s)	Unit name(s)
___MINNESOTA (1 map)	
St. Louis County: ___MN–01	Minnesota Point—1.

Dated: January 30, 1995.

Mollie H. Beattie,

Director, U.S. Fish and Wildlife Service.

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Federal Register

Thursday
February 23, 1995

Part VI

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 341

Human Drugs: Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Amendment of the Tentative Final Monograph for Combination Drug Products; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 341

[Docket No. 76N–052G]

RIN 0905–AA06

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Amendment of the Tentative Final Monograph for Combination Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the tentative final monograph for over-the-counter (OTC) cold, cough, allergy, bronchodilator, and antiasthmatic combination drug products to classify combination drug products containing the ingredients diphenhydramine citrate or diphenhydramine hydrochloride. The agency recently amended the final monograph for OTC antitussive drug products (products used to relieve cough) to include the ingredients diphenhydramine citrate and diphenhydramine hydrochloride. The agency also previously included diphenhydramine citrate and diphenhydramine hydrochloride in the final monograph for OTC antihistamine drug products. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments or objections by May 9, 1995; written comments on the agency's economic impact determination by May 9, 1995.

ADDRESSES: Written comments or objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5000.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 9, 1976 (41 FR 38312), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products. In that notice, the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products (the Panel) discussed OTC cough-cold combination drug products, including combinations containing an oral antitussive and/or an antihistamine (41 FR 38312 at 38327). The Panel considered combinations containing the ingredient diphenhydramine hydrochloride. (Diphenhydramine citrate was not submitted for the Panel's consideration.) The Panel recommended that diphenhydramine hydrochloride be Category I (generally recognized as safe and effective) as both an oral antitussive and an antihistamine. However, the Panel recommended a Category II classification (not generally recognized as safe and effective or misbranded) for any combination containing an oral antitussive ingredient and an antihistamine if the antitussive ingredient is also a Category I antihistamine or if the antihistamine is also a Category I antitussive. Diphenhydramine hydrochloride was the only ingredient that the Panel classified in Category I for both antitussive and antihistamine use.

In the **Federal Register** of August 12, 1988 (53 FR 30522), FDA published the tentative final monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic combination drug products. FDA did not include specific combinations for OTC cough-cold drug products containing diphenhydramine citrate or diphenhydramine hydrochloride for OTC oral antitussive use in that tentative final monograph. At that time, these ingredients were not included in the final monograph for OTC antitussive drug products because adequate data to support monograph status were not publicly available. Subsequently, data were submitted to the rulemaking for OTC antitussive drug products (see discussion below).

In the tentative final monograph, the agency discussed combinations containing a drug recognized as both an antitussive and an antihistamine combined with another oral antitussive and/or antihistamine (53 FR 30522 at 30539). The agency proposed that such combinations be Category III (available data are insufficient to classify as safe and effective, and further testing is required).

In the **Federal Register** of December 9, 1992 (57 FR 58378), the agency proposed that diphenhydramine citrate and diphenhydramine hydrochloride be included in the final monograph for OTC antitussive drug products as single ingredients. This action was taken because the data needed to support monograph status had been made publicly available. The proposal was recently finalized in the **Federal Register** of June 3, 1994 (59 FR 29172). In that final rule, the agency stated that it would address the following matters in a future issue of the **Federal Register**: (1) OTC cough-cold combination drug products containing diphenhydramine citrate or diphenhydramine hydrochloride for antitussive use, (2) concurrent antitussive and antihistamine use of diphenhydramine ingredients (either in an OTC cough-cold single-ingredient or combination drug product) for concurrent symptoms, and (3) ''multiuse'' labeling for OTC drug products containing an ingredient that may be used separately for more than one indication for nonconcurrent symptoms--with full, separate labeling for each indication. The first two subjects are addressed in this proposed rule. The third will be addressed in a future issue of the **Federal Register**. Labeling issues relating to that topic are broader than diphenhydramine, applying to other OTC drug ingredients that have more than one pharmacologic activity and that are included or proposed for inclusion in more than one OTC drug monograph. For example, sodium bicarbonate has a number of drug uses.

II. The Agency's Proposals for OTC Cough-Cold Combination Drug Products Containing Diphenhydramine Citrate or Diphenhydramine Hydrochloride for Antitussive Use

In this proposed rule, the agency has considered all OTC cough-cold combination products classified in the tentative final monograph for OTC cough-cold combination drug products (53 FR 30522) that could include diphenhydramine as an oral antitussive or as an antihistamine. The agency is proposing only a few changes in the classification of these combinations when diphenhydramine is included in the combination as an antitussive or an antihistamine (see section III). The following table lists the combinations that were considered:

Table 1

Cough-Cold Combinations Considered in the Tentative Final Monograph That Contain an Antihistamine or an Antitussive

A. Combinations containing an oral antitussive, but not an antihistamine

1. Analgesic-antipyretic(s) and oral antitussive
2. Analgesic-antipyretic(s) and oral antitussive and oral nasal decongestant
3. Oral antitussive and expectorant (if labeled for nonproductive cough)
4. Oral antitussive and oral nasal decongestant
5. Oral antitussive and expectorant and oral nasal decongestant (if labeled for nonproductive cough)
6. Oral antitussive and anesthetic/analgesic (if available only in a solid dosage form)
7. Oral nasal decongestant and oral antitussive and anesthetic/analgesic (if available only in a solid dosage form)
8. Oral antitussive and oral demulcent (if available in a solid dosage form)
9. Oral nasal decongestant and oral antitussive and oral demulcent (if available only in a solid dosage form)
10. Oral antitussive and anesthetic/analgesic and oral demulcent (if available only in a solid dosage form)
11. Oral nasal decongestant and oral antitussive and anesthetic/analgesic and oral demulcent (if available only in a solid dosage form)
12. Oral antitussive and debriding agent/oral wound cleanser
13. Oral antitussive and astringent
14. Oral bronchodilator and oral antitussive (if labeled for cough associated with asthma)
15. Oral antitussive and bronchodilator used as an antitussive (if labeled for productive cough)
16. Oral antitussive and expectorant (if labeled for productive cough)
17. Oral antitussive and expectorant and oral nasal decongestant (if labeled for productive cough)
18. Analgesic-antipyretic(s) and oral antitussive and expectorant and oral nasal decongestant

B. Combinations containing an antihistamine, but not an oral antitussive.

1. Analgesic-antipyretic(s) and antihistamine
2. Analgesic-antipyretic(s) and antihistamine and oral nasal decongestant
3. Antihistamine and oral nasal decongestant
4. Antihistamine and debriding agent/oral wound cleanser
5. Antihistamine and astringent
6. Antihistamine and expectorant
7. Oral bronchodilator and antihistamine
8. Antihistamine and anticholinergic
9. Anticholinergic and antihistamine and oral nasal decongestant
10. Combinations containing an antihistamine for the relief of symptoms of allergic rhinitis and an additional antihistamine which is added exclusively for sedation, and the product contains labeling which represents the additional antihistamine as a sleep-aid
11. Combinations containing an antihistamine with a sleep- aid claim
12. Antihistamine and oral anesthetic/analgesic
13. Antihistamine and oral demulcent
14. Antihistamine and nasal decongestant (administered topically as spray or drops)

C. Combinations containing both an oral antitussive and an antihistamine.

1. Antihistamine and oral antitussive (if labeled ''May cause marked drowsiness'')
2. Analgesic-antipyretic(s) and oral antitussive and oral nasal decongestant and antihistamine
3. Antihistamine and oral antitussive and oral nasal decongestant
4. Antihistamine (if antihistamine is also a Category I antitussive) and oral antitussive
5. Oral antitussive (if antitussive is also a Category I antihistamine) and antihistamine

A. OTC cough-cold combinations containing: (1) An oral antitussive, but no antihistamine and (2) an antihistamine, but no antitussive.

