AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

5-25-84
Vol. 49 No. 103
Pages 22039-22240

Federal Register

Friday
May 25, 1984

Selected Subjects

Administrative Practice and Procedure
Immigration and Naturalization Service

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Communications Common Carriers
Federal Communications Commission

Communications Equipment
Federal Communications Commission

Cotton
Agricultural Marketing Service

Food Stamps
Food and Nutrition Service

Freedom of Information
Federal Deposit Insurance Corporation

Government Procurement
General Services Administration

Government Property Management
General Services Administration

Grain
Federal Grain Inspection Service

Highway Safety
Federal Highway Administration

CONTINUED INSIDE

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

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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

Selected Subjects

Housing Standards
Housing and Urban Development Department

Insulation
Federal Trade Commission

Marketing Agreements
Agricultural Marketing Service

Medicare
Health Care Financing Administration

Motor Carriers
Interstate Commerce Commission

Pesticides and Pests
Environmental Protection Agency

Prescription Drugs
Drug Enforcement Administration

Radio Broadcasting
Federal Communications Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Television Broadcasting
Federal Communications Commission

Veterans
Veterans Administration

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 49, No. 103
Friday, May 25, 1984

The President
PROCLAMATIONS
22039 Galway's Quincentennial Year (Proc. 5198)
EXECUTIVE ORDERS
22041 Adjustments of certain rates of pay (EO 12477)
22053 Foreign missions to international organizations, transfer of reimbursement authority (EO 12478)

Executive Agencies

Actuaries, Joint Board for Enrollment
NOTICES
Meetings:
22144 Actuarial Examinations Advisory Committee

Agricultural Marketing Service
RULES
22062 Lemons grown in Ariz. and Calif.
PROPOSED RULES
Cotton:
22098 American upland; staple length standards
22100 Oranges (navel) and (Valencia) grown in Ariz. and Calif.; extension of time

Agriculture Department
See also Agricultural Marketing Service; Federal Grain Inspection Service; Food and Nutrition Service.
NOTICES
Meetings:
22116 Human Nutrition Board of Scientific Counselors

Army Department
NOTICES
22122 Privacy Act; systems of records

Arts and Humanities, National Foundation
NOTICES
Meetings:
22162 Artist in Education Advisory Panel
22162 Humanities Panel
22163 Music Advisory Panel; amendment
22163 Visual Arts Advisory Panel

Blind and Other Severely Handicapped, Committee for Purchase from
NOTICES
22116 Procurement list, 1984; additions and deletions (2 documents)

Civil Aeronautics Board
NOTICES
22117 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
Complaints filed:
22118 Pan World American Airways, Inc., et al. (2 documents)
Hearings, etc.:
22117 Coastal Air Transport, Inc.
22118 Hawaiian Pacific
22117 Ludlow Aviation, Inc.
22119 Premiere Airlines, Inc.
22119 Pride Air
22119 Sun Country Airlines, Inc.
22173 Meetings; Sunshine Act

Civil Rights Commission
NOTICES
Meetings; regional advisory committees:
22119 Mid-Atlantic
22119 Southwestern and Western
Meetings; State advisory committees:
22119 New Hampshire

Coast Guard
RULES
Bridge location and clearances:
22075 Guide clearances; permitting process

Commerce Department
See also Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration
NOTICES
Meetings:
22120 President's Commission Industrial Competitivness

Conservation and Renewable Energy Office
RULES
Consumer products:
22069 Clothes dryers and kitchen ranges, etc.; State petitions for exemption; correction

Consumer Product Safety Commission
NOTICES
22173 Meetings; Sunshine Act

Defense Department
See Army Department.

Drug Enforcement Administration
RULES
Schedules of controlled substances:
22074 Sufentanil
NOTICES
Registration applications, etc.; controlled substances:
22144 Applied Science Laboratories
22144 First State Chemical Co., Inc.

Education Department
NOTICES
Meetings:
22125 Bilingual Education National Advisory Council

Employment and Training Administration
NOTICES
Adjustment assistance:
22145 Bridgeport Brass Co. et al.
22146 General Motors Corp. et al.

Employment Standards Administration
NOTICES
22176 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ariz., Conn., Iowa, Kans., Ky., La., Minn., Nebr., N. Mex., N.Y., Oreg., Pa., R.I., and Tex.)

Energy Department
See also Conservation and Renewable Energy Office; Federal Energy Regulatory Commission; Western Area Power Administration.
RULES
22063 Administrative procedures and sanctions; restitutionary authority

Environmental Protection Agency
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
22082, 22083 Ethylene dibromide (2 documents)
PROPOSED RULES
Air programs:
22109 Ambient air quality standards and surveillance for particulate matter, etc.; extension of comments
Air quality implementation plans; approval and promulgation; various States:
22110 Illinois; correction
Water pollution control; State underground injection control programs:
22110 Washington
NOTICES
Air pollution control:
22195 Toluene; assessment as a potentially toxic air pollutant
Environmental statements; availability etc.:
22133 Agency statements; weekly receipts
Meetings:
22133 Pretreatment Implementation Review Task Force
Toxic and hazardous substances control:
22132 Premanufacture exemption applications
22133 Premanufacture notices; monthly status reports: correction
22128 Premanufacture notices receipts

Federal Aviation Administration
RULES
Airworthiness directives
22069 Canadair
22070 Standard instrument approach procedures
PROPOSED RULES
22100-22103 Transition areas (4 documents)

Federal Communications Commission
RULES
Common carrier services:
22088 Hearing impaired persons, etc.; access to telecommunications equipment; correction
22087 Jurisdictional Separations Manual; interpretation
Radio broadcasting:
22088 FM broadcast stations; antenna height in Puerto Rico and Virgin Islands
Radio services, special:
22093 Private land mobile services; U.S./Canada border area
Television broadcasting:
22089 Aural power limits, minimum
PROPOSED RULES
Common carrier services:
22114 Public mobile radio services; Austin, Tex.; air-ground stations
Communications equipment:
22112 Radio frequency devices; cordless telephones; interim provisions
Radio services, special:
22110 Maritime services; marine radar transponders and radio beacons
NOTICES
22133 Agency information collection activities under OMB review
Common carrier services:
22134 Communications Satellite Corp.; corporate structure and operations changes; correction
Hearings, etc.:
22134 Battery Creek Communications Co. et al.

Federal Deposit Insurance Corporation
RULES
22069 Freedom of Information Act; implementation

Federal Energy Regulatory Commission
NOTICES
22173 Meetings; Sunshine Act

Federal Grain Inspection Service
RULES
Grain standards:
22059 Rye

Federal Highway Administration
PROPOSED RULES
Engineering and traffic operations:
22105 Skid accident reduction program; advanced notice

Federal Home Loan Mortgage Corporation
NOTICES
22173 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
22134 Agreements filed, etc.
22173 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
22134 Community National Corp. et al.
22135 Guaranty Bancshares, Inc., et al.
22135 Norstar Bancorp Inc.
22173, 22174 Meetings; Sunshine Act (2 documents)

Federal Trade Commission
RULES
Prohibited trade practices:
22072 Carter Hawley Hale Stores, Inc.
PROPOSED RULES
Home insulation, labeling and advertising:
22104 Regulatory Flexibility Act review
NOTICES
22136 Agency information collection activities under OMB review

22136 Premerger notification waiting periods; early terminations

Fiscal Service
RULES
22075 Claims; collection by administrative offset; correction

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
22072 Monensin blocks
22073 Pyrantel pamoate tablets

Food and Nutrition Service
RULES
Food stamp program:
22055 House-to-house trade routes authorization and tougher penalties for violations

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
22120 Hawaii
22120 Tennessee

General Services Administration
RULES
22094 Acquisition regulations (GSAR); temporary
22087 Federal Information Resources Management Regulation; establishment; correction
Property management:
22085 Travel regulations; use of travel agents and travel management centers; temporary

Health and Human Services Department
See also Food and Drug Administration; Health Care Financing Administration.
NOTICES
22137 Agency information collection activities under OMB review

Health Care Financing Administration
PROPOSED RULES
Medicare:
22198 Health maintenance organizations and competitive medical plans; payment

Housing and Urban Development Department
PROPOSED RULES
22107 Interstate land sales, registration fees; correction
Minimum property, standards:
22106 Poly(vinyl chloride) (PVC) window units (Materials Bulletin No. 85)
NOTICES
Authority delegations:
22137 Field Office Staff; direct endorsement program, approval and sanctioning of mortgagees

Immigration and Naturalization Service
RULES
22063 Reentry permits revalidation

Interior Department
See Land Management Bureau; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
NOTICES
Meetings:
22172 Commissioner's Advisory Group

International Trade Administration
NOTICES
Antidumping:
22121 Barium carbonate from China; postponement
22121 Carbon steel wire rod from Argentina; postponement

Interstate Commerce Commission
RULES
Rail carriers:
22095 Agricultural commodities; exemption; correction
Tariffs and schedules:
22095 Freight forwarders and motor carriers; required notice period reduced for independent rate filings
NOTICES
22140 Agency information collection activities under OMB review
Motor carriers:
22140 Compensated intercorporate hauling operations; intent to engage in
Rail carriers:
22142 Tank car allowance system investigation; interim modification
22143 Waybill data; release for use in preparing bids for Conrail acquisition
Railroad operation, acquisition, construction, etc.:
22141 Illinois Central Gulf Railroad Co.
Railroad services abandonment:
22142 Atchison, Topeka & Santa Fe Railway Co. (2 documents)
22143 Illinois Central Gulf Railroad Co.

Justice Department
See Drug Enforcement Administration; Immigration and Naturalization Service; Juvenile Justice and Delinquency Prevention Office.

Juvenile Justice and Delinquency Prevention Office
NOTICES
Meetings:
22145 Juvenile Justice and Delinquency Prevention National Advisory Committee; agenda modification

Labor Department
See also Employment and Training Administration; Employment Standards Administration, Pension and Welfare Benefit Programs Office.
NOTICES
22145 Agency information collection activities under OMB review

Land Management Bureau
RULES
Public land orders:
22087 Washington
NOTICES
22138 Agency information collection activities under OMB review
Airport leases:
22138 Nevada

Meetings:
22138 Helicopter use in wild horse gatherings

National Aeronautics and Space Administration
NOTICES
Meetings;
22162 Informal Earth System Sciences Committee

National Credit Union Administration
NOTICES
22174 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
22096 Ocean salmon off coasts of Calif., Oreg., and Wash; correction

National Transportation Safety Board
NOTICES
22163 Rail Train collision investigation; hearing

Nuclear Regulatory Commission
NOTICES
Abnormal occurrence reports:
22166 Emergency diesel generator problems and radiographer overexposure
22169 Agency information collection activities under OMB review
Applications, etc.:
22163, 22164 Carolina Power & Light Co. (2 documents)
22165 Chem-Nuclear Systems, Inc.
22168 Mississippi Power & Light Co. et al.
22168 National Bureau of Standards
22169 Union Carbide Corp.
Meetings:
22166 Three Mile Island Unit 2 Decontamination Advisory Panel

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
Meetings:
22169 River Assessment Task Force

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; class exemptions:
22157 Insurance company pooled separate accounts; recapture of brokerage commissions
Employee benefit plans; prohibition transaction exemptions:
22147 Chatham Steel Corp. et al.
22159 Teamsters Pension Trust Fund of Philadelphia and Vicinity et al.
Meetings:
22147 Employee Welfare and Pension Benefit Plans Advisory Council

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
22138 Stagecoach Project, Oak Creek, Routt County, Colo.

State Department
NOTICES
Meetings:
22170 Fine Arts Committee
22170 International Investment, Technology, and Development Advisory Committee (2 documents)
22170 International Radio Consultative Committee
22170 Oceans and International Environmental and Scientific Affairs Advisory Committee
22171 UNESCO Monitoring Panel

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Abandoned mine land reclamation program; plan submissions:
22108 Ohio
NOTICES
Abandoned mine land reclamation program; grant applications:
22139 Wyoming

Transportation Department
see Coast Guard; Federal Aviation Administration; Federal Highway Administration;

Treasury Department
See also Fiscal Service; Internal Revenue Service.
NOTICES
22171 Tax reform, fundamental and simplification study; meetings and inquiry

United States Information Agency
NOTICES
22172 International exchange programs evaluators; correction

Veterans Administration
RULES
Loan guaranty
22080 Manufactured housing loans; guaranty claims computation

Western Area Power Administration
NOTICES
Transmission rate adjustments:
22126 Central Valley Project, Calif.

Separate Parts in This Issue

Part II
22176 Department of Labor; Employment Standards Administration, Wage and Hour Division

Part III
22195 Environmental Protection Agency

Part IV
22198 Department of Health and Human Services, Health Care Financing Administration

---

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Executive Orders:

12456 (Amended by EO 12477)..... 22041
12477..... 22041
12478..... 22053

Proclamations:

5198..... 22039

7 CFR

271..... 22055
278..... 22055
279..... 22055
810..... 22059
910..... 22062

Proposed Rules:

28..... 22098
907..... 22100
908..... 22100

8 CFR

223..... 22063

10 CFR

Ch. II..... 22063
430..... 22069

12 CFR

309..... 22069

14 CFR

39..... 22069
97..... 22070

Proposed Rules:

71 (4 documents)..... 22100–22103

16 CFR

13..... 22072

Proposed Rules:

460..... 22104

21 CFR

520 (2 documents)..... 22072, 22073
1308..... 22074

23 CFR

Proposed Rules:

628..... 22105

24 CFR

Proposed Rules:

200..... 22106
1710..... 22107

30 CFR

Proposed Rules:

935..... 22108

31 CFR

390..... 22075

33 CFR

Ch. I..... 22075

38 CFR

36..... 22080

40 CFR

180 (2 documents)..... 22082, 22083

Proposed Rules:

50..... 22109
52..... 22110
53..... 22109
58..... 22109
145..... 22110

41 CFR

Ch. 101..... 22085
201–1..... 22087
201–4..... 22087
201–35..... 22087
201–36..... 22087
201–37..... 22087

42 CFR

Proposed Rules:

405..... 22198
417..... 22198

43 CFR

Public Land Orders:

6539..... 22087

47 CFR

67..... 22087
68..... 22088
73 (2 documents)..... 22088, 22089
90..... 22093

Proposed Rules:

2..... 22110
15..... 22112
22..... 22114
83..... 22110

48 CFR

Ch. 5..... 22094

49 CFR

1039..... 22095
1309..... 22095
1310..... 22095

50 CFR

661..... 22096

Federal Register
Vol. 49, No. 103
Friday, May 25, 1984

Presidential Documents

Title 3—

The President

Proclamation 5198 of May 23, 1984

Galway's Quincentennial Year, 1984

By the President of the United States of America

A Proclamation

Many Americans trace their heritage directly to Ireland. All Americans have benefitted greatly from the distinctive Irish cultural contribution, plus the creativity and enduring effort of Irish people from colonial days to the present.

Many Americans have a special affection for a city on Ireland's western shore, Galway, which this year celebrates its Quincentennial as a mayoral city. For many Americans, the song "Galway Bay" has a special place in their hearts. Even those not of Irish extraction are aware that this song encapsulates a bit of the history of Ireland and its proud culture, and serves as a reminder of what separation from a beloved land meant to many Irish emigrants in the United States.

The area of Galway has been inhabited since the thirteenth century. A Franciscan monastic centre was established in 1291 and served as a focus for scholarship and religious activities. The town grew in prominence, and its chief officer was granted the rank of Mayor in 1484. Historically, Galway's relative geographical isolation from the central seat of English power fostered a spirit of independence, which it has nurtured to this day. Galway's importance as an international trading center gave medieval Galway a cosmopolitan flavor, perhaps unique in Ireland. Tradition has it that Christopher Columbus and many other explorers visited Galway on one of their voyages.

Medieval Galway developed into a de facto city-state, ruled by a merchant oligarchy, the famous "tribes." Galway's history is a rich one involving trading and cultural contributions from many nations and the more direct impact of the Normans and the English. Pre-Cromwellian Galway became an imporant seat of learning, boasting the famous free school founded by the Lynch family. This was swept away in the havoc caused by Cromwell's forces in 1652 and marked the end of Galway's Golden Age.

The Williamite wars, brought to an end by the Treaty of Limerick in 1691, added further to the decline of the city. The greatest calamity of all to befall the city was the great famine of 1846–47, which seemed to mark the end and to relegate the city to the level of country town. The Seaport, which had once rung with the laughter of many tongues in better days, now echoed with the wails of country- and city-folk alike as they left the city for the last time on board the dreaded coffin ships headed for North America.

The darkness of the nineteenth century gave way to a century bright with prospects for the city of Galway. The new Irish state encouraged Galway's growth as a university city and industrial center, and once again the city began to expand and develop. Today, Galway is a modern and thriving city, a center of culture, learning and industry. The "city of the tribes," which has given so much to Irish culture and history, rightly enjoys the admiration of all who have a special affection for Ireland.

NOW, THERFORE, I, RONALD REAGAN, President of the United States of America, do hereby recognize Galway's Quincentennial Year, 1984. I call upon the people of the United States to join in celebrating and honoring Galway's Quincentennial with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of May, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-14286
Filed 5-23-84; 4:21 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12477 of May 23, 1984

Adjustments of Certain Rates of Pay

By the authority vested in me as President by the Constitution and laws of the United States of America, and in accordance with section 202 of the Omnibus Budget Reconciliation Act of 1983, it is hereby ordered as follows:

Section 1. Executive Order No. 12456 of December 30, 1983, is amended by replacing the schedules attached thereto with the corresponding new schedules attached hereto.

Sec. 2. The adjustments of rates of pay made by section 1 of this Order are effective on the first day of the first applicable pay period beginning on or after January 1, 1984.

Ronald Reagan

THE WHITE HOUSE,
May 23, 1984.

Billing code 3195-01-M

Schedule 1 - THE GENERAL SCHEDULE

	1	2	3	4	5	6	7	8	9	10
GS-1	$9,023	$9,324	$9,624	$9,924	$10,224	$10,400	$10,697	$10,995	$11,008	$11,283
2	10,146	10,386	10,722	11,008	11,129	11,456	11,783	12,110	12,437	12,764
3	11,070	11,439	11,808	12,177	12,546	12,915	13,284	13,653	14,022	14,391
4	12,427	12,841	13,255	13,669	14,083	14,497	14,911	15,325	15,739	16,153
5	13,903	14,366	14,829	15,292	15,755	16,218	16,681	17,144	17,607	18,070
6	15,497	16,014	16,531	17,048	17,565	18,082	18,599	19,116	19,633	20,150
7	17,221	17,795	18,369	18,943	19,517	20,091	20,665	21,239	21,813	22,387
8	19,073	19,709	20,345	20,981	21,617	22,253	22,889	23,525	24,161	24,797
9	21,066	21,768	22,470	23,172	23,874	24,576	25,278	25,980	26,682	27,384
10	23,199	23,972	24,745	25,518	26,291	27,064	27,837	28,610	29,383	30,156
11	25,489	26,339	27,189	28,039	28,889	29,739	30,589	31,439	32,289	33,139
12	30,549	31,567	32,585	33,603	34,621	35,639	36,657	37,675	38,693	39,711
13	36,327	37,538	38,749	39,960	41,171	42,382	43,593	44,804	46,015	47,226
14	42,928	44,359	45,790	47,221	48,652	50,083	51,514	52,945	54,376	55,807
15	50,495	52,178	53,861	55,544	57,227	58,910	60,593	62,276	63,959	65,642
16	59,223	61,197	63,171	65,145	67,119*	69,093*	71,067*	73,041*	75,015*	
17	69,376*	71,689*	74,002*	76,315*	78,628*					
18	81,311*									

* The rate of basic pay payable to employees at these rates is limited to the rate payable for level V of the Executive Schedule, which is $66,400.

Schedule 2 - THE FOREIGN SERVICE SCHEDULE

	1	2	3	4	5	6	7
Class 1	$50,495	$52,010	$53,570	$55,177	$56,833	$58,538	$60,294
2	40,916	42,143	43,408	44,710	46,051	47,433	48,856
3	33,154	34,149	35,173	36,228	37,315	38,435	39,588
4	26,864	27,670	28,500	29,355	30,236	31,143	32,077
5	21,768	22,421	23,094	23,786	24,500	25,235	25,992
6	19,460	20,044	20,645	21,264	21,902	22,559	23,236
7	17,397	17,919	18,456	19,010	19,580	20,168	20,773
8	15,552	16,019	16,499	16,994	17,504	18,029	18,570
9	13,903	14,320	14,750	15,192	15,648	16,117	16,601

	8	9	10	11	12	13	14
Class 1	$62,102	$63,966	$65,642	$65,642	$65,642	$65,642	$65,642
2	50,322	51,831	53,386	54,988	56,637	58,336	60,087
3	40,775	41,998	43,258	44,556	45,893	47,270	48,688
4	33,039	34,031	35,051	36,103	37,186	38,302	39,451
5	26,772	27,575	28,402	29,254	30,132	31,036	31,967
6	23,933	24,651	25,391	26,153	26,937	27,745	28,578
7	21,396	22,038	22,699	23,380	24,082	24,804	25,548
8	19,127	19,701	20,292	20,901	21,528	22,173	22,839
9	17,099	17,612	18,140	18,684	19,245	19,822	20,417

Schedule 3 - DEPARTMENT OF MEDICINE AND SURGERY SCHEDULES, VETERANS ADMINISTRATION

	Minimum	Maximum
Sec. 4103 Schedule:		
Chief Medical Director	(Single rate)	$91,183 1/
Deputy Chief Medical Director	(Single rate)	87,470 2/
Associate Deputy Chief Medical Director	(Single rate)	83,780 3/
Assistant Chief Medical Director	(Single rate)	81,311 3/
Medical Director	$69,376 3/	78,628 3/
Director of Nursing Service	69,376 3/	78,628 3/
Director of Podiatric Service	59,223	75,015 3/
Director of Chaplain Service	59,223	75,015 3/
Director of Pharmacy Service	59,223	75,015 3/
Director of Dietetic Service	59,223	75,015 3/
Director of Optometric Service	59,223	75,015 3/
Physician and Dentist Schedule:		
Director grade	$59,223	$75,015 3/
Executive grade	54,685	71,092 3/
Chief grade	50,495	65,642
Senior grade	42,928	55,807
Intermediate grade	36,327	47,226
Full grade	30,549	39,711
Associate grade	25,489	33,139

1/ Notwithstanding the rate shown, the maximum rate payable at this level may not exceed $71,100, which is the rate payable for level III of the Executive Schedule.

2/ Notwithstanding the rate shown, the maximum rate payable at this level may not exceed $69,900, which is the rate payable for level IV of the Executive Schedule.

3/ Notwithstanding the rates shown, the maximum rate payable at these levels may not exceed $66,400, which is the rate payable for level V of the Executive Schedule.

Schedule 3 - DEPARTMENT OF MEDICINE AND SURGERY SCHEDULES, VETERANS ADMINISTRATION (continued)

	Minimum	Maximum
Nurse Schedule:		
Director grade	$50,495	$65,642
Assistant Director grade	42,928	55,807
Chief grade	36,327	47,226
Senior grade	30,549	39,711
Intermediate grade	25,489	33,139
Full grade	21,066	27,384
Associate grade	18,129	23,565
Junior grade	15,497	20,150
Clinical podiatrist and optometrist schedule:		
Chief grade	$50,495	$65,642
Senior grade	42,928	55,807
Intermediate grade	36,327	47,226
Full grade	30,549	39,711
Associate grade	25,489	33,139

Schedule 4 - SENIOR EXECUTIVE SERVICE SCHEDULE

ES-1	$59,223
ES-2	61,615
ES-3	64,008
ES-4	66,400
ES-5	68,150
ES-6	69,900

Schedule 5 - PAY AND ALLOWANCES OF THE UNIFORMED SERVICES
Part 1 - Monthly Basic Pay
(Years of service computed under 37 U.S.C. 205)

Pay Grade	Commissioned Officers						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
0-10 1/.....	$4874.40	$5046.00	$5046.00	$5046.00	$5046.00	$5239.50	$5239.50
0-9.....	4320.30	4433.40	4527.60	4527.60	4527.60	4642.80	4642.80
0-8.....	3912.90	4030.20	4125.90	4125.90	4125.90	4433.40	4433.40
0-7.....	3251.40	3472.50	3472.50	3472.50	3627.90	3627.90	3838.50
0-6.....	2409.90	2647.80	2821.20	2821.20	2821.20	2821.20	2821.20
0-5.....	1927.50	2263.50	2419.50	2419.50	2419.50	2419.50	2493.30
0-4.....	1624.50	1978.20	2110.50	2110.50	2149.20	2244.60	2397.30
0-3 2/.....	1509.90	1687.80	1804.20	1996.50	2091.90	2167.50	2284.20
0-2 2/.....	1316.40	1437.60	1727.10	1785.30	1822.80	1822.80	1822.80
0-1 2/.....	1143.00	1189.80	1437.60	1437.60	1437.60	1437.60	1437.60

Pay Grade	Commissioned Officers						
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
0-10 1/.....	$5640.60*	$5640.60*	$6044.10*	$6044.10*	$6448.50*	$6448.50*	$6850.80*
0-9.....	4836.00	4836.00	5239.50	5239.50	5640.60*	5640.60*	6044.10*
0-8.....	4642.80	4642.80	4836.00	5046.00	5239.50	5449.50	5449.50
0-7.....	3838.50	4030.20	4433.40	4737.90	4737.90	4737.90	4737.90
0-6.....	2821.20	2916.90	3378.30	3551.10	3627.90	3838.50	4163.10
0-5.....	2627.10	2802.90	3012.60	3185.70	3282.00	3396.60	3396.60
0-4.....	2532.30	2647.80	2763.90	2840.40	2840.40	2840.40	2840.40
0-3 2/.....	2397.30	2456.40	2456.40	2456.40	2456.40	2456.40	2456.40
0-2 2/.....	1822.80	1822.80	1822.80	1822.80	1822.80	1822.80	1822.80
0-1 2/.....	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60

* Basic pay is limited to the rate of basic pay payable for level V of the Executive Schedule, which is $5,533.20 per month.

1/ While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is $7,558.80* regardless of cumulative years of service computed under sec. 205 of title 37 of the United States Code.

2/ Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members and/or as warrant officers.

(Years of service computed under 37 U.S.C. 205)

Pay Grade	Over 4	Over 6	Over 8	Over 10	Over 12		
Commissioned officers who have been credited with over 4 years active duty as an enlisted member and/or as a warrant officer:							
O-3.....	$1996.50	$2091.90	$2167.50	$2284.20	$2397.30		
O-2.....	1785.30	1822.80	1880.40	1978.20	2053.80		
O-1.....	1437.60	1535.70	1592.40	1650.00	1707.30		
	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	
O-3.....	$2493.30	$2493.30	$2493.30	$2493.30	$2493.30	$2493.30	
O-2.....	2110.50	2110.50	2110.50	2110.50	2110.50	2110.50	
O-1.....	1785.30	1785.30	1785.30	1785.30	1785.30	1785.30	
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
Warrant Officers:							
W-4.....	$1538.10	$1650.00	$1650.00	$1687.80	$1764.60	$1842.30	$1919.70
W-3.....	1398.00	1516.50	1516.50	1535.70	1554.00	1667.70	1764.60
W-2.....	1224.60	1324.50	1324.50	1363.20	1437.60	1516.50	1573.80
W-1.....	1020.30	1169.70	1169.70	1267.20	1324.50	1381.50	1437.60
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
W-4.....	$2053.80	$2149.20	$2224.80	$2284.20	$2358.30	$2437.20	$2627.10
W-3.....	1822.80	1880.40	1936.80	1996.50	2073.90	2149.20	2224.80
W-2.....	1631.40	1687.80	1746.90	1804.20	1861.50	1936.80	1936.80
W-1.....	1497.30	1554.00	1611.30	1667.70	1727.10	1727.10	1727.10

(Years of service computed under 3 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
Enlisted members:							
E-9 1/.....	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1788.90
E-8.....	0.00	0.00	0.00	0.00	0.00	1500.60	1543.20
E-7.....	1047.60	1130.70	1173.00	1213.80	1255.50	1295.10	1336.80
E-6.....	901.20	982.50	1023.60	1067.10	1106.40	1146.90	1188.90
E-5.....	791.10	861.00	902.70	942.00	1003.80	1044.60	1086.30
E-4.....	738.00	779.10	824.70	888.90	924.00	924.00	924.00
E-3.....	695.10	732.90	762.60	792.90	792.90	792.90	792.90
E-2.....	668.70	668.70	668.70	668.70	668.70	668.70	668.70
E-1>4 2/.....	596.40	596.40	596.40	596.40	596.40	596.40	596.40
E-1<4 3/.....	573.60	573.60	573.60	573.60	573.60	573.60	573.60

	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
E-9 1/.....	$1829.70	1871.10	1914.00	1956.60	1994.70	2099.70	2303.70
E-8.....	1583.70	1625.10	1668.00	1706.40	1748.40	1851.00	2057.70
E-7.....	1378.20	1440.60	1481.40	1523.10	1542.90	1646.40	1851.00
E-6.....	1250.10	1289.40	1331.10	1351.20	1351.20	1351.20	1351.20
E-5.....	1126.20	1146.90	1146.90	1146.90	1146.90	1146.90	1146.90
E-4.....	924.00	924.00	924.00	924.00	924.00	924.00	924.00
E-3.....	792.90	792.90	792.90	792.90	792.90	792.90	792.90
E-2.....	668.70	668.70	668.70	668.70	668.70	668.70	668.70
E-1>4 2/.....	596.40	596.40	596.40	596.40	596.40	596.40	596.40
E-1<4 3/.....	573.60	573.60	573.60	573.60	573.60	573.60	573.60

1/ While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $2,800.20 regardless of cumulative years of service computed under Sec. 205 of title 37 of the United States Code.

2/ Applies to personnel who have served 4 months or more on active duty.

3/ Applies to personnel who have served less than 4 months on active duty.

Part II -- Basic Allowance for Subsistence Rates

Officers (per month).....	$102.10	
Enlisted Members (per day):		
	E-1 (less than 4 months) 1/	All Other Enlisted
When on leave or authorized to mess separately:.....	$4.68	$4.87
When rations in-kind are not available:.....	$5.29	$5.50
When assigned to duty under emergency conditions where no messing facilities of the United States are available:.....	$7.00	$7.28

1/ Applies to personnel who have served less than 4 months on active duty.

Part III - Monthly Basic Allowance For Quarters Rates

Pay grade	Without dependents		With dependents
	Full rate 1/	Partial rate 2/	
Commissioned officers:			
0-10	$528.90	$50.70	$661.80
0-9	528.90	50.70	661.80
0-8	528.90	50.70	661.80
0-7	528.90	50.70	661.80
0-6	474.90	39.60	579.00
0-5	437.70	33.00	527.10
0-4	389.70	26.70	470.10
0-3	342.60	22.20	422.70
0-2	297.60	17.70	376.20
0-1	232.50	13.20	302.40
Warrant officers:			
W-4	$375.30	$25.20	$453.30
W-3	334.80	20.70	412.80
W-2	291.00	15.90	370.80
W-1	262.80	13.80	340.50
Enlisted members:			
E-9	$283.20	$18.60	$398.70
E-8	261.00	15.30	368.10
E-7	222.00	12.00	342.60
E-6	201.90	9.90	315.30
E-5	194.10	8.70	289.80
E-4	171.00	8.10	254.70
E-3	153.00	7.80	222.00
E-2	135.00	7.20	222.00
E-1>4 3/	127.50	6.90	222.00
E-1<4 4/	122.70	6.90	213.60

1/ Payment of the full rate of basic allowance for quarters at these rates to members of the uniformed services without dependents is authorized by 37 U.S.C. and part IV of Executive Order 11157, as amended.

2/ Payment of the partial rate of basic allowance for quarters at these rates to members of the uniformed services without dependents who, under 37 U.S.C. 403(b) or 403(c), are not entitled to the full rate of basic allowance for quarters, is authorized by 37 U.S.C. 1009(d) and part IV of Executive Order 11157, as amended.

3/ Applies to personnel who have served 4 months or more on active duty.

4/ Applies to personnel who have served less than 4 months on active duty.

Schedule 6 - VICE PRESIDENT AND THE EXECUTIVE SCHEDULE

Vice President	$94,600
Level I	83,300
Level II	72,600
Level III	71,100
Level IV	69,900
Level V	66,400

Schedule 7 - CONGRESSIONAL SALARIES

Senator	$72,600
Member of the House of Representatives	72,600
Delegate to the House of Representatives	72,600
Resident Commissioner from Puerto Rico	72,600
President pro tempore of the Senate	82,100
Majority leader and minority leader of the Senate.	82,100
Majority leader and minority leader of the House of Representatives	82,100
Speaker of the House of Representatives	94,600

Schedule 8 - JUDICIAL SALARIES

Chief Justice of the United States	$100,700*
Associate Justices of the Supreme Court	96,700*
Circuit Judges	77,300*
District Judges	73,100*
Judges of the Court of International Trade	73,100*
Judges of the United States Claims Court	67,800
Referees in Bankruptcy (full-time) or Bankruptcy Judges	66,100
Referees in Bankruptcy (part-time) (maximum rate).	33,100

*Under section 140 of Public Law 97-92 (95 Stat. 1200), salaries for Federal judges and Justices of the Supreme Court are not increased.

[FR Doc. 84-14287
Filed 5-23-84; 4:22 pm]
Billing code 6325-01-C

Presidential Documents

Executive Order 12478 of May 23, 1984

Transfer of Authority to the Secretary of State To Make Reimbursements for Protection of Foreign Missions to International Organizations

By authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Act of December 31, 1975, Public Law 94–196 (89 Stat. 1109), codified as sections 202(7) and 208(a) of Title 3, United States Code, as amended, it is hereby ordered as follows:

Section 1. There is transferred to the Secretary of State authority to determine the need for and to approve terms and conditions of the provision of reimbursable extraordinary protective activities for foreign diplomatic missions pursuant to section 202(7), and the authority to make reimbursements to State and local governments for services, personnel, equipment, and facilities pursuant to section 208(a) of Title 3, United States Code;

Sec. 2. There are transferred to the Secretary of State such unexpended moneys as may have been appropriated to the Department of the Treasury for the purpose of permitting reimbursements to be made under the provisions of section 208(a) of Title 3, United States Code;

Sec. 3. The authority transferred pursuant to this Order shall be exercised in coordination with protective security programs administered by the Secretary of State under the Foreign Missions Act of 1982; authority available under that Act may also be applied to any foreign mission to which section 202(7) applies; and

Sec. 4. This Order shall be effective on October 1, 1984.

Ronald Reagan

THE WHITE HOUSE,
May 23, 1984.

[FR Doc. 84–14288
Filed 5–23–84; 4:23 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 49, No. 103
Friday, May 25, 1984

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 278, and 279

[Amdt. No. 236]

Food Stamp Program; Authorizing House-to-House Trade Routes, and Tougher Penalties for Firms Which Break the Rules

AGENCY: Food Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This Food Stamp Program rule makes final an interim rule which establishes stricter guidelines for the authorization of house-to-house trade routes for participation in the Food Stamp Program, and tougher penalties for authorized firms which are sanctioned for violating program regulations. This rule is based on provisions of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253), and is designed to help control program losses through changes in the treatment of program violators and a closer monitoring of firms authorized for participation. Interim authorization criteria for house-to-house trade routes, and criteria for tougher penalties were published interim and became effective on December 17, 1982. Comments were solicited on the interim procedures, and this final action addresses significant issues raised by the commenters.