1. Comparison of Category I Antitussive Combinations With Category II and III Antihistamine-containing Combinations.

The agency has compared all of the Category I combinations containing an oral antitussive, but not an antihistamine (in Table 1, A.1. through A.11.), with all of the Category II and III combinations containing an antihistamine, but not an oral antitussive (in Table 1, B.4. through B.14.). The agency compared the classes of ingredients included with an oral antitussive in Category I and the classes included with an antihistamine in Categories II and III to determine which combinations similar to the Category II and III antihistamine combinations were included in the Category I antitussive combinations. The following table lists these combinations:

Table 2

Category I Oral Antitussive Combination	Corresponding Category II or III Antihistamine Combination
Oral antitussive and an expectorant	Antihistamine and expectorant
Oral antitussive and an expectorant and a nasal decongestant (if labeled for nonproductive cough)	None
Oral antitussive and an anestehetic/analgesic in a solid dosage form	Antihistamine and an anesthetic/analgesic in a solid dosage form
Oral antitussive and an demulcent in a solid dosage form	Antihistamine and a demulcent
Oral nasal decongestant and an oral antitussive and an anesthetic/analgesic in a solid dosage form	None
Oral nasal decongestant and an oral antitussive and a demulcent in solid dosage	None

(a) *Combination drug products containing an expectorant and an oral antitussive that is also an antihistamine.* The Panel recommended a Category I classification for combinations containing an oral antitussive and an expectorant that is labeled for nonproductive cough (41 FR 38312 at 38328). The agency concurred in the tentative final monograph for OTC cough-cold combination drug products (53 FR 30522 at 30556). However, the Panel recommended a Category II classification for combinations containing an antihistamine and an expectorant. In this combination, the anticholinergic effect (drying action) of the antihistamine would produce the opposite effect of the secretory action of the expectorant ingredient. Thus, the combination would be medically irrational (41 FR 38312 at 38326). The agency concurred with the Panel in the OTC cough-cold combinations tentative final monograph (53 FR 30522 at 30556). Because diphenhydramine is an antihistamine as well as an antitussive, it would have anticholinergic effects whether it is included in a combination as an oral antitussive or as an antihistamine. Accordingly, the agency is proposing a Category II classification for all combinations containing an expectorant and an oral antitussive if the antitussive is also an antihistamine. The agency is revising proposed § 341.40(g) and (i) to replace the phrase ''Any single oral antitussive active ingredient identified in § 341.14(a) * * *'' with the phrase ''Any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(4) * * *.'' This revision specifically excludes combinations containing diphenhydramine citrate or diphenhydramine hydrochloride as an antitussive.

(b) *Combination drug products containing an anesthetic/analgesic and/or a demulcent (in a solid dosage form) and an oral antitussive that is also an antihistamine.* The Cough-Cold Panel reviewed data relating to combination drug products containing cough-cold and oral health care active ingredients with claims for relief of sore throat (41 FR 38312 at 38325). The Panel established specific criteria for the treatment of symptoms with combination products and based its Category I recommendations on whether the combination is rational concurrent therapy for a significant and existing population. The Panel determined that products containing an antitussive or a nasal decongestant combined with an oral anesthetic/analgesic in a lozenge dosage form are rational and recommended a Category I classification for these combinations. The agency concurred with the Panel in the tentative final monograph for OTC cough-cold combination drug products. However, the agency determined that such a combination could be rational only if the combination drug product were in a solid dosage form so that the anesthetic/analgesic ingredient or the demulcent ingredient may exert its topical effect and the antitussive can be ingested (53 FR 30522 at 30536 and 30537).

The Panel did not discuss combinations containing an antihistamine with an anesthetic/analgesic or a demulcent. However, the agency considered such combinations in the OTC cough-cold combinations tentative final monograph (53 FR 30522 at 30537). The agency stated that the combination of an antihistamine and an oral anesthetic/analgesic or an oral demulcent could be rational if the combination drug product is in a solid dosage form. In addition, the symptoms of allergic rhinitis and minor throat irritation that may result from the nasal congestion that often occurs with allergic rhinitis and subsequent breathing through the mouth could be treated concurrently with such combinations. However, the agency also stated that it was unaware of any currently marketed drug product that contains such a combination and that no data were submitted to demonstrate a significant target population with concurrent symptoms that would benefit from such a combination. Therefore, the agency proposed a Category III classification for the combination of an antihistamine with an oral anesthetic/analgesic or an oral demulcent. The agency has since determined that data do exist to support a target population for such combinations based on epidemiological data accepted by the Panel (41 FR 38312 at 38325). The agency believes that a Category I classification is appropriate for combinations containing an oral antitussive (which is also an antihistamine, although antihistamine claims cannot be made for these combinations) with an oral anesthetic/analgesic or an oral demulcent if in a solid dosage form. Thus, the agency is proposing to include diphenhydramine citrate and diphenhydramine hydrochloride in combinations specified in § 341.40(j), (q), (u), (w), (x), and (z). At this time, sufficient data have not been provided to support a suitable target population with concurrent symptoms of sufficient duration to justify an antihistamine claim for any of these combination drug products. Therefore, any of these combinations that contain diphenhydramine citrate or diphenhydramine hydrochloride as the antitussive cannot also make antihistamine claims.

2. Category II and III Combinations Containing an Antitussive.

The agency has considered all OTC cough-cold combinations containing an oral antitussive, but no antihistamine, that were placed in Category II or III in the OTC cough-cold combinations tentative final monograph (combinations in Table 1 under A.1. through A.18.). The agency has determined that these combinations would be categorized in the same manner if diphenhydramine were used as the antitussive. The agency is not aware of any data or information that would support reclassification of any of these combinations because they contain diphenhydramine rather than any other monograph oral antitussive ingredient.

3. Combinations Containing an Antihistamine With no Corresponding Category I Antitussive Combination.

The agency considered all antihistamine combinations (not including an oral antitussive) that did not have a corresponding Category I antitussive combination (not including an antihistamine), e.g., an antihistamine and an anticholinergic. The agency is not changing the classification of any of these combinations because they do not contain an antitussive component. Thus, these combinations are not pertinent to combinations that include an antitussive that is also an antihistamine.

B. OTC cough-cold combinations containing: (1) An oral antitussive and an antihistamine if the antitussive is also a antihistamine or (2) an antihistamine and an oral antitussive if the antihistamine is also an antitussive.

The Panel recommended a Category II classification for combinations containing: (1) An oral antitussive and an antihistamine if the antitussive is also a Category I antihistamine, and (2) an antihistamine and an oral antitussive if the antihistamine is also a Category I antitussive (41 FR 38312 at 38326). Such combinations include diphenhydramine and dextromethorphan or diphenhydramine and chlorpheniramine. The Panel stated that the combinations are not safe because the side effects of two drugs having the same action may combine. For example, the drowsiness effect of each ingredient may be additive and result in an unacceptable level of

drowsiness for the combination drug product.

In the proposed rule for OTC cough-cold combination drug products (53 FR 30522 at 30539), FDA did not include any specific OTC cough-cold combination drug products containing diphenhydramine citrate or diphenhydramine hydrochloride as oral antitussive active ingredients. These ingredients were not included in the final monograph for OTC antitussive drug products because of a lack of publicly available data that would support the antitussive effectiveness of diphenhydramine. (See the **Federal Register** of October 19, 1983, 48 FR 48576.) However, the agency did discuss combinations containing a drug that is both an antitussive and an antihistamine (such as diphenhydramine) combined with another oral antitussive or antihistamine (53 FR 30522 at 30539). The agency considered such products to be combinations containing two ingredients from the same pharmacologic group and proposed a Category III classification based on the agency's ''General Guidelines for OTC Drug Combination Products'' (Ref. 1). Under the guidelines, Category I active ingredients from the same therapeutic category that have the same mechanism of action should not ordinarily be combined unless there is some advantage over the single ingredient in terms of enhanced effectiveness, safety, patient acceptance, or quality of formulation. However, the guidelines also state that such ingredients may be combined in selected circumstances to treat the same symptoms or conditions if the combination meets the OTC drug combination policy in all respects, the combination offers some advantage over the active ingredients used alone, and the combination is, on a benefit-risk basis, equal to or better than each of the active ingredients used alone at its therapeutic dose.

Accordingly, the agency is proposing to place combinations containing a drug recognized as both an antitussive and an antihistamine with another oral antitussive and antihistamine in Category III. At the present time, this proposal only involves combinations containing diphenhydramine citrate or diphenhydramine hydrochloride with any monograph antihistamine in § 341.12 or any monograph antitussive in § 341.14. The agency is revising proposed § 341.40(d), (e), and (f) to replace the phrase ''Any single antihistamine active ingredient identified in § 341.12 * * *'' with the phrase ''Any single antihistamine active ingredient identified in § 341.12(a) through (e) and (h) through (m) * * *.'' This revision specifically excludes combinations containing diphenhydramine citrate or diphenhydramine hydrochloride as an antihistamine with an antitussive.