EFFECTIVE DATE: a. The following paragraphs are effective June 25, 1984 in § 271.2, the definition for "House-to-house trade route"; in § 278.1, paragraph (h); in § 278.6, paragraph (a), introductory paragraphs of (e) and paragraphs (e)(1), (e)(1)(i), (e)(2)(iii), (e)(2)(iv), (e)(3)(ii), (e)(4), and (g)(3); in § 278.8, paragraph (a), (b) and (c); in § 279.5, paragraph (a) and introductory text of (c); in § 279.6, paragraph (b); and in § 279.7, paragraph (a).

b. All other paragraphs are effective retroactive to December 17, 1982, the effective date of the interim rules published on that date at 47 FR 56469.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Issuance and Benefit Delivery Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756–3461.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291. The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512–1. The rule will affect the economy by less than $100 million a year. The rule will not significantly raise costs or prices for consumers, industries, government agencies or geographic regions. There will not be significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified the rule as "not major".

Regulatory Flexibility Act. This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96–354. Robert E. Leard, Administrator of the Food and Nutrition Service (FNS), has certified that this action will not have a significant economic impact on a substantial number of small entities.

Recordkeeping Requirements. This rule contains no reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Amendments and Analysis

On December 17, 1982, the Department published in the **Federal Register** at 47 FR 56469 an interim rule specifying revised criteria for the authorization of house-to-house trade routes, and new penalties for violations by all authorized firms, both retail and wholesale. All comments received on the interim rule are being considered in the formulation of this final rule.

1. *House-to-house trade routes.* Section 165 of Pub. L. 97–253 requires the Department to limit the participation of house-to-house trade routes to those that are "reasonably necessary to provide adequate access to households" in those areas in which the Secretary, in consultation with the Inspector General, finds evidence that route operations damage the program's integrity.

The term "house-to-house trade route" includes milk routes, bread routes, and mobile markets or "rolling stores". All of these entities have the ability to move easily from place to place. As a result, their compliance with program requirements is hard to monitor. Therefore, the Department in the interim rules applied the restriction specified in the Act to all firms which fit the statutory definition of house-to-house trade route. Due to previous flagrant abuse of program regulations by some trade route operators, and the difficulty in monitoring compliance, the Department feels that strengthened authorization criteria and increased supervision of such firms are required. Trade route operations are to be visually checked for existence initially, and semi-annually checked to ensure that they continue to qualify. The authorization of trade routes is to be limited in those areas where their operation is determined to be damaging to the program's integrity to those routes needed by participating households to obtain food. Previous policy gave approximately the same consideration and attention to trade routes as given to stationary firms.

Three commenters voiced support for the limited participation of house-to-house trade routes, and agreed that the stricter authorization requirements, including vehicle inspection, should remain. Without any clarification, two commenters expressed concern that the amendment would cripple many small legitimate route businesses through added expense and requirements. However, our amended requirement will not create an undue burden nor impose an additional cost to those firms affected. The amendment has been reworded to improve clarity, but otherwise remains as stated in the interim rules. (278.1(h))

2. *Definitions.* The Department in the interim rules replaced the term "firm's policy" with "firm's practice". A finding of "firm's practice" allows imposition of

an enhanced sanction against a firm. At least one court has interpreted "policy" to mean written instructions from store management to violate program regulations. The term "firm's practice" will allow FNS to enhance a sanction if the stated criteria for a finding of "firm's practice" exist. The inference that it must be the expressed policy of the firm to violate the Act is removed. Commenters were concerned that the change to "firm's practice" would make management responsible for food stamp violations committed by any employee. Inclusion of the new term does not change the Department's use of this concept as a criterion for enhanced administrative sanction against a firm which violates the regulations in a particular manner; rather, the modification maintains a long-standing concept. The amendment remains as stated in the interim rules. (271.2)

The Department in the interim rules added a definition for "trafficking", to mean the buying or selling of food coupons or Authorization to Participate (ATP) cards for cash. One commenter felt that we should make a clear distinction between trafficking and discounting, having the former refer to the buying and selling of any items not normally found in a food store, such as automobiles and drugs, and establishing dollar figures and ratios for discounting; another commenter felt that there should be no difference between the terms, but that there should be specific dollar amounts and ratios established. To avoid unnecessary complexity and to aid in the Department's issuance of equitable sanctions against violators, the interim definition is retained. However, the Department is considering the possibility of expanding the definition of trafficking and may in the future propose a new definition for public comment. (271.2)

3. *Disqualification of retail food stores and wholesale food concerns and imposition of civil money penalties in lieu of disqualifications.* Section 175 of Pub. L. 97-253 prescribes minimum disqualification periods for firms which violate the Food Stamp Act or the regulations. It mandates that firms be disqualified for from 6 months to 5 years as a first sanction; for from 1 year to 10 years as a second sanction; and permanently as a third sanction, or as a sanction for trafficking in coupons or Authorization to Participate (ATP) cards. The interim regulations (§ 278.6(e)) list the new periods of disqualification and the criteria which will be used to determine which period of disqualification is to be imposed. The sliding scale of disqualification periods is designed to enhance the sanctions of those firms which commit very serious violations and which have been previously advised by FNS that violations were occurring, firms whose practice is to violate, and firms which have been sanctioned previously.

This provision of the proposed amendment drew the most comment. Of the 14 comments received, seven dealt primarily with this issue, and stated that the increased penalties, in both time and dollar amount, are excessive and will cause a hardship on small stores. Another commenter felt that the increased penalties will force some owners to "sell" to avoid disqualification, while another trade association expressed support for the Department's decision to not count a warning letter as a sanction. One trade association felt that permanent disqualification is too severe a penalty for trafficking. The Department is unable to alter the penalties since the law requires specific periods for certain violations.

One food trade association supported the increase in the maximum civil money penalty (CMP) per violation. Another food trade association felt that the increase in the multiplier from five percent to ten percent is arbitrary and unnecessary. The ten percent factor was chosen to more nearly equate the financial hardship of a CMP with that of a disqualification, and to come in line with the statutory increased CMP limit. The amendment remains as stated in the interim rule. (§ 278.6(g) (1) and (2))

4. *Withdrawing Authorization.* The action of authorization withdrawal is taken by FNS when a firm no longer meets the criteria for authorization but has not committed a violation. The action is not punitive, and the firm may have authorization restored whenever it again meets the criteria. The Department feels that the phrase "will not further the purposes of the program" as a reason for withdrawal, would be clearer and understood more readily if specific points are explained. Therefore, the meaning of the phrase is expanded to include the more specific criteria of failing to meet the authorization criteria contained in paragraphs (b), (c), (d) or (e) of § 278.1, or circumventing a sanction through a purported transfer of ownership. Neither the concept of authorization withdrawal nor its use by FNS has changed. (§ 278.1(k))

5. *Administrative Review.* Prior to December 17, 1982, any authorized firm receiving a sanction was granted an automatic stay if the firm requested administrative review. The interim rule published December 17 stated that a firm receiving a permanent disqualification must present evidence that shows a disqualification is probably not warranted, before a stay is granted.

In commenting on this provision, the agency's Administrative Review Division (ARD) took exception to the current provision that denies an automatic stay of implementation of a permanent disqualification. The ARD contended that such a requirement would violate the Administrative Procedures Act (APA). On reexamination, we find that any exception to the automatic stay might be inconsistent with the provisions of Section 14 of the Food Stamp Act. Therefore, we are eliminating the exception to the automatic stay in cases where the prescribed sanction is permanent disqualification. (§ 279.7(a))

6. Due to an internal reorganization within FNS, the Administrative Review Staff has been renamed the Administrative Review Division. Also, the address to be used by firms requesting administrative review has been revised to indicate the relocation of the Food and Nutrition Service. Therefore, we are making the necessary nomenclature and address changes with this action. (§ 278.8 (b) and (c), and § 279.5 (a) and (c)).

The following paragraphs have not changed from the interim rule published at 47 FR 56469 and are adopted as final. These unchanged provisions (except those that were simply redesignated by the interim rule) are being set out below along with those paragraphs which are being revised for the convenience of the reader.

Section 271.2 definitions of "Firm's practice" and "Trafficking", §§278.1 (i) through (o) which were redesignated from (h) through (n), 278.1(k), 278.6(e)(1)(ii), 278.6(e)(2) introductory text, 278.6(e)(2)(i), 278.6(e)(2)(ii), 278.6(e)(2)(v), 278.6(e)(3), 278.6(e)(3)(i), 278.6(e)(3)(iii), 278.6(e)(3)(iv), 278.6(e)(3)(v), 278.6(e)(5), 278.6(e)(6), 278.6(e)(7), 278.6(f), 278.6(g) introductory text, 278.6(g)(1), 278.6(g)(2) and 278.6 (f) through (j) which were redesignated from (g) through (k).

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs—social programs.

7 CFR Part 278

Administrative practice and procedure, Banks, Banking, Claims, Food stamps, Groceries—retail.

Groceries, General line—wholesaler, Penalties.

7 CFR Part 279

Administrative practice and procedure, Food stamps, Groceries—retail, Groceries, General line—wholesaler.

Accordingly, Parts 271, 278 and 279 are amended as follows:

PART 271—GENERAL INFORMATION AND REGULATIONS

1. In § 271.2, definitions of "Firm's practice" and "Trafficking" are unchanged and adopted as final as set forth below. The definition of "House-to-house trade route" is revised to read as follows:

§ 271.2 Definitions.

* * * * *

"Firm's practice" means the usual manner in which personnel of a firm or store accept food coupons as shown by the actions of the personnel at the time of the investigation.

* * * * *

"House-to-house trade route" means any retail food business operated from a truck, bus, pushcart, or other mobile vehicle.

* * * * *

"Trafficking" means the buying or selling of coupons or ATP cards for cash.

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

2. In § 278.1, the redesignation of paragraphs (h) through (n) as (i) through (o) is adopted as final; paragraph (k) is unchanged and adopted as final, as set forth below. Paragraph (h) is revised to read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(h) *House-to-house trade routes.* FNS shall, in consultation with the Department's Office of Inspector General, determine those locations where the operation of trade routes damages the program's integrity. FNS may limit the authorization of house-to-house trade routes to those trade routes whose services are required by participating households in such areas in order to obtain food. The FNS Officer in Charge, in deciding whether households in such areas require a trade route's services, shall consider the volume of food business the trade route does and the availability of alternate sources of comparable food. An FNS official shall inspect any appliant trade route's vehicle to ensure that the trade route is a retail food store before authorizing it to accept coupons. An FNS official may require, as a condition of continuing authorization, that the trade route vehicle be reinspected semiannually to ensure that it continues to be a retail food store.

* * * * *

(k) *Withdrawing authorization.* FNS shall withdraw the authorization of any firm authorized to participate in the program if it determines that the firm's continued participation will not further the purposes of the program, or the firm fails to meet the specifications of paragraph (b), (c), (d), or (e) of this section, or that the firm has been found to be circumventing a periods of disqualification or a civil money penalty through a purported transfer or ownership. The FNS Officer in Charge shall issue a notice to the firm by certified mail or personal service to inform the firm of the determination and of the review procedure. FNS shall remove the firm from the program if the firm does not request review within the period specified in § 279.5.

* * * * *

3. a. In § 278.6, the redesignation of paragraphs (f) through (j) as (g) through (k) is adopted as final and paragraphs (e)(1)(ii), (e)(2) introductory text, (e)(2)(i), (e)(2)(ii), (e)(2)(v), (e)(3) introductory text, and paragraphs (e)(3)(i), (e)(3)(iiii), (e)(3)(iv), (e)(3)(v), (e)(5), (e)(6), (e)(7), (f), introductory paragraphs (g), (g)(1), and (g)(2) are unchanged and adopted as final as set forth below.

b. In § 278.6, paragraphs (a), introductory paragraphs of (e) and (e)(1), paragraphs (e)(1)(i), (e)(2)(iii), (e)(2)(iv), (e)(3)(ii), (e)(4), and (g)(3) are revised to read as follows:

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

(a) *Authority to disqualify or subject to a civil money penalty.* FNS may disqualify any authorized retail food store or authorized wholesale food concern from further participation in the program if the firm fails to comply with the Food Stamp Act or this part. Disqualification shall be for from 6 months to 5 years for the firm's first sanction; for from 12 months to 10 years for a firm's second sanction; and disqualification shall be permanent for a firm's third sanction or a disqualification based on trafficking in coupons or ATP cards. Any firm which has been disqualified and which wishes to be reinstated at the end of the period of disqualification or at any later time shall file a new application under Section 278.1 of this part so that FNS may determine whether reauthorization is appropriate.

The application may be filed no earlier than 10 days before the end of the period of disqualification. Except in the case of a permanent disqualification, FNS may, in lieu of a disqualification, subject the firm to a civil money penalty of up to $10,000 for each violation if FNS determines that a disqualification would cause hardship to participating households.

* * * * *

(e) *Penalties.* FNS shall take action as follows against any firm determined to have violated the Act or regulations. For the purposes of assigning a period of disqualification, a warning letter shall not be considered to be a sanction. A civil money penalty and a disqualification shall be considered sanctions for such purposes. The FNS regional office shall:

(1) Disqualify a firm permanently if:

(i) Personnel of the firm have trafficked in coupons or ATP cards; or

(ii) Violations such as, but not limited to, the sale of ineligible items occurred and the firm had twice before been sanctioned.

(2) Disqualify the firm for 5 years if it is to be the firm's first sanction, the firm had been previously advised of the possibility that violations were occurring and of possible consequences of violating the regulations, and the evidence shows that:

(i) It is the firm's practice to sell expensive or conspicuous nonfood items, cartons of cigarettes, or alcoholic beverages in exchange for food coupons; or

(ii) The firm's coupon redemptions for a specified period of time exceed its food sales for the same period of time; or

(iii) A wholesale food concern's redemptions of coupons for a specified period of time exceed the redemptions of all the specified authorized retail food stores, nonprofit cooperative food-purchasing ventures, group living arrangements, drug addict and alcoholic treatment programs, and shelters for battered women and children which the wholesale food concern was authorized to serve during that time; or

(iv) A wholesale food concern's stated redemptions of coupons for a particular retail food store, nonprofit cooperative food-purchasing venture, group living arrangement, drug addict and alcoholic treatment program, or shelters for

battered women and children exceeded the actual amount of coupons which that firm or organization redeemed through the wholesaler; or

(v) Personnel of the firm knowingly accepted coupons from an unauthorized firm or an individual known not to be legally entitled to possess coupons.

(3) Disqualify the firm for 3 years if it is to be the first sanction for the firm and the evidence shows that:

(i) It is the firm's pactice to commit violations such as the sale of common nonfood items in amounts normally found in a shopping basket and the firm was previously advised of the possibility that violations were occurring and of the possible consequences of violating the regulations; or

(ii) Any of the situations described in paragraph (e)(2) of this section occurred and FNS had not previously advised the firm of the possibility that violations were occurring and of the possible consequences of violating the regulations; or

(iii) The firm is an authorized communal dining facility, drug addiction or alcoholic treatment and rehabilitation program, group living arrangement, meal delivery service, or shelter for battered women and children and it is the firm's practice to sell meals in exchange for food coupons to persons not eligible to purchase meals with food coupons and the firm has been previously advised of the possibility that violations were occurring and of the possible consequences of violating the regulations; or

(iv) A wholesale food concern accepted coupons from an authorized firm which it was not authorized to serve and the wholesale food concern had been previously advised of the possibility that violations were occurring and of possible consequences of violating the regulations; or

(v) The firm is an authorized retail food store and personnel of the firm have engaged in food coupon transactions with other authorized retail stores, not including treatment programs, group living arrangements or shelters for battered women and children, and the firm had been previously advised of the possibility that violations were occuring and of the possible consequences of violating the regulations.

(4) Disqualify the firm for 1 year if it is to be the first sanction for the firm and the ownership or management personnel of the firm have committed violations such as the sale of common nonfood items in amounts normally found in a shopping basket, and FNS had not previously advised the firm of the possibility that violations were occurring and of the possible consequences of violating the regulations.

(5) Disqualify the firm for 6 months if it is to be the first sanction for the firm and the evidence shows that personnel of the firm have committed violations such as but not limited to the sale of common nonfood items due to carelessness or poor supervision by the firm's ownership or management.

(6) Double the appropriate period of disqualification prescribed in paragraphs (e) (2) through (5) of this section as warranted by the evidence of violations if the same firm has once before been assigned a sanction.

(7) Send the firm a warning letter if violations are too limited to warrant a disqualification.

(f) *Criteria for civil money penalty.* FNS may impose a civil money penalty as a sanction in lieu of disqualification only when the firm subject to a disqualification is selling a substantial variety of staple food items, and the firm's disqualification would cause hardship to food stamp households because there is no other authorized retail food store in the area selling as large a variety of staple food items at comparable prices. FNS may disqualify a store which meets the criteria for a civil money penalty if the store had previously been assigned a sanction. A civil money penalty may not be imposed in lieu of a permanent disqualification.

(g) *Amount of civil money penalty.* FNS shall determine the amount of the civil money penalty as follows:

(1) Determine the firm's average monthly redemptions of coupons for the 12-month period ending with the month immediately preceding that month during which the firm was charged with violations.

(2) Multiply the average monthly redemption figure by 10 percent.

(3) Multiply the product arrived at in paragraph (g)(2) by the number of months for which the firm would have been disqualified under paragraph (e) of this section. The civil money penalty may not exceed $10,000 for each violation.

* * * * *

4. Section 278.8, is revised to read as follows:

§ 278.8 Administrative review—retail food stores and wholesale food concerns.

(a) *Requesting review.* A food retailer or wholesaler aggrieved by administrative action under §§ 278.1, 278.6 or 278.7 may, within the period stated in § 279.5, file a written request for review of the administrative action with the review officer. On receipt of the request for review, the questioned administrative action shall be stayed pending disposition of the request for review by the review officer. A disqualification for failure to pay a civil money penalty shall not be subject to an administrative review.

(b) *Addressing the request.* The request for review shall be filed with the Director, Administrative Review Division, U.S. Department of Agriculture, Food and Nutrition Service, Room 304, 3101 Park Center Drive, Alexandria, Virginia 22302.

(c) *Review procedure.* The procedure for food stamp reviews in published in Part 279 and is available upon request from the Director, Administrative Review Division.

PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

5. In § 279.5, paragraph (a) and the introductory sentence of paragraph (c) are revised to read as follows:

§ 279.5 Manner of filing requests for review.

(a) *Addressing requests for review.* Requests for review submitted by firms shall be mailed to or filed with Director, Administrative Review Division, U.S. Department of Agriculture, Food and Nutrition Service, Room 304, 3101 Park Center Drive, Alexandria, Virginia 22302.

* * * * *

(c) *Time limit for requesting review.* A request for review shall be filed with the Director, Administrative Review Division, within 10 days of the date of delivery of the notice of the action for which review is requested. For purposes of determining whether a filing date is timely:

* * * * *

6. In § 279.6, paragraph (b) is revised to read as follows:

§ 279.6 Content of request for review.

* * * * *

(b) *Supporting the request.* The request shall include information in support of the request showing the grounds on which review is being sought, or shall state that supporting information will be filed in writing at a later date. In the latter case, the review officer shall notify the firm of the date by which the information must be filed. The firm requesting review may ask for an opportunity to appear before the review officer in person. However, any information submitted in person shall, if directed by the review officer, be put in writing by the firm and filed with the

review officer within a period which the review officer shall specify.

7. In 279.7, paragraph (a) is revised to read as follows:

§ 279.7 Action upon receipt of a request for review.

(a) *Holding action.* Upon receipt of a request for review of administrative action, the review officer shall notify the appropriate FNS regional office, in writing, of the action under review, and shall direct that the administrative action be held in abeyance until the review officer has made a determination. If the questioned administrative action involves a denial of authorization to participate in the program or a denial of a claim, the review officer shall direct that the firm not be approved for participation or paid any part of the disputed claim until the review officer has made a determination. In any case, notice to the appropriate FNS regional office shall be accompanied by a copy of the request filed by the firm.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: May 15, 1984.

Robert E. Leard,

Administrator.

[FR Doc. 84-13830 Filed 5-24-84; 8:45 am]

BILLING CODE 3410-30-M

Federal Grain Inspection Service

7 CFR Part 810

Revision of the United States Standards for Rye

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: According to the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed the U.S. Standards for Rye, and is revising certain sections. The changes include (1) revising the format of the standards to conform to other grain standards, (2) deleting the special grade "Tough" and the Sample grade requirement for high-moisture rye, (3) updating the definition of certain terms, (4) adding a section for temporary modification of equipment and procedures, (5) updating the section on percentages to clarify its scope, (6) updating the Sample grade requirements and (7) other miscellaneous changes including revisions referencing FGIS handbooks. The revisions are made for the sake of clarity and uniformity, to promote a better understanding of the standards, and to facilitate the marketing of rye.

EFFECTIVE DATE: May 25, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance to Executive Order 12291 and Departmental Regulation 1512–1. The action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of rye inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities by FGIS employees or licensed persons.

Final Action

The review of the standards included a determination of the continued need for the standards; a review of changes in marketing factors and functions affecting the standards; and a review of the changes in technology and economic conditions in the area affected by the standards and their application through the incorporation of grading factors or tests which better indicate grain quality. The objective was to assure that the standards continued to serve the needs of the market to the greatest possible extent.

A request for public comment on the U.S. Standards for Rye was published in the March 17, 1983 **Federal Register** (48 FR 11276). Of the 6 comments received in response to the request, all agreed that the format of the standards needed to be updated, and 5 agreed that the special grade "Tough" and the Sample grade requirement for high-moisture rye should be deleted. One commenter stated that the special grade "Tough" should be retained. Also, one commenter suggested a modification of the procedure for determining dockage when wild buckwheat was present in a sample of rye.

A proposal to revise the standards for rye was published in the January 30, 1984 **Federal Register** (49 FR 3663). Within the 60-day comment period, no comments were received.

Pursuant to section 4(b) of the U.S. Grain Standards Act, no standards established or amendments or revocations of standards under this Act are to become effective less than one calendar year after promulgation thereof, unless in the judgment of the Administrator, the public health, interest, or safety require that they become effective sooner.

A review of available information indicates that certain revisions in the standards would increase the clarity and effectiveness of the standards and reflect current marketing practices. As a result of the review, FGIS is revising the U.S. Standards for Rye as follows:

1. To enhance clarity and uniformity between standards, the U.S. Standards for Rye are revised by dividing the standards into 4 parts, and into sections such as currently exist in the U.S. Standards for Wheat. Specifically, in addition to the changes discussed below, Part I, *Terms Defined* consists of a new § 810.401, *Definition of Rye* and a new § 810.402, *Definition of other terms.* Part II, *Principles Governing Application of Standards* consists of a new § 810.403, *Basis of determination,* a new § 810.404, *Temporary modifications in equipment and procedures,* and a new § 810.405, *Percentages.* Part III, *Grades, Grade Requirements, and Grade Designations* consists of a new § 810.406, *Grades and grade requirements* and a new § 810.407, *Grade designations.* Part IV, *Special Grades, Special Grade Requirements, and Special Grade Designations* consists of a new § 810.408, *Special grades and special grade requirements* and a new § 810.409, *Special grade designations.* Incidental to this revision, paragraph (a), *Grades and grade requirements for Rye* of the current § 810.402, *Grades, grade requirements, and grade designations* is included in the new § 810.406, *Grades and grade requirements for rye,* and paragraphs (b), *Grade designations for rye* and (c), *Optional grade designations* are included in the new § 810.407, *Grade designations;* the current § 810.403, *Dockage* is included in the new § 810.402, *Definition of other terms;* the current § 810.403a, *Special grade; Plump rye,* § 810.405, *Special grade; Smutty rye, § 810.406, Special grade; Garlicky rye, § 810.407, Special grade; Weevily rye,* and § 810.408, *Special grade; Ergoty*

rye, are included in the new § 810.408, *Special grades and special grade requirements* and the new § 810.409, *Special grade designations;* the current § 810.404, *Special grade; Tough rye* is deleted, and in the current § 810.409, *Grade factors; definitions*, paragraph (a), *Basis of determination* is clarified and included in the new § 810.403, *Basis of Determination*, paragraph (b), *Percentages* is clarified and included in the new § 810.405, *Percentages*, and paragraphs (c), *Percentage of moisture*, (d), *Test weight per bushel*, (e), *Foreign material*, (f), *Other grains*, (g) *Damaged kernels*, and (h), *Heat-damaged kernels* are clarified and included in the new § 810.402, *Definition of other terms*, as are definitions for 4 new terms, *Distinctly low quality, Sieve, 0.064 x ⅜ oblong hole, Stones*, which are similar to those terms which appear in other standards so as to specify its definition, and *Thin rye*.

2. The special grade "Tough" is not indicative of grain quality and is only utilized when the moisture content is more than 14.0 percent, but not more than 16.0 percent.

Moisture content is an indicator of storability. However, storability is also affected by many other factors such as temperature, aeration, and cleanliness of the rye. Moisture content is required by regulations (7 CFR 162(a)) to be shown on official certificates when an official grade determination is made, and knowledge of the actual moisture content of a lot of rye is useful to the buyer. Discounts for moisture in most markets are based on the percentage of moisture. While it is true that the presence of excess moisture in grain may support the growth of undesirable organisms and the development of odors, moisture content is not deleterious to the quality of grain, and should not be a criterion in designating grain Sample grade.

3. The current definitions in the rye standards for moisture and test weight per bushel contain obsolete references including former organizational and handbook references. The standards include revised definitions for these and the terms rye, damaged kernels, dockage, foreign material, heat-damaged kernels, and other grains in order to promote clarity.

4. The equipment and procedures referred to in the rye standards are applicable to grain produced and harvested under normal environmental conditions. The revision provides that, when adverse growing or harvesting conditions make impractical the use of routine procedures, minor temporary modifications in the equipment or procedures may be required to obtain results expected under normal conditions. Accordingly, a new § 810.404 on temporary modifications in equipment and procedures is added. Adjustments in interpretations (i.e., identity, quality, and condition) shall not be made. This section is similar to sections which apply in other grain standards.

5. In the interest of promoting clarity and uniformity among the various grain standards, a new § 810.405, *Percentages* is added to clarify and specify the application of current rounding and recording procedures for all percentage determinations.

6. FGIS has added the limit of two crotalaria seeds in a 1000-gram sample to the new § 810.406 to more clearly define U.S. Sample grade rye. This limit currently is included in § 810.901 which considers grain exceeding this limit as distinctly low quality. 7 CFR 810.901 still is applicable to certain other grains but no longer will apply to rye.

7. FGIS has amended § 810.901 since the provision is included in the Sample grade definition; and the section is not referenced in the rye standards.

8. FGIS has included in the definition of Sample grade, the limits for stones, pieces of glass, castor beans, and particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s). The limits of 8 or more stones, 2 or more pieces of glass, 2 or more castor beans, and 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s) are specified in the Grain Inspection Handbook and have been followed in the inspection process for many years and do not constitute new limits. The limits are added to the definition of U.S. Sample grade for clarity and to conform to other updated grain standards.

9. Other changes to the rye standards which result from the revision in format and updated definitions include: (a) Smut balls, in addition to being considered in determining the special grades "Smutty" or "Light smutty", also are considered foreign material; additionally, the presence of a quantity of smut so great that one or more grade requirements cannot be accurately determined is no longer a factor for grading rye U.S. Sample grade; (b) ergot is stated in hundredth percent; (c) the maximum limit for heat-damaged kernels in grade U.S. No. 1 is 0.2 percent; (d) the maximum number of rodent or bird pellets or other animal filth permitted in the numerical grades is reduced to 1 from 2.

Smut balls are foreign to grain and should be considered as foreign material. Smut balls are light and weigh very little and therefore will not make a significant impact on the calculated percentage of foreign material; however, for uniformity with other standards, they will be considered foreign material. The requirement that grain be graded U.S. Sample grade beause the presence of smut is so great that one or more of the grade factors cannot be accurately determined has not been applied for many years due to seed treatment and other improvements.

The requirement is therefore deleted. Moreover, the special grades "Light smutty" and "Smutty" are retained. Also, for uniformity between standards, ergot is certificated in terms of a hundredth percent instead of the current tenth percent. Heat-damaged limits in the wheat standards for grades U.S. No. 1 and 2 are 0.2 percent for both grades. The previous limit of 0.1 percent in grade U.S. No. 1 was found to be too restrictive for practical application under current sampling and inspection procedures. In wheat, the allowable limits of rodent or bird pellets or other animal filth in the numerical grades were reduced to 1 from 2 to more closely agree with limits applied under the Food, Drug, and Cosmetic Act (21 U.S.C. 342 *et seq.*).

The above changes are made for the purpose of uniformity to conform to the wheat standards because of similarities in the use of the grains.

10. Incorporated also into the standards are nonsubstantive changes to update references to handbooks and FGIS's organizational structure.

List of Subjects in 7 CFR Part 810

Export, Grain.

PART 810—OFFICIAL U.S. STANDARDS FOR GRAIN

Accordingly, the United States Standards for Rye (7 CFR 810.401–810.409 and 810.901) are revised to read as follows:

Authority: Secs. 5 and 18, Pub. L. 94–582, 90 Stat. 2869 and 2884 (7 U.S.C. 76 and 87(e)).

United States Standards for Rye

Terms Defined

Sec.

810.401 Definition of rye.
810.402 Definition of other terms.

Principles Governing Application of Standards

810.403 Basis of determination.
810.404 Temporary modifications in equipment and procedures.
810.405 Percentages.

Grades, Grade Requirements, and Grade Designations

810.406 Grades and grade requirements for rye.

810.407 Grade designations.

Special Grades, Special Grade Requirements, and Special Grade Designations

810.408 Special grades and special grade requirements.

810.409 Special grade designations.

United States Standards for Rye [1]

Terms Defined

§ 810.401 Definition of rye.

The grain of common rye (*Secale cereale* L.) which, before the removal of dockage, consists of 50 percent or more of rye and not more than 10 percent of other grains for which standards have been established under the United States Grain Standards Act and which, after the removal of the dockage, contains 50 percent or more of whole kernels of rye.

§ 810.402 Definition of other terms.

For the purpose of these standards, the following terms shall have the meanings stated below.

(a) *Damaged kernels.* Kernels, pieces of rye kernels, and other grains that are badly ground-damaged, badly weather-damaged, diseased, frost-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged which remain in the sample after the removal of dockage.

(b) *Distinctly low quality.* Rye which is obviously of inferior quality because it contains foreign substances or because it is in an unusual state or condition, and which cannot be properly graded by use of the other grading factors provided in the standards. Distinctly low quality shall include the presence of any objects too large to enter the sampling devices; i.e., large stones, wreckage, etc.

(c) *Dockage.* All matter other than rye which can be readily removed from a portion of the original sample by use of an approved device in accordance with procedures prescribed in the Grain Inspection Handbook.[2] Also, underdeveloped, shriveled, and small pieces of rye kernels removed in separating the material other than rye and which cannot be recovered by properly rescreening or recleaning. (See also § 810.405 and § 810.407.) For the purpose of this paragraph, "approved device" shall include the Carter Dockage Tester and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(d) *Foreign material.* All matter other than rye which remains in the sample after the removal of dockage.

(e) *Heat-damaged kernels.* Kernels, pieces of rye kernels, and other grains that are materially discolored and damaged by heat which remain in the sample after the removal of dockage.

(f) *Moisture.* Water content in rye as determined by an approved device in accordance with procedures prescribed in the Grain Inspection Handbook[2] and Equipment Handbook.[2] For the purpose of this paragraph, "approved device" shall include the Motomco Mositure Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(g) *Other grains.* Barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, safflower, sorghum, soybeans, spelt, sunflower, sweet corn, triticale, wheat, and wild oats.

(h) *Sieve, 0.064 x ⅜ oblong-hole.* A metal sieve 0.032 inch thick with oblong perforations 0.064 inch by 0.375 inch.

(i) *Stones.* Concreted earthy or mineral matter and other substances of similar hardness that do not readily disintegrate in water.

(j) *Test weight per bushel.* The weight per Winchester bushel (2, 150.42 cubic-inch capacity) as determined on a dockage-free portion of the original sample using an approved device in accordance with instructions in the Grain Inspection Handbook.[2] Test weight per bushel shall be expressed to the nearest tenth of a pound. For the purpose of this paragraph, "approved device" shall include the Faribanks-Morse of Ohaus Test Weight Per Bushel Apparatus and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(k) *Thin rye.* Rye and other matter that will readily pass through a 0.064 x ⅜ inch oblong-hole sieve.

Principles Governing Application of Standards

§ 810.403 Basis of determination.

(a) *Distinctly low quality.* The determination of distinctly low quality shall be made on the basis of the lot as a whole at the time of sampling when a condition exists that may not appear in the representative sample and/or the sample as a whole.

(b) *Certain quality determinations.* Each determination of rodent pellets, bird droppings, other animal filth, broken glass, castor beans, crotalaria seeds, dockage, garlic, live weevils or other insects injurious to stored grain, moisture, temperature, and unknown foreign substance(s), and a commonly recognized harmful or toxic substance(s) shall be upon the basis of the sample as a whole.

(c) *All other determinations.* All other determinations shall be upon the basis of the grain when free from dockage, except the determination of odor shall be upon either the basis of the grain as a whole or the grain when free from dockage.

§ 810.404 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the rye standards are applicable to rye produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of rye may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, proper notification will be made in a timely manner. Adjustments in interpretations (i.e., identity, quality, and condition) are excluded and shall not be made.

§ 810.405 Percentages.

(a) Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(1) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., state .046 as 0.5.

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure; e.g., state 0.54 as 0.5.

(3) When the figure to be rounded is even and is followed by the figure 5, retain the even figure. When the figure to be rounded is odd and is followed by the figure 5, round the figure to the next higher number, e.g., state 0.45 as 0.4; state 0.55 as 0.6.

---

[1] Compliance with the provisions of the standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

[2] The following publications are referenced in these standards. Copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250.

(a) Equipment Handbook, U.S. Department of Agriculture, Federal Grain Inspection Service.

(b) Grain Inspection Handbook, U.S. Department of Agriculture, Federal Grain Inspection Service.

[3] Requests for information on approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250.

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining the identity of rye and the percentage of dockage and ergot. The percentage when determining the identity of rye shall be stated to the nearest whole percent. The percentage of dockage when equal to one percent or more shall be stated in terms of whole percent, and when less than one percent shall be stated. A fraction of a percent shall not be disregarded. The percentage of ergot shall be stated to the nearest hundredth percent.

Grades, Grade Requirements, and Grade Designations

§ 810.406 Grades and grade requirements for rye (See also § 810.408)

Grade	Minimum test weight per bushel (pounds)	Maximum limits of—			
		Damaged kernels		Foreign material	
		Total (percent)	Heat damaged (percent)	Total (percent)	Foreign matter other than wheat (percent)
U.S. No. 1 [1]	56.0	2.0	0.2	3.0	1.0
U.S. No. 2 [1]	54.0	4.0	0.2	6.0	2.0
U.S. No. 3 [1]	52.0	7.0	0.5	10.0	4.0
U.S. No. 4	49.0	15.0	3.0	10.0	6.0

[1] Rye in grade U.S. No. 1 may contain not more than 10.0 percent, in grade U.S. No. 2 not more than 15.0 percent, and in grade U.S. No. 3 not more than 25.0 percent of thin rye.

Note.—U.S. Sample grade: U.S. Sample grade shall be rye which:
(1) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4; or
(2) Contains 8 or more stones, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis*), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic subtance(s), or 2 or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth per 1,000 grams of rye; or
(3) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or
(4) Is heating or otherwise of distinctly low quality.

§ 810.407 Grade designations.

(a) *Grade designations for rye.* The grade designations for rye shall include in the following order: (1) the letters "U.S."; (2) the number of the grade or the words "Sample grade"; (3) the special grade "Plump", if applicable (see also § 810.409); (4) the word "Rye"; (5) each applicable special grade except "Plump" (see also § 810.409) and, when applicable, the word "dockage" together with the percentage thereof.

(b) *Optional grade designations.* Rye may be certificated (under certain conditions),[4] when supported by official analysis, as "U.S. No. 2 or better Rye," "U.S. No. 3 or better Rye," etc. The special grade designation and dockage, when applicable, also shall be included (under certain conditions) [4] in the certification.

Special Grades, Special Grade Requirements, and Special Grade Designations

§ 810.408 Special grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 801.406. Such special grades are established and determined as follows:

(a) *Plump rye.* Rye which contains not more than 5.0 percent of rye and other matter that will pass through a 0.064 x ⅜ oblong-hole sieve.

(b) *Ergoty rye.* Rye which contains more than 0.30 percent of ergot.

(c) *Light garlicky rye.* Rye which contains in a 1,000-gram portion two or more, but not more than six, green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(d) *Garlicky rye.* Rye which contains in a 1,000-gram portion more than six green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(e) *Light smutty rye.* Rye which has an unmistakable odor of smut, or which contains in a 250-gram portion smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 14 smut balls, but not in excess of a quantity equal to 30 smut balls of average size.

(f) *Smutty rye.* Rye which contains in a 250-gram portion smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 30 smut balls of average size.

(g) *Weevily rye.* Rye which is infested with live weevils or other insects injurious to stored grain, as set forth in the Grain Inspection Handbook. [2]

§ 810.409 Special grade designations.

Special grade designations shall be made in addition to all other information prescribed in § 810.407. The grade designation for plump rye shall include, preceding the word "Rye", the word "Plump", as warranted, and all other information prescribed in § 810.407. The grade designation for ergoty, light garlicky, garlicky, light smutty, smutty, and weevily rye shall include, following the word "Rye", the word(s) "Ergoty", "Light garlicky", "Garlicky", "Light smutty", "Smutty", or "Weevily", as warranted, and all other information prescribed in § 810.407.

* * * * *

Interpretations

§ 810.901 Interpretation with respect to the term distinctly low quality.

The term *distinctly low quality*, when used in the United States Standards for Soybeans and Flaxseed, shall be construed to include grain which contains more than two crotalaria seeds (*Crotalaria* spp.) in 1,000 grams of grain.

Dated: May 10, 1984.

Kenneth A. Gilles,

Administrator.

[FR Doc. 84-14034 Filed 5-24-84; 8:45 am]

BILLING CODE 3410-EN-M

[4] The conditions are listed in the Grain Inspection Handbook. Copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, DC 20250.

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 465]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 300,000 cartons during the period May 27–June 2, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 27, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona.

The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on May 22, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.765 is added as follows:

§ 910.765 Lemon Regulation 465.

The quantity of lemons grown in California and Arizona which may be handled during the period May 27, 1984, through June 2, 1984, is established at 300,000 cartons.

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

Dated: May 23, 1984.

Thomas R. Clark,

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

[FR Doc. 84–14250 Filed 5–24–84; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 223

Reentry Permits

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule removes § 223.4 concerning revalidation of reentry permits issued after December 29, 1980. Since the enactment of Pub. L. 97–116, all reentry permits, with the exception of restricted permits, have been valid for a period of two years from the date of issuance and cannot be renewed. As of December 29, 1983, no reentry permits exist requiring revalidation. This section is removed because it is no longer applicable.

EFFECTIVE DATE: May 25, 1984.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048

For Specific Information: F. Gerard Heinauer, Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633–5014

SUPPLEMENTARY INFORMATION: On December 29, 1981, Pub. L. 97–116 (95 Stat. 1611) was enacted, extending the period of validity for the issuance of a reentry permit to two years unless otherwise restricted. The Service, by regulation (47 FR 12129), declared all reentry permits issued after December 29, 1980 as revalidated for a period of two years from the original date of issue, unless the permit was restricted for cause at the date of issuance. Since December 29, 1981 all reentry permits, with the exception of restricted permits, have been issued for a period of two years. Accordingly, as of December 28, 1983, there no longer exist a need for revalidation under 8 CFR 223.4.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this rule merely removes a provision that is outdated.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule, if promulgated, will not have a significant impact on a substantial number of small entities.

This order is not a major rule within the definition of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 223

Administrative practice and procedure, Aliens, Reentry permits.

PART 223—REENTRY PERMITS

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended as follows:

§ 223.4 [Removed]

Section 223.4 is removed.

(Sec. 223 of the Immigration and Nationality Act, as amended (8 U.S.C. 1203))

Dated: May 10, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 84–14059 Filed 5–24–84; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF ENERGY

10 CFR Ch. II

Administrative Procedures and Sanctions; Restitutionary Authority Available to the Department Under the Statutes and Regulations It Administers

AGENCY: Department of Energy.

ACTION: Ruling.

SUMMARY: The Department of Energy ("DOE") Office of General Counsel issues the appended Ruling pursuant to 10 CFR 205.150 to clarify the scope of its remedial authority under the Emergency Petroleum Allocation Act, 15 U.S.C. 751 *et seq.*, and to address certain opinions that the Comptroller General of the United States has offered on the subject. A written comment on or objection to the appended Ruling may be filed at anytime with the DOE Office of General Counsel pursuant to the provisions of 10 CFR 205.153.

FOR FURTHER INFORMATION CONTACT: Lona L. Feldman, Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6B144, Forrestal Building, Washington, D.C. 20585, (202) 252–9507.

Issued in Washington, D.C.

Dated May 22, 1984.

William H. Mellor III,

Deputy General Counsel Regulation.

Title 10 of the Code of Federal Regulations is hereby amended by adding Ruling 1984–1 to the Appendix to subchapter A to read as follows:

Ruling 1984–1—Restitutionary Authority Available to the Department of Energy Under the Statutes and Regulations It Administers

As the enforcement program under the Emergency Petroleum Allocation Act ("EPAA"), 15 U.S.C. 751 *et seq.*, approaches its conclusion, remedy issues involving transactions that occurred during the period of controls have become more prominent. The Comptroller General of the United States has rendered several opinions construing statutes and regulations administered by the Department of Energy ("DOE") in which he has raised questions about the Department's exercise of its remedial authority. These views have also been presented to the various courts in connection with remedy-related litigation. The Department has not previously formulated a comprehensive delineation of the remedies authorized by its regulations and the EPAA. DOE has, instead, addressed these matters on a case by case basis. Since certain enforcement matters stemming from the period of controls remain to be concluded, those affected by remedies in such matters would be aided by an authoritative interpretation of the statutes and regulations bearing on this subject.

This ruling sets forth the Department of Energy's interpretation of the scope of its remedial authority under the EPAA and regulations promulgated by the Department and addresses specifically certain opinions that the Comptroller General has offered on this subject.

I. Background

During the course of the EPAA enforcement program, DOE has collected hundreds of millions of dollars from firms through orders, settlements and judgments which resolved alleged violations of the petroleum price and allocation regulations. In order to benefit those who were economically injured by the alleged or adjudicated violations, DOE has utilized a number of different restitutionary remedies.

For example, prior to decontrol, Exec. Order 12287, 46 FR 9909 (Jan. 30, 1981), many DOE orders provided refunds to overcharged direct purchasers who were not end users, since under price controls such payments could benefit consumers by reducing the product costs the direct purchasers were permitted to pass on. *See generally* 10 CFR 212.83(c)(2) (refiner price rule); 10 CFR 212.93(c) (reseller price rule). Since decontrol, refunds to first purchasers that are not end users are rarely ordered because such payments are no longer an effective means of directing disgorged sums to injured downstream customers. Price rollbacks were also rendered ineffective by decontrol since there are no longer regulated prices from which rollbacks can be instituted.

Until recently, DOE's Economic Regulatory Administration ("ERA") used several different types of remedies in its consent orders. Some consent orders provided for direct disbursement to particular purchasers; some provided for various forms of "indirect restitution" (such as payments to the states and deposits of funds to the United States Treasury), where tracing the effects of overcharges to identifiable injured purchasers was infeasible; and other consent orders provided for distribution by DOE through, *inter alia*, the agency's special refund or "Subpart V" procedures, 10 CFR 205.280–205.288. DOE's current practice is to use Subpart V as the primary vehicle for distributing consent order funds.

The courts, in ordering or affirming a variety of remedies, have almost uniformly observed the great breadth of the statutory concept of restitution and approved DOE's interpretation of its remedial authority. *See, e.g., Getty Oil Company* v. *DOE*, 569 F. Supp. 1204 (D. Del. 1983), *appealed on other grounds*, No. 3–37 (TECA Oct. 19, 1983); *United States* v. *Exxon Corp.*, 516 F. Supp. 816 (D.D.C. 1983), *appeal docketed*, No. DC–91 (TECA June 22, 1983); *Pennzoil Company* v. *DOE*, 4 Energy Mgmt. (CCH) ¶26,415 (D. Del.), *aff'd on other grounds sub nom. Cities Service Company* v. *DOE*, 715 F. 2d 572 (TECA 1983). The Comptroller General of the United States, however, has offered a more narrow view, stating, in four opinions, that DOE's own regulations and the relevant statutes mandate use of Subpart V in each case where the identity of injured purchasers and the amount of their injuries cannot be readily ascertained. *See* Comp. Gen. decision B–210176, Feb. 7, 1984; 62 Comp. Gen. 379 (1983); Comp. Gen. Opinion B–200170, April 1, 1981; 60 Comp. Gen. 15 (1980).

Under the Legislative Reorganization Act of 1970, 31 U.S.C. 720, the DOE is required to submit a formal response to the latest Comptroller General opinion. Moreover, the Temporary Emergency Court of Appeals has recently expressed an interest in the Comptroller General's February 7, 1984 opinion in one case, *Hodel* v. *Hunt*, No. 5–101, slip. op. (TECA April 24, 1984), and the Comptroller General's opinions have been presented to the courts in several other proceedings. Important remedy issues are at stake in these cases, and the courts and the public would be aided by a clear and coherent statement on DOE's remedial authority from DOE, the agency charged with administering and enforcing the relevant statutes and regulations. Under these circumstances, the DOE is issuing this ruling to set forth its interpretation, and to address the Comptroller General's views, concerning the scope of the Department's remedial authority.

For the reasons stated in this ruling, the DOE concludes that the statutes and regulations it administers permit use of the following mechanisms where appropriate to remedy the effects of violations or alleged violations of the price and allocation regulations: payments to direct purchasers and downstream customers; use of the agency's special refund procedures (10 CFR Part 205, Subpart V); payments to the United States Treasury; payments to the states; and such other restitutionary actions as are appropriate in the circumstances of a given matter.

II. DOE's Regulations on Remedies

The Comptroller General contends that DOE regulations require resort to Subpart V procedures whenever injured persons cannot be readily identified or the extent of their injuries cannot be reasonably determined, and that, under these circumstances, DOE may not enter into consent orders unless the funds disgorged are to be distributed pursuant to Subpart V. B–210176 at 3; 62 Comp. Gen. 379, 385–86; 60 Gen. 15, 25–26; *see also* B–200170, at 4–5. The Comptroller General is incorrect in his reading of the regulations promulgated by this Department, as the following textual, historical and structural analysis indicates.

DOE has adopted two major regulatory provisions of remedies: the general remedies regulation, 10 CFR 205.199I, and the special refund (or Subpart V) procedures, 10 CFR 205.280 *et seq.* The general remedies regulation specifies a broad and non-exclusive array of remedies DOE may utilize:

> A Remedial Order * * * or a Consent Order may require the person to whom it is directed to roll back prices, to make refunds equal to the amount (plus interest) charged in excess of those amounts permitted under DOE regulations, * * * and to take such action as the DOE determines is necessary to eliminate or to compensate for the effects of a violation * * *. Such action may include a direction to the person to whom the Order is issued to establish an escrow account or take other measures to make refunds directly to the purchasers of the products involved, notwithstanding the fact that those purchasers obtained such products from an intermediate distributor of such person's

products * * *. In cases where purchasers cannot be reasonably identified or paid or where the amount of each purchaser's overcharge is incapable of reasonable determination, the DOE may refund the amounts received in such cases directly to the Treasury of the United States on behalf of such purchasers.

10 CFR 205.199I, 44 FR 7922 (Feb. 7, 1979).

This regulation has a long history in the price control programs administered by DOE and its predecessor agencies. In regulations promulgated under the Economic Stabilization Act of 1970 ("ESA"), 12 U.S.C. 1904 note, the Cost of Living Council privided for administrative remedial orders, which were defined as:

An order requiring a person to cease a violation or to take action *to eliminate or to compensate for the effects of a violation, or both,* or which imposes other sanctions.

6 CFR 155.81(b); 38 FR 21981, 21985 (Aug. 15, 1973) (emphasis added). DOE and its predecessors continued to construe their remedial authority very broadly in regulations issued under the EPAA. *See* 10 CFR 205.86, 39 FR 1924 (Jan. 15, 1974); 10 CFR 205.194, 39 FR 32262 (Sept. 5, 1974); 10 CFR 205.195, 40 FR 40141 (Sept. 2, 1975). In a February 1979 amendment to the regulations, DOE specifically recognized that overcharge funds may be paid directly to the United States Treasury where it is infeasible to determine who was injured or in what amount. 10 CFR 205.199I(a), 44 FR 7922 (Feb. 7, 1979).

In February 1979, DOE also promulgated the Subpart V regulations. 10 CFR 205.280 *et seq*, 44 FR 8562 (Feb. 9, 1979). Under these procedures, when requested to do so by a DOE enforcement official, DOE's Office of Hearings and Appeals ("OHA") may determine an equitable distribution of petroleum violation funds obtained by DOE through a consent order or remdial order. *See* 10 CFR 205.281, 205.282. After a Subpart V proceeding is initiated, OHA establishes standards for the distribution of refunds to potentially injured purchasers, pursuant to which purchasers may obtain refunds upon filing claims which satisfy OHA's standards. 10 CFR 205.282, 205.284(d). OHA then effects some form of indirect restitution with funds remaining after successful claimants have been paid. 10 CFR 205.287(c).

Under DOE regulations, the decision to initiate Subpart V refund procedures is a matter within the discretion of agency enforcement officials:

At any time after the issuance of the Remedial Order * * * or a Consent Order, the Special Counsel of the Department of Energy, the ERA Office of Enforcement or any other enforcement official of the Department of Energy *may* file with the Office of Hearings and Appeals a Petition for the Implementation of Special Refund Procedures.

10 CFR 205.281(a) (emphasis added). In contrast to the permissive "may" in § 205.281(a), the regulations use the mandatory "shall" in describing the requirements for the contents of a petition:

The Petition *shall* state that the person filing it has been unable readily either to identify the persons who are entitled to refunds to be remitted pursuant to a Remedial Order or a Consent Order or to ascertain the amounts of refunds that such persons are entitled to receive. The Petition *shall request* that the Office of Hearings and Appeals institute appropriate proceedings under this subpart * * *.

10 CFR 205.281(b) (emphasis added). DOE's use of the permissive "may" in § 205.281, juxtaposed with the mandatory "shall," demonstrates that ERA's initiation of Subpart V procedures is discretionary. *E.g., Koch Refining Company* v. *DOE*, 658 F.2d 799, 803–04 (TECA 1981). The fact that an enforcement official must "request" that OHA entertain a petition also emphasizes the discretionary nature of such a proceeding.

The "purpose and scope" provision of the Subbpart V regulations sets forth the appropriate circumstances for use of the Subpart V procedures:

This subpart establishes special procedures pursuant to which refunds *may* be made to injured persons in order to remedy the effects of a violation of the regulations of the Department of Energy. This subpart *shall be applicable* to those situations in which the Department of Energy is unable to readily identify persons who are entitled to refunds specified in a Remedial Order * * * or a Consent Order, or to readily ascertain the amounts that such persons are entitled to receive.

10 CFR 205.280 (emphasis added). The Comptroller General has incorrectly concluded that Subpart V is mandatory, because he has misinterpreted the phrase "shall be *applicable*" in § 205.280 to mean "must be *applied*" or "must be *used*" and because he has ignored § 205.281 altogether. Section 205.280, read in conjunction with § 205.281, indicates that an ERA enforcement official has discretion whether to initiate a Subpart V proceeding in "applicable * * * situations," *i.e.*, where he has been unable to readily identify injured persons or to ascertain the extent of their injuries.[1]

The Comptroller General's interpretation of Subpart V is also incorrect because it ignores the general remedies regulation, § 205.199I, and the consent order regulation, § 205.199J. These provisions permit DOE in a Consent Order or Remedial Order to "require the person to whom it is directed * * * to make refunds * * * *and to take such other actions as the DOE determines is necessary to eliminate or to compensate for the effects of a violation* * * *." 10 CFR 205.199I(a) (emphasis added). Moreover, direct refunds to the Treasury are specifically authorized "where purchasers cannot be reasonably identified or paid or where the amount of each purchaser's overcharge is incapable of reasonable determination." *Id.* Finally, the regulations explicitly provide that a "Consent Order * * * may require one or more of the remedies authorized by § 205.199I." 10 CFR 205.199J(b).

Since § 205.199I and § 205.199J authorize Treasury payments and other remedies where injured purchasers cannot be reasonably ascertained, the Comptroller General's interpretation of Subpart V as mandatory is simply at odds with the plain meaning of these other remedial provisions. The Comptroller General's opinion necessarily assumes that DOE repealed the general remedy regulation by implication when the agency promulgated the Subpart V regulations. However, 10 CFR 205.199I had been repromulgated only *two days* before the Subpart V regulations were issued, (*compare* 10 CFR 205.199I, 44 FR 7922 (Feb. 7, 1979), *with* 10 CFR 205.280 *et seq.*, 44 FR 8562 (Feb. 9, 1979)), and the general remedies regulation had been revised specifically to acknowledge DOE's authority to remit overcharge funds directly to the U.S. Treasury in appropriate cases. Regulatory constructions requiring implied repeals of agency rules are disfavored. *See, e.g., Regional Rail Reorganization Act Cases*, 419 U.S. 102, 133 (1974); *Morton* v. *Mancari*, 417 U.S. 535, 551 (1974). Here, the contemporaneous publication of § 205.199I and Subpart V combined with the precatory and broad language of the

[1] The Comptroller General has also placed mistaken reliance on the fact that the final version of § 205.280 does not contain the proposed regulation's prefatory language—"As a general rule." B–200170 at 4 *quoting* 43 FR 53256, 53257 (Nov. 15, 1978). The above-quoted language was superfluous, as evidenced by the fact that the preamble to the final rule described explicitly the changes to the proposal made by the final rule, but contained no mention at all of this particular deletion. To the extent the deletion has any import, it indicates that Subpart V should be used *only* where enforcement officials cannot precisely determine the impact of alleged violations on particular purchesers; it does not mean that Subpart V must be used in all cases where it may be used.

regulations, and the lack of any regulatory history which suggests that DOE intended to repeal essential provisions of its remedy and consent order regulations when it created Subpart V all lead to the conclusion that Subpart V was promulgated to provide an additional remedial mechanism for DOE enforcement officials, not an exclusive one.[2] Thus, consent orders and remedial orders may contain remedies authorized by § 205.199I; use of Subpart V is discretionary. Accordingly, DOE's regulations permit the agency to enter into consent orders and issue remedial orders providing for payments to the Treasury and other forms of indirect restitution in appropriate cases.

III. DOE's Statutory Authority To Effect Restitution

Section 209 of the ESA, 12 U.S.C. 1904 note, as incorporated by Section 5(a)(1) of the EPAA, 15 U.S.C. 754(a)(1), specifically authorizes a court, in a judicial enforcement action, to order a violator to make restitution of overcharges.[3] The courts have held that DOE also has broad remedial authority that includes the ability to require restitution by administrative order. *Sauder* v. *DOE*, 648 F.2d 1341 (TECA 1981); *Bonray Oil Co.* v. *DOE*, 601 F.2d 1191 (TECA 1979), *aff'g on basis of district court opinion*, 472 F. Supp. 899 (W.D. Okla. 1978).

The Comptroller General has said that DOE's restitutionary authority restricts DOE to the use of Subpart V whenever the Department cannot readily determine the impact of alleged overcharges on injured parties. The Comptroller General has also asserted that after all claims have been paid in Subpart V, DOE must deposit the remaining funds in the U.S. Treasury, and that any other form of "indirect restitution" is impermissible.

In contrast, the courts have regularly found DOE's remedial powers to be expansive because of the broad enforcement and regulatory authority conferred on the agency and its predecessors. *Sauder* v. *DOE, supra; Bonray Oil Co.* v. *DOE, supra; see also University of Southern California* v. *Cost of Living Council*, 472 F.2d 1065 (TECA 1972), *cert. denied*, 410 U.S. 928 (1973).[4] In *Bonray Oil Co.* v. *DOE, supra*, the Temporary Emergency Court of Appeals ("TECA") upheld DOE's authority to order restitution because TECA found restitution to be rationally related to the statutory goal of regulating petroleum prices at "equitable" levels. EPAA § 4(b)(1)(f), 15 U.S.C. 753. The court held that section 209 of the ESA, which authorizes a court to order restitution, was not intended to prevent the agency from requiring that remedy. 472 F. Supp. at 903.[5] The court concluded that the scope of DOE's remedial authority must be measured by "the broad purposes of the Congressional mandate in both the ESA and EPAA." 472 F. Supp. at 904.[6]

This expansive interpretation was reaffirmed by TECA in *Sauder* v. *DOE, supra*, where the court expressed its view that "restitution" is:

> * * * A remedy by which a defendant is made to disgorge ill-gotten gains or to restore the status quo or to achieve both objectives. * * * There is no indication, however, that [Section 209 of the ESA] attempts to limit the power of the courts or the agency to restitution or to a particularly strict interpretation of restitution.

Sauder v. *DOE, supra*, 648 F.2d at 1348 (emphasis deleted and citations omitted). Relying on *Bonray*, TECA affirmed the agency's remedial determination since it was consistent with the statutory purpose of "set[ting] things right," 648 F.2d at 1348, and by eliminating the need for further complex proceedings, would prevent the Department from being "bogged down in an administrative quagmire." 648 F.2d at 1348, *quoting Tenneco Oil Co.* v. *FPC*, 442 F.2d 489, 497 (5th Cir. 1971).[7]

The scope of the court's authority to order "restitution" under section 209 of the ESA was subsequently addressed in *Citronelle-Mobile Gathering, Inc.* v. *Edwards*, 669 F.2d 717 (TECA), *cert. denied*, 103 S. Ct. 172 (1982). In the district court, the Government had sought an order requiring payment of overcharges into escrow for subsequent distribution to injured customers—some dozen of which were regulated utilities that had purchased most of the overpriced oil at issue. Any refund to the utilities would ordinarily be passed on to their customers under the usual rules of utility rate regulation. Departing from the remedy urged by the Government, the district court *sua sponte* determined that payment into the miscellaneous receipts of the U.S. Treasury was the more appropriate remedy. *Citronelle-Mobile Gathering, Inc.* v. O'*Leary*, 499 F. Supp. 871, 886 (S.D. Ala. 1980). Based upon the facts in that case, however, TECA rejected the Treasury payment remedy, and held that the Government must try (as it had sought to do before the district court) to trace the effects of the violations and to compensate the persons who bore the economic harm of the overcharge. TECA left open to DOE the discretion to fashion other remedies, such as payment to the Treasury, if making direct refunds to injured purchasers would be infeasible. 669 F.2d at 722–23; *id.* at 727 (Pointer, J., concurring and dissenting).[8]

In short, DOE must generally attempt to identify and provide refunds to injured purchasers (*i.e.*, provide direct restitution) where it is feasible. When tracing the effects of overcharges to identifiable purchasers is infeasible, however, indirect restitutionary measures are appropriate. *Getty Oil*

---

[2] This conclusion is further supported by ERA's and OHA's continued practice of using Treasury payments and other remedies authorized by § 205.199I after Subpart V was promulgated. *See, e.g.*, A's Auto Safety Service, 8 DOE (CCH) ¶ 83,014 (1981), *modified*, Office of Enforcement, 8 DOE (CCH) ¶ 82,594 (1981), *aff'd, sub nom.* James Murphy, 20 FERC ¶ 61,331 (CCH) (1982); Sun Company, Inc. Consent Order, 45 FR 80347 (December 4, 1980). Moreover, by delegating to OHA the authority to establish Subpart V, 44 FR 8562, 8563 (Feb. 9, 1979), the Secretary of Energy did not indicate any intent to alter ERA's authority to enter into consent orders. The Comptroller General's interpretation of Subpart V is inconsistent with the division of fucntions within DOE, whereby ERA prosecutes enforcement actions and enters into consent orders with alleged violators, and OHA acts as the adjucicator *after* ERA files a proposed remedial order or petition. *See* 10 CFR Part 205, Subparts J, O and V. Subpart V did not modify this division of functions. ERA remained free to enter into consent orders incorporating remedies ERA deemed appropriate. Subpart V merely provided ERA with a new remedial option.

[3] Section 209 provides that: "Whenever it appears to any person authorized by the President to exercise authority under this title that any individual or organization has engaged . . . in any acts or practices constituting a violation of any order or regulation under [the EPAA], such person may request the Attorney General to bring an action in the appropriate district court of the United States. . . . In addition to [granting] injunctive relief, *the court may also order restitution of moneys received in violation of any such order or regulation.*" *(Emphasis added).*

[4] As a general matter, administrative agencies have wide discretion in the fashioning of remedies. *See, e.g., Mourning* v. *Family Publications Service, Inc.*, 411 U.S. 356, 376 (1973); *Atlantic Refining Co.* v. *FTC*, 381 U.S. 357 (1965), *reh. denied, 382 U.S. 1000 (1966).*

[5] Since TECA adopted the district court's opinion as its own, 601 F.2d 1191, citations are to the district court's opinion.

[6] The DOE's authority to fashion administrative remedies is supported by § 203(a)(1) of the ESA, 12 U.S.C. 1904 note, § 5(b)(5) of the Federal Energy Administration Act, 15 U.S.C. 764, § 4(b)(1)(f) of the EPAA, 15 U.S.C. 753, and § 301 and § 503 of the Department of Energy Organization Act, 42 U.S.C. 7151, 7193.

[7] In *Sauder*, TECA allowed DOE to collect the full overcharges associated with several leases from the operator, rather than requiring the agency to bring enforcement actions against each of the interest owners.

[8] In *Citronelle*, TECA also held that restitution is the Government's remedy to enforce public rights, not the private rights of purchasers (who may seek damages in private actions brought under section 210 of the ESA):

> Actions by the United States under ESA § 209 are taken to enforce public, not private, rights. Thus, compensation is "a by-product of the agency's effort to re-establish compliance with its regulatory scheme."

669 F.2d and 723 *quoting Bulzan* v. *Atlantic Richfield Co.*, 620 F.2d 278, 282 (TECA 1980).

Company v. *DOE*, 569 F. Supp. 1204 (D. Del. 1983), *appealed on other grounds*, No. 3–37 (TECA Oct. 19, 1983); *United States* v. *Exxon Corp.*, 516 F. Supp 816 (D.D.C. 1983), *appeal docketed*, No. DC–91 (TECA June 22, 1983); *Pennzoil Company* v. *DOE*, 4 Energy Mgmt. (CCH) ¶ 26,415 (D. Del.), *aff'd on other grounds sub nom. Cities Service Company* v. *DOE*, 715 F.2d 572 (TECA 1983). For example, in *United States* v. *Exxon Corp., supra*, overcharges resulted from crude oil miscertifications that occurred after the commencement of the Entitlements Program in November 1974. These overcharges had been automatically dispersed among all refiners through their participation in the Crude Oil Entitlements Program, 10 CFR 211.67. 561 F. Supp. at 852–53.[9] The court held that the "broad scattering" of the effects of the violations "renders impossible the tracing of the overcharges to their ultimate victims and the calculation of the precise damages suffered by each." *Id.* at 853. *See* 10 CFR 212.83(c)(2)(iii); 10 CFR 212.93(c)(2); 10 CFR 212.183.

In these circumstances, the court found that restitution to the U.S. Treasury, the indirect restitutionary remedy sought by the DOE, was lawful. However, exercising its own equitable discretion under the ESA and EPAA, the court ordered another form of indirect restitution—payment of the overcharge funds to state governments for energy-related purposes as a means of benefiting the consumers who ultimately had borne the harm of Exxon's overcharges. In another case, restitution of crude oil overcharges to the U.S. Treasury was upheld as a reasonable remedy where DOE, in a remedial order, had found that the impact of the overcharge was untraceable. *Getty Oil Co.* v. *DOE, supra.*[10]

Restitution to miscellaneous receipts of the U.S. Treasury has also been upheld where the remedy was part of a DOE settlement agreement. *Pennzoil Company* v. *DOE, supra.* Indeed, in *Pennzoil Company*, the court held that "[t]he sole issue presented is whether the settlement is beyond the agency's authority or otherwise illegal," 4 Energy Mgmt. (CCH) ¶ 26,514 at 29,048, and the Treasury payment remedy was approved because the court concluded that the remedy is "within the authority of the DOE." *Id.*

DOE's remedial discretion is—as it must be—extremely broad in the consent order context because of the very nature of such settlements:

> Consent orders are the product of negotiation and compromise in which each party gives up something they might have won in litigation. [A Consent order] makes no attempt to define exactly legal rights and obligations.

Consumer Energy Council v. *Duncan*, 4 Energy Mgmt. ¶ 26,314 at 28,417 (D.D.C. 1981). DOE settlements, which resolve only matters between DOE and the firm, neither adjudicate a firm's liability nor the impact of alleged violations on purchasers of the firm's products. Moreover, they do not necessarily resolve only discrete issues where the alleged victims can be readily identified. Indeed, many consent orders cover nearly the entire range of an oil company's transactions, involving millions of customers most of whom cannot be readily identified or the amount of their injuries reasonably ascertained. Many of these settlements explicity state that it is infeasible to identify who was likely to have been injured and in what amount. Further, it is impracticable to provide individual refunds of a few dollars or cents to millions of affected consumers even if tracing and identification theoretically were feasible. In light of these circumstances, it is logical that when DOE exercises its prosecutorial discretion to settle a case instead of litigating it to its conclusion, the agency's remedial discretion is at its apogee. *See, e.g., Pennzoil Company* v. *DOE, supra; U.S. Oil Company* v. *DOE*, 510 F. Supp. 910, 914–15 (E.D. Wis. 1981); *see also Minnesota* v. *Standard Oil Company (Indiana)*, 516 F. Supp. 682, 692 (D. Minn. 1981). The Comptroller General's opinions, which would require the remedies for every settlement to be adjudicated, are wholly at odds with DOE's broad discretion to settle cases.

As the foregoing discussion shows, DOE's statutes, as judicially construed, permit the agency and the courts to utilize forms of indirect restitution without resort to Subpart V where direct restitution is infeasible. Arguments similar to those made by the Comptroller General have been repeatedly rejected by the courts. *See, e.g., Getty Oil Company* v. *DOE, supra, Pennzoil Company* v. *DOE, supra; United States* v. *Exxon Corp., supra. See also Kirkpatrick Oil and Gas Co.* v. *DOE*, 4 Energy Mgmt. (CCH) ¶ 26,400, 28,966 (W.D. Okla. 1982).

The courts have also upheld forms of indirect restitution other than deposits to the U.S. Treasury. *See United States* v. *Exxon Corp., supra.* Payments to the states and furnishing oil to the Strategic Petroleum Reserve ("SPR") can be proper indirect restitutionary remedies since they provide indirect benefits to the consuming public as would a payment to the general funds of the United States Treasury.

Payments to the Treasury benefit all purchasers by mitigating the need for additional taxes or reductions in government services. Similarly, an "in-kind" payment of crude oil for deposit into the SPR benefits all American consumers by providing a secure source of oil to alleviate any future oil shortages and their resulting price increases.[11] Payments to state governments whose citizens have borne the harm of alleged violations benefit the consumers within these states.[12]

---

[9] The cost-spreading effect of the Entitlements Program is also described in Union Oil Co. v. DOE, 688 F.2d 797, 802 (TECA 1982), *cert. denied*, 103 S. Ct. 1186 (1983) and Cities Service Co. v. FEA, 529 F.2d 1016 (TECA 1975), *cert. denied*, 426 U.S. 947 (1976).

[10] In certain pre-enforcement actions brought against DOE, DOE has sought, and the courts have approved, referral of the issue of disposition of overcharge funds to the agency for determination in the first instance. In re Department of Energy Stripper Well Regulation Litigation, 578 F. Supp. 586 (D. Kan. 1983); Prosper Energy Corp. v. DOE, 4 Energy Mgmt. (CCH) ¶ 26,438 (N.D. Tex. 1983). In granting DOE's motion in the *Stripper Well Litigation*, the court specifically acknowledged that where it is impossible to determine who was injured "the equitable goals of restitution would mandate distribution to either the state governments or the federal government" for energy-related purposes or "a direct refund to the United States [T]reasury." 578 F. Supp. at 584–95.

[11] We note that these remedies are lawful where alleged crude oil overcharges were dispersed throughout the American economy. The Comptroller General's criticism of consent orders containing SPR remedies (62 Comp. Gen. at 388) is apparently based on a misunderstanding of the nature of the alleged violations which were settled and the effect of DOE's Entitlements Program and pass-through regulations in dispersing the alleged overcharges. In this regard, the Comptroller General believed that in Amoco Brand Committee, 10 DOE ¶ 82,556 (1983), the Office of Hearings and Appeals had directed refunds to purchasers claiming injuries attributable to alleged crude oil violations. *See* 62 Comp. Gen. at 390–91. This is simply incorrect.

[12] In section 155 of Pub. L. No. 97–377, 96 Stat. 1830 (1982), commonly referred to as the Warner Amendment to the Further Continuing Appropriations Act, 1983, Congress mandated a one-time distribution of up to $200 million of petroleum violation funds in DOE escrow accounts to states for energy-related purposes. DOE's remedial authority under the ESA and EPAA is not even referred to in the Warner Amendment and is thus unaffected by it. The Comptroller General, however, relying on a statement by Congressman Dingell that the Amendment "is a one-time provision" (128 Cong. Rec. H. 10435 (daily ed. Dec. 20, 1982), has stated that the passage of the Amendment reflects Congress' view that direct distribution to the states is unauthorized under the ESA and EPAA. 62 Comp. Gen. at 384. The Comptroller General is mistaken since the Warner Amendment is neutral on this point and statements by a Congressman concerning the meaning of previous statutory enactments (here, the ESA and EPAA) years after their passage can be given little, if any, weight. *E.g.*, Quern v. Mandley, 436 U.S. 725, 736 n.10 (1978). In any event, the legislative history

Continued

Where the effects of alleged violations are less than nationwide, payment to the affected states permits a more focused remedial action corresponding to the region that experienced the economic effects of the violations.[13]

The Comptroller General apparently considers that any payment which are made to states must be legally restricted to energy-related purposes under plans approved by DOE. 62 Comp. Gen. at 389. This interpretation is unsupported by any statutory or regulatory provision. As a means of indirect restitution, unrestricted payments to states can benefit state consumers, just as unrestricted payments to the U.S. Treasury will benefit consumers nationwide. While consumers may benefit where funds are to be used for energy assistance and conservation programs, such restrictions are not required. The harm was monetary; the benefit can be monetary.

IV. The Weight To Be Accorded the Comptroller General's Opinions

An agency's interpretation of its own regulations and enabling statutes is entitled to great deference from the courts. *E.g., Udall* v. *Tallman*, 380 U.S. 1, 16–17 (1965); *Pasco, Inc.* v. *FEA*, 525 F.2d 1391, 1400 (TECA 1975). In contrast, no such deference is owed to the Comptroller General's opinions concerning another agency's statutes and regulations in which the Comptroller General has no special expertise. *See, e.g., Green County Planning Board* v. *FPC*, 559 F.2d 1227, 1238–40 (2d Cir. 1977) (en banc); *Inner City Broadcasting Corp.* v. *Cardenas*, 554 F. Supp. 42, 49–50 (D.D.C. 1982). *See also NLRB* v. *Bildisco and Bildisco*, 104 U.S.L.W. 1188, 1198 n. 9 (Feb. 22, 1984). As one court has held in refusing to give weight to a Comptroller General opinion:

> [N]one of the factors weighing in favor of deference is presented. The GAO [General Accounting Office] possesses no technical expertise with respect to SBA [Small Business Administration] operations, the Comptroller General's decision came long after the passage of the 1972 amendment to the Small Business Act of 1958 at issue, and it reversed prior SBA practice while citing nothing in the legislative history to support its conclusions.
>
> * * * * *
>
> In interpreting this statute, this court * * * shall do so unfettered by the prior construction of the Comptroller General.