The agency is also revising proposed § 341.40(d), (e), and (f) to replace the phrase ''any single oral antitussive active ingredient identified in § 341.14(a) * * *'' with the phrase ''any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(4) * * *.'' This revision specifically excludes combinations containing diphenhydramine citrate or diphenhydramine hydrochloride as an antitussive with an antihistamine.

The agency has also considered combinations containing a dose of diphenhydramine as the oral antitussive component and an additional dose of diphenhydramine as the antihistamine. The agency concludes that such a combination would contain too large a dose of diphenhydramine to be safe. Thus, the agency is proposing that such a combination be Category II.

The use of a single dose of diphenhydramine as an antitussive and antihistamine for treating concurrent symptoms in either a single-ingredient or combination drug product is discussed in section III.

Reference

(1) Food and Drug Administration ''General Guidelines for OTC Drug Combination Products, September 1976,'' Docket No. 78D–0322, Dockets Management Branch.

III. Use of a Single Dose of Diphenhydramine Citrate or Diphenhydramine Hydrochloride as an Antitussive and Antihistamine for Treating Concurrent Symptoms (in Either a Single-Ingredient or Combination Drug Product)

In the **Federal Register** of December 9, 1992 (57 FR 58378), the agency proposed to amend the final monograph for OTC antitussive drug products to add diphenhydramine citrate and diphenhydramine hydrochloride. In response, one comment stated that a single-ingredient drug product containing diphenhydramine hydrochloride for concurrent use as both an antihistamine and an antitussive should be labeled with a broader dosing range (e.g., diphenhydramine hydrochloride, 25 to 50 milligrams (mg) every 4 to 6 hours, not to exceed 300 mg in 24 hours) to eliminate confusion to consumers (Ref. 1). The comment also contended that the broader dosage range should be permitted to provide the maximum antihistamine effectiveness for consumers. In addition, the comment stated that the labeling of products for concurrent antihistamine/antitussive use should include the appropriate warnings for both indications.

The Panel believed that the interests of consumers are best served by exposing the user of OTC drug products to the smallest number of ingredients possible at the lowest possible dosage consistent with a satisfactory level of effectiveness (41 FR 38312 at 38322). Thus, an OTC drug product in which diphenhydramine citrate or diphenhydramine hydrochloride serves both as the antitussive and antihistamine component for treating concurrent symptoms would reduce the number of ingredients in the product. For example, a Category I combination drug product containing diphenhydramine as an antihistamine and antitussive combined with a nasal decongestant would contain only two ingredients. Such a combination would contain one less ingredient than a similar combination product containing three different ingredients for the same therapeutic uses. Similarly, an antihistamine-antitussive combination could contain only diphenhydramine to serve both functions.

In a final rule that amended the OTC antitussive monograph to include diphenhydramine citrate and diphenhydramine hydrochloride (59 FR 29172), the agency determined that the available clinical data and marketing history of products containing these ingredients for antitussive use do not support a broader dosage range. The agency concluded that it could not generally recognize as safe and effective an antitussive dosage (25 to 50 mg every 4 to 6 hours for diphenhydramine hydrochloride) that is not supported by clinical data. The dosage for diphenhydramine hydrochloride in § 341.74(d)(1)(v) of the antitussive monograph (21 CFR 341.74(d)(1)(v)) reads:

> Adults and children 12 years of age and over: oral dosage is 25 milligrams every 4 hours, not to exceed 150 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: oral dosage is 12.5 milligrams every 4 hours, not to exceed 75 milligrams in 24 hours, or as directed by a doctor. Children under 6 years of age: consult a doctor.

The dosage for diphenhydramine citrate in § 341.74(d)(1)(iv) of the antitussive monograph (21 CFR 341.74(d)(1)(iv)) reads:

> Adults and children 12 years of age and over: oral dosage is 38 milligrams every 4 hours, not to exceed 228 milligrams in 24 hours, or as directed by a doctor. Children 6

to under 12 years of age: oral dosage is 19 milligrams every 4 hours, not to exceed 114 milligrams in 24 hours, or as directed by a doctor. Children under 6 years of age: consult a doctor.

The dosage for diphenhydramine hydrochloride in § 341.72(d)(7) of the antihistamine monograph (21 CFR 341.72(d)(7)) reads:

Adults and children 12 years of age and over: oral dosage is 25 to 50 milligrams every 4 to 6 hours, not to exceed 300 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: oral dosage is 12.5 to 25 milligrams every 4 to 6 hours, not to exceed 150 milligrams in 24 hours, or as directed by a doctor. Children under 6 years of age: consult a doctor.

The dosage for diphenhydramine citrate in § 341.72(d)(6) of the antihistamine monograph (21 CFR 341.72(d)(6)) reads:

Adults and children 12 years of age and over: oral dosage is 38 to 76 milligrams every 4 to 6 hours, not to exceed 456 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: oral dosage is 19 to 38 milligrams every 4 to 6 hours, not to exceed 228 milligrams in 24 hours, or as directed by a doctor. Children under 6 years of age: consult a doctor.

The agency believes that an OTC drug product containing diphenhydramine citrate or diphenhydramine hydrochloride that is labeled both as an antitussive and an antihistamine should conform to the same labeling restrictions that apply to combination drug products containing a different antitussive and antihistamine ingredient. In the tentative final monograph for OTC cough-cold combination drug products, the agency proposed that when there is a difference in the directions established for the individual ingredients in a combination drug product, e.g., when the time intervals or age limitations for administration of the individual ingredients differ, the directions for the combination product may not exceed any maximum dosage limits established for the individual ingredients in the applicable OTC drug monograph (53 FR 30522 at 30554). Therefore, when diphenhydramine citrate or diphenhydramine hydrochloride is labeled for both antitussive and antihistamine use, the limiting factor for directions for use for both the dosage amount and dosing interval for OTC labeling is the antitussive dosage in § 341.74(d)(1)(iv) and (d)(1)(v). However, the limiting factor for directions for use for professional labeling is the antihistamine dosage in § 341.90(j) and (k) (21 CFR 341.90(j) and (k)), respectively. As noted above, the Panel believed that the interests of consumers are best served by exposing the user of OTC drug products to the smallest number of ingredients possible at the lowest possible dosage consistent with a satisfactory level of effectiveness (41 FR 38312 at 38322).

The comment also questioned how the statements of identity, indications, and warnings required for both OTC antitussive and antihistamine drug products could be combined when the product contains diphenhydramine for concurrent antitussive and antihistamine use. The agency has determined that the labeling of such products should conform to the labeling requirements for combination drug products containing an antitussive and an antihistamine. The proposed labeling section for OTC cough-cold combinations (§ 341.85) states that the statements of identity, indications, and warnings may be combined to eliminate duplicative wording or phrases so that the resulting information is clear and understandable (53 FR 30522 at 30562).

When applied to diphenhydramine for concurrent use, the statement of identity would be ''antihistamine/cough suppressant'' or ''antihistamine/antitussive (cough suppressant).'' The indications would be combined from §§ 341.72(b) and 341.74(b). The warnings would be combined from § 341.72(c)(1), (c)(2), (c)(4), and (c)(6) and § 341.74(c)(1), (c)(2), (c)(3), and (c)(4). The warnings for diphenhydramine for antitussive use in § 341.74(c)(4) encompass all of the same warnings for diphenhydramine for antihistamine use in § 341.72(c)(1), (c)(2), (c)(4), and (c)(6). In addition, the product would need to have the required warnings for antitussive use in § 341.74(c)(1), (c)(2), and (c)(3), as applicable (depending on the ages for which the product is labeled). Thus, an easy rule to follow when using diphenhydramine citrate or diphenhydramine hydrochloride as a single ingredient for both antihistamine and antitussive use is to follow all of the warnings in § 341.74(c) of the antitussive monograph. This example illustrates how a single uniform warning results when the duplicative words or phrases from the respective warnings are eliminated.

Accordingly, the agency is proposing the following labeling for drug products that contain diphenhydramine citrate or diphenhydramine hydrochloride for concurrent antitussive and antihistamine use: *Labeling of drug products containing diphenhydramine citrate or diphenhydramine hydrochloride for concurrent antitussive and antihistamine use either as a single ingredient product or as a single ingredient in combination with other active ingredients*. The statements of identity, indications, and warnings required for antitussive and antihistamine use may be combined to eliminate duplicative words or phrases so that the resulting information is clear and understandable. The directions for OTC labeling shall follow § 341.74(d)(1)(iv) or (d)(1)(v), as applicable. The directions for professional labeling shall follow § 341.90(j) or (k), as applicable.