Inner City Broadcasting Corp. v. *Cardenas, supra*, 554 F. Supp. at 49–50 (footnote omitted).[14] Here, the DOE's remedial authority in resolving alleged oil pricing violations is predicated solely on those statutes (such as the ESA and EPAA) which the Department has been charged with administering, as well as regulations promulgated by the agency (and its predecessors) pursuant to those statutes. Moreover, the DOE, not the Comptroller General, has the responsibility and corresponding expertise for administering the energy regulatory programs; and the Comptroller General's views conflict with the meaning of the statutes and regulations at issue, as well as the relevant judicial decisions and longstanding agency interpretations and practices. In this context, we conclude that the Comptroller General's opinions addressed here concerning the meaning and effect of the statutory regulatory provisions governing the Department's remedial authority are not entitled to any deference and are incorrect on their merits.

V. Conclusion

The scope of DOE's restitutionary authority is measured by the broad purposes of the ESA and EPAA. Pursuant to these statutes, DOE must generally attempt to identify and provide refunds to injured purchasers (*i.e.*, provide direct restitution) where it is feasible. Notwithstanding the Comptroller General's opinions, DOE may also employ various forms of indirect restitution, including refunds to the U.S. Treasury and payments to state governments, where DOE enforcement officials determine it is infeasible to trace the impact of violations to particular purchasers. DOE's current practice of reliance on Subpart V proceedings to inquire into the impact of violations is not required by the regulations or the statutes DOE administers, but is within DOE's discretion under the regulations promulgated by this Department.

Theodore J. Garrish,

General Counsel.

[FR Doc. 84-14120 Filed 5-24-84; 8:45 am]

BILLING CODE 6450-01-M

---

at least equally supports the view that distribution to the states is a permissible form of restitution. As was stated in the Senate debate:

> The conferees did not specifically address the disbursement of other funds collected as a result of overcharges. The proposal for distributing overcharge funds adopted by the Senate reflects the approach the *DOE should be following under existing law*, and in fact DOE has in part been proceeding in this fashion. It is the most appropriate method of providing restitution for the injuries suffered by the consumer. I hope that the action taken by the Senate and the conferees will provide a clear indication that the Department should proceed expeditiously to assure the appropriate disposition of all the overcharges previously or hereafter collected.

128 Cong. Rec. S. 15701 (daily ed. Dec. 20, 1982) (remarks of Sen. Kennedy) (emphasis added). At most, the legislative history of the Warner amendment indicates that members of each House expressed an opposing post-enactment interpretation of the Department's ESA and EPAA remedial authority, giving added weight to the Supreme Court's admonitions that such post-enactment views are unreliable indicators of the meaning of statutes. *See, e.g.*, Southeastern Community College v. Davis, 442 U.S. 397, 411–12 n.11 (1979); Quern v. Mandley, *supra*.

[13] Accordingly, we do not understand the Comptroller General's legal basis for his view that all funds which cannot be distributed to individually harmed purchasers must generally be refunded to the U.S. Treasury. *See* 62 Comp. Gen. at 391–92. In an earlier opinion, the Comptroller General had said that funds not distributed to injured purchasers are "moneys received for the use of the United States" and thus must be covered into the U.S. Treasury as miscellaneous receipts under 31 U.S.C. 484, *recodified and amended as* 31 U.S.C. 3302 (1983). 60 Comp. Gen. 15, 26–27 (1980). This assertion appears to have been abandoned and, in any event, is incorrect since DOE restitutionary funds are received for the benefit of injured purchasers; these monies are not the funds of the U.S. Government *qua* Government. Indeed, the Department of the Treasury has concluded that it "entertain[s] no doubt that [the funds collected by DOE] are not subject to the deposit requirement of 31 U.S.C. 484." *Enforcement of Major Refiner Cases: Getty Oil and Other Settlements: Hearing Before the Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives*, 96th Cong., 2d Sess. 746, 748–49 (1980) (letter from Gene Godley, Assistant Secretary of the Treasury, to Congressman John D. Dingell). Courts have reached the same conclusion in similar contexts. *See, e.g.*, Emery v. United States, 186 F.2d 900, 902 (9th Cir.), *cert. denied*, 341 U.S. 925 (1951); Varney v. Warehime, 147 F.2d 238, 245 (6th Cir.), *cert. denied*, 325 U.S. 882 (1945).

[14] In *Greene County Planning Board*, relied on by the *Inner City* court, the Court of Appeals for the Second Circuit affirmed *en banc* a Federal Power Commission interpretation of the Federal Power Act where the Comptroller General had issued an opposing opinion. The Court held that the FPC's "interpretation of the Federal Power Act by the agency charged with its administration is entitled to great deference from this Court," 559 F.2d at 1239 n.2, and that judicial decisions interpreting statutes and regulations are controlling *vis-a-vis* Comptroller General opinions. *Id.* at 1238–39; *see also Alexander* v. *FERC*, 609 F.2d 543, 546 (D.C. Cir. 1979). Moreover, as the *Inner City* court subsequently noted, "the majority in *Greene County Planning Board* declined to give the Comptroller General's opinion even the modicum of deference courts give an enforcing agency's statutory interpretations, as three dissenting judges urged it to do." 554 F. Supp. at 50 n. 8. Indeed, the Comptroller General himself has stated that he is bound by an agency's interpretation of its own statutes and regulations as long as it is reasonable:

> [W]here the agency interpretation is merely one of several reasonable alternatives, it must stand even though it may not appear [to the Comptroller General] as reasonable as some other.

53 Comp. Gen. 143, 145 (1973); *see also* 61 Comp. Gen. 403, 407 (1982); 57 Comp. Gen. 347, 350 (1978).

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket Nos. CE-SPRM NY001, WI002, CA003, MN004, OR005]

Energy Conservation Program for Consumer Products; Final Rules Regarding State Petitions for Exemption From Federal Standards for Clothes Dryers and Kitchen Ranges and Ovens

AGENCY: Department of Energy.

ACTION: Final rule; correction.

SUMMARY: This document corrects an error made in the final rule granting California's petition (CA003) for exemption from Federal standards for kitchen ranges and ovens at and following page 11764 of the March 27, 1984 **Federal Register** (Vol. 49, No. 60).

EFFECTIVE DATE: May 25, 1984.

FOR FURTHER INFORMATION CONTACT: Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station CE–113.1, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9127.

SUPPLEMENTARY INFORMATION: Upon careful review of the **Federal Register** publication of final rules regarding State petitions for exemption from Federal preemption of standards for clothes dryers and kitchen ranges and ovens, a typographical error was found in the citation to one of California's standards. Consequently, the final rule granting California's petition is corrected as set forth below.

Issued in Washington, D.C., May 17, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Accordingly, the following correction is made to 10 CFR Part 430:

§ 430.33 [Corrected]

Section 430.33(a)(5) is corrected by replacing "Section 2–5352(1)" the numeral "one" with "Section 2–5352(l)" lower case of the letter "L".

[FR Doc. 84–14046 Filed 5–24–84; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 309

Disclosure of Information

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: Section 309.4(e) of the FDIC regulations ("Publicly available information") provides that certain FDIC bank reports are located in the Data Base Section, Management Information Services Branch, Division of Accounting and Corporate Services ("DACS"). Because of a recent reorganization in DACS, these materials have been transferred to another unit of DACS. Therefore, section 309.4(e) must be amended accordingly.

EFFECTIVE DATE: May 25, 1984.

FOR FURTHER INFORMATION CONTACT: Roger A. Hood, Assistant General Counsel or Fredric H. Karr, Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429 (202) 389–4171.

SUPPLEMENTARY INFORMATION: Section 309.4(e) of the FDIC's regulations provides in essence that the FDIC Consolidated Reports of Income, Consolidated Reports of Condition, and Summary of Deposits are available (at the FDIC's discretion) at the Data Base Section, Managment Services Branch, Division of Accounting and Corporate Services in the main headquarters of the FDIC. However, due to an internal reorganization of DACS, these materials are available at the Information Center Unit, Bank Systems Section, Management Services Branch, Division of Accounting and Corporate Services. Accordingly, § 309.4(e) must be revised.

Since the amendment merely reflects an internal reorganization which has been in effect since mid-1983, the Board of Directors of the FDIC finds that the provisions of 5 U.S.C. 553(b) relating to notice and public procedures are unnecessary and that said amendment may be adopted without general notice of proposed rule making and public participation. The Board of Directors further finds that deferral of the effective date pursuant to 5 U.S.C. 553(d) is unnecessary because the amendment is merely conforming in nature.

List of Subjects in 12 CFR Part 309

Authority delegations (Government agencies), Disclosure requirements, Freedom of Information, Privacy.

PART 309—DISCLOSURE OF INFORMATION

Part 309 of chapter III of title 12 of the Code of Federal Regulations is amended as follows

11. The authority citation for Part 309 reads as follows:

Authority: Sec. 2 [9 "Seventh" and "Tenth"], Pub. L. No. 797, 64 Stat. 881 as amended by title III, sec. 309, Pub. L. No. 95–630, 92 Stat. 3677 (12 U.S.C. 1819 "Seventh" and "Tenth"); 5 U.S.C. 552

2. Section 309.4 is amended by revising paragraph (e) to read as follows:

§ 309.4 Publicly available information.

* * * * *

(e) At the Information Center Unit, Bank Systems Section, Management Information Services Branch, Division of Accounting and Corporate Services, Federal Deposit Insurance Corporation, 550–17th Street NW., Washington, D.C. 20429; * * *

* * * * *

By Order of the Board of Directors, May 21, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–14095 Filed 5–24–84; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–NM–43–AD; Amdt. 39–4874]

Airworthiness Directives; Canadair CL–600/CL–601 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On April 6, 1983, the FAA issued a telegraphic airworthiness directive (AD) T83–07–51, effective upon receipt, to all known U.S. operators of Canadair CL–600/CL–601 series airplanes which required a repetitive inspection of the wing inboard flap support fittings for cracks. This action was prompted by a report of a failure of the left inboard flap vane support beam assembly in which a vane separated from the flap, causing the airplane to bank. This action publishes the telegraphic AD in the **Federal Register** making it effective to all persons. Furthermore, it amends the AD by allowing restricted use of 45° flaps and provides terminating action for the

repetitive inspections and restricted flap settings.

DATES: Effective June 5, 1984. This AD was effective earlier to all recipients of Telegraphic AD T83–07–51 dated April 6, 1983.

ADDRESSES: The Service Bulletins specified in this AD may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Lester Lipsius, Airframe Section, ANE–172, New York Aircraft Certification Office, FAA, New England Region, 181 S. Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone (516) 791–6220.

SUPPLEMENTARY INFORMATION: A fatigue failure of the left inboard flap vane support beam assembly resulted in the separation of the vane from a CL–600 airplane. The loss of the vane caused the aircraft to bank. Since cracked flap vane support beams may exist or develop in other CL–600/CL–601 aircraft, telegraphic AD T83–07–51 was issued on April 6, 1983, to require repetitive visual inspections of the beams. The manufacturer also undertook a program to develop improved beams. Canadair Alert Service Bulletins A600–0357, Revision 1, and A601–0010, Revision 1, describe the modification of the flap vane support and actuator assemblies which, when completed, terminates the requirement for the repetitive inspections and the restricted flaps extended speed. This action amends the AD to include the terminating modification and publishes it in the **Federal Register** to make it effective to all persons. Since a situation existed, and still exists, that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive.

Canadair: Applies to Model CL–600–1A11 (CL–600) and CL–600–2A12 (CL–601) airplanes certificated in all categories. Compliance is required as indicated on all airplanes with 150 hours or more total time in service. To prevent failure of the flap vane support assembly, P/N 600–14250–14, accomplish the following, unless previously accomplished:

A. Prior to further flight, except for a flaps up ferry flight, remove the six (three per side) inboard flap vane support beam assemblies, P/N 600–14250–14, and perform a dye penetrant inspection of the beam assemblies in accordance with Canadair Alert Service Bulletin A600–0357, Revision 1, dated June 17, 1983, (CL–600); or A601–0010, Revision 1, dated June 17, 1983, (CL–601). If no cracks are found, repeat the inspection at intervals not to exceed 50 hours time in service.

B. If cracks are found in one beam assembly, replace all six assemblies with new parts of the same part number prior to further flight. Reinspect as noted in paragraph A., above, after the accumulation of 150 additional hours time in service.

C. If no cracks are found in any beam assembly, insert a NOTE in the "Flaps Extended Speed" paragraph of the Limitations Section of the Airplane Flight Manual to read: "Maximum Speed with Flaps 45°, 160 KIAS."

D. Post a placard on the left and right hand instrument panels to read: "Maximum Speed with Flaps 45°, 160 KIAS."

E. The repetitive inspections required by this AD and the flight manual/flap placard speed restrictions given in paragraphs C. and D., above, may be terminated upon installation of modified beam and trunnion assemblies in accordance with Parts C and D of the Service Bulletin.

F. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

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

This amendment becomes effective June 5, 1984, and was effective earlier to all recipients of Telegraphic AD T83–07–51 dated April 6, 1983.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

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

Issued in Seattle, Washington on May 16, 1984.

F. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–14023 Filed 5–24–84; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 97

[Docket No. 24075; Amdt. No. 1269]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

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

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

For Examination—

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

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

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

For Purchase—

Individual SIAP copies may be obtained from:

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

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

By Subscription—

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

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

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

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

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

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

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

1. By amending Part 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

** * * Effective July 5, 1984*

Washington, DC—Washington National, VOR RWY 15, Amdt. 6
Washington, DC—Washington National, VOR RWY 36, Amdt. 8
Washington, DC—Washington National, VOR/DME RWY 18, Amdt. 8
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), VOR RWY 9, Amdt. 10
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), VOR RWY 13, Amdt. 12
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), VOR or TACAN RWY 4, Amdt. 16
Newton, IA—Newton Muni, VOR RWY 13, Amdt. 5
Newton, IA—Newton Muni, VOR RWY 31, Amdt. 5
Boston, MA—General Edward Lawrence Logan Intl, VOR/DME RWY 15R, Amdt. 15
Boston, MA—General Edward Lawrence Logan Intl, VOR/DME RWY 33L, Amdt. 18
Mansfield, MA—Mansfield Muni, VOR-A, Amdt. 12, Cancelled
Marshfield, MA—Marshfield, VOR-A, Amdt. 4, Cancelled
Norwood, MA—Norwood Memorial, VOR RWY 35, Amdt. 5, Cancelled
Plymouth, MA—Plymouth Muni, VOR RWY 15, Amdt. 2, Cancelled
Taunton, MA—Taunton Muni, VOR-A, Amdt. 6, Cancelled
Beaver Falls, PA—Beaver County, VOR RWY 28, Amdt. 8
Butler, PA—Butler County, VOR-A, Amdt. 5
Franklin, PA—Chess-Lamberton, VOR RWY 2, Amdt. 3
Grove City, PA—Grove City, VOR-A, Amdt. 3
Ponce, PR—Mercedita, VOR RWY 30, Amdt. 9

** * * Effective June 7, 1984*

Slidell, LA—Slidell, VOR/DME RWY 17, Amdt. 1
Newark, NJ—Newark Intl, VOR/DME RWY 22L & R, Amdt. 1

** * * Effective May 11, 1984*

Elko, NV—Elko Muni-J.C. Harris Field, VOR/DME-B, Amdt. 2

2. By amending Part 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

** * * Effective July 5, 1984*

Tallahassee, FL—Tallahassee Muni, LOC BC RWY 18, Amdt. 14
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), LOC BC RWY 13, Amdt. 9
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), LOC BC RWY 22, Amdt. 4
New Bedford, MA—New Bedford Muni, LOC (BC) RWY 23, Amdt. 4
Norwood, MA—Norwood Memorial, LOC RWY 35, Amdt. 2
Beaver Falls, PA—Beaver County, LOC RWY 10, Amdt. 3

** * * Effective June 7, 1984*

Phoenix, AZ—Phoenix Sky Harbor Intl, LOC BC RWY 26L, Amdt. 3

3. By amending Part 97.27 NDB and NDB/DME SIAPs identified as follows:

** * * Effective July 5, 1984*

Titusville, FL—Titusville-Cocoa, NDB RWY 18, Amdt. 10
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), NDB RWY 31, Amdt. 19
Oberlin, KS—Oberlin Muni, NDB RWY 34, Orig.
Fall River, MA—Fall River Muni, NDB RWY 24, Amdt. 6
Mansfield, MA—Mansfield Muni, NDB RWY 32, Amdt. 1
New Bedford, MA—New Bedford Muni, NDB RWY 5, Amdt. 9
Norwood, MA—Norwood Memorial, NDB RWY 35, Amdt. 2
Plymouth, MA—Plymouth Muni, NDB RWY 6, Amdt. 6
Taunton, MA—Taunton Muni, NDB RWY 30, Amdt. 4
Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, NDB RWY 23, Amdt. 2
East Liverpool, OH—Columbiana County, NDB RWY 24, Amdt. 3
Chattanooga, TN—Lovell Field, NDB RWY 20, Amdt. 28
Brigham City, UT—Brigham City, NDB RWY 34, Amdt. 4

** * * Effective June 7, 1984*

Linden, NJ—Linden, NDB-A, Amdt. 2
Linden, NJ—Linden, NDB-B, Amdt. 3

4. By amending Part 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

* * * *Effective July 5, 1984*

Titusville, FL—Titusville-Cocoa, ILS RWY 36, Amdt. 8
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), ILS RWY 4, Amdt. 8
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), ILS RWY 31, Amdt. 22
Indianapolis, IN—Indianapolis Intl, ILS RWY 31, Amdt. 12
Boston, MA—General Edward Lawrence Logan Intl, ILS/DME RWY 15R, Amdt. 9
Boston, MA—General Edward Lawrence Logan Intl, ILS/DME RWY 33L, Amdt. 20
New Bedford, MA—New Bedford Muni, ILS RWY 5, Amdt. 21
Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, ILS RWY 23, Amdt. 1
St Louis, MO—Lambert-St Louis Intl, ILS RWY 30L, Amdt. 10
St Louis, MO—Lambert-St Louis Intl, ILS RWY 30R, Amdt. 3
Butler, PA—Butler County, ILS RWY 8, Amdt. 1

* * * *Effective June 7, 1984*

Phoenix, AZ—Phoenix Sky Harbor Intl, ILS RWY 8R, Amdt. 5
Newark, NJ—Newark Intl, ILS RWY 22L, Amdt. 5

* * * *Effective May 11, 1984*

Casa Grande, AZ—Casa Grande Muni, ILS/DME RWY 5, Amdt. 1

5. By amending § 97.31 RADAR SIAPS identified as follows:

* * * *Effective July 5, 1984*

Fort Wayne, IN—Fort Wayne Muni (Baer Fld), RADAR-1, Amdt. 18

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective July 5, 1984*

Washington, DC—Washington National, RNAV RWY 3, Amdt. 6
Washington, DC—Washington National, RNAV RWY 33, Amdt. 4
Washington, DC—Washington National, RNAV-A, Amdt. 5
Newton, IA—Newton Muni, RNAV RWY 31, Orig.
Moberly, MO—Omar N Bradley, RNAV RWY 13, Orig.
Moberly, MO—Omar N Bradley, RNAV RWY 31, Orig.
Butler, PA—Butler County, RNAV RWY 26, Amdt. 2
Grove City, PA—Grove City, RNAV RWY 9, Amdt. 1
Grove City, PA—Grove City, RNAV RWY 27, Amdt. 1

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

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

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on May 18, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 84-14024 Filed 5-24-84; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3133]

Carter Hawley Hale Stores, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a San Francisco, Calif. retailer to comply with the billing error resolution procedures of the Fair Credit Billing Act (the Act) and its implementing Regulation Z. This requires the company to acknowledge a customer's written billing error notice within 30 days; resolve the dispute or mail an explanation as to why a statement is believed correct within 2 billing cycles; and maintain for at least two years, records evidencing compliance with the Act's billing error resolution procedures. The order prohibits the company from attempting to collect any amount of a bill in dispute, including any finance charge computed on such amount; and requires the company to forfeit the right to collect the amount in dispute up to $50., should it fail to comply with any of the Act's requirements.

DATES: Complaint and Order issued May 9, 1984.*

*Copies of the Complaint and the Decision and Order filed with the original document.

FOR FURTHER INFORMATION CONTACT: Ralph E. Stone, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, CA 94102. (415) 556-1270.

SUPPLEMENTARY INFORMATION: On Wednesday, Feb. 29, 1984, there was published in the **Federal Register**, 49 FR 7400, a proposed consent agreement with analysis In the Matter of Carter Hawley Hale Stores, Inc., a corporation, d/b/a The Emporium and Emporium-Capwell, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records; 13.533-55 Refunds, rebates and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Failing To Comply with Affirmative Statutory Requirements: § 13.1048 Failing to comply with affirmative statutory requirements; 13.1048-45 Truth in Lending Act.

List of Subjects in 16 CFR Part 13

Consumer credit, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, *et seq.*)

Emily H. Rock,

Secretary.

[FR Doc. 84-14009 Filed 5-24-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Monensin Blocks

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Moorman Manufacturing Co., providing for additional labeling statements for use of monensin in cattle feeds.

EFFECTIVE DATE: May 25, 1984.

FOR FURTHER INFORMATION CONTACT: Jack Taylor, Center for Veterinary Medicine (formerly Bureau of Veterinary Medicine) (HFV–126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Moorman Manufacturing Co., 1000 North 30th St., Quincy, IL 62301, submitted a supplement to NADA 115–581 revising the labeling for monensin medicated block to include dairy and beef replacement heifers with the other classes of pasture cattle presently provided for. The supplemental NADA is approved and the regulations are amended to reflect the approval. Elanco Products Co. has authorized the Center for Veterinary Medicine to refer to NADA's 38–878, 95–735, and their related master files to support this approval.

This is a Category II supplement (42 FR 64367; December 23, 1977) involving a revised animal production claim. Elanco recently received approval for essentially the same revision (**Federal Register** of Sept. 28, 1983; 48 FR 44204). Because use of Moorman's product is being extended to immature cattle intended for breeding purposes, no tissue residue problem is anticipated. Growth promotion effectiveness has been established in pasture cattle of the subject weight category. Therefore, a reevaluation of the underlying safety and effectiveness data was not required.

Approval of this supplement is an administrative action that did not require generation of new effectiveness or safety data. Therefore, a freedom of information summary (pursuant to 21 CFR 514.11(e)(2)(ii)) is not required for this action.

The Center for Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1448a [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.148a *Monensin blocks* by revising the first sentence of paragraph (b)(4)(iii) to read "Blocks to be fed free choice to cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers weighing more than 400 pounds) on pasture which may require supplemental feed."

Effective date. May 25, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)))

Dated: May 16, 1984.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation, Center for Veterinary Medicine.

[FR Doc. 84–14027 Filed 5–24–84; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 520

Oral Dosage From New Animal Drugs Not Subject To Certification; Pyrantel Pamoate Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Ralston Purina Co., providing for repeated oral use of pyrantel pamoate tablets for treating ascarid (*Toxocara canis*) infections in dogs.

EFFECTIVE DATE: May 25, 1984.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (formerly Bureau of Veterinary Medicine) (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Ralston Purina Co., Checkerboard Sq., St. Louis, MO 63188, filed supplemental NADA 101–331 for pyrantel pamoate tablets providing for use of a repeat treatment of young puppies at 2, 3, 4, 6, 8, and 10 weeks of age, in lactating bitches 2 to 3 weeks after whelping, and in adult dogs routinely at monthly intervals. The repeat treatment is used for removal and control of large roundworms (*T. canis*) in dogs and puppies. The supplement is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

The Center for Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Center's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(*a*)) may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.2042 by revising paragraph (c)(3) to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.2042 Pyrantel pamoate tablets.

* * * * *

(c) * * *

(3) *Limitations.* Administer orally directly or in a small amount of food. To prevent reinfection of *T. canis* in puppies, lactating bitches after whelping, and adult dogs; treat puppies 2, 3, 4, 6, 8, and 10 weeks of age; treat lactating bitches 2 to 3 weeks after whelping; routinely treat adult dogs monthly. Do not withhold food prior to or after treatment. The presence of these parasites should be confirmed by laboratory fecal examination. A followup fecal examination should be conducted 2 to 4 weeks after first treatment regimen to determine the need for re-treatment. Consult your veterinarian for assistance in the

diagnosis, treatment, and control of parasitism.

Effective date: May 25, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 18, 1984.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 84-14026 Filed 5-24-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Rescheduling of Sufentanil into Schedule II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This is a final rule removing sufentanil from Schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*) and placing it into Schedule II. Sufentanil remains classified as a narcotic substance. As a result of this rule, sufentanil is subject to Schedule II narcotic controls, the majority of which are identical to those of Schedule I narcotics. In addition, sufentanil may be prescribed according to the CSA controls for Schedule II narcotic substances.

EFFECTIVE DATE: May 25, 1984.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** on Tuesday March 20, 1984 (49 FR 10274), proposing that sufentanil, a narcotic substance, be transferred from Schedule I to Schedule II of the Controlled Substances Act. Interested persons were given until April 19, 1984, to submit comments or objections regarding the proposal. No comments or objections were received in response to the proposal; nor were there any requests for a hearing. In addition, according to a May 4, 1984 letter from Robert J. Temple, M.D., Acting Director, Office of Drug Research and Review, Center for Drugs and Biologics, Food and Drug Administration (FDA) of the Department of Health and Human Services, the New Drug Application (NDA) for sufentanil is approved; sufentanil is therefore safe and effective for use in medical treatment in the United States, as recommended by the FDA.

Based on the scientific and medical evaluation and recommendation of the Assistant Secretary for Health, on behalf of the Secretary, Department of Health and Human Services, sent on February 22, 1984 in accordance with section 201(b) of the CSA (21 U.S.C. 811(b)), the Administrator of the Drug Enforcement Administration, pursuant to Sections 201 (a) and (b) of the CSA (21 U.S.C. 811 (a) and (b)) finds that:

(1) Sufentanil has a high potential for abuse.

(2) Sufentanil has a currently accepted medical use in treatment in the United States.

(3) Abuse of sufentanil may lead to severe psychological or physical dependence.

The above findings are consistent with placement of sufentanil into Schedule II of the CSA. Most of the regulations (for registration, security, labeling and packaging, quotas, inventory, records, reports, order forms, importation, exportation, and criminal liability) for Schedule II narcotic substances are the same as for Schedule I narcotic substances. Regulations that are effective on May 25, 1984 and imposed on sufentanil by this order are as follows:

1. *Registration.* Any person who manufactures, distributes, engages in research, imports or exports sufentanil or who proposes to engage in sufentanil's manufacture, distribution, importation, exportation, or research shall obtain a registration to conduct that activity by (date of publication), pursuant to Part 1301 of Title 21 of the Code of Federal Regulations.

2. *Security.* Sufentanil must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(a)(c)(d), 1301.73, 1301.74, 1301.75(b)(c) and 1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and packaging.* All labels on commercial containers of, and all labeling of, sufentanil which is packaged after (date of publication) shall comply with the requirements of §§ 1302.03-1302.05 and 1302.07-1302.08 of Title 21 of the Code of Federal Regulations.

4. *Quotas.* Quotas for sufentanil are established pursuant to Part 1303 of Title 21 of the Code of Federal Regulations.

5. *Inventory.* Registrants possessing sufentanil are required to take inventories pursuant to § 1304.04 and §§ 1304.11-1304.19 of Title 21 of the Code of Federal Regulations.

6. *Records.* All registrants must keep records pursuant to § 1304.04 and §§ 1304.21-1304.29 of Title 21 of the Code of Federal Regulations.

7. *Reports.* All registrants are required to file reports pursuant to §§ 1304.31-1304.41 of Title 21 of the Code of Federal Regulations.

8. *Order Forms.* Each distribution of sufentanil requires the use of an order form pursuant to Part 1305 of Title 21 of the Code of Federal Regulations.

9. *Prescriptions.* As sufentanil has been approved by the Food and Drug Administration for use in medical treatment, the drug may be dispensed by prescription. Prescriptions for sufentanil are to be issued pursuant to §§ 1306.01-1306.07 and §§ 1306.11-1306.15.

10. *Importation and Exportation.* All importation and exportation of sufentanil shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

11. *Criminal Liability.* Any activity with sufentanil not authorized by or in violation of the Controlled Substances Act or the Controlled Substances Import and Export Act continues to be unlawful. The applicable penalties before (date of publication) shall be those of a Schedule I narcotic controlled substance. On May 25, 1984, sufentanil for the purposes of criminal liability shall be treated as a Schedule II narcotic controlled substance. The penalties of Schedule I or II narcotic controlled substances are the same. The only effect of the transfer may be for pleading purposes.

12. *Other.* In all other respects, this order is effective on May 25, 1984.

Pursuant to Title 5, United States Code, Section 605(b), the Administrator certifies that the rescheduling of sufentanil, as ordered herein, will not have a significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96-354). Most of the regulatory requirements imposed on Schedule II substances are the same as those imposed on Schedule I substances. Additionally, substances in Schedule II may be used in medical treatment in the United States.

In accordance with the provisions of section 201(a) of the CSA (21 U.S.C. 811(a)), this scheduling action is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by Section 201(a) of the CSA (21 U.S.C. 811(a)) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), the Administrator hereby orders that Part 1308, Title 21, Code of Federal Regulations (CFR) be amended as follows:

PART 1308—[AMENDED]

(1) By removing sufentanil as item (44) of § 1308.11(b) and renumbering items (45) tilidine and (46) trimeperidine as items (44) and (45), respectively; and

(2) By amending paragraph (c) of § 1308.12 Title 21, Code of Federal Regulations (CFR), to include sufentanil therein as item (23), to read as follows:

§ 1308.12 Schedule II

* * * * *

(c) * * *

(23) Sufentanil.....9740

* * * * *

Dated: May 18, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-14063 Filed 5-24-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 390

Administrative Offset of Claims; Correction

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects a drafting error and a typographical error contained in final regulations implementing the administrative offset provisions of 31 U.S.C. 3716 which were published in 49 FR 6368 on February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Lou Dasburg, Attorney-Advisor, Bureau of the Public Debt, Office of the Chief Counsel, Divisions Office (202) 447-9859.

Accordingly, the Bureau of the Public Debt is correcting the following:

1. In the middle column on page 6369, delete the second paragraph under heading "List of Subjects in 31 CFR Part 390" and substitute the following language: "Accordingly, Part 390 is added to subchapter B of 31 CFR, Chapter II, to read as follows:"

2. In the middle column on page 6369, the fourth bold heading, "Part 90-Collection by Administrative Offset" should read "Part 390—Collection by Administrative Offset."

Dated: May 18, 1984.

William M. Gregg,

Commissioner of the Public Debt.

[FR Doc. 84-14056 Filed 5-24-84; 8:45 am]

BILLING CODE 4810-40-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Ch. 1

[CGD 83-008]

Guide Clearances for Bridges Across Navigable Waters of the United States

AGENCY: Coast Guard, DOT.

ACTION: Adoption of Guide Clearances.

SUMMARY: The Coast Guard published a Notice of Proposed Adoption of Guide Clearances for Bridges across Navigable Waters of the United States in the March 28, 1983 **Federal Register**. A Supplemental Notice of Proposed Adoption of Guide Clearances was published in the November 25, 1983 **Federal Register**. As a result of the comments received, a small number of minor changes have been made. Three new listings, previously overlooked, have been made. These are found as items 102, 103 and 104.

EFFECTIVE DATE: This adoption of Guide Clearances becomes effective May 25, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. A. T. Meschter, 202-426-0942.

SUPPLEMENTARY INFORMATION: Guide Clearances are defined as the navigational clearances established by the Coast Guard for a particular navigable water of the United States which will ordinarily receive favorable consideration under the bridge permitting process (33 CFR Chapter 1, Subchapter J) as providing for the reasonable needs of navigation. The program of establishing Guide Clearances was initiated by the Corps of Engineers and later transferred to the Coast Guard. Under the Corps, Guide Clearances were called "Standard Clearances;" but the Coast Guard has since adopted the name "Guide Clearances" as more descriptive of the fact that these clearances are advisory, rather than mandatory. They are not intended to be regulatory in nature or to form a legal basis for approving or denying a bridge permit application. Under the circumstances of a particular case, greater or lesser clearances for a proposed bridge may be required or approved as meeting the reasonable needs of navigation for that particular location. For example, the particular character of the waterway and topography at the proposed location may justify a departure from the clearances specified for the waterway in the list of Guide Clearances.

Guide Clearances adopted or reaffirmed:

Waterway	Bridge type	Horizontal clearance	Vertical clearance	Reference plane
1. Fore River, ME: Mouth to head of Navigation	Fixed	200 ft	135 ft	MHW.
	Vertical lift	200 ft	135 ft (open)	MHW.
			20 ft (closed)	
	Swing or bascule	200 ft	20 ft (closed)	
2. Penobscot River, ME: Mouth to Bangor	Fixed	400 ft	135 ft	MHW.
	Draw railroad	150 ft	10 ft	MHW.
	Draw highway	150 ft	20 ft	MHW.
	Vertical lift	150 ft	135 (open)	MHW.
3. Kennebec River, ME: Mouth to Augusta	Fixed	100 ft	40 ft	MHW.
	Vertical lift	100 ft	40 ft (open)	MHW.
			15 ft (closed)	
	Swing or bascule	100 ft	15 ft (closed	
4. Connecticut River, CT, MA above Hartford			20 ft	Above river level 16 ft.
5. Hudson River, NY:				
George Washington Bridge to northern limits of Irvington.	Fixed	1,500 ft	180 ft	MHW 8 ft stage Albany gage.
Irvington to northern limits of Newburg	Fixed	1,500 ft	155 ft	Do.
Newburg to Castleton	Fixed	700 ft	138 ft	Do.
Castleton to Albany	Fixed	700 ft	135 ft	Do.
Albany to US Dam Troy	Fixed	500 ft	135 ft	Do.
	Vertil lift	300 ft	135 ft (open)	Do.
			40 ft (closed)	Do.

Waterway	Bridge type	Horizontal clearance	Vertical clearance	Reference plane
	Bascule	300 ft	40 ft (closed)	Do.
	Swing span	180 ft	40 ft (closed)	Do.
US Dam Troy to Waterford	Swing span	180 ft	15.5 ft (closed)	Do.
6. Severn River, MD:				
Mouth to Spa Creek	Drawbridge	250 ft	10 ft (closed)	MHW.
Spa Creek to Round Bay	Drawbridge	70 ft	10 ft (closed)	MHW.
Round Bay to head of tide water	Drawbridge	40 ft	10 ft (closed)	MHW.
7. South River, MD:				
Mouth to mile 5	Fixed	70 ft	53 ft	MHW.
Mile 5 to head of tide water	Drawbridge	50 ft	10 ft (closed)	MHW.
8. Bohemia River, MD: Mouth to head of tide water	Drawbridge	40 ft	10 ft (closed)	MHW.
9. Chester River, MD:				
Mouth to mile 26	Drawbridge	150 ft	10 ft (closed)	MHW.
Mile 26 to mile 33	Drawbridge	60 ft	10 ft (closed)	MHW.
Mile 33 to mile 42	Drawbridge	40 ft	10 ft (closed)	MHW.
10. Elk River, MD:				
Mouth to Back Creek	Drawbridge	100 ft	10 ft (closed)	MHW.
Back Creek to Elkton	Drawbridge	60 ft	10 ft (closed)	MHW.
11. Sassafrass River, MD:				
Mouth to Georgetown	Drawbridge	70 ft	10 ft (closed)	MHW.
Georgetown to head of tide water	Drawbridge	40 ft	10 ft (closed)	MHW.
12. Choptank River, MD:				
Mouth to Cambridge	Drawbridge	150 ft	10 ft (closed)	MHW.
Cambridge to Dover	Drawbridge	100 ft	10 ft (closed)	MHW.
Dover to Denton	Drawbridge	80 ft	10 ft (closed)	MHW.
Denton to Greensboro	Drawbridge	40 ft	10 ft (closed)	MHW.
13. Nanticoke River, DE, MD:				
Mouth to Quantico Creek	Drawbridge	150 ft	10 ft (closed)	MHW.
Quantico Creek to Broad Creek River	Drawbridge	80 ft	10 ft (closed)	MHW.
Broad Creek River to Seaford	Drawbridge	60 ft	10 ft (closed)	MHW.
Seaford to Concord	Drawbridge	40 ft	10 ft (closed)	MHW.
14. Wicomico River, MD:				
Mouth to White Haven	Drawbridge	150 ft	10 ft (closed)	MHW.
White Haven to Salisbury Prong	Drawbridge	100 ft	10 ft (closed)	MHW.
Salisbury Prong to head of tide water	Drawbridge	50 ft	10 ft (closed)	MHW.
15. Pocomoke River, MD:				
Mouth to Pocomoke City	Drawbridge	100 ft	10 ft (closed)	MHW.
Pocomoke City to Snow Hill	Drawbridge	70 ft	10 ft (closed)	MHW.
Snow Hill to head of tide water	Drawbridge	40 ft	10 ft (closed)	MHW.
16. Potomac River, MD, DC: Mouth to Haines Point	Fixed	250 ft	135 ft	MHW.
	Drawbridge	250 ft	75 ft	MHW.
			135 ft (open)	MHW.
17. Patuxent River, MD:				
Mouth to Sheridan Point	Fixed	130 ft	135 ft	MHW.
	Drawbridge	130 ft	10 ft	MHW.
			135 ft (open)	
Sheridan Point to Nottingham	Fixed	100 ft	10 ft	MHW.
			100 ft (open)	
18. James River, VA:				
Mouth to City Point	Fixed or vertical lift	350 ft	145 ft	MHW.
	Swing or bascule	350 ft	50 ft (closed)	MHW.
City Point to Richmond	Fixed	400 ft	145 ft	MHW.
19. Appomattox River, VA: Mouth to Petersburg	Drawbridge	80 ft	15 ft (closed)	MHW.
20. Rappahannock River, VA: Mouth to Bowlers Rock light	Fixed	250 ft	100 ft	MHW.
	Drawbridge	250 ft	75 ft	MHW.
			100 ft (open)	
Bowlers Rock light to Jones Point	Fixed	150 ft	100 ft	MHW.
	Drawbridge	150 ft	10 ft	MHW.
			100 ft (open)	
Jones Point to Port Royal	Fixed	100 ft	100 ft	MHW.
	Drawbridge	100 ft	10 ft	MHW.
			100 ft (open)	
21. Black Water River, VA:				
Mouth to SAL railroad bridge	Drawbridge	80 ft	5 ft (closed)	MHW.
SAL bridge to Southern	Fixed	34 ft	15.5 ft	MHW.
22. Nottoway River, VA:				
Mouth to Smith Ferry Bridge	Drawbridge	60 ft	5 ft (closed)	MHW.
Smith Ferry Bridge to Peters Bridge	Fixed	40 ft	8 ft (closed)	MHW.
23. Cape Fear River, NC:				
Wilmington mile 30 to mile 39	Fixed or vertical lift	120 ft	135 ft	Maximum HW.
	Swing or bascule	120 ft	5 ft (closed)	Maximum HW.
Mile 39 to Fayetteville	Fixed or vertical lift	100 ft	70 ft	Maximum HW.
	Swing or bascule	100 ft	5 ft (closed)	Maximum HW.
24. Northeast River, NC:				
Mouth to mile 2.75	Fixed or vertical lift	150 ft	135 ft	Maximum HW.
	Swing or bascule	150 ft	5 ft (closed) railroad	Maximum HW.
			30 ft (closed) highway	Maximum HW.
Mile 2.75 to Lanes Ferry	Fixed or vertical lift	60 ft	50 ft	Maximum HW.
	Swing or bascule	60 ft	5 ft (closed)	Maximum HW.
25. Neuse River, NC: New Bern to 2 miles above	Fixed or vertical lift	80 ft	100 ft	
	Swing or bascule	80 ft	5 ft (closed) railroad	Maximum HW.
			15 ft (closed) highway	
26. Chowan River, NC:				
Mouth to Winton	Drawbridge	80 ft	5 ft (closed)	MHW.
Winton to Source	Drawbridge	60 ft	5 ft (closed)	MHW.
27. Meherrin River, NC: Mouth to Murfreesboro	Drawbridge	60 ft	5 ft (closed)	MHW.
28. Tar River, NC:				
Mouth to 2 miles above Washington	Fixed or vertical lift	80 ft	100 ft	Maximum HW.
	Swing or bascule	80 ft	5 ft (closed) railroad	
			10 ft (closed) highway	
2 miles above Washington to Greenville	Fixed or vertical lift	60 ft	50 ft	
	Swing or bascule	60 ft	5 ft (closed)	
29. Roanoke River, NC:				
Mouth to Hamilton	Drawbridge	80 ft	5 ft (closed)	MHW.

Waterway	Bridge type	Horizontal clearance	Vertical clearance	Reference plane
Hamilton to Waldon	Fixed	40 ft	8 ft	MHW.
30. Wacamaw River, NC, SC:				
Intracoastal Waterway to mile 41.5	Fixed or vertical list	90 ft	35 ft	MLW.
	Swing or bascule	90 ft	10 ft (closed)	Maximum HW.
Mile 41.5 to mile 67	Fixed or vertical lift	60 ft	35 ft	MLW.
	Swing or bascule	60 ft	10 ft (closed)	Maximum HW.
31. Santee-Cooper Project, SC:				
Cooper River above Charleston Harbor	Fixed or vertical lift	100 ft	50 ft	MHW.
	Swing or bascule	100 ft	10 ft (closed)	MHW.
West Branch Cooper River, SC and Tailrace Canal	Fixed or vertical lift	100 ft	50 ft	HW (+8.5 MSL).
	Swing or bascule	100 ft	10 ft (closed)	
Penopolis Reservoir, SC:				
Diversion Canal and Santee Reservoir to a point near the head of the Santee River where the bank full stage is higher than the maximum pool elevation.	Fixed or vertical lift	100 ft	50 ft	Maximum pool elevation +75 MSL.
	Swing or bascule	100 ft	10 ft (closed)	
Thence to confluence of Santee and Congaree Rivers	Fixed or vertical lift	100 ft	50 ft	HW.
	Swing or bascule	100 ft	10 ft (closed)	HW.
Congaree River, SC:				
Mouth to mile 46	Fixed or vertical lift	100 ft	50 ft	MLW.
	Swing bascule	100 ft	10 ft (closed)	Maximum HW.
Mile 46 to mile 48	Fixed or vertical lift	100 ft	35 ft	MLW.
	Swing or bascule	100 ft	10 ft (closed)	Maximum HW.
32. Savannah River, GA: From upper limit Savannah Harbor Project to New Savannah Bluff Lock and Dam.	Fixed or vertical lift	150 ft	55 ft	MLW.
33. Altamaha River, GA	Fixed or vertical lift	80 ft	30 ft	MLW.
	Swing or bascule	80 ft	10 ft (closed)	Maximum HW.
34. Oconee River, GA	Fixed or vertical lift	75 ft	30 ft	MLW.
	Swing or bascule	75 ft	10 ft (closed)	Maximum HW.
35. Ocmulgee River, GA	Fixed or vertical lift	60 ft	30 ft	MLW.
	Swing or bascule	60 ft	10 ft (closed)	Maximum HW.
36. Atlantic Intracoastal WW, VA to FL:				
Norfolk to Little River, SC	Fixed or vertical lift	90 ft	65.0 ft	MHW.
	Swing or bascule	90 ft	5 ft (closed) railroad	MHW.
			15 ft (closed) highway	MHW.
		120 ft in exposed locations	120 ft in exposed locations	
Little River, SC to Key West, FL	Fixed or vertical lift	90 ft	65.0 ft	MHW.
	Swing or bascule	90 ft	21 ft (closed)	MHW.
37. Cross Florida Barge Canal, FL	Fixed or vertical lift	150 ft	65.0 ft	MHW.
38. St. Johns River, FL Confluence with Barge Canal to Sanford, FL.	Fixed or vertical lift	90 ft	65 ft	MHW.
	Swing or bascule	90 ft	10 ft (closed)	
39. Okeechobee Waterway, FL	Fixed or vertical lift	90 ft	55.0 ft	MHW.
40. Miami River, FL: Mouth to mile 5.5	Fixed or vertical lift	90 ft	75 ft	MHW.
	Swing or bascule	90 ft	25 ft (closed)	MHW.
41. Escambia River, FL	Fixed or vertical lift	90 ft	40.0 ft	OHW.
42. Apalachicola River, FL, GA	Fixed or vertical lift	150 ft	35.6 ft	OHW.
43. Chattahoochee River, AL, GA, FL	Fixed or vertical lift	150 ft	35.6 ft	OHW.
44. Coosa River, AL, GA	Fixed or vertical lift	150 ft	42.5 ft	OHW.
45. Flint River, GA	Fixed or vertical lift	150 ft	35.6 ft	OHW.
46. Alabama River, AL	Fixed or vertical lift	250 ft	42.5 ft	OHW.
47. Black Warrior River, AL	Fixed or vertical lift	200 ft	52.0 ft	OHW.
48. Mobile River, AL	Fixed or vertical lift	300 ft	125 ft	OHW.
49. Locust Fork of the Black Warrior River, AL	Fixed or vertical lift	200 ft	52.0 ft	OHW.
50. Mulberry Fork of the Black Warrior River, AL	Fixed or vertical lift	200 ft	52.0 ft	OHW.
51. Tennessee-Tombigbee Waterway; Tombigbee River, AL, MS.	Fixed or vertical lift	300 ft	52.0 ft	Normal pool
			40.0 ft	1 pct flowline.
52. West Pearl River, MS	Fixed or vertical lift	125 ft	35.0 ft	OHW.
53. East Pearl River, MS	Fixed or vertical lift	125 ft	35.0 ft	OHW.
54. Jefferson-Shreveport TX, LA	Fixed or vertical lift	240 ft	52.0 ft	2 pct flowline.
55. Calcasieu River Ship Channel, LA:				
Mile 4.3 to mile 29.7	Fixed	500 ft	175ft	MHW.
Mile 29.7 to mile 36.3	Fixed	400 ft	135ft	MHW.
56. Atchafalaya River, LA:				
Berwick Bay	Fixed or vertical lift	525ft	73.0 ft	MHW.
Above Berwick Bay	Fixed or vertical lift	180 ft	50.0 ft	MHW.
57. Houston Ship Channel, TX:				
Up to mile 47.2	Fixed or vertical lift	500 ft	175ft	2 pct flowline.
Above mile 47.2	Fixed or vertical lift	400 ft	135ft	2 pct flowline.
58. Trinity River, TX	Fixed or vertical lift	300 ft between pier faces	52ft	2 pct flowline or top of conservation pools in reservoirs.
		250 ft between fenders		
59. Sabine Neches Waterway, Sabine River and Neches River, TX.	Fixed	600 ft	155ft	MHW.
60. Lower Neches River, TX	Fixed	400 ft	143ft	MHW.
61. Gulf Intracoastal WW, FL to TX:				
Calcosahatchee River to Tampa Bay	Swing or Bascule	90 ft	21 ft (closed)	MHW.
Tampa Bay to Apalachee Bay	Fixed or vertical lift	90 ft	65.0 ft	MHW.
Apalachee Bay to Pensacola Bay	Fixed or vertical lift	150 ft	65.0 ft	MHW.
Pensacola Bay to Brownsville, TX, except Port of New Orleans, LA.	Fixed or vertical lift	125 ft	73.0 ft	MHW.
62. Gulf Intracoastal WW, Port of New Orleans, LA:				
Mississippi River Gulf Outlet Portion to Inner Harbor Navigation Canal.	Fixed	500 ft	155 ft	MHW.
Inner Harbor Navigation Canal Portion to Mississippi River.	Fixed or vertical lift	300 ft	155 ft	MHW.
Harvey Canal	Fixed or vertical lift	125 ft	100 ft	MHW.
Algiers Canal	Fixed or vertical lift	125 ft	100 ft	MHW.
63. Mississippi River:				
Upper limits New Orleans to Baton Rouge Harbor, LA	Fixed	750 ft main span	133 ft	Maximum river level.
		500 ft auxiliary span		
		2 auxiliary spans required		
Baton Rouge Harbor to Vicksburg, MS	Fixed		64 ft	Maximum river level.
Vicksburg to Cairo, IL	Fixed		55 ft	Maximum river level.
Cairo to Illinois River, IL	Fixed		60 ft	2 pct flowline.
Illinois River to Lafayette Rd., St. Paul, MN	Fixed		60 ft	Normal pool.
			52 ft	2 pct flowline.

Waterway	Bridge type	Horizontal clearance	Vertical clearance	Reference plane
64. St. Croix River, MN: Mouth to Stillwater, MN	Fixed		60 ft	Normal pool.
			52 ft	2 pct flowline.
65. Allegheny River, PA:				
Elmsworth Pool	Fixed		40 ft	Dam crest.
Dam 2 to East Brady	Fixed		47 ft	Do.
66. Monongahela River, PA:				
Elmsworth pool	Fixed		40 ft	Do.
Dam 2 to Fairmont, WV	Fixed		47 ft	Do.
67. Ohio River, PA to IL	Fixed		69 ft	Average June flow.
			55 ft	2 pct flowline.
68. Tennessee River, TN to AL	Fixed		57 ft	Normal pool.
			47 ft	Regulated HW.
69. Clinch River, TN:				
Mouth to mile 48	Fixed		42 ft	Normal pool
			32 ft	Regulated HW.
Mile 48 to mile 67	Fixed		35 ft	Normal pool.
70. Emory River, TN:				
Mouth to mile 12.1	Fixed		42 ft	Do.
			32 ft	Regulated HW.
Mile 12.1 to mile 13	Fixed		35 ft	Normal pool.
71. Hiwassee River, TN	Fixed		42 ft	Do.
			32 ft	Regulated HW.
72. Little Tennessee River, TN:				
Mouth to mile 18.5	Fixed		42 ft	Normal pool.
			32 ft	Regulated HW.
Mile 18.5 mile 29	Fixed		35 ft	Normal pool.
73. Tellico River, TN: Mouth to mile 9	Fixed		35 ft	Do.
74. Cumberland River, TN, KY:				
Barkley Reservoir:				
Main stream	Fixed		57 ft	Normal summer pool
			40 ft	Maximum flood regulated.
Major tributaries	Fixed		42 ft	Normal summer pool.
			25 ft	Maximum flood regulated.
Cheatham Reservoir:				
Main stream	Fixed		57 ft	Normal summer pool.
			40 ft	Maximum flood regulated.
Major tributaries	Fixed		42 ft	Normal summer pool.
Old Hickory Reservoir:				
Main stream	Fixed		57 ft	Normal summer pool.
			40 ft	Maximum flood regulated.
Major tributaries	Fixed		42 ft	Normal summer pool.
			40 ft	Maximum flood regulated.
Cordell Hull Project:				
Main stream	Fixed		57 ft	Normal summer power discharge.
			40 ft	Maximum flood regulated.
Major tributaries	Fixed		42 ft	Normal summer power discharge.
			25 ft	Maximum flood regulated.
J. Percy Priest Reservoir:				
Main stream	Fixed		40 ft	Minimum power pool or 30 ft above top power and recreation pool, whichever greater.
75. Chicago River, IL:				
Main Branch	Bascule	170 ft	17.9 ft (closed)	LWD 576.8.
North Branch	Fixed	40.4 ft		LWD 576.8.
	Bascule	40.4 ft	6.6 ft (closed)	LWD 576.8.
North Branch Canal	Bascule	56.9 ft	8.40 ft (closed)	LWD 576.8.
South Branch	Bascule	125 ft		LWD 576.8.
	Vertical lift	125 ft	120 ft	LWD 576.8.
			10.5 ft (closed)	LWD 576.8.
West Fork South Branch	Bascule	140.3 ft	22.4 ft (closed)	LWD 576.8.
South Fork South Branch	Fixed	90.0 ft	12.1 ft	LWD 576.8.
76. Chicago Sanitary and Ship Canal, IL:	Swing	45 ft	4.4 ft (closed)	LWD 576.8.
77. Indiana Harbor canal, IN:				
Main Channel	Bascule	61.7 ft	5.4 ft (closed)	LWD 576.8.
Calumet River Branch	Fixed	34.2 ft	3.2 ft	LWD 576.8.
Lake George Branch	Fixed	64.4 ft	5.6 ft	LWD 576.8.
78. Calumet River, IL: Main river	Fixed or vertical lift	135.7 ft	125 ft	LWD 576.8.
			7.3 ft (closed)	
79. Little Calumet River West, IL	Fixed	52 ft	13.4 ft	LWD 576.8.
80. Little Calumet River East, IL, IN	Fixed	200 ft	29.4 ft	LWD 576.8.
81. Grand Calumet River, IL	Fixed	12 ft	5.5 ft	LWD 576.8.
82. Calumet Sag Channel, IL	Fixed	188.5 ft	24.36 ft	LWD 576.8.
83. Buffalo River, NY	Fixed	91.0 ft		LWD 568.6.
	Bascule	91.0 ft	12.4 ft (closed)	LWD 568.6.
84. Cuyahoga River, OH	Vertical lift	100 ft		LWD 568.6.
			8.4 ft (closed)	LWD 568.6.
85. Maumee River, OH	Fixed	110 ft		LWD 568.6.
	Swing	110 ft	17.3 ft (closed)	LWD 568.6.
86. Rouge River, MI	Bascule	123 ft	6.4 ft (closed)	LWD 568.6.
87. Saginaw River, MI	Fixed	66 ft		LWD 576.8.
	Swing	66 ft	7.8 ft (closed)	LWD 576.8.
88. Grand River, MI	Swing	54 ft	9.8 ft (closed)	LWD 576.8.
89. Milwaukee River, WI	Vertical lift	50 ft	25.6 ft (open)	LWD 576.8.
	Swing	50 ft	12.5 ft (closed)	LWD 576.8.
90. Menomonee River and Canals, WI, MI	Swing	45 ft	7.9 ft (closed)	LWD 576.8.
91. Kennickinnic River, WI	Fixed	50 ft		LWD 576.8.
	Swing		8.1 ft (closed)	576.8.
92. Manitawoc River, WI	Fixed	60.8 ft		LWD 576.8.
	Swing		6.0 ft (closed)	LWD 576.8.
93. Fox River, WI:				
Mouth to DePere	Swing	75 ft	7.5 ft (closed)	LWD 576.8.

Waterway	Bridge type	Horizontal clearance	Vertical clearance	Reference plane
Above DePere	Swing	59.8 ft	3.5 ft (closed)	LWD 576.8.
94. East River, WI	Fixed	40 ft		LWD 576.8.
	Swing		6.0 ft (closed)	
95. Illinois River, IL:				
Mouth to upper limits of Peoria, mile 180.0	Fixed or vertical lift		55 ft	2 pct flowline.
			63 ft	Pool stage, 8,000 cfs.
Peoria to Starved Rock, mile 231.0	Fixed or vertical lift		50 ft	2 pct flowline.
			56 ft	Pool stage, 8,000 cfs.
Starved Rock to Joliet	Fixed or vertical lift	Width of channel	47 ft	Pool stage, 8,000 cfs.
Joliet to Lockport Lock and Dam	Fixed or vertical lift	Width of channel	35 ft	Computed HW.
96. Minnesota River, MN:				
Mouth to mile 10.8	Fixed		55 ft	Normal pool.
Mile 10.8 to Chaska	Fixed		30.8 ft	Above 1,881, HW elevation.
97. Kaskaskia River, IL	Fixed		25 ft	Along line joining the 2 pct flowline at New Athens, IL, and elevation at mouth equal to 38 ft on St. Louis gage.
98. Missouri River:				
Mouth to Gavins Point Dam	Fixed		52 ft	2 pct flowline.
Gavins Point Dam to Montana	Fixed		30 ft	Above bridge reference plane.
99. McClellan-Kerr Arkansas River Navigation System, AR, OK.			52 ft	2 pct flowline.
100. Santa Bois Creek, OK	Fixed		30 ft	2 pct flowline.
101. Yazoo River, MS: Mouth to Greenwood	Fixed		43 ft	Project flowline.
102. Red River, LA to Shreveport, LA	Fixed		52 ft	2 pct flowline.
103. Tensas River, LA to mile 81.0	Fixed		50 ft	Maximum HW prior to 30 June 1931.
104. White River, AR:				
Mile 0.0 to mile 9.8	Fixed		52 ft	2 pct flowline.
Mile 9.8 to Newport, AR	Fixed		42 ft	2 pct flowline.
Newport, AR to Batesville, AR	Fixed		35 ft	Maximum HW prior to 30 June 1931.
105. Black River, LA: Ouachita River, LA, AR	Fixed		50 ft	Maximum HW prior to 30 June 1931.
	Movable	130 ft		
106. Colorado River, CA, AZ, NV	Fixed	50 ft	25 ft	Normal HW.
	Removable span	50 ft	17 ft	Do.
107. Chehalis River, WA:				
Mouth to East City Limits of Cosmopolis	Fixed or vertical lift	250 ft	140 ft	MHW.
	Swing or bascule	185 ft	12 ft (closed) hwy	MHW.
			8 ft (closed) railroad	MHW.
Cosmopolis to Montesano	Movable	125 ft	8 ft (closed)	MHW.
Above Montesano	Fixed	100 ft	8 ft	MHW.
108. Tacoma Harbor, WA:				
Blair Waterway	Fixed or movable	300 ft	140 ft (hwy)	MHW.
			45 ft (closed)	
Hylebos and city waterway above 11th St. Tacoma	Fixed or vertical lift	150 ft	135 ft	MHW.
	Swing or bascule	150 ft	30 ft (closed) hwy	MHW.
			7 ft (closed) railroad	MHW.
109. Duwamish West and Duwamish Waterway, WA				
Mouth to 1st Avenue South	Fixed or vertical line	250 ft	140 ft (hwy)	MHW.
			45 ft (closed)	
1st Avenue South to 14th Avenue South	Fixed or vertical lift	150 ft	135 ft	MHW.
	Swing or bascule	150 ft	30 ft (closed) hwy	MHW.
			7 ft (closed) railroad	MHW.
Above 14th Avenue South to upstream limit of Federal Project.	Fixed or movable	125 ft	135 ft	MHW.
			30 ft (closed) hwy	MHW.
			7 ft (closed) railroad	MHW.
110. Coos Bay, OR: Mouth to Smiths Mill, mile 15	Fixed	500 ft	135 ft	MHW.
	Vertical lift or bascule	225 ft	125 ft	
111. Columbia and Snake River System, OR, WA, ID:				
Mouth to BNRR Bridge at Vancouver	Fixed	1,000 ft	180 ft	25ft on Portland gage.
Bonneville to Dalles	Fixed	450 ft	135 ft	600 kf PS stage.
Dalles to Kennewick, Mile 328	Fixed	400 ft	60 ft	2 pct flowline.
Mile 328 to mile 469	Fixed	400 ft	50 ft	2 pct flowline.
469 to mile 474.5	Fixed	250 ft	50 ft	2 pct flowline.
Snake River mouth to mile 146.8	Fixed	400 ft	60	2 pct flowline.
Clearwater River mouth to head of pool	Fixed	400 ft	60 ft	2 pct flowline.
112. Willamette River:				
Mouth to Broadway Bridge	Fixed	1,000 ft	180 ft	25 ft stage Portland gage.
Broadway Bridge to Ross Island Bridge	Fixed	500 ft	140 ft	25 ft stage Portland gage.
	Movable	250 ft	40 ft (closed)	25 ft stage Portland gage.

Dated: May 11, 1984.

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc. 84-13989 Filed 5-24-84; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty, Manufactured Housing Loans; Computation of Guaranty Claims

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is amending its regulations concerning the amount of interest a holder may include in a claim under the guaranty on a defaulted manufactured home loan. The amendments are for the purpose of assuring the payment of a fair rate of interest on a holder's loan guaranty claim.

EFFECTIVE DATE: May 8, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond L. Brodie, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202) 389–3668.

SUPPLEMENTARY INFORMATION: On September 7, 1983, the VA published in the **Federal Register** (48 FR 40402) proposed amendments to the manufactured home loan regulations, §§ 36.4253, 36.4283 and 36.4284. Public comments were requested on a proposal to amend the prescribed rate at which post cutoff date interest on a holder's manufactured home loan guaranty claim is computed.

When a VA-guaranteed manufactured home loan goes into insoluble default, the holder of the loan repossesses and sells the security and then submits a claim to the Administrator under the guaranty. Sections 36.4283(g)(1) and 36.4284(c) prescribe the amount of interest the holder may include in a claim to the Administrator. From the date of default up to the applicable cutoff date prescribed by § 36.4284(a), the holder's claim may include interest at the contract interest rate on the particular loan. The cutoff date for computation of interest at the contract rate is the date of the judgment or decree of foreclosure, or date of repossession if no foreclosure. However, if no security is available, the cutoff date is the date of claim, but not more than 6 months after the first uncured default.

The claim previously could include additional interest at the rate of 6 percent from the applicable cutoff date to the date of the resale but not to exceed 60 days. The 6 percent interest figure was established at the inception of the manufactured home program in 1971, at which time it was set 4.75 percent below the then maximum contract interest rate of 10.75 percent. This final amendment allows the post cutoff date interest rate to float 4.75 percent below the contract interest rate.

Three comments were received from the public on the proposed amendments, all of which favored the change to a floating rate. All three commentators expressed disappointment that the proposal did not also extend the period of time for inclusion of interest beyond the present maximum of 60 days. They noted that the timeframe for disposing of a repossessed manufactured home can be greater than 60 days, and that an abbreviated reimbursement period results in lenders having to advance, from their own funds, pass-through payments to holders of GNMA (Government National Mortgage Association) securities until such time as the claim is actually paid. It was also noted that there is no companion limitation in the regulations governing conventionally-built homes. In light of these comments, we have further amended the regulations to extend the period for inclusion of post cutoff date interest from a maximum of 60 days to a new maximum of 90 days, which we believe will be sufficient to cure the concerns expressed and assure a continued high level of participation by lenders in the manufactured home loan program. We do not believe it would be appropriate at this time to allow the inclusion of post cutoff date interest with no time limitation.

Claim computations for manufactured home loans guaranteed prior to the effective date of these amendments will not be affected. Computation of post cutoff date interest based on the floating rate will apply only to loans guaranteed on or after the effective date, and clarifying language to that effect has been added.

As originally proposed, we are making technical and editorial amendments to §§36.4253(b), and 36.4283 (f) and (g) and changing the term "mobile home" to "manufactured home" as required by Pub. L. 97–306, 96 Stat. 1429, enacted October 14, 1982. No substantive changes are involved and no public comments were received on these proposals. Accordingly, these amendments are adopted as originally proposed.

The Administrator hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C., sections 601–612. The amendments will affect only holders of VA guaranteed manufactured home loans. There are few such holders nationwide, as this is a highly specialized field of finance. Small government jurisdictions or other small organizations usually do not make such loans and thus will not be affected. There will be no change in compliance costs or reporting burdens. The effect of the amendments will be minor and in fact beneficial to program participants which are small businesses. Since the inception of the manufactured home program in 1971, the interest rate on VA guaranteed manufactured home loans has remained within the 10¾–19½ percent range. Applying the new regulation to a defaulted manufactured home loan made at a rate of, for example, 16¾ percent, the effect would be that the VA would pay the holder post cutoff date interest at a rate of 12 percent per annum instead of the present 6 percent per annum, for up to 90 days. Assuming that the calculation is based on a typical indebtedness of $20,000.00, the claim payment to the holder would increase by a maximum of $400.00 if a full 90 or more days elapse between repossession and resale of the manufactured home. The effect is beneficial, but also minor, since equal or greater rates of return on capital are readily available in the financial markets. In fact, the reason for the change is to bring our current procedure more closely in line with the realities of the marketplace. Since we do not foresee at this time a drop in interest rates to pre-1971 levels, we anticipate no adverse effects upon small entities as a result of the floating rate. If such a drop were to occur, the impact would be minor, as the interest rates on competitive financial investments would likewise fall. Pursuant to 5 U.S.C. section 605(b), these regulations are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The amendments have been reviewed pursuant to Executive Order 12291 and have been found to be nonmajor regulations. The regulations will not impact on the public or private sectors as major rules. They will not have an annual effect on the economy of $100 million or more, and will not cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; nor will they have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-

based enterprises in domestic or export markets.

(Catalog of Federal Domestic Assistance Program Number 64.119)

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing loan programs—housing and community development, Manufactured homes, Veterans.

These amendments are promulgated under authority granted to the Administrator by sections 210(c) and 1819(g) of title 38, United States Code.

Approved: May 8, 1984.
By direction of the Administrator.

Everett Alvarez, Jr.,
Deputy Administrator.

PART 36—LOAN GUARANTY

The VA is amending 38 CFR Part 36 as follows:

§ 36.4253 [Amended]

1. In § 36.4253, the introductory text of paragraph (b) is reprinted for the convenience of the reader, paragraph (b)(5)(iv) is removed, paragraphs (b) (6) through (8) are redesignated as paragraphs (b) (8) through (10), respectively and revised, and new paragraphs (b) (6) and (7), (formerly (b)(5)(iv) are added to read as follows:

* * * * *

(b) Any such property or estate will not fail to comply with the requirements of paragraph (a) of this section by reason of the following:

* * * * *

(6) State and local housing agency deed restrictions provided that the veteran obtained the property under a State or local political subdivision program designed to assist low- or moderate-income purchasers, and as a condition the purchaser must agree to one or more of the following restrictions:

(i) If the property is resold within a time period as established by local law or ordinance, after the purchaser acquires title, the purchaser must first offer the property to the government housing agency, or a low- or moderate-income purchaser designated by such agency, provided the option to purchase is exercised within 90 days after notice by the purchaser to the agency of intention to sell;

(ii) If the property is resold within a time period as established by local law or ordinance, after the purchaser acquires title, a governmental agency may specify a maximum price for the property upon resale; or

(iii) Such other restriction approved by the Administrator designed to insure either that a property acquired under such program again be made available to low- or moderate-income purchasers, or to prevent a private purchaser from obtaining a windfall profit on the resale of such property, while assuring that the purchaser has a reasonable opportunity to dispose of the property without undue difficulty at a reasonable price.

The sale price of a property under any of the restrictions of paragraph (b)(6) of this section shall not be less than the lowest of the following: The price designated by the owner as the asking price; the appraised value of the property; or the original purchase price of the property, increased by a factor reflecting all or a reasonable portion of the increased costs of housing or the percentage increase in median income in the area between the date of original purchase and resale, plus the reasonable value or actual costs of any capital improvements made by the owner, plus a reasonable real estate commission less the cost of necessary repairs required to place the property in saleable condition; or other reasonable formula approved by the Administrator. The veteran must be fully informed and consent in writing to the deed restrictions. A copy of the veteran's consent statement must be forwarded with the application for manufactured home loan guaranty or the report of a manufactured home loan processed on the automatic basis; (38 U.S.C. 1819(g)).

(7) A recorded restriction on title limits the sale, lease, or occupancy, of a dwelling to person based on age, including prohibitions against the permanent occupancy of the dwelling by children. The Administrator may refuse to approve a property with such a restriction if its operation would work an undue hardship upon the owner in the case of sudden, unforeseen events or be likely to result in an increased risk of default. Examples of restrictions that could work an undue hardship include, but are not limited to, requirements for sale in lieu of leasing or renting of the property if the owner-occupant becomes the guardian or custodian of a minor child who must reside with the owner-occupant upon the death or incapacity of the child's parents and restrictions that do not permit persons younger than the specified age who inherit the property either to rent or lease such property to a qualified occupant. The enforcement of an age restriction which would authorize the eviction of owners who adopt or give birth to a child is not considered an undue hardship. The veteran is fully informed and consents in writing to the age restrictions. A copy of the veteran's consent statement must be forwarded with the application for manufactured home loan guaranty or the report of a manufactured home loan processed on the automatic basis; (38 U.S.C. 1819(g))

(8) Building and use restrictions whether or not enforceable by a reverter clause if there has been no breach of the conditions affording a right to an exercise of the reverter;

(9) Violation of a restriction based on race, color, creed, or national origin, whether or not such restriction provides for reversion or forfeiture of title or a lien for liquidated damages in the event of a breach;

(10) Any other covenant, condition, restriction, or limitation approved by the administrator in the particular case. Such approval shall be a condition precedent to the guaranty of the loan;

* * * * *

2. In § 36.4283, paragraph (f)(3)(iv)(F) and (g)(1) are revised as follows: (The introductory text of paragraph (g) is reprinted for the convenience of the reader).

§ 36.4283 Foreclosure or repossession.

* * * * *

(f) * * *

(3) * * *

(iv) * * *

(F) The holder agrees to comply with VA manufactured home regulations as if the original loan had not been terminated. (38 U.S.C. 1819(g))

(g) If at the end of 6 months from the date of acquisition the holder has been unable to resell the property a claim may be submitted under the guaranty and the Administrator will pay to the holder upon submission of such claim:

(1) The difference between the appraised value of the property as determined by the Administrator and the indebtedness including those costs allowable under § 36.4276 and the costs of repossessing the manufactured home not to exceed $100, plus any accrued and unpaid interest to the applicable cutoff date as set forth in § 36.4284(a) at the maximum rate allowable. For loans guaranteed prior to May 8, 1984, the Administrator will also pay accrued interest at a rate of 6 percent from such cutoff date to the date of claim but not to exceed 60 days. For loans guaranteed on or after May 8, 1984, the Administrator will pay accrued interest at a rate 4.75 percent below the contract interest rate from such cutoff date to the date of claim but not to exceed 90 days. (38 U.S.C. 1819(g))

* * * * *

3. In § 36.4284, paragraph (c) is revised as follows:

§ 36.4284 Computation of guaranty claims.

* * * * *

(c) Any allowable expenditures or costs, paid by the holder, and any accrued and unpaid interest to the applicable cutoff date as set forth in paragraph (a) of this section at the maximum rate allowable, may be deducted from the proceeds of the sale of the property, or may be included in the accounting to the Administrator on such loan. For loans guaranteed prior to May 8, 1984, the holder may also either deduct from sales proceeds, or include in the accounting, accrued interest at a rate of 6 percent from such cutoff date to the date of resale or other liquidation but not to exceed 60 days. For loans guaranteed on or after May 8, 1984, the holder may also either deduct from sales proceeds, or include in the accounting, accrued interest at a rate 4.75 percent below the contract interest rate from such cutoff date to the date of resale or other liquidation but not to exceed 90 days. (38 U.S.C. 1819(g))

* * * * *

[FR Doc. 84-14060 Filed 5-24-84; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[00000/R664; PH-FRL 2584-8]

Revocation of Tolerances for Ethylene Dibromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice revokes the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on citrus fruits and papayas that have been fumigated after harvest with the insecticide ethylene dibromide (EDB). A notice published elsewhere in this issue of the **Federal Register** establishes tolerances for these fruits based on a measurement of EDB *per se*.

EFFECTIVE DATE: Effective on May 25, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Johnson, Registration Division (TS-767C), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460
Office location and telephone number: Rm. 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7420).