The agency notes that allowing the use of diphenhydramine in the same product as both an antitussive and antihistamine for treating concurrent symptoms is a new concept. Therefore, the agency would like to receive public comment on the proposed new concept and on the proposed labeling approach before marketing begins. Although the agency is proposing in this amendment to the cough-cold combination tentative final monograph to allow the use of diphenhydramine in the same product as both an antitussive and an antihistamine, OTC marketing may not begin at this time. The agency is providing a short comment period of 75 days and plans to issue a notice of enforcement policy at a later date to state whether marketing may begin prior to the issuance of the final monograph for OTC cough-cold combination drug products.

Reference

(1) Comment No. C0001, Docket No. 89P–0040, Dockets Management Branch.

IV. Summary of the Agency's Proposals for OTC Cough-Cold Combinations Containing Diphenhydramine as an Antitussive

The agency has reviewed all combinations containing an oral antitussive and/or an antihistamine that were classified as Category I, II, or III in the tentative final monograph for OTC cough-cold combination drug products (53 FR 30522 at 30556 and 30557), to clarify the use of diphenhydramine citrate and diphenhydramine hydrochloride as antitussive active ingredients in these combinations. For the convenience of the reader, the following table is included as a summary of the proposed classification changes by the agency of combinations containing an antitussive in the tentative final monograph for OTC cough-cold combination drug products (53 FR 30522 at 30556 and 30557) and the proposed classification by the agency of these combinations when the antitussive or the antihistamine active ingredient is either diphenhydramine citrate or diphenhydramine hydrochloride. Table 3 includes only

the proposed changes in classification made in § 341.40 of the cough-cold combination drug products tentative final monograph. All other combination classifications remain the same:

Table 3

Cold-Cough Combinations	Tentative Final Monograph Proposed Classification	New Proposed Classification for Dephenhydramine-Containing Combinations
Oral antitussive and expectorant (if labeled for nonproductive cough)	I	II
Oral antitussive and expectorant and oral nasal decongestant (if labeled for nonproductive cough)	I	II
Oral antitussive and bronchdilator used as an antitussive (if labeled for productive cough)	III	II
Oral antitussive and expectorant (if labeled for productive cough)	III	II
Oral antitussive and expectorant and oral nasal decongestant (if labeled for productive cough)	III	II
Analgesic-antipyretic(s) and oral antitussive and expectorant and oral nasal decongestant	III	II
Antihistamine and oral antitussive (if labeled ''May cause marked drowsiness'')	I	III
Analgesic-antipyretic(s) and oral antitussive and oral nasal decongestant and antihistamine	I	III
Antihistamine and oral antitussive and oral nasal decongestant	I	III

1. The agency is revising proposed § 341.40(d), (e), and (f) to replace the phrase ''Any single antihistamine active ingredient identified in § 341.12 * * *'' with the phrase ''any single antihistamine active ingredient identified in § 341.12(a) through (e) and (h) through (m) * * *'' to exclude the ingredients diphenhydramine citrate and diphenhydramine hydrochloride. (See section II.B.)

2. The agency is revising § 341.40(d) through (g) and (i) to replace the phrase ''Any single oral antitussive active ingredient identified in § 341.14(a) * * *'' with the phrase ''Any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(4) * * *'' to exclude the ingredients diphenhydramine citrate and diphenhydramine hydrochloride. (See sections II.A.(i) and II.B.)

3. The agency is proposing to include diphenhydramine citrate and diphenhydramine hydrochloride in combinations specified in § 341.40(h), (j), (k), (q), (u), (w), (x), and (z). (See section II.A.(ii).)

4. The agency is proposing in § 341.40(d), (e), and (f) the use of diphenhydramine citrate in §§ 341.12(f) and 341.14(a)(5) or diphenhydramine hydrochloride in §§ 341.12(g) and 341.14(a)(6) as both the antihistamine and the antitussive active ingredient provided that the product is labeled according to § 341.70.

5. The agency is revising § 341.40(f) and (k) to include the specific section numbers for allowed internal analgesic ingredients.

6. In the oral health care tentative final monograph published on September 24, 1991 (56 FR 48302), the agency redesignated the active anesthetic/analgesic ingredients previously proposed in § 356.10 as § 356.12. Accordingly, the agency is revising § 341.40(j), (q), (x), and (z) to replace the phrase ''any single oral anesthetic/analgesic active ingredient identified in § 356.10 * * *'' with the phrase ''any single oral anesthetic/analgesic active ingredient identified in § 356.12 * * *''.

7. The agency is proposing to add to § 341.70 labeling for diphenhydramine-containing drug products for concurrent antitussive and antihistamine use under the heading: *Labeling of drug products containing diphenhydramine citrate or diphenhydramine hydrochloride for concurrent antitussive and antihistamine use either as a single ingredient product or as a single ingredient in combination with other active ingredients*. (See section III.)

V. Effective Date

The agency advises that any final rule resulting from this proposed rule will be effective 12 months after its date of publication in the **Federal Register**. On or after that date, any OTC drug product that is not in compliance may not be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to the rule that is repackaged or relabeled after the effective date of the rule must be in compliance with the rule regardless of the date that the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the rule at the earliest possible date.

VI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the

proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This proposed rule clarifies the use of diphenhydramine citrate or diphenhydramine hydrochloride as an antitussive active ingredient in OTC cough-cold combination drug products and proposes marketing of either a single-ingredient or a combination drug product containing one of these ingredients for concurrent antitussive and antihistamine use. Manufacturers may market such products at their option when marketing is allowed to begin. (See marketing discussion in section III.) Accordingly, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC cough-cold combination drug products. Comments regarding the impact of this rulemaking on these drug products should be accompanied by appropriate documentation.

The agency has determined under 21 CFR 25.24(c)(6) 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.

VII. Request for Comments

Interested persons may, on or before May 9, 1995, submit to the Dockets Management Branch (address above) written comments or objections. Three copies of all comments or objections are to be submitted, except that individuals may submit one copy. Comments and objections are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments and objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 341

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 341 (as proposed in the **Federal Register** of August 12, 1988 (53 FR 30522)) be amended as follows:

PART 341—COLD, COUGH, ALLERGY, BRONCHODILATOR, AND ANTIASTHMATIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 341 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Section 341.40 is amended by revising paragraphs (d) through (k), (q), (u), (w), (x), and (z) to read as follows:

§ 341.40 Permitted combinations of active ingredients.

* * * * *

(d) Any single antihistamine active ingredient identified in § 341.12(a) through (e) and (h) through (m) may be combined with any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(4) provided that the product is labeled according to § 341.85(c)(5). Diphenhydramine citrate in §§ 341.12(f) and 341.14(a)(5) or diphenhydramine hydrochloride in §§ 341.12(g) and 341.14(a)(6) may be both the antihistamine and the antitussive active ingredient provided that the product is labeled according to § 341.70.

(e) Any single antihistamine active ingredient identified in § 341.12(a) through (e) and (h) through (m) may be combined with any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(4) and any single oral nasal decongestant active ingredient identified in § 341.20(a). Diphenhydramine citrate in §§ 341.12(f) and 341.14(a)(5) or diphenhydramine hydrochloride in §§ 341.12(g) and 341.14(a)(6) may be both the antihistamine and the antitussive active ingredient provided that the product is labeled according to § 341.70.

(f) Any single antihistamine active ingredient identified in § 341.12(a) through (e) and (h) through (m) may be combined with any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(4) and any single oral nasal decongestant active ingredient identified in § 341.20(a) and any single analgesic-antipyretic active ingredients identified in § 343.10 of this chapter, or any combination of acetaminophen with other analgesic-antipyretic active ingredients identified in § 343.20(a) of this chapter, or any aspirin and antacid combination identified in § 343.20(b)(3). Diphenhydramine citrate in §§ 341.12(f) and 341.14(a)(5) or diphenhydramine hydrochloride in §§ 341.12(g) and 341.14(a)(6) may be both the antihistamine and the antitussive active ingredient provided that the product is labeled according to § 341.70.

(g) Any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(4) may be combined with any single expectorant active ingredient identified in § 341.18.

(h) Any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(6) may be combined with any single oral nasal decongestant active ingredient identified in § 341.20(a) provided the product contains only the labeling claims identified in this paragraph.

(i) Any single oral antitussive drug ingredient identified in § 341.14(a)(1) through (a)(4) may be combined with any single oral nasal decongestant active ingredient identified in § 341.20(a) and any single expectorant active ingredient identified in § 341.18.