SUPPLEMENTARY INFORMATION: On March 1, 1984, EPA issued a notice, published in the **Federal Register** of March 6, 1984 (49 FR 8406), which proposed the revocation of the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on citrus fruits and papayas that have been fumigated after harvest with EDB in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture (USDA).

No requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The Agency received a comment from the State of Florida, Department of Citrus, requesting that some tolerance for inorganic bromides be retained during the period in which residues of EDB *per se* would be permitted in citrus fruits and papayas under the proposed tolerances. The Department of Citrus was concerned that once the inorganic bromide tolerances are revoked, citrus fruits or papayas found to contain any level of inorganic bromide may be subject to enforcement action even though the levels of EDB *per se* are within the proposed tolerance. For the same reason, the Hawaii Papaya Industry Association (HPIA) requested either a delay in the revocations until September 1, 1984, or a clear statement in the tolerance regulation that no regulatory action would be taken against citrus fruits or papayas that otherwise complied with the regulations but that contained the unavoidable inorganic bromide residues that would result from proper EDB fumigation.

The Agency considers that there is no need to make special provision for residues of inorganic bromide in citrus fruits or papayas resulting from proper fumigation with EDB. In establishing a tolerance for residues of a pesticide expected to result from a particular use of that pesticide, EPA identifies the residues of concern and specifies the levels at which those residues are to be regulated. The presence in the food of any other substance, whether parent compound, degradation product or metabolite, resulting from a registered pesticide use, which is not included in the definition of the residue to be regulated, is not an appropriate basis for enforcement action. Thus, because the Agency has now identified EDB *per se* as the residue to be regulated, is establishing tolerances with which to regulate it, and is removing (by this revocation of the previous tolerances) inorganic bromide from the definition of residues to be regulated, enforcement action based on inorganic bromide residues resulting from use of EDB is no longer appropriate for citrus fruits and papayas. The Food and Drug Administration's tolerance enforcement procedures are consistent with this policy. This matter is also discussed in the final rule establishing tolerances for residues of EDB *per se* found elsewhere in this issue of the **Federal Register**.

The Department of Citrus was also concerned about inorganic bromide residues from sources other than treatment with EDB. The Agency is revoking tolerances for inorganic bromide residues that result from use of EDB. The revocation does not affect those tolerances for inorganic bromides that result from use of other fumigants, such as methyl bromide (40 CFR 180.123). Therefore, inorganic bromide residues from sources other than use of EDB will continue to be subject to tolerances and enforcement action will be considered only when residues violate such tolerances.

As discussed in the proposal published on March 6, 1984, the Agency previously issued a notice of intent to cancel registrations of EDB for the quarantine fumigation of citrus fruits and papayas, which was published in the **Federal Register** of October 11, 1983 (48 FR 46234). An amendment to that notice, published on April 10, 1984 (49 FR 14182), permits continued registration and use of EDB as a quarantine fumigant for exported citrus and papayas provided additional worker protection measures are instituted.

In the **Federal Register** of April 23, 1984 (49 FR 17147), 40 CFR 180.146 was amended by deleting the first paragraph listing tolerances at 50 ppm for various grains.

Based on the information considered by the Agency, and discussed in detail in the March 6 **Federal Register** notice and the support document which is available from the Agency at the address given above, and after consideration of the comments submitted to the docket, the Agency is hereby revoking the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on citrus fruits and papayas that have been fumigated after harvest with EDB in accordance with the USDA programs enumerated above.

Elsewhere in this issue of the **Federal Register**, the Agency has issued a final rule establishing tolerances of 250 ppb (.25 ppm) for the whole fruit, of which no more than 30 ppb (.03 ppm) is present in the edible pulp, for residues of EDB *per*

se in or on citrus fruits and papayas, resulting from fumigation after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture.

Any person adversely affected by this regulation revoking the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on citrus fruits and papayas that have been fumigated after harvest with EDB in accordance with the USDA programs enumerated above may, within 30 days after the date of publication of this regulation in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objection must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

This document has been sent to the Office of Management and Budget for review as required by Section 3 of Executive Order 12291.

In order to satisfy requirements for analysis as specified by Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act, the Agency has analyzed the costs and benefits of the revocation of the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on citrus fruits and papayas that have been fumigated with EDB after harvest. Documents containing these analyses are available at the address identified elsewhere in this notice.

As explained in the proposal published on March 6, 1984, pursuant to the requirements of Executive Order 12291, the Agency has determined that this tolerance revocation action is not expected to significantly affect citrus or papayas prices or overall production levels.

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1165, 5 U.S.C. 601 *et seq.*) and it has been determined that is will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. The reasons for this conclusion are discussed in detail in the March 6, 1984 proposal and the support document available from the agency at the address given above.

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

(Sec. 408(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a (m)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: May 21, 1984

William D. Ruckelshaus,

Administrator.

PART 180—[AMENDED]

§ 180.146 [Amended]

Therefore, 40 CFR 180.146 is amended by removing the commodities citrus fruits and papayas from the 10 parts per million listing in the first paragraph of the section.

[FR Doc. 84-14093 Filed 5-24-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2777/R665; PH-FRL 2585-1]

Final Tolerance Rule for Ethylene Dibromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances in 40 CFR 180.397 for residues of the insecticide ethylene dibromide (EDB) in or on the raw agricultural commodities citrus fruits and papayas resulting from fumigation of these commodities after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture. This tolerance regulation, which was initiated by EPA, will expire on September 1, 1984.

EFFECTIVE DATE: Effective on May 25, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Johnson, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Office location and telephone number: Room 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-7420).

SUPPLEMENTARY INFORMATION: On March 1, 1984, EPA issued a notice, published in the **Federal Register** of March 6, 1984 (49 FR 8407), which proposed the establishment in 40 CFR 180.397 of tolerances of 250 ppb (.25 ppm), of which no more than 30 ppb (.03 ppm) is present in the edible pulp, for residues of EDB *per se* in or on fresh citrus fruits and papayas. The Agency also proposed in that notice that these tolerances for citrus fruits and papayas would expire on September 1, 1984, by which date the domestic use of EDB on these commodities for U.S. consumption is expected to cease.

No requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The Agency received a comment from the Hawaii Papaya Industry Association (HPIA) expressing concern that once the inorganic bromide tolerances are revoked, citrus fruits or papayas found to contain any level of inorganic bromide may be subject to enforcement action even though the levels of EDB *per se* are within the proposed tolerance. HPIA requested either a delay in the revocation of the inorganic bromide tolerances until September 1, 1984, or a clear statement in this regulation that no regulatory action would be taken against such citrus fruits or papayas because of the presence of inorganic bromide residues. A similar comment was received from the State of Florida, Department of Citrus.

As discussed in the final rule revoking the tolerances for inorganic bromides resulting from fumigation with EDB in citrus fruits and papayas, published elsewhere in this issue of the **Federal Register**, EPA and the Food and Drug Administration (FDA) are in agreement on a policy that makes it inappropriate to base enforcement action on such residues of inorganic bromides. In establishing a tolerance for residues of a pesticide expected to result from a particular use of that pesticide, EPA identifies the residues of concern and specifies the levels at which those residues are to be regulated. The presence in the food of any other substance, whether parent compound, degradation product or metabolite, resulting from a registered pesticide use, which is not included in the definition of the residue to be regulated, is not an appropriate basis for enforcement action. Thus, because the Agency has now identified EDB *per se* as the residue to be regulated, is establishing tolerances with which to regulate it, and is removing (by revocation of the previous tolerances) inorganic bromide from the definition of residues to be regulated, enforcement action based on inorganic bromide residues resulting

from use of EDB is no longer appropriate for citrus fruits and papayas.

The State of Florida, Department of Citrus, commented that tolerances for EDB on citrus fruits should be continued for a period of time beyond September 1, 1984, the date on which the legal use of EDB on citrus fruits for consumption in the United States is expected to expire, to provide for the sale or disposition of fruit treated prior to September 1, 1984. The Hawaii Papaya Industry Association (HPIA) was also concerned that the EDB tolerances on citrus and papaya would expire on September 1, 1984, without provision for the orderly sale of existing stocks of properly treated fruit. HPIA pointed out that, under ordinary conditions, it can take up to 3 or 4 weeks for EDB-treated papayas to be shipped to the mainland, passed through distribution channels, and sold at retail. HPIA urged that the final EDB tolerance rule explicitly permit orderly distribution and sale of existing stocks of citrus and papayas properly treated with EDB prior to September 1, 1984.

EPA recognizes that there could be a potential problem with the sale and distribution of existing stocks of citrus and papaya legally treated prior to September 1, 1984, because of the coincidence of the last date of legal use and the expiration date of the tolerance. To avoid the seizure of fruit and papayas legally treated with EDB, EPA has advised FDA that enforcement action should not be taken against citrus fruits and papayas with residues at or below 250 ppb for the whole fruit (of which no more than 30 ppb is present in the edible pulp) until a reasonable period of time has elapsed subsequent to September 1, 1984, to allow for the distribution and sale of existing stocks of citrus and papaya. The FDA has expressed agreement with this approach. Based on information submitted by HPIA and other information available to the Agency, it is expected that such existing stocks will be eliminated within a month (i.e., by October 1, 1984).

The State of Florida, Department of Citrus, was concerned that the proposed rule contains no provision for the use of EDB or for the establishment of tolerances for EDB in the event of an emergency situation, e.g., fruit fly outbreak, and suggested that the rule should provide an expedited procedure for the use of EDB and the establishment of tolerances for the fumigation of fruit on an emergency basis. The Citrus Grower Associates, Inc. (CGA), also commented in favor of emergency provisions to provide for the continued or expanded use of EDB if and when new fruit fly infestations become established within the United States.

Any decision on a request for an emergency exemption for a use of EDB which is not registered would be considered by the Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and its implementing regulations. Since the authority for the issuance of the tolerance rule for EDB resides in the Federal Food, Drug, and Cosmetic Act, the tolerance rule is not the appropriate vehicle for dealing with speculative actions the Agency might take in the event of an emergency request for the use of EDB under FIFRA. The Agency has established procedures which it follows to allow the sale, distribution and use of treated commodities in appropriate situations in the event an emergency exemption is issued pursuant to section 18 of FIFRA.

The CGA, while recognizing the desirability of establishing tolerances for EDB itself and supporting the levels proposed by EPA on a temporary basis, expressed concern about the extrapolation method used by the Agency to establish the tolerances and the Agency's proposal to terminate the tolerances on September 1, 1984. CGA requested that EPA consider partial or complete funding for studies which would examine the dietary consumption of low levels of EDB in animal diets in order to determine the "no effect levels, if they exist" and the level at which to establish a tolerance in the future.

EPA has set forth in detail in the Position Documents 1, 2/3, and 4, which provide the rationale for the Agency's EDB cancellation action, and the support document for the proposed citrus tolerance actions, the studies which form the basis for the Agency's concerns about the carcinogenic potential of EDB, the extrapolation methods used by the Agency to estimate the dietary risk for carcinogenicity posed by the pesticide, and the other health risks of concern. EDB has been demonstrated to be a potent oncogen in a variety of species and strains of laboratory animals at a variety of sites when the chemical is administered by inhalation, skin painting and gavage. Based on these data and the overwhelming weight of all the evidence, the Agency has concluded that the presence of EDB residues in citrus fruits and papayas on a long-term basis poses an unacceptable risk to the general public. The Agency does not believe that additional studies are necessary or warranted to substantiate this conclusion, or that the feeding of very low levels of EDB to laboratory animals, as the CGA suggests, would provide a meaningful indication of the carcinogenic potential of EDB at low levels of human exposure. Although such a study might be an interesting scientific experiment, the Agency does not believe that it would be useful in determining the appropriate regulatory approach for EDB. Moreover, the risk extrapolation methods which the Agency has utilized in assessing the potential carcinogenic risk of EDB are based on established, scientifically supported methods followed by EPA and other federal regulatory agencies which assess the health risks posed by carcinogens.

As discussed in the proposal published on March 6, 1984, the Agency previously issued a notice of intent to cancel registrations of EDB for the quarantine fumigation of citrus fruits and papayas which was published in the **Federal Register** of October 11, 1983 (48 FR 46234). An amendment to that notice, published on April 10, 1984 (49 FR 14182), permits continued registration and use of EDB as a quarantine fumigant for exported citrus and papayas provided additional worker protection measures are instituted.

In the **Federal Register** of April 23, 1984 (49 FR 17144), 40 CFR 180.397 was amended by designating the paragraph previously set forth in that section as paragraph (a) and adding a new paragraph (b) to provide a tolerance for residues of EDB *per se* for various grains.

Based on the information considered by the Agency, and discussed in detail in the March 6, 1984 **Federal Register** notice and the support document which is available from the Agency at the address given above, and after consideration of the comments submitted to the docket, the Agency has concluded that the tolerances established by amending 40 CFR 180.397 will protect the public health. Therefore, 40 CFR 180.397 is amended as set forth below.

Elsewhere in this issue of the **Federal Register**, the Agency has issued a final rule revoking the 10 ppm tolerance in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in citrus fruits and papayas that have been fumigated after harvest with EDB in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture.

Any person adversely affected by this regulation establishing tolerances of 250 ppb, of which no more than 30 ppb is present in the edible pulp, for residues of EDB *per se* in or on fresh citrus fruits and papayas may, within 30 days after

the date of publication of this regulation in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

This document has been sent to the Office of Management and Budget for review under Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: May 21, 1984.

William D. Ruckelshaus,

Administrator.

PART 180—[AMENDED]

Therefore, 40 CFR 180.397 is amended by adding a new paragraph (c), to read as follows:

§ 180.397 Ethylene dibromide; tolerances for residues

* * * * *

(c) Tolerances are established until September 1, 1984, for residues of ethylene dibromide *per se* in or on the following raw agricultural commodities when ethylene dibromide is used as a fumigant after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture:

Commodities	Parts per million
Citrus fruits	.25 (of which no more than .03 ppm is present in the edible pulp).
Papayas	.25 (of which no more than .03 ppm is present in the edible pulp).

[FR Doc. 84–14094 Filed 5–24–84; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101 Appendix

[FPMR Temp. Reg. A24]

Use of Travel Agents and Travel Management Centers (TMC's) by Federal Executive Agencies

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation establishes policies and procedures for the use of commercial travel agents and the establishment, control, and administration of travel management centers (TMC's) that procure passenger transportation and travel services for Federal Government official travel.

DATES: *Effective date:* This regulation is effective May 25, 1984.

Expiration date: This regulation expires May 25, 1985 unless sooner superseded or canceled.

FOR FURTHER INFORMATION CONTACT: Mr. Charles T. Angelo, Travel and Transportation Services Division (FTE), FTS 557–1261/(703) 557–1261.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–40

Freight, Government property management, Moving of household goods, Office relocations, Transportation.

Authority: (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

Federal Property Management Regulations

[Temporary Reg. A–24]

To: Heads of Federal agencies

Subject: Use of travel agents and travel management centers (TMC's) by Federal executive agencies.

1. *Purpose.* This temporary regulation establishes Government-wide policies and procedures for the use of commercial travel agents and the establishment, control, and administration of travel management centers (TMC's) for the procurement of passenger transportation and travel services for Federal Government official travel.

2. *Effective date.* This regulation is effective May 25, 1984.

3. *Expiration date.* This regulation expires May 25, 1985 unless sooner superseded or canceled.

4. *Applicability.* This temporary regulation applies to all executive agencies defined under Section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472) as amended.

5. *Background.*

a. Under section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)), as amended, the Administrator of General Services "shall, in respect of executive agencies, and to the extent that he determines that so doing is advantageous to the Government in terms of economy, efficiency, or service, and with due regard to the program activities of the agencies concerned . . . procure and supply personal property and nonpersonal services for the use of executive agencies in the proper discharge of their responsibilities . . .".

b. The Comptroller General of the United States (GAO) granted GSA the authority to conduct a 2-year test program for the use of travel agents in arranging the Government's official travel (Letter B–203171, July 9, 1981). As of October 1983, GSA had contracted with 32 commercial travel agents to serve Federal agencies and offices located in 28 cities. In addition, GSA has a Memorandum of Understanding (MOU) with the Air Transport Association whereby Scheduled Airlines Traffic Offices (SATO's) serving civilian agencies and offices in 18 cities have agreed to provide services similar to those offered by commercial travel agents. GSA TMC's or SATO's are located in all major Federal centers of the United States and are offered as one of the travel and transportation services of GSA's regional Customer Service Bureaus.

c. GAO removed the restrictions on the use of travel agents by Federal agencies, effective May 25, 1984.

6. *General use of travel agents prohibited.* The services of a travel

agent may not be used except through a TMC under contract to GSA within the provisions of this regulation or a delegation of authority is obtained from GSA where warranted, or by exception provided in paragraph 1–3.4b of the Federal Travel Regulations (FTR), 41 CFR 101–7 which is transmitted by GSA Bulletin FPMR A–40.

7. *Definitions.* In this regulation, the term "Travel Management Center" (TMC) means a commercial travel office operated by a travel agent under contract with GSA or by a Scheduled Airlines Traffic Office (SATO) under an MOU or contract with GSA.

8. *Establishment of TMC's.* At the request of Federal agencies, GSA will contract for TMC's in any location where the volume of travel justifies the need for such services and acceptable bidders are available. GSA will secure services through local travel agents and SATO's; however, areas with dispersed Federal employees or with a limited number of travel agents may have to be served by more distant firms.

9. *TMC responsibilities.* Under the terms of the contract the TMC is required to:

a. Comply with the Federal travel Regulations (FTR), and other similar regulations as applicable, such as the Joint Travel Regulations (JTR) and the State Department Travel Regulations (6 FAM 100);

b. Comply with all appropriate Federal travel programs, such as the GSA city-pair contract airlines, GSA contractor-issued charge cards (both individual and agency travel accounts) and the "Fly-America Act";

c. Provide the full range of services to assist the traveler or Federal agency such as airline, bus, steamship, or train reservations and ticketing; hotel and motel reservations; commercial auto rentals; assistance with visas and passports; and arranging conferences and seminars;

d. Deliver travel documents to designated "control points" for agencies' convenience;

e. Respond quickly when problems arise regarding changes in a traveler's itinerary; and

f. Provide appropriate management information reports which include all billing activity, summarize travel data, and confirm adherence to Federal travel policies.

10. *Agency requests for establishment of TMC's.* The following information is required by GSA to properly evaluate a request to establish a TMC. For each location to be served, agencies should provide:

a. An estimate of official airline travel (number of tickets and total dollar cost) based on immediate prior year's travel records and other pertinent facts;

b. Number of Federal agency employees;

c. The name and address of the agency or agencies desiring to use the proposed TMC, including the name and telephone number of an agency representative designated to act as liaison; and

d. The current method and cost of procuring travel services; i.e., teleticketing or agency travel office, including equipment and personnel costs.

e. Requests should be directed to the appropriate GSA regional Customer Service Bureau, Transportation Services Branch, shown in attachment A having jurisdiction over the State where travel management services are required.

11. *GSA responsibilities.*

a. GSA, through the appropriate GSA regional Customer Service Bureau, will acknowledge receipt of agency requests immediately and provide an estimated date of evaluation. If further details are needed, subsequent meetings between GSA personnel and agency liaison personnel will be arranged.

b. GSA, though the appropriate GSA regional offices, will handle all required procurement process, including solicitation development, selection of the successful bidder, and award and administration of the contract.

12. *Agency responsibilities.*

a. Agencies may be requested to participate with GSA on a technical review panel to evaluate proposals from travel agents in the selection process.

b. Agencies will be requested to participate, on a rotating basis, with a local oversight committee to review TMC performance, to coordinate agency and TMC procedures, and to provide GSA with request information.

c. Agencies are required to comply with the terms of the GSA contract and may not make separate contractual arrangements with TMC's.

13. *Comments and recommendations.* Comments and recommendations concerning the provisions of this regulation may be submitted to the General Services Administration, Office of Transportation (FT), Washington, DC 20406 within 90 calendar days of publication.

Ray Kline,

Acting Administrator of General Services.

May 10, 1984.

ATTACHMENT A.—AREAS OF JURISDICTION GSA REGIONAL CUSTOMER SERVICE BUREAU TRANSPORTATION SERVICES BRANCH

Region	Jurisdiction	Address	Telephone
1	CT, MA, ME, NH, RI, VT	GSA Customer Service Bureau, ATTN: 1FBT, J. W. McCormack, Post Office and Court House, Boston, MA 02109.	FTS 223-2735, COML 617-223-2735.
2	NJ, NY, Puerto Rico and Virgin Islands.	GSA Customer Service Bureau, ATTN: 2FBT, 26 Federal Plaza, New York, NY 10007	FTS 264-1286, COML 212-264-1286.
3	DE, MD (Note A), PA, VA (Note B) WV.	GSA Customer Service Bureau, ATTN: 3FBT, 9th & Market Streets, Philadelphia, PA 19107	FTS 597-5084, COML 215-597-5084.
4	AL, FL, GA, KY, MS, NC, SC, TN.	GSA Customer Service Bureau, ATTN: 4FBT, 75 Spring Street, SW., Atlanta, GA 30303	FTS 242-5121, COML 404-221-5121
5	IL, IN, MI, MN, OH, WI	GSA Customer Service Bureau, ATTN: 5FBT, 230 S. Dearborn Street, Chicago, IL 60604	FTS 353-4708, COML 312-353-4708.
6	IA, KS, MO, NE	GSA Customer Service Bureau, ATTN: 6FBT, 1500 E. Bannister Road, Kansas City, MO 64131	FTS 926-7519, COML 816-926-7519.
7	AR, LA, NM, OK, TX	GSA Customer Service Bureau, ATTN: 7FBT, 819 Taylor St., Fort Worth, TX 76102	FTS 334-2738, COML 817-334-2738.
8	CO, MT, ND, SD, UT, WY	GSA Customer Service Bureau, ATTN: 8FBT, Denver Federal Center Building 41, Denver, CO 80225	FTS 234-2626, COML 303-234-2626.
9	American Samoa, AZ, CA, GU, HI, NV, Northern Mariana Islands, Pacific Trust Territories.	GSA Customer Service Bureau, ATTN: 9FBT, 525 Market Street, San Francisco, CA 94105	FTS 454-8655, COML 415-974-8655.
10	AK, ID, OR, WA	GSA Customer Service Bureau, ATTN: 10FBT, GSA Center, Auburn, WA 98002	FTS 396-7455, COML 206-931-7455.
NCR	DC, MD (Note C), VA (Note D).	GSA Customer Service Bureau, ATTN: WFBT, 7th & D Streets, SW., Washington, DC 20407	FTS 472-1944, COML 202-472-1944.

NOTE A.—Except for those counties under NCR jurisdiction as listed in Note C.
NOTE B.—Except for those cities and counties under NCR jurisdiction as listed in Note D.
NOTE C.—Counties of Prince Georges and Montgomery only.
NOTE D.—Cities of Alexandria, Fairfax, Manassas, and Manassas Park, and counties of Arlington, Fairfax, Loudoun, and Prince William only.

[FR Doc. 84-14164 Filed 5-24-84; 8:45 am]

BILLING CODE 6820-24-M

41 CFR Parts 201-1, 201-4, 201-35, 201-36, and 201-37

Establishing the Federal Information Resources Management Regulation

Correction

In FR Doc. 84-13336 beginning on page 20994 in the issue of Thursday, May 17, 1984, make the following corrections:

1. On page 20994, the first column, the third paragraph, the second line, "date" should read "data".

2. On page 20995, the first column, the last paragraph, the second sentence should read "For example, FPR § 1-4.1109-6 shall be identified as FIRMR § 201-4.1109-6, and FPMR § 101-35.203-1 shall be identified as FIRMR § 201-35.203-1."

3. On the same page, the middle column, the twelfth line from the bottom, a closed parenthesis should follow "(Nonregulatory".

4. On page 20996, in Attachment B, in FIRMR 201-1.101-2, the FPR/FPMR source should read "101-1.103".

5. In the same attachment, in FIRMR § 201-1.102-2, the second entry under the FPR/FPMR source should read "1-4.1200-2".

6. On the same page, in Attachment C, in the FPR/FPMR sources listed as "1-1.009-3*" and "1-4.1100*", the asterisk should be removed.

7. On page 21002, the first column, the part heading for 201-37 should read:

PART 201-37—TELECOMMUNICATIONS MANAGEMENT

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 Public Land Order 6539

[OR-19579 (WASH), OR-19826 (WASH), OR-22615 (WASH)]

Washington; Opening of Land Subject to Section 24 of the Federal Power Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order opens 170.80 acres of lands in Powersite Reserve Nos. 74 and 266, subject to the provisions of section 24 of the Federal Power Act. This action is necessary to facilitate indemnity selection by the State of Washington.

EFFECTIVE DATE: June 23, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: 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, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-230-Washington, it is ordered as follows:

1. The Secretarial Order of December 2, 1909, and the Executive Order of April 29, 1912, which created Powersite Reserve Nos. 74 and 266, respectively, are hereby modified to permit disposal by State indemnity selection pursuant to sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), subject to the provisions of Section 24 of the Federal Power Act of June 10, 1920, as amended (16 U.S.C. 818), as to the following described lands:

Willamette Meridian

Powersite Reserve No. 74

T. 7 N., R. 6 E.,
Sec. 24, lot 6;
Sec. 25, lots 1, 2, and 3.

Powersite Reserve No. 266

T. 36 N., R. 7 E.,
Sec. 10, SW¼NE¼.

The areas described aggregate 170.80 acres in Skagit and Skamania Counties.

2. At 8:30 a.m., on June 23, 1984, the land will be opened to State indemnity selection only, subject to the provisions of section 24 of the Federal Power Act.

3. The land has been and remains open to location and entry under the United States mining laws, subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621), and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: May 18, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-14053 Filed 5-24-84; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

Letter Regarding Interpretation of the Separations Manual

AGENCY: Federal Communications Commission.

ACTION: Interpretation Letter.

SUMMARY: Under delegated authority the Common Carrier Bureau, in response to a request by Foster Associates, Inc., has provided several interpretations of the *FCC-NARUC Jurisdictional Separations Manual*, Part 67 of the FCC Rules and Regulations. The issues concern the jurisdictional separation of "Other communications equipment" and "Vehicles and other work equipment," respectively, Account 262 and Account 264 of the Uniform System of Accounts for Class A and Class B Telephone Carriers, Part 31 of the FCC Rules and Regulations (USOA). Also, the interpretation clarifies separations procedures pertaining to the Account-262-related parts of USOA Account 171 "Depreciation reserve," of USOA Account 608 "Depreciation," and of repair expenses.

FOR FURTHER INFORMATION CONTACT: Michael E. Wilson, Audits Branch, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, Telephone No. (202) 634-1965.

William J. Tricarico,

Secretary, Federal Communications Commission.

Federal Communications Commission

Washington, D.C. 20554

May 9, 1984.

Mr. Charles W. Beeching,
Foster Associates, Inc., 1101 17th Street, NW., Washington, D.C. 20036

Dear Mr. Beeching: This is in response to your letters of February 21 and 23, 1984, requesting an interpretation of the *Separations Manual (Manual)* with respect to the apportionment of Account 262 "Other communications equipment" and Account 264 "Vehicles and other work equipment." Specifically, you asked in the first letter (1) how Account 262 is to be apportioned and (2) whether it is to be included with or excluded from "station equipment" in developing the basis for apportioning Account 264. In your second letter you asked (1) how the Account-262-related parts of account 171 "Depreciation reserve" and Account 608 "Depreciation" are to be apportioned, and (2) how the maintenance expense related to Account 262 is to be apportioned.

Account 262 was established by the *Report and Order* in Docket 82-681 released in November 1983. In the related Notice of Proposed Rulemaking (NPRM), however, the suggested treatment for the subject investment (primarily company used station apparatus and large PBXs) was to record it in Account 261 "Furniture and office equipment." It was considered that this would more adequately provide for the proposal that all equipment installed for company use be classified on a functional basis. The final order, of course, provided for a separate account, the subject Account

262—but only in response to comments to the NPRM that indicated that separate treatment would eliminate burdensome record keeping associated with depreciation. No comment raised issues relative to the reclassification of the subject company official equipment on a functional basis. Thus, except for the concession to the accounting burden involved, the subject equipment would now be classified on a functional basis with furniture and office equipment and would be included in Account 261.

We have discovered that there are inconsistencies among companies in the application of separations procedures to the investment in company official station apparatus. In addition, a logical inconsistency exists between the traditional separations treatment using the subscriber plant factor to apportion the investment in company official station equipment and the procedures now required for the separation of the cost of associated repairs which will be spread to the various operating expense accounts (see our discussion of this matter below). To remedy these inconsistencies, we find it desirable to provide an interpretation at this time. We believe that company official station apparatus and large PBXs recorded in Account 262 should be apportioned for jurisdictional separations purposes on the same basis as furniture and office equipment in accordance with the requirements of the *Manual* in §26.1. However, this interpretation is being provided on an interim basis until the Joint Board and Commission consider the matter and provide explicit instructions for the separation of Account 262. Should the Joint Board and Commission act before the end of the year and provide requirements relative to Account 262 different from those in this letter, appropriate corrections are to be made and separations for the year are to be provided in accordance with the Commission's instructions.

Our response to your second question—whether or not the company official station apparatus is to be included in station equipment for the purpose of apportioning Account 264—is based on the practice currently in place since there is no statement in recent proceedings to indicate that the Commission or the Joint Board had any intention of changing the accounting or separations treatment for Account 264. Before the recent *Manual* changes, released in the *Decision and Order* of Docket 80-286, Account 264 was apportioned "on the basis of the separation of the cost of outside plant, station equipment and material and supplies, combined." The requirement reads exactly the same under the *Decision and Order*. However, whether or not the procedure is different in this latter case depends upon the interpretation within this context of the words "station equipment." If the meaning of these words is construed in this context not to include what is now classified as other communications equipment, there will be a substantive change (possibly, but not necessarily, including a material change in the ratio) in the apportionment of Account 264. It is our opinion, however, that no such change was intended. We take this position for two basic reasons: first, there has been no change in the rationale for traditionally including company official station equipment in the basis for separating Account 264—it will be used the same under its new classification (Account 262) as under the old (Account 231) and will require the same installation, service, and maintenance; second, no statement was made by the Joint Board or the Commission to explain or to bring to the attention of interested parties the intent to make a substantive change.

Accordingly, we conclude that the meaning of the words "station equipment" in the context of *Manual* § 26.2, the instructions for the separations of vehicles and other work equipment, has not changed with respect to other communications equipment. Equipment recorded in Account 262, therefore, is to be included in station equipment for the purpose of apportioning Account 264.

As to your second letter, the questions there are less a matter of separations than they are a matter of accounting requirements. Once the accounting requirements for Account 262 in Part 31—Uniform System of Accounts for Class A and Class B Telephone Companies (USOA) are understood, the separations treatment as prescribed in the *Manual* can be applied.

The accounting requirements for Account 171 and Account 608 are contained in the USOA, §§ 31.02-80 through 31.02-84, "Instructions for Depreciation Accounting," and, of course, in §§31.171, "Depreciation reserve," and 31.608, "Depreciation." The necessary change to include Account 262 under these governing sections was made in the *Report and Order* of Docket 82-681 (see Appendix, pages 1 and 2). Accordingly, those parts of Accounts 171 and 608 which relate to Account 262 are to be apportioned as directed in the *Manual*, respectively, under Section 4, Part 3—Depreciation and Amortization Expenses, and under Section 5, Part 1—Reserves.

Similarly, Account 262 should not present any new problem with respect to its related maintenance expense. In the USOA, maintenance expense is governed primarily by § 31.6-61, "Cost of Repairs" and is to be charged to the various accounts in the same manner, for instance, as repairs of furniture and office equipment. Once the Account-262-related maintenance expense is distributed to the appropriate operating expense accounts, it will be apportioned according to the relevant parts of Section 4 of the *Manual*.

Thus, we see no particular accounting problems with depreciation reserves, depreciation expense, or maintenance expense related to Account 262. And, we do not see any problems in the *Manual* caused by the introduction of this account—nor have you pointed out any specific problem. We hope, therefore, that any uncertainties you may have are resolved by our brief explanation of the appropriate accounting contemplated in the USOA.

If you have any questions concerning this response, please contact Michael Wilson, Chief, Audits Branch, on (202) 634-1965.

Sincerely,

Gerald P. Vaughan,

Chief, Accounting and Audits Division.

[FR Doc. 84-14011 Filed 5-24-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 68

[CC Docket No. 83-427]

Access to Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error made in the *Order on Reconsideration* in this proceeding concerning Access to Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons, published on May 9, 1984 on page (49 FR 19666). The FCC number appearing in the Preamble of that document should have read: *FCC 84-144.*

FOR FURTHER INFORMATION CONTACT: Carl Gold, (202) 632-4890.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-14013 Filed 5-24-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

Permitting Increased Antenna Height of Class B1 Commercial FM Broadcast Stations in Puerto Rico and the Virgin Islands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends § 73.211(b)(3) of the Commission's Rules to allow Class B1 FM broadcast stations to use increased antenna heights in Puerto Rico and the Virgin Islands. This change was necessary to correct an abnormality where Class B1 stations could have less coverage area than the normally smaller Class A stations.

EFFECTIVE DATE: June 20, 1984.

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

FOR FURTHER INFORMATION CONTACT: Kathryn S. Hosford, Mass Media Bureau, (202) 632-9660.

List of Subjects in 47 CFR Part 73

Radio broadcast.

Order

In the matter of amendment of § 73.211(b)(3) of the Commission's Rules to permit increased antenna height of Class B1 Commercial FM Broadcast Stations in Puerto Rico and the Virgin Islands.

Adopted: May 10, 1984.
Released: May 14, 1984.
By the Chief, Mass Media Bureau.

1. The Commission, on May 12, 1983, reviewed whether excessive antenna heights should be permitted for Class A FM broadcast stations in Puerto Rico and the Virgin Islands.[1] It examined the effects of irregular terrain on FM stations' coverage areas for these locations and agreed that relief was indeed warranted. During the same month, on May 26, 1983, the Commission also decided to permit a new Class B1 type of station nation-wide.[2] Since both actions were adopted about the same time an anomaly occurred where Class B1 stations authorized in Puerto Rico and the Virgin Islands could have less coverage than the normally smaller Class A facility.

2. The Commission believes that action is again warranted to allow the newly authorized Class B1 type of station comparability with the other classes of stations on these islands. Increased antenna heights will correct the imbalance between Class B1 stations allocated according to normal separation requirements with Class A and B stations of excessive antenna heights, as well as, to compensate for the effects of irregular terrain. Thus, § 73.211(b)(3) is amended to permit a maximum of 5 kW effective radiated power and an antenna height of 335 meters (1100 feet) above average terrain for Class B1 stations in Puerto Rico and the Virgin Islands. In addition, since the maximum power of a Class B1 station equals the minimum of a Class B station operating with excessive antenna height (i.e., 25 kW), the minimum requirements for the Class B station is amended to 25.5 kW ERP.

3. These amendments are based on arguments previously examined and reviewed within the year. Because of this and since these changes are corrective in nature, the notice and comment requirements set forth in Section 553 of the Administrative Procedures Act are not required.

4. Accordingly, it is ordered, pursuant to the authority contained in § 0.281 of the Commission's Rules and Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that Part 73 of the Commission's Rules and Regulations is amended as set forth in the attached appendix, effective June 20, 1984.

5. Further information on this matter may be obtained by contacting Kathryn S. Hosford, Mass Media Bureau, (202) 632-9660.

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

Appendix

PART 73—[AMENDED]

Section 73.211(b)(3) is revised as follows:

§ 73.211 Power and antenna height requirements.

* * * * *

(b) * * *

(3) In Puerto Rico and the Virgin Islands:

(i) Class B stations may use antenna heights up to 600 meters (1968 feet) above average terrain with effective radiated powers up to 25.5 kW. For antenna heights above 600 meters (1968 feet), the power must be reduced so that the station's 1 mV/m contour (located pursuant to Figure 1 of § 73.333) will extend no farther from the station's transmitter than with the facilities of 25.5 kW and an antenna height of 600 meters (1968 feet). For powers above 25.5 kW (up to 50 kW) no antenna height will be authorized which results in greater coverage by the 1 mV/m contour (located pursuant to Figure 1 of § 73.333) than that obtained with the facilities of 25.5 kW ERP and an antenna height of 600 meters (1968 feet).