(j) Any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(6) may be combined with any single oral anesthetic/analgesic active ingredient identified in § 356.12 of this chapter provided that the product is available in a solid dosage form to be dissolved in the mouth and swallowed and provided the product contains only the labeling claims identified in this paragraph.

(k) Any single oral antitussive drug ingredient identified in § 341.14(a)(1) through (a)(6) may be combined with any single oral nasal decongestant active ingredient identified in § 341.20(a) and any single analgesic-antipyretic active ingredients identified in § 343.10 of this chapter, or any combination of acetaminophen with other analgesic-antipyretic active ingredients identified in § 343.20(a) of this chapter, or any aspirin and antacid combination identified in § 343.20(b)(3) provided the product contains only the labeling claims identified in this paragraph and provided the product contains only the labeling claims identified in this paragraph.

* * * * *

(q) Any single oral nasal decongestant active ingredient identified in § 341.20(a) may be combined with any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(6) and any single oral anesthetic/analgesic active ingredient identified in § 356.12 of this chapter provided that the product is available in a solid dosage form to be dissolved in the mouth and swallowed and provided the

product contains only the labeling claims identified in this paragraph.

* * * * *

(u) Any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(6) may be combined with any single oral demulcent active ingredient identified in § 356.18 of this chapter provided that the product is available in a solid dosage form to be dissolved in the mouth and swallowed and provided the product contains only the labeling claims identified in this paragraph.

* * * * *

(w) Any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(6) may be combined with any single oral nasal decongestant active ingredient identified in § 341.20(a) and any single oral demulcent active ingredient identified in § 356.18 of this chapter provided that the product is available in a solid dosage form to be dissolved in the mouth and swallowed and provided the product contains only the labeling claims identified in this paragraph.

(x) Any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(6) may be combined with any single oral anesthetic/analgesic active ingredient identified in § 356.12 of this chapter and any single oral demulcent active ingredient identified in § 356.18 of this chapter provided that the product is available in a solid dosage form to be dissolved in the mouth and swallowed and provided the product contains only the labeling claims identified in this paragraph.

* * * * *

(z) Any single oral antitussive active ingredient identified in § 341.14(a)(1) through (a)(6) may be combined with any single oral nasal decongestant active ingredient identified in § 341.20(a) and any single oral anesthetic/analgesic active ingredient identified in § 356.12 of this chapter and any single oral demulcent active ingredient identified in § 356.18 of this chapter provided that the product is available in a solid dosage form to be dissolved in the mouth and swallowed and provided the product contains only the labeling claims identified in this paragraph.

3. New § 341.70 is added to subpart C to read as follows:

§ 341.70 Labeling of drug products containing diphenhydramine citrate or diphenhydramine hydrochloride for concurrent antitussive and antihistamine use either as a single ingredient product or as a single ingredient in combination with other active ingredients.

The statements of identity, indications, and warnings required for antitussive and antihistamine use may be combined to eliminate duplicative words or phrases so that the resulting information is clear and understandable. The directions for OTC labeling shall follow § 341.74(d)(1)(iv) or (d)(1)(v), as applicable. The directions for professional labeling shall follow § 341.90(j) or (k), as applicable.

Dated: January 31, 1995.

William K. Hubbard,

Interim Deputy Commissioner for Policy.

[FR Doc. 95–4464 Filed 2–22–95; 8:45 am]

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Federal Register

Thursday
February 23, 1995

Part VII

Department of Energy

Office of Policy

10 CFR Part 600

Financial Assistance Rules: Eligibility Determination for Certain Financial Assistance Programs; Proposed Rule

DEPARTMENT OF ENERGY

Office of Policy

10 CFR Part 600

[Docket No. PO–RM–95–101]

Financial Assistance Rules: Eligibility Determination for Certain Financial Assistance Programs

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (Department or DOE) today gives notice of a proposed general statement of policy to guide DOE officials in making eligibility determinations required by section 2306 of the Energy Policy Act of 1992. The proposed general statement of policy includes procedures and interpretations related to the statutory limits placed by section 2306 on eligibility to receive financial assistance under DOE programs authorized by Titles XX through XXIII of that Act.

DATES: Written comments (9 copies) must be received by DOE on or before April 24, 1995. A public hearing will be held on April 19, 1995 beginning at 9:30 a.m. at the address listed below. Requests to speak must be received by April 17, 1995, by calling (202) 586–3012.

ADDRESSES: Written comments and requests to speak must be submitted to: Dr. Robert C. Marlay, Office of Science Policy, Office of Policy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–3012.

Telecopied comments will not be accepted. The public hearing will be held in Room 1E–245, U.S Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585. See Section V. for additional information concerning public comment procedures.

FOR FURTHER INFORMATION CONTACT: Dr. Robert C. Marlay, Office of Science Policy (Mail Stop PO–81), Office of Policy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–3900. Paul Sherry, Esq., Office of General Counsel (Mail Stop GC–61), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 586–2440.

SUPPLEMENTARY INFORMATION:

I. Background

This notice sets forth a proposed general statement of policy, including procedures and interpretations, concerning implementation of the requirements of section 2306 of the Energy Policy Act of 1992 (EPAct) (42 U.S.C. 13525). The general statement of policy, when finalized, will guide implementing DOE officials in making a special eligibility determination prerequisite to a financial assistance award to a company under Titles XX through XXIII of EPAct. Those titles relate to research, development, demonstration and commercialization programs in diverse areas of energy efficiency, energy supply, and related basic research.

The Department has decided to adopt a general statement of policy and to codify that policy in the part of the Code of Federal Regulations containing the Department's financial assistance regulations. Such a codified policy statement is needed to communicate guidance on these implementation issues to Departmental officials and potential DOE program applicants. This policy statement applies only to DOE's implementation of section 2306 of EPAct; it is not intended to apply to any other agency or to the implementation of any other statutory eligibility requirement.

The eligibility restrictions addressed in this policy statement apply to a broad range of DOE programs (see list of covered programs below), many of which pre-dated enactment of EPAct. These programs are conducted by a large number of program and contracting officials located in regional and field offices as well as DOE headquarters. This policy statement provides uniform guidance for DOE officials and for applicants to the broad array of covered programs.

Section 2306 does not require the Department to conduct a rulemaking. Further, notice and comment rulemaking is not required by law for general statements of policy. However, DOE has chosen to publish the proposed general statement of policy in the **Federal Register** in order to ensure a full opportunity for public comment and input prior to finalizing the policy.

Section 2306 provides for a two-part determination. An applicant must be found to satisfy the conditions of both parts in order to be eligible.

The first part, set out in section 2306(1), involves a finding with regard to whether an award to the applicant would be in the economic interest of the United States. 42 U.S.C. 13525(1). The statute provides some illustrative examples of the kinds of evidence that would support such a finding: Investments in the United States in research, development, and manufacturing; significant contributions to employment in the United States; and agreements, with respect to any technology arising from financial assistance provided, to promote the manufacture within the United States of products resulting from that technology and to procure parts and materials for such manufacture from competitive suppliers.

The second part of the determination, section 2306(2), involves two subparts, one of which must be satisfied. 42 U.S.C. 13525(2). The first subpart is satisfied if the applicant is a ''United States-owned company.'' The second subpart is satisfied if the applicant is found to be incorporated in the United States and the applicant's parent company is incorporated in a foreign country that: (a) Affords opportunities to United States-owned companies comparable to those afforded to any other company with regard to access to government-supported joint ventures in energy research and development; (b) affords opportunities to United States-owned companies comparable to those afforded to any other company with regard to general investment opportunities; and (c) affords adequate and effective protection to intellectual property rights owned by United States-owned companies.

None of the statutory terms used in section 2306 is defined by EPAct, and the legislative history sheds no light on the intended meaning of such terms. Consequently, the Department's proposed interpretations are based on the common usage of these terms, as informed by their usage in similar contexts.

The Department is of the view that the proposed general statement of policy sets forth a reasonable decisionmaking framework for the guidance of implementing officials. If any of the provisions of the policy would be unreasonable as applied, those officials would have the discretion to depart from its terms based upon particular facts and circumstances. Department officials must, in all cases, comply with the requirements of the statute.