(ii) Class A stations may use antenna heights up to 335 meters (1100 feet) above average terrain with effective radiated powers up to 3 kW. For antenna heights above 335 meters (1100 feet), the power must be reduced so that the station's 1 mV/m contour (located pursuant to Figure 1 of § 73.333) will extend no farther from the station's transmitter than with the facilities of 3 kW ERP and an antenna height of 335 meters (1100 feet).

(iii) Class B1 stations may use antenna heights up to 335 meters (1100 feet) above average terrain with effective radiated powers up to 5 kW. For antenna heights above 335 meters (1100 feet), the power must be reduced so that the station's 1 mV/m contour (located pursuant to Figure 1 of § 73.333) will extend no farther from the station's transmitter than with the facilities of 5 kW and an antenna height of 335 meters (1100 feet). For powers above 5 kW (up to 25.0 kW) no antenna height will be authorized which results in greater coverage by the 1 mV/m contour than that obtained with the facilities of 5 kW ERP and an antenna height of 335 meters (1100 feet).

* * * * *

[FR Doc. 84-13822 Filed 5-24-84; 8:45 am]
BILLING CODE 6712-01-M

[1] See BC Docket No. 81-421; 48 FR 24898 on June 3, 1983.

[2] See BC Docket No. 80-90; 48 FR 29486 on June 27, 1983.

---

47 CFR Part 73

[MM Docket No. 83-117; RM-4086; FCC 84-165]

Permitting Stations in the TV Broadcast Service To Operate With an Aural Power of Less Than 10% of the Visual Power

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition filed by Durham Life Broadcasting, Incorporated, and a subsequent Notice of Proposed Rule Making, the Commission will eliminate the television broadcast station minimum aural power limit and the requirements for such applicants and licensees to file for specific aural power values.

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

EFFECTIVE DATE: May 31, 1984.

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Mass Media Bureau, (202) 632-9660.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of Part 73 of the Commission's Rules and Regulations to permit stations in the TV broadcast service to operate with an aural power of less than 10% of the visual power, (MM Docket No. 83-117, RM-4086).

Adopted: April 19, 1984.
Released: April 24, 1984.
By the Commission.

Introduction

1. On February 17, 1983, the Commission adopted a *Notice of Proposed Rule Making*[1] ("Notice") in the above-captioned proceeding. The *Notice* proposed to eliminate 1) the television broadcast station minimum aural power limit, and 2) any requirement to specify the aural operating power on applications for station licenses. The current rules require that the aural radiated power of the transmitter be licensed to operate at a specified value not less than 10 percent nor more than

[1] 48 FR 12410 (March 24, 1983).

20 percent of the peak radiated power of the visual transmitter.[2]

Background

2. Durham Life Broadcasting, Inc., licensee of UHF-TV Station WPTF-TV ("WPTF-TV"), Durham, North Carolina, submitted a petition for rule making (RM-4086) requesting amendment of § 73.682(a)(15) of the Rules to permit television stations to operate at less than 10 percent aural power relative to a station's peak visual power. WPTF-TV asserted that the primary reason in requesting the lower power is the "skyrocketing" costs of electrical energy. Considering its then most recent utility rate increase, the petitioner stated that operating with an aural power of 5 percent of visual instead of 10 percent would save the station $13,500 per year. The petitioner contended that this constituted a sizeable savings for a UHF station competing in a VHF market. On February 17, 1983, the Commission adopted the instant *Notice* proposing no minimum aural power limit and invited comments on all aspects of the RM-4086 proposal. The *Notice* also included a proposal to delete the aural power value on applications for television station licenses. Maximum aural operating power would remain at 20% of peak visual power. In response to the *Notice*, comments were submitted by the following parties: CBS Inc. ("CBS"); Durham Life Broadcasting, Inc., licensee of UHF-TV Station WPFT-TV, Durham, North Carolina ("WPFT-TV"); Electronic Industries Association-Consumer Electronics Group ("EIA"); Kentucky Educational Television Authority ("KET"); National Association of Broadcasters ("NAB"); Pennsylvania State University; and a collective group of broadcast licensees referred to as Television Licensees.[3]

Summary of Comments

3. The petitioner supported our proposal to permit television broadcast licensees to operate at any aural power up to 20 percent of the peak radiated power of the station's visual transmitter. Other comments in support of the proposal were submitted by the Pennsylvania State University, and the group of broadcasters called the Television Licensees. The comments of Pennsylvania State University and Television Licensees supported the proposal primarily on economic grounds. Television Licensees further summarized the proposal as a "classic example of where the Commission may fully and confidently rely upon marketplace considerations instead of regulation." They contend that every television licensee has the incentive, without regulation, to provide a satisfactory aural signal. Thus, they believe licensees should have the discretion to operate their aural transmitter on a basis of maximum economic efficiency.

4. CBS responded to the *Notice* by urging the Commission to consider this matter in conjunction with resolution of issues raised in General Docket No. 83-114.[4] CBS further notes that the EIA is currently in the process of evaluating multichannel sound systems for television broadcasting in conjunction with Docket No. 21323.[5] CBS reports that each system currently under consideration would require stations to use an aural-to-visual power ratio of between 10 and 20 percent (the higher percentage being more desirable) in order to meet signal-to-noise performance objectives. Thus, while CBS urges the Commission to delay a decision on the proposal to eliminate the minimum aural power requirement of 10 percent of video power, it suggests that if a station desires to reduce aural power before resolution of issues presented in Docket No. 83-114, upon a showing of good cause, the Commission could waive the requirements of 73.682(a)(15).

5. KET opposed the proposed changes in the *Notice*. KET states that, based on tests it conducted, the 10 percent minimum aural power requirement should be maintained. KET found that UHF receivers within the Grade A contour (74 dBu) coverage area would probably not discern the difference between 10 percent and 5 percent aural power.[6] However, KET also found that viewers within the Grade B contour (64 dBu) and in the fringe areas would be able to detect a difference. KET submits that the effect in fringe areas results from unacceptable signal-to-noise ratios in the received audio signal.

6. EIA, whose membership includes all major television receiver manufacturers in the United States, expressed its understanding of the Commission's deregulatory aim of reducing stations' operating costs, particularly UHF stations. However, it claims the proposed rule change would reduce the quality of television aural reception. Furthermore, EIA submits that basing broadcast technical standards on public complaints as suggested in the petition is not prudent. EIA contends that propagation conditions, Grade B contour coverage, probable future aural subcarrier services, and population of receivers in the public dictate that the present rule should not be changed. Moreover, EIA does not consider the proposal consistent with the Commission's UHF comparability policy.[7]

7. EIA notes that the Commission normally bases its allocation policy on broadcast signal reception planning factors and statistically defined propagation. In other words, reception quality depends on technical factors, *i.e.*, signal strength, distance, fading, noise, and receiver antenna gain. Thus, EIA submits that television receiver performance data indicates noticeable sound degradation will occur in some receivers when aural power is reduced below 10 percent of the visual power. Moreover, EIA contends that the current standard establishes boundary conditions in which marketplace forces are able to function. For example, broadcasters and receiver manufacturers know what is expected of them and, thus, design their systems to meet those specifications. EIA, therefore, asserts that proper design relies strongly on a knowledge of the maximum and minimum percentages of aural carrier power level to the power level of the visual carrier and its picture modulation components.

[2] If transmitted at the same power levels, the usable service range of the aural signal which is frequency modulated extends well beyond the usable service range of the visual signal which is amplitude modulated, hence the licensed aural power is considerably lower than the visual power.

[3] This group of combined licensees of 14 television stations is composed of Forward Communications Corporation, Group One Broadcasting Company, Guaranty Broadcasting Corporation, May Broadcasting Company, Ralph C. Wilson Industries, Inc., Wilson Communications, Inc., and WKRG-TV, Inc.

[4] See the *Notice of Inquiry and Proposed Rulemaking*, 48 FR 14399 (April 4, 1983) in the Matter of a Re-examination of Technical Regulations. In this proceeding the Commission seeks to review the necessity and utility of retaining existing performance, design and conduct requirements in the licensed radio services and, specifically, seeks to determine whether it should delete certain standards set forth in the Rules governing transmission quality and minimum performance standards.

[5] See the *Further Notice of Proposed Rulemaking*, 48 FR 37457 (August 18, 1983) in the Matter of the Use of Subcarrier Frequencies in the Aural Baseband of Television Transmitters. In this proceeding, the Commission is considering the question of a possible *increase in aural power* in order to accommodate additional aural subcarriers for uses such as stereophonic sound, second language programming, and other broadcast and non-broadcast uses of the TV aural baseband spectrum.

[6] Under an earlier experimental authorization the petitioner, WPFT-TV, conducted test operations with 5 percent aural power and reported no reception complaints. With those results, WPTF-TV filed a *Petition for Waiver* of Section 73.682(a)(15) under cover letter dated January 29, 1982. The Commission denied the request and suggested the rulemaking approach.

[7] Comparability for UHF Television: Final Report. FCC Office of Plans and Policy, September, 1980.

8. While the proposal might be more appealing to UHF broadcasters because of higher electric utility power consumption, EIA believes that the economic impact to VHF broadcasters can not be expected to justify aural power reduction. To illustrate this contention, EIA notes that most VHF broadcasters now utilize aural power approaching the maximum allowed limit rather than the minimum. EIA also notes that the Commission's Cable TV Rules currently specify the level of the aural carrier to be delivered to subscribers.[8]

9. Finally, EIA believes that a reduction of aural power below the minimum level now authorized can be expected to result in a reduction in service quality for many viewers who now receive useful broadcast service, and concludes that an open-ended removal of any minimum aural power regulation is inappropriate. EIA suggests, however, if the Commission is convinced that the 5 percent aural power level, tested by the petitioner, is acceptable and an essential provision for the future of UHF broadcasting, the Commission should establish a new minimum level, or consider individual station waivers. Most importantly, EIA maintains that the Commission should proceed to develop a sufficient technical record to support any change in the minimum aural power limit.

10. NAB filed comments and reply comments opposing elimination of the existing minimum television aural power requirement. While NAB agrees with the intent of the *Notice, i.e.,* to provide some economic relief to TV broadcasters, its comments also call for a technical record to support adoption of a new minimum aural power limit. NAB also suggests that waivers, on a case-by-case basis, may be a more appropriate means for individual stations to operate with lower aural power levels. NAB further urges the Commission to consolidate its consideration of elimination of the lower aural power limit with the ongoing proceedings in General Docket No. 83-114.[9] NAB stated its main concern, however, is that there is an absence of substantial experimentation and theoretical calculation to support elimination of a lower limit on television aural power. Thus, NAB emphasized that more scientific evidence is needed. NAB noted that even while the Commission's UHF Comparability Task Force study suggested consideration of permitting UHF stations to operate with aural power at less than 10 percent of their visual power, the *Final Report,*[10] of that study, concluded that it was an open question and encouraged field experimentation to obtain more evidence.

11. NAB contends that while a 5 percent aural-to-visual power, as used by the petitioner, might under some test conditions indicate favorable results, those tests alone are not persuasive to support general operation with aural powers below 5 percent of visual. NAB noted the petitioner's tests relied heavily upon subjective evaluation of sound quality by viewers, cable television system operators, and television service men. NAB maintains, however, that while subjective testing may indicate potential for reducing the limit of permissible aural power, detailed objective measurements are necessary to establish any revised lower limit. Thus, NAB suggests the petitioner's tests should be accepted only as an indicator of where further study is needed. NAB further notes that when the Commission last reduced the permissible aural-to-visual power to 10 percent by Docket No. 14229,[11] the decision was based on an extensive docket proceeding record and a considerable body of experimental data amassed by the TASO Committee, which conducted studies on television receiver characteristics.[12] In comparison to the TASO study, NAB asserts that no similar comprehensive experimentation has been conducted which supports the use of aural powers at or below 5 percent of visual power. Until such experiments demonstrate that no adverse effects would result from such mode of operation, and practical considerations and theoretical calculations show that such change is warranted, NAB submits the proposed action is inappropriate and premature.

12. Finally, in setting and maintaining the 10–20 percent range in aural-to-visual power ratio, NAB notes the Commission adopted a technical standard long relied upon in the design and manufacturing of both transmitters and receivers. NAB believes the Commission, at that time, recognized the interest of achieving economies of scale in receiver design when it reduced the permissible range of the aural-to-visual power ratio from 10–70 percent to the current 10–20 percent range in Docket No. 15405. However, NAB observes in contrast, the instant *Notice* proposed to expand this 10–20 percent range in eliminating the lower limit. NAB thus believes the effect of such increase in power range would result in an increase in receiver complexity for which the manufacturing cost will ultimately be borne by the public consumer.

Discussion

13. While the *Notice* proposed to eliminate the aural power minimum requirement, EIA and NAB professed technical infeasibilities and adverse effects of television broadcasting with less than 10 percent aural-to-visual power. They mainly questioned the basis of permitting reduced aural power without comprehensive field experimentation and receiver testing similar to that of the earlier TASO committee. Obviously, there is some minimum percentage aural power which must be used in order for television broadcast stations to render satisfactory service. That minimum value may vary, depending on individual station circumstances. Thus, it is not apparent just what new minimum value, if reduced to any, should be required without the benefit of statistically sufficient experimental test data. However, television stations facing unique circumstances may be justified in operating with an aural power below 10 percent of peak visual power. For example, terrain limitations may severely reduce actual visual coverage such that it is far short of predicted coverage.

14. We note that the primary reason for initiation of this proceeding was to provide for more reliance on broadcasters' judgment to determine what aural powers should be used. One broadcast licensee, KET, submitted significant opposition to the proposed provision because its experience with reduced aural power was unsatisfactory. The petitioner, on the other hand, rated its experiment a success. Thus, in evaluating the comments, we find that the Commission is in a similar position to that in 1963 when we considered lowering the aural power percentage from 50 to 10 percent. Principal opponents, EIA (representing receiver

[8] FCC Rules § 76.605(a)(6).

[9] See reference in footnote 4.

[10] See footnote 7.

[11] The Commission adopted a series of three actions affecting a change in the permissible ratio of power in the aural and visual signal transmitted by television broadcast stations. The actions are:

a. *Second Report and Order* in Docket No. 14229, 41 FCC 1041 (1963). The Commission, among other matters, amended the rules to permit UHF-TV stations to operate with an aural power range of 10–70 percent of peak visual power instead of the then existing 50–70 percent range.

b. *Report and Order* in Docket No. 15208 (not published in FCC Reports) 29 Fed. Reg. 4884 (April 7, 1964). The Commission amended the rules to make the above change applicable to VHF TV stations.

c. *Report and Order* in Docket No. 15405, 45 FCC 2078 (1965). The Commission amended the rules by reducing the above range of power ratio from 10–70 percent to 10–20 percent.

[12] Final Report of Committee 2.6, Sound-to-Picture Ratio, *Engineering Aspects of Television Allocations.* TASO (Television Allocations Study Organization), March 16, 1959.

manufacturers) and others, again contend that lower aural power will affect adversely the performance of television receivers. Those supporting the proposal, principally television broadcasters, again similar to the case in 1963, view it as a means of saving money.

15. As expressed in the group comments of the Television Licensees, television broadcasters should have the discretion to operate their aural transmitter on a basis of maximum economic efficiency. The Commission agrees that every television licensee should have the incentive, without regulation, to provide a satisfactory aural signal to its viewers. Consequently, we believe television licensees of both commercial and non-commercial educational television stations should be responsible for determining the appropriate aural power level rather than having the rules specify a lower limit based primarily on dated (1950's) TASO testing of receiver performance. Currently, licensees have limited discretion to select an aural power level within the 10 to 20 percent range of the visual power, and operate at 80 to 110 percent of that specific value. In the absence of any compelling evidence to the contrary, we believe that licensees should have wider latitude in choosing their television aural power. Moreover, in response to CBS' and NAB's suggestion of only granting waivers for reduced aural power, pending the outcome of Docket No. 83–114, we do not find that the public interest would be served by such action.

16. In the *Notice*, the Commission also proposed to delete the procedure of licensing television broadcast stations to operate at specified aural transmitter power outputs and effective radiated powers. None of the comments addressed this matter. However, this aspect of the *Notice* would provide licensees the flexibility to select and change, without notification to the Commission, their aural effective radiated power to any value not to exceed 20 percent of the peak visual power. In eliminating the television broadcast stations' minimum aural power requirement while maintaining the current maximum aural power requirement, we will also adjust this part of the proposal to allow licensees the discretion of operating at any aural power value not to exceed 22 percent of the peak visual power. This maximum percentage of aural power is derived from the currently allowed tolerance of 80 to 110 percent of the maximum authorized aural power percentage, i.e., 110% of 20% visual power=22% aural power. Hence, television broadcast station licensees will be permitted aural power not to exceed 22 percent of visual power. Finally, since no Commission staff analysis of the operating aural power will be necessary, we are relieving television broadcast licensees and applicants from that unnecessary filing. This action will allow licensees flexibility in determining their operating aural power requirements.

Conclusion

17. The Commission finds that the record does not establish a new minimum universal aural power percentage level; but, it believes that such determinations will vary depending on individual station locations and terrain circumstances. Consequently, the Commission will allow broadcasters the freedom to explore and find their individual minimum aural power levels while maintaining satisfactory service to their area viewers. Thus, the Commission will eliminate the minimum television aural power requirement on the basis of competitive marketplace dynamics. The Commission recognizes and is sensitive to the rising electric power costs for many broadcasters, and that benefit to some may result by eliminating the television broadcast minimum aural power limit. However, it is clearly in the best interest of a television station to broadcast at an aural power level that will not perceivably degrade their service to the public. The financial success of television stations depends on the ability of their viewers to clearly hear and see their transmissions. Finally, to allow easier flexibility, we are eliminating the unnecessary requirement for applicants and licensees to file for specific aural power values. This action will allow operation at any aural power level not to exceed 22 percent (including tolerance) of the visual power.

18. *Regulatory Flexibility Act Analysis.*

I. *Reason for Action and Purpose of Rule Amendment.* The rule amendments are intended as a means of easing an operating requirement so as to reduce transmitter operating costs. The Commission recognizes some cost benefit of eliminating the minimum aural power limit. The other aspect of the rule amendments are to relieve television broadcast station applicants of an unnecessary filing and to allow licensees more expedient flexibility in determining their individual operating aural power requirements.

II. *Flexibility Issues Raised in the Comments.* None.

III. *Significant Alternatives Considered.* The Commission considered the alternatives of maintaining the status quo, and on a case-by-case basis, the granting of waivers for reduced aural power, pending the outcome of related Docket No. 83–114. However, the Commission determined that the public's interest would not be served by the delay in deferring a decision in the instant proceeding to Docket No. 83–114.

19. Accordingly, it is ordered, pursuant to the authority contained in §§ 4(i) and 303 of the Communications Act of 1934, as amended, that Part 73 of the Commission's Rules and Regulations is amended as set forth in the attached Appendix, effective May 31, 1984. It is further ordered that this proceeding is terminated.

20. Further information on this matter may be obtained by contacting Bernard Gorden, Mass Media Bureau, (202) 632–9660.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

47 CFR Part 73 of the Federal Communications Commission's Rules and Regulations is amended as follows:

1. Section 73.663(c)(3) is revised as follows:

§ 73.663 Determining operating power.

* * * * *

(c)(3) The meter must be calibrated at intervals not exceeding six months so that an indication of 100% aural operating power on the power meter scale represents an aural ERP of 22% of the authorized peak visual ERP. If the aural transmitter is not capable of operating at this power level, the calibration must be made at the highest aural transmitter output power attainable with the meter indication adjusted to show the relative percentage of output power referenced to 100% as the maximum permissible aural ERP (22% of authorized peak visual ERP). However, where this is done, the output meter must be marked at the point of calibration of maximum power output, and the station will be deemed to be in violation of the maximum permissible operating power if this level is exceeded. This marking must be checked and changed, if necessary, each time the meter is calibrated.

Note.—Recalibration of aural operating power meters in compliance with this paragraph becomes effective January 1, 1985.

* * * * *

2. Section 73.682(a)(15) is revised as follows:

§ 73.682 Transmission standards.

* * * * *

(a) * * *

(15) The effective radiated power of the aural transmitter must not exceed 22% of the peak radiated power of the visual transmitter.

* * * * *

3. Section 73.1560(c) is revised as follows:

§ 73.1560 Operating power tolerance.

* * * * *

(c) *TV stations.* (1) Except as provided in paragraph (d), the visual output power of a TV transmitter, as determined by the procedures specified in § 73.663, must be maintained as near as is practicable to the authorized transmitter output power and may not be less than 80% nor more than 110% of the authorized power.

(2) The output power of the aural transmitter, as determined by the procedures specified in § 73.663 shall be maintained to provide an aural carrier ERP of not to exceed 22% of the peak authorized visual ERP. This provision applies to all TV broadcast stations although the authorizations may indicate a specified aural power.

(3) The FCC may specify deviation from the power of tolerance requirements for subscription television operations to the extent it deems necessary to permit proper operation.

* * * * *

4. In section 73.1690(b)(4) is revised and (c)(4) is added to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(b) * * *

(4) Change in operating power of stations except as provided in paragraph (c)(4) of this section.

(c) * * *

(4) Change in the operating aural power level of TV stations not in excess of the maximum limit pursuant to § 73.682(a)(15).

* * * * *

[FR Doc. 84-12033 Filed 5-24-84; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 90

[FCC 84-221]

Eliminating Region 9 in the U.S./Canada Border Area

AGENCY: Federal Communications Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission has adopted an Order which amends Part 90 of the Commission's Rules (Private Land Mobile Radio Services, to delete all references to Region 9 in Section 90.619(b) of Subpart S. This action will make the Rules conform to the present 800 MHz agreement between the U.S. and Canada) and will remove certain technical constraints for private land mobile radio stations in the affected area.

EFFECTIVE DATE: May 22, 1984.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Order

In the matter of amendment of Subpart S of Part 90 of the Rules to Eliminate Region 9 in the U.S./Canada Border Area.

Adopted: May 15, 1984.
Released: May 22, 1984.

By the Commission.

1. In January 1977, an interim agreement was reached between the Commission and the Department of Communications of Canada prohibiting the authorization of 800 MHz private land mobile radio frequencies closer than 100 miles (160 km) from the common border until a final agreement between the two countries was negotiated. On April 7, 1982 a final agreement was signed, establishing criteria for the use of 800 MHz frequencies in areas up to 87.5 miles (140 km) from the border.[1] The final agreement imposes no constraints beyond 87.5 miles from the border.

2. Subpart S of Part 90 of the Commission's Rules and Regulations contains rules governing the licensing and use of private land mobile radio frequencies in the 806-821 and 851-866 MHz bands. Section 90.619(b) of this Subpart contains specific rules for the use of 800 MHz frequencies along the U.S./Canada border. It retained the 100 mile limitation and designated stations that were between 87.5 and 100 miles from the border as being in Region 9. This Region is generally rural in nature and is not near any major urban areas except in the Tacoma-Seattle area in the State of Washington. Under present Subpart S rules, stations in Region 9 are treated under Region 7 or 8 criteria and transmitter power limitations are dependent upon antenna elevations as specified in the U.S./Canada agreement. These power vs. height limitations are more stringent than those for stations not included in the border area.

3. In view of our continuing efforts to relax the Rules when it is deemed to be in the public interest, we are now amending § 90.619(b) of the Rules to remove all references to Region 9.

4. In addition, § 90.619(b)(6) is modified to delete from the list the three Ontario television stations (Channels 76, 78, and 79) since these have been reassigned to lower channels by the Canadian authorities.

5. This amendment reduces burdens on the public as well as the Commission. It also increases the potential for stations in the affected area to offer better communications service to the public without adversely affecting any party. Also, since this does not impose new rules on licensees which would adversely affect their substantive rights,[1a] we find for good cause that notice and comment procedures are not necessary or appropriate.[2] Since the rule change relieves a restriction, we also conclude this change should become effective immediately.

6. Accordingly, it is ordered, pursuant to Sections 4(i) and 303 of the Communications Act, as amended, and 5 U.S.C. 553(b)(3)(B) and (d)(1) that effective May 22, 1984, Part 90 of the Commission's Rules is amended as set forth in the attached Appendix.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 90—[AMENDED]

Section 90.619(b) of 47 CFR Part 90 is amended by revising the following: paragraphs (b) (1) and (2); the heading of table 6 following (b)(2); the introductory text of (b)(3) and the table following (b)(3); (b)(6) introductory text and the table following (b)(6) introductory text; (b)(7) introductory text, (b)(7)(ii) and the table following (b)(7)(ii); (b)(11) text and the headings for tables 21 through 24 following (b)(11) to read as follows:

---

[1] *Arrangement Between the Department of Communications of Canada and the Federal Communications Commission of the United States Concerning the Use of the 806-890 MHz Band along the Canada-United States Border,* dated April 7, 1982.

[1a] *Yale Broadcasting Co.* v. *FCC,* 478 F.2d 594 (D.C. Cir., 1973); *cert. den.* 414 U.S. 914; *National Helium Corp.* v. *FEA,* 569 F.2d 1137 (Em. Ct. App. 1977).

[2] *Cerro Metal Products* v. *Marshall,* 467 F. Supp. 869 (E.D. Pa. 1979); *Gosman* v. *U.S.,* 573 F.2d 31 (Ct. Cl. 1978).

§ 90.619 Frequencies available for use in the U.S./Mexico and U.S./Canada border areas.

* * * * *

(b) * * *

(1) The U.S./Canada border area is divided into eight geographical regions with U.S. channel allocations shown in Table 5.

TABLE 5.—GEOGRAPHICAL REGIONS

Region	Location (longitude)	U.S. channel allocation
1	66° W–71° W (0–100 km from border)	300
2	71° W–81° W (0–100 km from border)	180
3	81° W–85° W (0–100 km from border)	420
4	85° W–121° –30' W (0–100 km from border).	300
5	121°–30' W 127° W(0–140 km from border).	300
6	127° W–143° W (0–100 km from border).	300
7	66° W–121° –30' W (100–140 km from border).	600
8	127° W–143° W (100–140 km from border).	600

(2) Station authorizations in Regions 1–4 and Regions 6–8 will be subject to Effective Radiated Power (ERP) and Effective Antenna Height (EAH) limitations as indicated in Table 6. Stations in Region 5 will be subject to the ERP and antenna height above mean sea level limitations in Table 8. Effective Radiated Power (ERP) is defined as the product of the power supplied to the antenna and its gain relative to a half-wave dipole in a given direction. Effective Antenna Height is calculated by subtracting the Assumed Average Terrain Elevation (AATE) given in Table 7 from the antenna height above mean sea level.

Table 6.—Limits of Effective Radiated Power (ERP) Corresponding to Effective Antenna Heights (EAH) of Base Stations in Regions 1, 2, 3, 4, 6, 7, 8

* * * * *

(3) The following frequency bands are available in each Region with the exception of those listed in § 90.619(b)(5).

Region(s)	Frequency bands (MHz)
1, 4, 5, 6	806.00–809.75/851.00–854.75 and 817.25–821.00/862.25–866.00.
2	806.00–808.25/851.00–853.25 and 818.75–821.00/863.75–866.00.
3	806.00–811.25/851.00–856.25 and 815.75–821.00/860.75–866.00.
7, 8	806.00–821.00/851.00–866.00.

* * * * *

(6) Two Canadian television stations provide service in British Columbia in the band 806–890 MHz in accordance with U.S./Canadian Television Agreement of 1952. They are:

Enderby, B.C.	Channel 72	818–824 MHz.
Radium/Hot Springs, B.C.	Channel 77	848–854 MHz.

* * * * *

(7) Frequencies in Regions 1–8 are designated in accordance with the following:

(i) * * *

(ii) Channels will be arranged into 5-channel groups. Because of the distribution and differing number of channels available for United States use in Regions 1–8, channel spacing between channels in a 5-channel group vary as follows:

Region	Number of 5-channel groups	Spacing between channels in a 5-channel group (Channels)
1, 4, 5, 6	60	30
2	36	18
3	[1]80	40
7, 8	120	40

[1] Region 3 also has ten (10) contiguous channels in each of the two allocated sub-bands.

* * * * *

(11) Tables 21, 22, 23, and 24 list the frequencies available in Regions 7 and 8 for the categories of users indicated.

Table 21. (Regions 7, 8) Public Safety Category—170 Channels

* * * * *

Table 22. (Regions 7, 8) Industrial/Land Transportation Category—120 Channels

* * * * *

Table 23. (Regions 7, 8) Business Category—120 Channels

* * * * *

Table 24. (Regions 7, 8) SMRS Category—190 Channels

* * * * *

[FR Doc. 84-14014 Filed 5-24-84; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

[GSAR AC-84-1]

Administrative Matters; Contract Distribution

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: GSAR 501.170–4 provides for the use of Acquisition Circulars (AC) to provide coverage on a temporary basis, pending subsequent incorporation of material in the GSAR by amendment. This GSAR Circular temporarily implements and supplements Subpart 4.2 of the Federal Acquisition Regulation (FAR) and adds Subparts 504.1 and 504.2 to the GSAR. This GSAR Circular prescribes procedures for contracting offices to provide the Office of Finance with a certified true copy of contracts. The intended effect is to provide procedures to contracting activities with regards to contract distribution.

DATES:

Effective Date: May 16, 1984.

Expiration Date: This circular expires 6 months after issuance unless canceled earlier or extended.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations (VP), Office of Acquisition Policy, (202–523–4754).

SUPPLEMENTARY INFORMATION:

Regulatory Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration certifies that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexability Act (5 U.S.C. 601 et seq.) therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

List of Subjects in 48 CFR Part 504

Government procurement.

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

In 48 CFR Chapter 5, Appendix C—Temporary Regulations and the following Acquisition Circular is added at the end of the chapter to read as follows:

Appendix C—Temporary Regulations

[GSAR AC–84–1]

To: All GSA contracting activities
Subject: Contract distribution

1. *Purpose.* This Acquisition Circular temporarily implements and supplements Subparts 4.1 and 4.2 of the Federal Acquisition Regulation (FAR).

2. *Background.* The FAR requires that paying offices be provided with a signed contract *or* a reproduction of the signed contract marked "Duplicate Original." The GSA Office of Finance recently advised that a policy decision was made to only accept and pay against a signed

original or a copy of the contract with original handwritten signatures, and not photocopied signatures.

3. *Effective date.* May 16, 1984.

4. *Expiration date.* This circular expires 6 months after issuance unless canceled earlier or extended.

5. *Coverage.* Applies to all types of contracts except (1) leases of real property, (2) schedule contracts, and (3) purchase orders and delivery orders.

6. *Reference to regulation.* Subparts 4.1 and 4.2 of the Federal Acquisition Regulation and Subparts 504.1 and 504.2 of the General Services Administration Acquisition Regulation (APD 2800.12).

7. *Explanation of change.*

The General Services Administration Acquisition Regulation is amended to add the following Subparts to implement FAR 4.1, Contract Execution and FAR 4.2, Contract Distribution:

PART 504—ADMINISTRATIVE MATTERS

Subpart 504.1—Contract Execution

504.101 Contracting officer's signature.

Contracting officers shall sign three (3) copies of contracts with original handwritten signatures for distribution in accordance with FAR 4.201 and 504.201. This requirement does not apply to leases of real property, schedule contracts, or purchase order/delivery order forms, i.e., GSA Form 300, Order for Supplies and Services.

Subpart 504.2—Contract Distribution

504.201 Procedures.

The contract distribution procedures in FAR 4.201 are supplemented to provide that when a "Duplicate Original" of the contract or modification is forwarded to the paying office it shall be certified as a true copy by the contracting officer on the award or modification form (i,e., SF 26, 33, 1442 etc.). The contracting officers original handwritten signature must be placed on the award form certifying the copy as a "true copy." This requirement does not apply to:

(a) Leases of real property,

(b) Schedule contracts, or

(c) Standard or GSA multipage purchase/delivery order carbon forms.

Dated: May 16, 1984.

William B. Ferguson,

Deputy Assistant Administrator for Acquisition Policy.

[FR Doc. 84-14008 Filed 5-24-84; 8:45 am]

BILLING CODE 6820-61-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 14)]

Rail General Exemption Authority; Miscellaneous Agricultural Commodities

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that appeared at 48 FR 9277, March 4, 1983, that exempted the transportation by rail of all farm products not previously exempt, with certain exceptions.

EFFECTIVE DATE: May 25, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION:

§ 1039.10 [Corrected]

The following corrections are made to the third column of 48 FR 9277, March 4, 1983, in the list of exempt commodities in § 1039.10.

1. The Standard Transportation Commodity Code (STCC) number for citrus pomace is corrected to "20-421-27."

2. "Flex fibre" is corrected to "Flax fibre".

Issued: May 11, 1984.

James H. Bayne,

Secretary.

[FR Doc. 84-14074 Filed 5-24-84; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1309 and 1310

[Ex Parte No. MC-170]

Short Notice Effectiveness for Independently Filed Motor Carrier and Freight Forwarder Rates

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is modifying its regulations at 49 CFR Parts 1309 and 1310 to reduce the notice period required for independent rate filings by motor common carriers of property and freight forwarders. Rate reductions and new rates will be permitted to become effective on 1-day's notice, and rate increases will be permitted to become effective on 7 workdays' notice. The new rules do not apply to single-factor rates on joint intermodal traffic. These changes are a result of the increased competition in the motor carrier industry following passage of the Motor Carrier Act of 1980 and the subsequent need for carriers to respond quickly to changed market conditions.

EFFECTIVE DATE: June 25, 1984.

FOR FURTHER INFORMATION CONTACT: Thomas Vining, (202) 275-7813; or Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: We instituted this proceeding by a notice of proposed rulemaking (notice) served July 27, 1983, and published at 48 FR 34307, July 28, 1983.

Additional information is contained in the Commission's full decision. To purchase a copy of the decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan Area) or toll free (800) 424-5403.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

Regulatory Flexibiity Analysis

We affirm our prior determination that adoption of the regulations in this decision will not have a significant economic impact on a substantial number of small entities. To the extent the regulations will affect small entities, the effects will be largely positive, since carriers will have additional flexibility in responding to market demands. The overall effect on small shippers will also be positive since they too will benefit from the carriers' ability to be more responsive to their needs.

List of Subjects

49 CFR Part 1309

Freight, Freight forwarders, Motor carriers, Moving of household goods.

40 CFR Part 1310

Exports, Freight, Imports, Intermodal transportation, Maritime carriers, Freight forwarders, and Motor carriers.

This rulemaking is issued under the authority of 5 U.S.C. 553 and 49 U.S.C. 10321 and 10762(d)(1).

Dated: May 10, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor concurred in part and dissented in part with a separate expression.

James H. Bayne,

Secretary.

Chairman Taylor, concurring in part and dissenting in part:

In two important respects, the final rules here, as to independently filed increases, are a substantial

improvement over the original proposal. First, in order to permit a meaningful protest before such an increase becomes effective, the notice period has been almost doubled by providing for seven working days instead of five calendar days. Second, the "working day" measurement is a big improvement over the "calendar day" yardstick, because the former avoids the problems incident to Friday filings, particularly in the case of three-day weekends.

Unfortunately, however, the final rules don't go quite far enough with respect to independently filed increases. Although significant recent improvements in our tariff processing system have made seven or eight working days a sufficient time for parties to respond to an independently filed increase, our decision to charge fees for the filing of tariffs [1] necessitates the addition of one or two more working days if the notice period is to be meaningful. Accordingly, to provide a realistic notice period, an absolute minimum of nine working days is essential.