II. Applicability of Eligibility Requirements

Section 2306's eligibility requirements apply to applicants for ''financial assistance under Titles XX through XXIII of this Act.'' 42 U.S.C. 13525. EPAct does not define ''financial assistance.'' Consistent with the Federal Grant and Cooperative Agreement Act of 1977, 31 U.S.C. 6301–6308, and the practices of other Executive agencies, DOE currently defines financial assistance instruments to include grants

and cooperative agreements, but not contracts and subcontracts. 10 CFR 600.3 (''financial assistance instruments are grants and cooperative agreements and subawards''). Contracts and subcontracts do not constitute financial assistance but instead provide for payment in exchange for procured products or services. *See* 31 U.S.C. 6303. Thus, the Department concludes that contracts and subcontracts, including cost-shared contracts and subcontracts, fall outside the scope of financial assistance and does not propose modifying the current definition of financial assistance in 10 CFR 600.3 for purposes of this subpart.

The Department's current definition of financial assistance also excludes cooperative research and development agreements (CRADAs). The Stevenson-Wydler Technology Innovation Act, 15 U.S.C. 3710a, which authorizes the use of CRADAs, does not authorize the transfer of funds to a CRADA participant and specifically distinguishes CRADAs from cooperative agreements. Thus any assistance provided under CRADAs would not be ''financial'' assistance as the term ordinarily is understood. We note as well that existing law governing the use of CRADAs contains a set of considerations for the selection of CRADA participants that address similar policy objectives. 15 U.S.C. 3710a(c)(4).

Section 2306 applies to financial assistance ''under Titles XX through XXIII'' of EPAct. The intended effect of this statutory phrase is ambiguous. The Department proposes to interpret the range of activities covered by section 2306 to include all Department of Energy research and development programs either mentioned specifically in the text of Titles XX through XXIII or suggested by references to similar and related research and development activities in the conference reports on the Appropriations Acts for Energy and Water Development and for Interior and Related Agencies. This includes many programs and program activities that were initiated prior to the enactment of EPAct under authority of pre-existing law. Thus, for many programs, there are now two or more authorities. Comment is requested on this interpretation.

A list of covered programs for fiscal year 1995 (FY95) is set forth in the discussion of the term ''covered program'' in section III below. This list will be updated each fiscal year and published in the **Federal Register** to account for changes in appropriated activities undertaken under Titles XX through XXIII of EPAct.

III. Section-By-Section Analysis

Today's proposed policy statement would be codified as a new subpart F in 10 CFR part 600 where the Department's general financial assistance regulations are codified. The following is a discussion of the new sections that would make up subpart F.

§ 600.500 Purpose and scope.

This section states that the subpart provides procedures and interpretations to guide DOE officials in making eligibility determinations under section 2306 of the EPAct.

§ 600.501 Definitions.

The definition section begins by alerting readers that the existing definitions in § 600.3 of the general subpart are applicable to the new subpart F. Section 600.3 contains definitions of ''applicant,'' ''cooperative agreement,'' ''financial assistance,'' ''grant,'' and ''State.''

The term ''company'' is defined to mean any for-profit business entity. The eligibility requirements of section 2306 would apply only to companies. This definition, based on common usage of the term company, is intended to include for-profit corporations, general or limited partnerships, sole proprietorships, and other forms of business entities. It is also intended to cover joint ventures involving one or more such entities. The definition does not include governmental entities, and thus such entities would not be subject to this restriction on eligibility to receive financial assistance. Moreover, the definition does not include non-profit organizations. The Department invites comment on whether it is appropriate to exclude all non-profit organizations from this definition, or whether it would be more appropriate to exclude a narrower class of educational and charitable organizations, such as organizations exempted from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The term ''covered program'' is defined in order to have a convenient term for referring to the list of activities under Titles XX through XXIII of the Energy Policy Act of 1992 to which the section 2306 eligibility restrictions apply. Set out below is the proposed list of covered programs for FY95:

COVERED PROGRAMS—FY 95

Fossil energy R & D	EPACT sections
Petroleum:	
All Programs	§ 2011, 2012
Gas:	
Natural Gas Research	§ 2013–2015, 2112
All programs, including:	
Resource & Extraction	§ 2013, 2014
Delivery & Storage	§ 2013, 2014
Utilization	§ 2013, 2014
Turbines	§ 2112
Environmental Research & Regulatory Analysis.	§ 2013, 2014
Midcontinent Energy Research Center.	§ 2013, 2015
Fuel cells:	§ 2115
All Programs, including:	
Advanced Research	§ 2115
Molten Carbonate Systems.	§ 2115
Advanced Concepts	§ 2115
Energy conservation:	
Transportation	§ 2021–2025, 2027, 2028, 2112
Alternative Fuels Utilization.	§ 2021, 2023
Materials Development	§ 2021
Heat Engine Development	§ 2021, 2112
Electric & Hybrid Propulsion Development.	§ 2021, 2025
Implementation & Deployment.	§ 2021
Management	§ 2021
Capital Equipment	§ 2021
Advanced Automotive Fuel Economy.	§ 2021, 2022
Biofuels User Facility	§ 2021, 2024
Advanced Diesel Emissions Program.	§ 2021, 2027
Telecommuting Study	§ 2021, 2028
Utility:	§ 2101
All programs.	
Industry	§ 2101–2108
All Programs, Including:	
Industrial Wastes	§ 2101
Municipal Solid Wastes	§ 2101
Cogeneration	§ 2101
Electric Drives	§ 2101, 2105
Materials and Metals Processing.	§ 2101, 2107
Other Process Efficiency	§ 2101
Process Heating & Cooling.	§ 2101, 2102
Implementation & Deployment.	§ 2101
Management	§ 2101
Capital Equipment	§ 2101
National Advanced Manufacturing Tech Initiative.	§ 2101, 2202
Pulp & Paper	§ 2101, 2103
Steel, Aluminum, and Metal Research.	§ 2101, 2106
Energy Efficient Environmental Program.	§ 2101, 2108
Buildings	§ 2101–2108
All Programs, including:	
Federal Energy Management Program.	§ 2101
Implementation & Deployment.	§ 2101

COVERED PROGRAMS—FY 95—Continued

Fossil energy R & D	EPACT sections
Management and Planning.	§ 2101
Capital Equipment	§ 2101
Advanced Buildings for 2005.	§ 2101, 2104
Building Systems	§ 2101
Building Envelope	§ 2101
Building Equipment ...	§ 2101
Codes and Standards	§ 2101
Energy Supply R & D	
Energy Research	
Fusion Energy	§ 2114
All Programs, including:	
Confinement Systems.	§ 2114
Development & Technology.	§ 2114
Applied Plasma Physics.	§ 2114
Planning & Projects.	§ 2114
Inertial Fusion Energy.	§ 2114
Program Direction-Op Exp.	§ 2114
Capital Equipment & Construction.	§ 2114
Basic Energy Sciences	§ 2203
All Activities, including: Materials Sciences.	§ 2203
Chemical Sciences.	§ 2203
Energy Biosciences.	§ 2203
Engineering & Geosciences.	§ 2203
Applied Math Sciences.	§ 2203, 2204
Advanced Energy Projects.	§ 2203
Program Direction.	§ 2203
Capital Equipment.	§ 2203
Advisory & Oversight/Program Direction.	§ 2203
Advanced Neutron Source § 2203.	
Energy Research Analysis	§ 2203
University & Science Education Programs.	§ 2203
Experimental Program to Stimulate Competitive Research.	§ 2203
Laboratory Technology Transfer.	§ 2203
Multi-Program Laboratory Support.	§ 2203
Nuclear Energy:	
Light Water Reactor	§ 2123, 2126
Advanced Reactor R & D .	§ 2121, 2122, 2124, 2126
Facilities	§ 2126
Solar & Renewables:	
Solar & Other Energy	§ 2021, 2026, 2111, 2117

COVERED PROGRAMS—FY 95—Continued

Fossil energy R & D	EPACT sections
All Programs, including:	
Photovoltaics	§ 2111
Biofuels	§ 2021, 2013, 2024, 2111
Solar Technology Transfer.	§ 2111
Program Direction—Other Solar Energy.	§ 2111
Solar Building Technology Research.	§ 2111, 2104
Solar Thermal Energy Systems.	§ 2111
Wind Energy Systems ..	§ 2111
Ocean Energy Systems	§ 2111
International Solar Energy Program.	§ 2111
Resource Assessment ..	§ 2111
Program Support	§ 2111
Geothermal	§ 2111
Hydrogen Research	§ 2026
Electric Energy Systems including: Superconductivity.	§ 2117, 2111
Energy Storage Systems ..	§ 2111
Environmental Rest & Waste Management:	
Facility Transition—Fast Flux Test Facility.	§ 2116
Civilian Waste R & D	§ 2113
Electric & Magnetic Fields Research and Public Dissemination Program.	§ 2118
Spark M. Matsunaga Renewable Energy & Ocean Technology Center.	§ 2111, 2119

The term ''parent company'' is defined as a company that exercises ultimate ownership of the applicant company. The parent company would be identified by first determining whether any company owns a majority of the applicant company's voting securities. If so, then the same test would be applied to that company, *i.e.*, does any company own a majority of that company's voting securities? The parent company would be the company that exercises control over the applicant company by means of this chain of majority stock ownership, and which itself is not subject to the majority stock ownership of any other company.

DOE would interpret the term ''parent company'' to mean the ultimate parent company as just described in order to avoid confusion in cases where an applicant company and its immediate parent are both organized in the U.S., but where the immediate parent is, in turn, owned by a company organized abroad.

The Department recognizes that there may be situations in which one company effectively controls the actions of another without owning a majority of its voting securities. However, given that the sole purpose of this inquiry into corporate lineage would be to identify the foreign country with which a non-U.S.-owned applicant can be most directly associated, this approach is felt to be both adequate and appropriate.

The definition of ''United States'' is a standard definition used in many of the Department's programs. It includes the 50 States, the District of Columbia, and all commonwealths, territories and possessions of the United States.

The term ''United States-owned company'' is a key part of section 2306(2). The Department proposes to permit an applicant to use either of two alternative definitions of this term: (1) A company that has majority ownership by individuals who are citizens of the United States, or (2) a company organized under the laws of a State that either has no parent company or has an ultimate parent company that is organized under the laws of a State.

The first alternative is based on the statutory definition of the term ''United States-owned company'' used in a similar eligibility limitation, which defines United States-owned company in terms of majority ownership or control by citizens of the United States. 15 U.S.C. 278n(j)(2). This test of ownership is based on the citizenship of individual owners or shareholders. Where an applicant company is a wholly- or majority-owned subsidiary of a parent company, or a majority of its stock is held by other corporations or institutional investors rather than individuals, the ownership analysis would be applied to these corporations or institutional investors to determine whether they are owned by individuals who are citizens of the United States.

The second alternative definition of United States-owned company is a company organized under the laws of a State that either has no parent company or has an ultimate parent organized under the laws of a State. This alternative is based on a presumption that companies incorporated or organized in the U.S. that are not majority-owned by a foreign company will not have sufficiently strong connection to any foreign country to justify using the section 2306(2)(B) reciprocity determinations. The Department will request applicants claiming to be U.S.-owned companies to make a certification to that effect.

The term ''voting security,'' which is used in the definition of parent company, is defined by reference to the statutory definition in the Public Utility Holding Company Act. 15 U.S.C. 15b(17). This broad definition includes any security that gives the holder a vote

in the direction or management of the company, such as common stock in a corporation and partnership interests in a partnership.

§ 600.502 What DOE Must Determine

This section follows the sequence of provisions of section 2306 which provide for the two mandatory elements of the eligibility determination. The first mandatory element is a finding that the applicant's participation in a particular program is in the economic interest of the United States. The second mandatory element has two alternative subparts—either (a) the company is a U.S.-owned company; or (b) the company is found to be incorporated in the U.S. and the government of the parent company's country of incorporation affords U.S.-owned companies local investment opportunities comparable to those offered to any other company on investment and access to energy research and development, and protects U.S.-owned intellectual property in that country.

In order to avoid seemingly unintended consequences in interpreting section 2306(2)(B), the Department proposes interpreting the statutory phrase ''company * * * incorporated in the United States'' to include both corporations incorporated in the U.S. and other companies, defined as for-profit business entities, organized under the laws of any State in the U.S. Thus, for example, a partnership organized under State law in the U.S. would be included. Similarly, the Department proposes interpreting the statutory phrase ''parent company which is incorporated'' in a foreign country to include both corporations and other for-profit business entities organized under foreign law.

The Department invites comment on how to make the required determination in the context of relatively small financial assistance awards. Under the proposed rule, all applicants would need to submit the same types of information and the Department would undertake the same type of determination. One possible alternative is to ask applicants for awards below $100,000 to certify that they satisfy all the eligibility requirements of section 2306(1) and (2)(a), if applicable, and to rely on such a certification unless the Department has reason to believe that further investigation is warranted. This approach would permit the Department to target its administrative resources to making eligibility determinations for larger awards, and at the same time preserve the Department's appropriate role in reviewing eligibility for smaller awards where there is reason to question an applicant's eligibility. The Department invites comment on such an alternative for small awards.

§ 600.503 Determining the economic interest of the United States.

This section provides guidelines as to information that may support an affirmative determination that a financial assistance award would be in the economic interest of the United States. Section 600.503 describes examples, based on the statute, of the type of evidence that may be considered. Section 600.503 of the general statement of policy makes it clear that any other evidence that shows that an award would be in the economic interest of the United States can be considered. Determinations concerning the economic interest of the United States will be based on consideration of all available evidence.

The evidence to be considered concerning investments or employment in the U.S. may include evidence related to affiliates of the applicant company (e.g., the parent company of an applicant corporation, the general partners in an applicant partnership). DOE will consider the facts relating to each applicant in context.

Where the applicant for financial assistance is a joint venture, DOE would apply the economic interest test of section 2306(1) to the joint venture as a whole. Under section 2306(2), however, DOE would apply the relevant tests to each company participating in the joint venture.

In evaluating whether an applicant's participation is in the economic interest of the United States, DOE may consider the activities of the applicant's contractors or suppliers or other companies that would have a significant role in the government-supported work. In determining which contractors, suppliers or other companies may be considered in assessing an applicant's eligibility, DOE would consider whether the company's participation is a factor advanced by the applicant for consideration in evaluating the merits of the application. For example, where an applicant chooses to rely on the qualifications of named component suppliers or other contractors in making an application to a covered program, the activities of any such named contractors or suppliers may be evaluated in determining whether the applicant's participation is in the economic interest of the United States.

§ 600.504 Information an applicant must submit.

This section makes clear that the burden of producing information to support an affirmative determination concerning the economic interest of the United States and the ownership status of the applicant would rest on the applicant. The allocation of this burden to the applicant is appropriate because the applicant will usually be in the best position to provide relevant information. The Department may request that information needed to make an eligibility determination be submitted with the application for financial assistance, or may specify, in the solicitation, a later stage in the process for submission of such information.

If an applicant for financial assistance proposes to demonstrate that an award is in the economic interest of the United States by asserting that it will undertake future action, such as promoting manufacture of products in the United States or procuring parts and materials from competitive suppliers, DOE will require it to provide an appropriate certification concerning such future action. In support of such certifications, the applicant should also provide a brief commercialization plan for the technology that is expected to result from the program-supported research and development. The Department expects to give considerable weight to these plans in assessing whether the applicant's participation is in the economic interest of the United States.

In order to be treated as a ''United States-owned company'' for eligibility purposes, an applicant would be required to submit an appropriate certification that it satisfies the definition in § 600.501.

The section concludes with a paragraph providing for DOE requests for information in addition to that submitted with the application for financial assistance, if necessary.

§ 600.505 Other information DOE may consider.

This section identifies certain kinds of information, in addition to the information provided by the applicant, that may be relevant in making the required findings. DOE, in making the findings required under section 2306(2)(B), intends to consult with and seek information from a number of sources, including, but not limited to, appropriate agencies of the federal government as well as publicly available information.

With respect to whether a foreign government ''affords to United States-owned companies opportunities,

comparable to those afforded to any other company, to participate in any joint venture similar to those authorized by the Act,'' DOE expects to consider the regime that governs eligibility of U.S.-owned companies seeking to participate in research and development sponsored by that government.

The DOE analysis of this issue would consider discrimination against foreign subsidiaries of U.S.-owned companies relative to any other company in providing access to research and development programs. DOE would consider both discriminatory policies and discriminatory practices. Where a foreign government does not have research and development programs comparable to those authorized by EPAct, the absence of such programs would not preclude companies headquartered in that country from participating in DOE programs.

The statutory phrase ''joint venture similar to those authorized under this Act'' has uncertain meaning given that EPAct authorizes a number of government-supported programs, but the Department has not, to date, used joint ventures per se. Given the apparent intent of the statute to promote opportunities comparable to those afforded to any other company in energy research and development programs, DOE would construe this phrase to mean government-supported research and development programs similar to those covered by section 2306.

With regard to whether a foreign country ''affords to United States-owned companies local investment opportunities comparable to those afforded to any other company,'' DOE expects to consider a review of applicable international obligations to provide to U.S. investors opportunities comparable to those offered to other companies.

With regard to protection of intellectual property rights in foreign countries, DOE expects to consider certain lists that contain relevant information prepared by other Executive agencies, such as the ''Special 301 Priority Foreign Country List,'' issued by the U.S. Trade Representative.

In making the determinations required under section 2306(2)(B), the Department expects to seek the advice of other appropriate federal agencies.

IV. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, today's action was reviewed by the Office of Information and Regulatory Affairs.

The draft of today's action and any other documents submitted to OIRA for review have been made a part of the rulemaking record and are available for public review as provided in the **ADDRESSES** section of this notice.

B. Review Under Paperwork Reduction Act

No new information collection requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, are imposed by today's regulatory action.

C. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), the Department of Energy has established regulations for its compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Pursuant to appendix A of subpart D of 10 CFR part 1021, the Department has determined that today's regulatory action is categorically exempt as a procedural rule for implementation of statutory requirements.

D. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41685 (October 30, 1987), requires that rules be reviewed for any substantial direct effect on States, on the relationship between the National Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. Today's action interprets the section 2306 eligibility requirements to be inapplicable to State applications for financial assistance. Therefore, the Department has determined that they will not have a substantial direct effect on the institutional interests or traditional functions of States.

E. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations. These requirements, set forth in section 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that regulations define key terms and are clear on such matters as exhaustion of administrative remedies and preemption. The Department certifies that today's regulatory action meets the requirements of section 2(a) and (b)(2) of Executive Order 12778.

V. Opportunity for Public Comment

A. Written Comments

Interested persons are invited to participate in this proceeding by submitting data, views, or comments with respect to today's notice.

Nine copies of written comments should be submitted to the address indicated in **ADDRESSES** section of this notice. Comments should be identified on the outside of the envelope and on the documents themselves with the designation ''Financial Assistance Rules: Eligibility Determination for Certain Financial Assistance Programs, Docket No. PO-RM–95–101.'' In the event any person wishing to provide written comments cannot provide nine copies, alternative arrangements can be made in advance with the Department.

All comments received will be available for public inspection as part of the administrative record on file for this rulemaking in the Department of Energy Freedom of Information Office Reading Room, 1E–090, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202–586–6020, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure, should submit one complete copy, as well as two copies from which the information claimed to be confidential has been deleted. The Department reserves the right to determine the confidential status of the information and to treat it accordingly under 10 CFR 1004.11.

B. Public Hearing

One public hearing will be held pursuant to this notice at the time, date and place indicated above in the **DATES** and **ADDRESSES** sections of this notice. Any person who has an interest in making an oral presentation should make a written request to speak. Such a request should be sent to the address given in the **ADDRESSES** section of this notice and must be received by 4:30 p.m. on the date specified in the **DATES** section. The person also should provide a daytime phone number where the person may be reached. Those persons requesting an opportunity to make an

oral presentation should bring nine (9) copies of their statement to the hearing.

DOE will establish the procedures governing the conduct of the hearing. The length of each presentation will be limited to ten (10) minutes. A DOE official will preside at the hearing, and may ask questions. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

If DOE must cancel the hearing, DOE will make every effort to give advance notice of the cancellation. The hearing may be cancelled in the event no requests to speak are received by the deadline for submission of such a request.

List of Subjects in 10 CFR Part 600

Administrative practice and procedure, Grant programs.

Issued in Washington, D.C., on this 17th day of February 1995.

Susan F. Tierney,

Assistant Secretary, Policy, Planning, and Program Management.

For the reasons stated in the preamble, part 600 of title 10, Subchapter H of the Code of Federal Regulations is proposed to be amended as set forth below:

Part 600—FINANCIAL ASSISTANCE RULES

1. The authority citation for part 600 continues to read as follows:

Authority: 42 U.S.C. 7254, 7256; 31 U.S.C. 6301–6308, unless otherwise noted.

2. New subpart F, consisting of §§ 600.500 through 600.505, is added to read as follows:

Subpart F—Eligibility Determination for Certain Financial Assistance Programs—General Statement of Policy

Sec.

600.500 Purpose and scope.
600.501 Definitions.
600.502 What must DOE determine.
600.503 Determining the economic interest of the United States.
600.504 Information an applicant must submit.
600.505 Other information DOE may consider.

Subpart F—Eligibility Determination for Certain Financial Assistance Programs—General Statement of Policy

§ 600.500 Purpose and scope.

This subpart implements section 2306 of the Energy Policy Act of 1992, 42 U.S.C. 13525, and sets forth a general statement of policy, including procedures and interpretations, for the guidance of implementing DOE officials in making mandatory pre-award determinations of eligibility for financial assistance under Titles XX through XXIII of that Act.

§ 600.501 Definitions.

The definitions in § 600.3 of this part are applicable to this subpart, and in addition, as used in this subpart:

Act means the Energy Policy Act of 1992.

Company means any for-profit business entity.

Covered program means a program under Titles XX through XXIII of the Act, as listed separately and updated annually by the Department of Energy for each fiscal year.

Parent company means a company that:

(1) Exercises ultimate ownership of the applicant company either directly, by ownership of a majority of that company's voting securities, or indirectly, by control over a majority of that company's voting securities through a series of one or more intermediate subsidiary companies, and

(2) Is not itself subject to the ultimate ownership control of another company.

United States means the several States, the District of Columbia, and all commonwealths, territories, and possessions of the United States.

United States-owned company means:

(1) A company that has majority ownership by individuals who are citizens of the United States, or

(2) A company organized under the laws of a State that either has no parent company or has a parent company organized under the laws of a State.

Voting security has the meaning given the term in the Public Utility Holding Company Act (15 U.S.C. 15b(17)).

§ 600.502 What must DOE determine.

A company shall be eligible to receive financial assistance only if DOE finds that—

(a) Consistent with § 600.503, the company's participation in a covered program would be in the economic interest of the United States; and

(b) The company is either—

(1) A United States-owned company; or

(2) Incorporated or organized under the laws of any State and has a parent company which is incorporated or organized under the laws of a country which—

(i) Affords to the United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under the Act;

(ii) Affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and

(iii) Affords adequate and effective protection for the intellectual property rights of United States-owned companies.

§ 600.503 Determining the economic interest of the United States.

In determining whether participation of an applicant company in a covered program would be in the economic interest of the United States under paragraph (a) of § 600.502, DOE may consider any evidence showing that a financial assistance award would be in the economic interest of the United States including, but not limited to—

(a) Investments by the applicant company and its affiliates in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States);

(b) Significant contributions to employment in the United States by the applicant company and its affiliates; and

(c) An agreement by the applicant company, with respect to any technology arising from the financial assistance being sought—

(1) To promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry); and

(2) To procure parts and materials from competitive suppliers.

§ 600.504 Information an applicant must submit.

(a) Any applicant for financial assistance in a covered program shall submit with the application for financial assistance, or at such later time as may be specified by DOE, evidence for DOE to consider in making findings required under § 600.502(a) and findings concerning ownership status under § 600.502(b).

(b) The applicant for financial assistance has the burden of producing sufficient information to warrant making each required finding under § 600.502.

(c) If an applicant for financial assistance is submitting evidence relating to future undertakings, such as an agreement under paragraph (c) of § 600.503 to promote manufacture in the United States of products resulting from a technology developed with financial assistance or to procure parts and materials from competitive suppliers, the applicant shall submit a certification affirming acceptance of these undertakings. The applicant should also

briefly describe its plans, if any, for any manufacturing of products arising from the program-supported research and development, including the location where such manufacturing is expected to occur.

(d) If an applicant for financial assistance is claiming to be a United States-owned company, the applicant must submit a certification affirming that it falls within the definition of that term provided in § 600.501.

(e) DOE may require submission of additional information deemed necessary to make any portion of the determination required by § 600.502.

§ 600.505 Other information DOE may consider.

In making the determination under paragraph (b)(2) of § 600.502, DOE may—

(a) consider information on the relevant international and domestic law obligations of the country of incorporation of the parent company of an applicant;

(b) consider information relating to the policies and practices of the country of incorporation of the parent company of an applicant with respect to:

(1) The eligibility criteria for, and the experience of United States-owned company participation in, energy-related research and development programs;

(2) Local investment opportunities afforded to United States-owned companies; and

(3) Protection of intellectual property rights of United States-owned companies;

(c) seek and consider advice from other federal agencies, as appropriate; and

(d) consider any publicly available information in addition to the information provided by the applicant.

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