Finally, nine working days is definitely superior to seven, because under 49 CFR 1310.31, a motor carrier can elect not to simultaneously mail a tariff to subscribers when that tariff is published on less than ten calendar days' notice. Seven working days is frequently less than ten calendar days, but nine working days will always exceed ten calendar days, thereby eliminating any problem with adequate notice to subscribers under 49 CFR 1310.31.

Appendix

Title 49 of the Code of Federal Regulations is amended to read as follows:

PART 1309—TARIFFS AND CLASSIFICATIONS OF FREIGHT FORWARDERS

1. A new § 1309.10 is added to 49 CFR Part 1309 to read as follows:

§ 1309.10 Notice for independent rate changes.

(a) *New and reduced rates.* Except as otherwise provided in paragraphs (b) and (d) of this section, each independently established new or changed rate, charge, rule, or other provision shall be filed with the Commission in Washington, D.C., at least 1 day before the date upon which it is to become effective.

(b) *Increased rates.* Each independently established increased rate or charge and each independently established change in a rule or other provision which effects a reduction in the value of service or increase in a rate or charge shall be filed with the Commission in Washington, D.C. at least 7 workdays before the date upon which it is to become effective.

(c) *Independently established for carrier's account.* The rate, charge, rule, or other provision shall be published either in a tariff filed in the fowarder's name or under independent action instructions for only the particular forwarder's account in a tariff filed in a tariff publishing agent's name.

(d) *Joint intermodal traffic.* This section does not apply to any single-factor rate, charge, rule or other provision having application over any segment of the lines of another transportation mode.

(e) *This section supersedes others.* The provisions of this section take precedence over all provisions of Part 1300 that govern filing notice. The provisions of Part 1300 will continue to apply to filings that have been docketed with rate bureaus in advance of filing with the Commission (collectively agreed upon rate filings).

(f) *Mixed filings.* Tariffs or amendments that contain both 1-day and 7 workday filings shall be filed upon 7 workdays' notice, with the 1-day filings appropriately excepted from the 7 workday notice.

[1] Ex Parte No. 246 (Sub-No. 2), *Regulations Governing Fees For Services Performed In Connection With Licensing and Related Services*, decided April 25, 1984.

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

2. Section 1310.37 is added to 49 CFR Part 1310 to read as follows:

§ 1310.37 Notice for independent rate changes.

(a) *New and reduced rates.* Except as otherwise provided in paragraphs (b), (d) and (e) of this section, each independently established new or changed rate, charge, rule, or other provision shall be filed with the Commission in Washington, D.C. at least 1 day before the date upon which it is to become effective.

(b) *Increased rates.* Each independently established increased rate or charge and each independently established change in a rule or other provision which effects a reduction in the value of service or increase in a rate or charge shall be filed with the Commission in Washington, D.C. at least 7 workdays before the date upon which it is to become effective.

(c) *Independently established for carrier's account.* The rate, charge, rule, or other provision shall be published either in a tariff filed in the carrier's name or under independent action instructions for only the particular carrier's account in a tariff filed in a tariff publishing agent's name.

(d) *Joint intermodal traffic.* This section does not apply to any single-factor rate, charge, rule or other provision having application over any segment of the lines of another transportation mode.

(e) *This section supersedes others.* The provisions of this section take precedence over all the provisions of this Part 1310 that govern filing notice. The other provisions will continue to apply to filings that have been docketed with rate bureaus in advance of filing with the Commission (collectively agreed upon rate filings).

(f) *Mixed filings.* Tariffs or amendments that contain both 1-day and 7 workday filings shall be filed upon 7 workdays' notice, with the 1-day filings appropriately excepted from the 7 workday notice.

[FR Doc. 84-14070 Filed 5-24-84; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 40453-4053]

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

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

ACTION: Emergency rule; corrections.

SUMMARY: This document corrects errors in an emergency rule for the Ocean Salmon Fisheries off the coasts of Washington, Oregon, and California, that was published on May 3, 1984, 49 FR 18853.

FOR FURTHER INFORMATION CONTACT: Thomas E. Kruse (Acting Director, Northwest Region, NMFS), 206-526-6150; or E. Charles Fullerton (Director, Southwest Region, NMFS), 213-548-2575.

In FR Doc. 84-11876, page 18855, column 1, paragraph 2, the first sentence should read "Adopted regulations provide for an all-salmon-except-coho season beginning on May 1 and an all-salmon season beginning on July 1."

Dated: May 21, 1984.

Carmen J. Blondin,

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

The following corrections in FR Doc. 84–11876 are also made:

§ 661.33 [Corrected]

1. In § 661.33, the last coordinate in paragraph (a)(3) of the definition *Fishery management area* is corrected to read "30° 32'31" N. latitude, 121°51'58" W. longitude."

§ 661.38 [Corrected]

2. In § 661.38, the signals extracted from the International Code of Signals, inparentheses in paragraphs (d)(1) through (d)(3) are corrected to read as follows:

* * * * *

(d) * * *

(1) "(.–.– .–.– .–.–)";

(2) "(.–.–.— –.—.—); and

(3) "(... —.– ...—)".

§ 661.41 [Corrected]

3. § 661.41, the note at the bottom of Table 2 at the end of paragraph (a) is removed.

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

[FR Doc. 84–14025 Filed 5–24–84; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 49, No. 103
Friday, May 25, 1984

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Upland Cotton Staple Length Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The present official staple length standards are represented by actual quantities of cotton selected by cotton classification experts when the only measurement aid available was the common 1-inch ruler. This proposal would establish staple length standards for American upland cotton by use of an instrument specifically designed to measure cotton fiber, the Suter-Webb Duplex Cotton Fiber Sorter. The proposal would update the standards and increase their precision and accuracy. The staple length standards are established and maintained by USDA under the authority of the United States Cotton Standards Act.

DATE: Comments must be received on or before June 25, 1984.

ADDRESS: Written comments may be sent to Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, (202) 447–2167.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be "nonmajor" since it does not meet the criteria for a major regulatory action as stated in the Order.

William T. Manley, Deputy Administrator, AMS, has certified that this action would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (1) The effect of the proposed change in the staple standards would be so extremely slight that it is anticipated that there will be no economic impact on individual cotton producers or marketers of any size, nor on the cotton industry as a whole; (2) the standards would be applied equally to all size entities by employees of the Department; (3) the proposed changes would have an insignificant impact on the trading of cotton as it is conducted on the basis of USDA classification; and (4) no new costs or additional requirements would be imposed on any segment of the cotton industry or others.

Pursuant to section 56 of the United States Cotton Standards Act (7 U.S.C. 56), any standard or change or replacement to a standard shall become effective not less than one year after the date promulgated.

Background

Staple length is one of the quality factors of cotton determined by the Agricultural Marketing Service (AMS) when a sample of cotton, representing a bale, is submitted for classification. Staple length of cotton is defined as the normal length measurement of a typical portion of the sample's fibers under a relative humidity of 65 percent and a temperature of 70° F (7 CFR 28.301). Official cotton standards for length of staple are established and maintained by USDA under the authority of the United States Cotton Standards Act (7 U.S.C. 51 *et seq.*).

The first staple standards for American upland cotton were promulgated by USDA in 1918. Other standards were added in 1926 and 1929. The standards, which are actual quantities of cotton, were originally selected by visually comparing a tuft of fibers (a "pull") with a linear inch as marked on a ruler. The staple lengths are expressed in inches and fractions of an inch from 1 3/16 inch, generally in graduations of thirty-seconds of an inch (7 CFR 28.303).

By the early 1940's more precise measurements of cotton fibers could be obtained by using an instrument known as the Suter-Webb Duplex Fiber Sorter. The procedure of separating fiber into length groups with the Suter-Webb Fiber Sorter is called the array method. A technician using the Suter-Webb apparatus can separate the cotton fibers from a pull into an array of length groups at 1/8-inch intervals.

In 1942, the original physical staple standards were measured by the use of the Suter-Webb Fiber Sorter. These measurements revealed that there were slight differences between certain staple lengths as they were not all equidistant from each other. However, the differences were so slight as to be generally undetectable by cotton classers and were considered to be of no consequence to the cotton marketing system. For this reason, the physical standards were not changed at that time and the small differences have remained unchanged.

In 1982 the Secretary established the National Advisory Committee on Instrument Standards to evaluate the relationship and impact of instrument measurements and standards on existing official USDA cotton standards for manual classing. The Secretary also directed the Advisory Committee to make recommendations concerning the standards. As part of its review of the cotton standards, the Advisory Committee recommended that AMS modify, where appropriate, the length ranges of the original standards.

Following a review of all available information, AMS has determined that this recommendation would increase the precision and accuracy of the standards. In consideration of the foregoing, AMS proposes to discontinue the use of the present physical representations of the original standards for length of staple of American upland cotton. Instead, cotton which is a candidate for a particular staple standard would be subjected to length measurement by the Suter-Webb Fiber Sorter using the array method. If found to have the proper length, the cotton would be used to produce official physical representations of the standards for use by cotton classers.

The length measurements would be performed under the Standard Test Method for Length and Length Distribution of Cotton Fibers (Array Method), as adopted and published by the American Society for Testing and Materials and approved by the American National Standards Institute. This standard is designated ANSI/ASTM D 1440–77 (1982), and would be incorporated by reference into the Code of Federal Regulations in paragraph (c) of revised § 28.303. This incorporation by reference will be submitted for

approval to the Director of the Federal Register at the final rule stage.

The array method using the Suter-Webb Duplex Fiber Sorter is proposed for measuring fiber length because it is recognized by the textile industry worldwide as a reliable, proven reference method for determining the length of cotton fibers and is a standard to which other methods are compared and their accuracy determined. Accordingly, the array method using the Suter-Webb was selected over other methods. Furthermore, AMS now has over 40 years of experience using this method in the standards program and the Agency has a high level of confidence in the data it produces.

AMS also proposes to modify slightly, where appropriate, the length ranges of the original standards as determined by the Suter-Webb Fiber Sorter. The modifications proposed can be seen by comparing the columns below. The existing ranges for each of the official staple lengths are given in the second column. The proposed ranges for the same staple lengths are given in the third colum. With one exception due to rounding, the proposed ranges are linear, with equal and regular intervals between them. In contrast, the present ranges are not perfectly linear because the original staple standards were established without the aid of precision instruments to measure staple length.

Staple length (inches)	Array upper quartile length	
	Current range (inches)	Proposed range (inches)
13/16	.850–.870	.827–.847
7/8	.910–.930	.909–.929
29/32	.950–.970	.950–.970
15/16	.980–1.000	.990–1.010
31/32	1.030–1.050	1.031–1.051
1	1.070–1.090	1.072–1.092
1 1/32	1.100–1.120	1.113–1.133
1 1/16	1.140–1.160	1.154–1.174
1 3/32	1.180–1.200	1.195–1.215
1 1/8	1.230–1.250	1.236–1.256
1 5/32	1.280–1.300	1.277–1.297
1 3/16	1.340–1.360	1.318–1.338
1 7/32	1.370–1.390	1.359–1.379
1 1/4	1.400–1.420	1.400–1.420

These changes would be accomplished by revising § 28.303. The lengths of staple for American upland cotton currently enumerated in § 28.303 would be retained in paragraph (a) of the revised section. Listed opposite the staple lengths would be the range of measurements that would define each staple length standard. The derivation of additional staple lengths would also be provided in paragraph (a) of § 28.303.

Sections 28.304 and 28.305 would be redesignated, without change, as §§ 28.306 and 28.307.

A new § 28.304 would be added. This section would provide for the continued maintenance of physical standards of American Pima cotton staple lengths. The physical standards have been reviewed and it has been determined that no change is necessary. Therefore, these standards would not be changed by this action. The staple lengths and effective dates given in the current § 28.303(b) would be retained in the new § 28.304 and the format of the present § 28.304 would be revised for clarification purposes.

List of Subjects in 7 CFR Part 28

Cotton, Samples, Standards, Cotton linters, Grades, Staples, Market news, Testing, Incorporation by reference.

PART 28—[AMENDED]

Accordingly, it is proposed to amend Subpart C, Part 28, of Chapter 1, Title 7 of the Code of Federal Regulations as shown. The Table of Contents would be amended accordingly.

1. The authority citation for Part 28, Subpart C reads as follows:

Authority: Secs. 28.301 to 28.305 issued under Sec. 10, 42 Stat. 1519, 7 U.S.C. 61. Interpret or apply sec. 6, stat. 1518, as amended, 7 U.S.C. 56.

§§ 28.304 and 28.305 [Redesignated as §§ 28.306 and 28.307]

2. Sections 28.304 and 28.305 would be redesignated as §§ 28.306 and 28.307, respectively.

3. Section 28.303 would be revised to read as follows:

§ 28.303 Standards for length of staple for American upland cotton.

(a) Effective July 1, 1985, standards for the lengths of staple of American upland cotton shall be measurements as determined by the Suter-Webb Duplex Cotton Fiber Sorter in accordance with the test method prescribed in paragraph (c) of this section. Ranges for each official staple length are shown in the table below. Staple standards exceeding 1 1/4 inches, in graduations of thirty-second inches, will be expressed in increments of .041 inches.

Staple length (inches)	Upper quartile length range (inches)
13/16	.827–.847
7/8	.909–.929
29/32	.950–.970
15/16	.990–1.010
31/32	1.031–1.051
1	1.072–1.092
1 1/32	1.113–1.133
1 1/16	1.154–1.174
1 3/32	1.195–1.215
1 1/8	1.236–1.256
1 5/32	1.277–1.297
1 3/16	1.318–1.338
1 7/32	1.359–1.379
1 1/4	1.400–1.420

(b) Cotton selected for the preparation of practical forms of staple standards shall, to the extent practicable, measure at the mid-point of the appropriate staple range indicated in paragraph (a) above.

(c) Length measurements shall be performed in accordance with the "Standard Test Method for Length (Array Method), ANSI/ASTM D 1440–77 (1982), which is incoroporated by reference pursuant to the provisions of 5 U.S.C. 552(a). This standard test method has been adopted by the American Society for Testing and Materials (ASTM) and approved as an American National Standard by the American National Standards Institute. It is published in the "Annual Book of ASTM Standards," Part 33, volume 07.02. These materials are incorporated as they are set forth in the October 1983 edition (copies of the ASTM book and copies of ASTM standard D 1440–77 as a separate publication may be obtained from ASTM, Customer Service, 1916 Race Street, Philadelphia, PA 19103). A copy of the ASTM standard test method is also on file at the Office of the Federal Register. A notice of any change in the ASTM standard test method cited herein will be published in the **Federal Register.**

4. A new section 28.304 would be added as follows:

§ 28.304 Original representation of American Pima cotton staple lengths.

The following lengths of American Pima staple are represented by a quantity of cotton in the custody of the United States Department of Agriculture suitably contained and marked "Original Representation of Official Cotton Standards of the United States" followed in each instance by the name of growth, appropriate designation for staple length, and the effective date.

Staple length (inches)	Effective date
1 3/16	Aug. 1, 1961.
1 1/8	Aug. 10, 1943.
1 7/16	Aug. 10, 1943.
1 1/2	Aug. 1, 1929.

Dated: May 21, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-14142 Filed 5-24-84; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 907 and 908

[Docket Nos. AO-245-A8 & AO-250-A6]

Navel and Valencia Oranges Grown in Arizona and Designated Part of California; Extension of Time for Filing of Exceptions to Recommended Decision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions.

SUMMARY: This extension of time is necessary to allow interested persons additional time to prepare and file exceptions to the recommended decision with respect to the proposed amendment of the California-Arizona navel and Valencia orange marketing orders.

DATE: The date by which written exceptions must be postmarked is extended to May 29, 1984.

ADDRESS: Interested persons may send written exceptions to the Hearing Clerk, Room 1077-South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for inspection during business hours.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, USDA, AMS, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: Notice was given of the filing with the Hearing Clerk of a recommended decision with respect to proposed further amendment of the marketing agreements, as amended, and Order Nos. 907 and 908, as amended regulating the handling of navel and Valencia oranges grown in Arizona and designated parts of California respectively, and of an opportunity to file written exceptions thereto in the April 11, 1984, issue of the **Federal Register** (49 FR 14360).

The recommended decision gave interested persons an opportunity to file written exceptions until May 21, 1984. The counsel for the Navel and Valencia Orange Administrative Committees requested additional time to review the recommendations made in that decision. The time for the filing of written exceptions is extended to May 29, 1984.

List of Subjects in 7 CFR Parts 907 and 908

Marketing Agreements and Orders, California, Arizona, Oranges (Navel, Valencia).

Dated: May 21, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-14033 Filed 5-24-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AEA-8]

Proposed Designation of Transition Area; Blairstown, New Jersey

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Blairstown, New Jersey Transition Area over Blairstown Airport. A new VOR (Runway 25) Instrument Approach procedure has been developed for Blairstown Airport and will require protection for aircraft executing the new procedure. An instrument procedure requires the designation of controlled airspace to protect aircraft utilizing the instrument procedure.

DATE: Comments must be received on or before July 12, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Building, (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. (212) 917-1228.

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, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AEA-8." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which described the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) so as to establish a 700 foot transition area generally within an 8 mile radius of the airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

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

1. Blairstown, NJ New

Amend Section 71.181 of FAR Part 71, Federal Aviation Regulations, by designating a new 700-Foot Transition Area as follows:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of 40°58'17"N 74°59'53"W, Blairstown Airport, Blairstown, NJ, excluding existing 700-Foot Transition Areas.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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

Issued in Jamaica, New York on April 19, 1984.

Irving Mark,

Acting Director, Eastern Region.

[FR Doc. 84-14021 Filed 5-24-84; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 83-AEA-9]

Proposed Alteration of Transition Area; Albany, New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Albany, New York Transition Area. The removal of the Schenectady TVOR and use of the Hunter NDB requires additional airspace to protect aircraft executing the instrument procedure. An instrument procedure requires the designation of controlled airspace to protect aircraft utilizing the instrument procedure.

DATE: Comments must be received on or before July 12, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. (212) 917-1228.

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, economic, environmental and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamp postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AEA-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 Rules Docket both before and after the closing dates 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 the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which described the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) so as to extend the 700 foot transition area generally to the southwest of Schenectady County Airport, an area approximately 15 miles in length from the airport, and six miles in width. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

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

Amend § 71.181 of FAR, Part 71, Federal Regulations by altering the existing Albany, N.Y. 700-Foot Transition Area to read as follows:

1. Albany, NY

That airspace extending upward from 700 feet above the surface within the area bounded by a point on the Albany VORTAC 007° radial 23 miles north of the VORTAC, thence clockwise along the arc of a 23-mile radius circle centered on the Albany VORTAC to its point of intersection with the Albany VORTAC 037° radial, thence southwest along the Albany VORTAC 037° radial to a point 12 miles northeast of the VORTAC, thence clockwise along the arc of a 12-mile radius circle centered on the Albany VORTAC, to its point of intersection with a line 4 miles southeast of the Hunter NDB (42° 51'09"N., 73°56'07" W.) (220°M/

207°T) bearing; within 4 miles each side of the 220°M/207°T bearing from the Hunter NDB extending from the Hunter NDB to 17.5 miles southwest of the NDB; thence clockwise along the arc of the 9-mile radius circle centered on the Hunter NDB to its point of intersection with a line 2 miles south and parallel to the extended centerline of the Schenectady County Airport Runway 28, thence west along this parallel line to its point of intersection with the arc of a 13-mile radius circle centered on the Hunter NDB, thence clockwise along the arc of this 13-mile radius circle to its point of intersection with the 342°T bearing from the Hunter NDB, thence north along a line bearing 356° from this point to the point of intersection of this line and the arc of a 19-mile radius circle centered on the Hunter NDB; thence clockwise along the arc of the 19-mile radius circle centered on the Hunter NDB to its point of intersection with the arc of a 23-mile radius circle centered on the Albany VORTAC; within 5 miles each side of the Albany VORTAC 082° radial, extending from the Albany VORTAC to 18.5 miles east of the VORTAC; within a 6.5-mile radius of the center, 43°31'00"N., 73°51'30"W., of Saratoga County Airport, Saratoga Springs, NY and within 4 miles each side of the Cambridge VORTAC 279° radial, extending from 43 miles west of the Cambridge VORTAC to the 6.5-mile radius area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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

Issued in Jamaica, New York on April 19, 1984.

Irving Mark,

Acting Director, Eastern Region.

[FR Doc. 84-14020 Filed 5-24-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No.83-AEA-7]

Proposed Designation of Transition Area; Factoryville, Pennsylvania

AGENCY: Federal aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Factoryville, Pennsylvania Transition Area. A new VOR (VORA) Instrument Approach procedure has been developed for Seamens Airport and will require protection for aircraft executing the new procedure. An instrument procedure requires the designation of controlled airspace to protect aircraft utilizing the instrument procedure.

DATE: Comments must be received on or before July 12, 1984.

ADDRESS: Send comments on the proposal in triplicate to: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. (212) 917-1228.

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, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AEA-7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which described the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) so as to designate a 700 foot transition area generally within a six mile radius of Seamens Airport with a 12 mile wide extension to the southeast centered on the 309° radial at the Lake Henry ABVORTAC. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

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

1. Amend § 71.181 of FAR Part 71, Federal Aviation Regulations, by designating a new 700-Foot Transition Area as follows:

Factoryville, PA—New

That airspace extending upward from 700 feet above the surface within 6-mile radius of 41°35'00"N 75°46'00"W, Seamans Field, Factoryville, PA, and including the airspace within 6 miles each side of the Lake Henry ABVORTAC 309° radial extending from the Lake Henry ABVORTAC northwest to intercept the Seamans Field 6 mile radius zone, excluding existing 700-foot Transition Areas.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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

Issued in Jamaica, New York on April 20, 1984.

Joseph M. Del Balzo,

Director, Eastern Region.

[FR Doc. 84-12965 Filed 5-24-84; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 83-AEA-6]

Proposed Designation of Transition Area; Perkasie, Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Perkasie, Pennsylvania Transition Area. A new VOR (Runway 18) Instrument Approach procedure has been developed for Pennridge Airport and will require protection for aircraft executing the new procedure. An instrument procedure requires the designation of controlled airspace to protect aircraft utilizing the instrument procedure.

DATES: Comments must be received on or before July 12, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours at the Airspace and Procedures branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Adminstration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. (212) 917-1228.

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, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AEA-6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which described the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) so as to designate a 700 foot transition area generally within a six mile radius of the airport from the northwest clockwise to the south and within a south-southwest rectangle approximately 17 miles in length and 12 miles in width which extends clockwise thru the northwest. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition Areas, Aviation safety.

The Proposed Amendment

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

1. Amend § 71.181 of FAR Part 71, Federal Aviation Regulations by designating a new 700-Foot Transition Area as follows:

Perkasie, PA—New

That airspace extending upward from 700 feet above the surface within 6 mile radius of 40°23'25"N75°17'26"W Pennridge Airport, Perkasie, PA extending clockwise from a 335° bearing to 40°18'50"N 75°19'40"W then southwest to 40°13'30"N 75°34'45"W then northwest to 40°24'25"N 75°41'15"W then northeast to 40°30'50"N 75°22'00"W then southeast along the 335° bearing back to the 6 mile radius excluding existing 700-Foot Transition Areas.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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

Issued in Jamaica, New York on April 20, 1984.

Joseph M. Del Balzo,

Director, Eastern Region

[FR Doc. 84-14022 Filed 5-24-84; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 460

Regulatory Flexibility Act Review of Trade Regulation Rule Concerning Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Request for comments.

SUMMARY: The Federal Trade Commission ("FTC"), in accordance with the Regulatory Flexibility Act and publication of a Plan for the Periodic Review of Commission Rules, 46 FR 35118 (1981), is soliciting comments and data on whether the Trade Regulation Rule Concerning Labeling and Advertising of Home Insulation, 16 CFR Part 460 (the "Rule"), has had a significant economic impact on small entities, and if it has, whether the Rule should be amended to minimize any such significant economic impact on small entities.

DATE: All comments and data should be received by the Commission no later than June 25, 1984.

ADDRESS: Comments and data should be sent to Secretary, Federal Trade Commission, Washington, D.C. 20580. Submissions should be identified as "R-value Rule—RFA Comment".

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, (202) 376-8934, or Lee J. Plave, (202) 376-2805 Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (the "RFA"), requires that the FTC conduct a periodic review of rules which have or will have a significant economic impact upon a substantial number of small entities.

The Trade Regulation Rule Concerning Labeling and Advertising of Home Insulation concerns home insulation labels, fact sheets, advertisements, and other promotional materials in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.* Any violation of the Rule constitutes an unfair and deceptive act or practice under Section 5 of that Act, and is subject to civil penalties of up to $10,000 per violation.

The Rule requires that members of the home insulation industry follow certain requirements in the manufacture, distribution, promotion, installation and sale of home insulation products. Manufacturers must test their products to determine R-value (a measure of heat resistance) in accordance with specified scientific standards. The R-value for each product must be listed on the package label. The label must also contain information regarding the type of insulation, the dimensions or other coverage area information, and disclosures defining the term "R-value" and concerning installation instructions. Manufacturers also must provide to retailers and installers fact sheets for their products which must include specified disclosures and product information. Retailers and installers must make these fact sheets available to consumers who ultimately buy home insulation. Installers and sellers of new homes must provide consumers with a contract or receipt specifying certain information pertinent to the insulation installed in the home. In addition, all advertising for home insulation (except television advertising, *see* 45 FR 54702 (1980)) which makes certain claims must include designated product information and certain specific disclosures. The Rule was promulgated on August 27, 1979, 44 FR 50242 (1979), became effective on September 29, 1980, 45 FR 54702 (1980), and remains in full force and effect except for disclosure requirements for television advertising. The Rule is being reviewed by the FTC in accordance with the periodic review requirement of the RFA.

For the purpose of this review under the RFA, the term "small entity" is defined under the Small Business Size Standards, 13 CFR Part 121, promulgated by the Small Business Administration. The definitions of "small entity" applicable to those covered by the Rule are: For manufacturers of mineral wool insulation , fewer than 750 employees; for manufacturers of insulation other than mineral wool insulation, fewer than 500 employees; for installers of home insulation, under $5.0 million in annual sales; for retail outlets other than installers selling home insulation, under $2.0 million in annual sales; for new home sellers other than sellers of mobile homes, under $12.0 million in annual sales; for manufacturers of mobile homes, fewer than 500 employees; and, for mobile home dealers, under $3.5 million in annual sales.

The purpose of this review is limited to determining whether the Rule should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the Rule upon a substantial number of such small entities.

In order to conduct the periodic review of this Rule pursuant to the RFA, the FTC poses the following questions for comments. The Commission requests that the factual data (*e.g.*, economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with the comments.

(1) Has the Rule had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

(2) Is there a continued need for the Rule and all of its requirements?

(3)(a) What burdens, if any, does compliance with the Rule place on small entities?

(b) To what extent are these burdens ones which small entities would also experience under standard and prudent business practice?

(4) What changes, if any, should be made to the Rule which would minimize the economic effect on small entities?

(5) To what extent does the Rule overlap, duplicate or conflict with other Federal, State and local governmental rules?

(6) Have technology, economic conditions or other factors changed in the area affected by the Rule since its promulgation in 1979 and, if so, what effect do these changes have on the rule or those covered by it?

List of Subjects in 16 CFR Part 460

Advertising, Insulation, Labeling, Trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 84-14039 Filed 5-24-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 628

[FHWA Docket No. 84-9]

Skid Accident Reduction Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The FHWA is issuing this advance notice to solicit comments on the effectiveness of the current policy on the skid accident reduction program and skid resistant pavement surface design.

DATE: Comments must be received on or before September 24, 1984.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 84-9, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Hanna, (202) 426-2131, Office of Highway Safety or Mr. Leon Noel, (202) 426-0327, Office of Engineering or David C. Oliver, (202) 426-0825, Office of the Chief Counsel.

SUPPLEMENTARY INFORMATION: Public comments are requested to assist in the determination and extent of necessary revision to the current skid accident reduction program and policies on skid resistant pavement surface design.

Applicable policy and guidance materials are contained in the following:

- Highway Safety Program Standard No. 12, Highway Design, Construction and Maintenance (23 CFR 1204)
- Federal-Aid Highway Program Manual, Volume 6, Chapter 2, Section 4, Subsection 3; Skid Accident Reduction Program (IM-21-2-73)
- Federal-Aid Highway Program Manual, Volume 6, Chapter 2, Section 1, Subsection 1, Design Standards for Highways (23 CFR 625)
- Federal-Aid Highway Program Manual, Volume 6, Chapter 2, Section 4, Subsection 1, Pavement Design Policy (23 CFR 626)
- Technical Advisory T5040.17, December 23, 1980, Skid Accident Reduction Program

In its implementation of Sections 105(f), 152, and 402 of Title 23 U.S.C. and Section 203 of the Highway Safety Act of 1973 (Pub. L. 93-37, 87 Stat. 283, Title II), the FHWA's policy has been to require each State to develop and implement, on a continuing basis, a highway safety improvement program. The overall objective of these programs is to reduce the number and severity of accidents and decrease the potential for accidents on all highways (23 CFR Part 924). Various standards have been issued to guide the States in implementing their safety programs (23 CFR Part 1204). Highway Safety Program Standard 12 requires States to adopt standards for pavement design and construction with specific provisions for high skid resistant qualities. It also requires a program for resurfacing or other surface treatment emphasizing the correction of locations or sections of streets and highways with low skid resistance and high or potentially high accident rates susceptible to reduction by providing improved surfaces.

Although the safety standards are intended by the Congress to apply to all streets and highways, many of our regulations apply only to Federal-aid highways. For example, each Federal-aid project involving construction of the pavement surface shall have a skid resistant surface (FHPN-6-2-1-1). In addition, the Skid Accident Reduction Program requires, in part: (1) An evaluation of current pavement design, construction and maintenance practices to ensure that the skid resistance properties are suitable for the needs of traffic, (b) a systematic procedure for the identification and correction of hazardous skid prone locations, and (c) a statement inventory of skid resistance measurements (FHPM 6-2-4-3).

On December 23, 1980, the FHWA issued Technical Advisory 5040.17 as guidance concerning details of an acceptable skid accident reduction program. The advisory recommended that a program should include the following:

(a) The evaluation of pavement design, construction, and maintenance practices through its (the highway agency's) pavement management program to ensure that only pavements with good skid resistance characteristics are used.

(b) The detection and correction of locations with a high incidence of wet weather accidents utilizing (1) the State and the local accident record systems, and (2) countermeasures for locations with high wet weather incidences, to ensure that existing highways are maintained in a safe condition.

(c) The analysis of skid resistance characteristics of selected roadway sections to:

(1) Ensure that the pavements being constructed are providing adequate skid resistance,

(2) Develop an overview of the skid resistance properties of highway systems,

(3) Provide up-to-date information for the pavement management process, and

(4) Provide data for use in developing safety improvement projects and the implementation of cost-effective treatments at appropriate locations.

In 1980 the National Transportation Safety Board issued several recommendations to the FHWA based on a review of 10 States skid resistance programs, 12 wet weather accident investigations and other materials (Safety Effectiveness Evaluation: Selected State Highway Skid Resistance Programs, NTSB-SEE-80-6. This document is available to the public through the National Technical Information Service, Springfield, VA 22161). On October 6, 1980, the Safety Board recommended that the FHWA change current policy to promote:

1. Full width surface treatments,
2. Skid trailers with left and right wheel locking capabilities,
3. Skid testing at the posted speed limit, and
4. Evaluation of the skid properties of all newly developing surface treatments.

The FHWA published a notice of proposed rulemaking (NPRM) on Skid Resistant Pavement Surface Design in 1980 (45 FR 24505, FHWA Docket No. 77-16) to establish policy and guidelines for the design and use of skid resistant pavement surfaces on roadways. This NPRM was withdrawn on March 4, 1982 (47 FR 9247). Based on the comments received and upon a review of current procedures and research findings, it was determined that the existing policy on the use of skid resistant surfaces was adequate and should continue. The Center for Auto Safety (CFAS) petitioned the FHWA on March 24, 1983, to reopen rulemaking on the Skid Accident Reduction Program. On July 14,

1983, the FHWA consented to the petition.

The FHWA requests comments on the adequacy of the policies and technical guidance listed above. Comments are also desired concerning new developments, practices or procedures that have potential in the skid accident reduction program or in skid resistant pavement design. Comments are specifically requested on the recommendations by the National Transportation Safety Board. The FHWA will consider your comments in evaluating the need for policy changes and in responding to the Safety Board. Please provide background information, such as published reports, which supports your comments.

Copies of applicable Federal-Aid Highway Program Manual sections, Technical Advisory T5040.17, Skid Accident Reduction Program, Highway Safety Program Standard 12, Highway Design Construction and Maintenance (23 CFR 1204.4); are available from the Office of Highway Safety, Federal Highway Administration, Washington, D.C. 20590, telephone (202) 426–2131.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation. The FHWA has further determined that it does not have adequate information at this time to prepare a regulatory evaluation and, therefore, specifically solicits information which will assist in the analysis of alternatives available to it. The FHWA further requests information upon which to determine whether such action would have a significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(23 U.S.C. 109, 402, 315; 49 CFR 1.48(b))

List of Subjects in 23 CFR 628)

Grant programs—transportation, Highways and roads, Highway safety, Safety, Skid accident reduction.

Issued on: May 17, 1984.

R. D. Morgan,

Executive Director, Federal Highway Administration.

[FR Doc. 84–14054 Filed 5–24–84; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R–84–1142; FR–1926]

Use of Materials Bulletin No. 85—HUD Building Product Standards and Certification Program for Poly(Vinyl Chloride) (PVC) Window Units

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

ACTION: Proposed rule.

SUMMARY: This rule would adopt as a part of HUD's Minimum Property Standards (MPS) a Use of Materials Bulletin (UM) that references standards issued by the American Society for Testing and Materials (ASTM) for PVC Resin Compound and for the manufacture of PVC window units. The UM also contains requirements for a replaceable weather strip, and specifies PVC resin characteristics required for outdoor exposure.

The proposed rule would also supplement HUD's Building Product Standards and Certification Program by requiring that certain additional information be included on a label which each manufacturer would affix to the certified product. It would also specify the frequency with which PVC window units would be tested in order to be acceptable to HUD.

DATE: Comments must be received by July 24, 1984.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie H. Breden, Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, Department of Housing and Urban Development, Washington, D.C. 20410; telephone (202) 755–5929. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In response to industry requests, HUD has evaluated the technical standards prepared by the American Society for Testing and Materials (ASTM) for PVC Resin and for PVC window units. As a result of its evaluation, HUD will accept these standards as part of its Minimum Property Standards with one modification regarding weather stripping for the standard on PVC window units. The Department is proposing to adopt the standard through issuance of Use of Materials Bulletin No. 85 (UM 85). In doing so, the Department follows the requirements of 24 CFR 200.935 regarding Administrator Qualifications and Procedures under the HUD Building Products Certification Program, and the Technical Suitability of Products Program, HUD Handbook 4950.1, REV–1. In addition, UM 85 would augment labeling requirements of § 200.935(d)(6) to include the manufacturer's name and a code identifying the manufacturing plant location. Finally, UM 85 specifies that the frequency of testing under § 200.935(d)(8) would be every four years. Because these added requirements relate only to this particular certification program, they are set out in a new § 200.941, not as amendments to existing § 200.935, which governs all certifications. Thus, § 200.941 would augment § 200.935; it would not supplant it.

The text of UM 85 is not being reproduced in this rule because its substance is embodied in a new § 200.941, which HUD is proposing to adopt as set forth below. However, a copy of UM 85 is available for public inspection during regular business hours in the Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, and in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, Washington, D.C. 20410.

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

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations, issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries,

Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 506(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. UM 85 adopts a product standard that is nationally recognized throughout the affected industry and will not create a burden on manufacturers currently meeting the standard.

This rule was listed as H–105–82 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on April 19, 1984, 49 FR 15902, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum Property Standards, and Incorporation by reference.

PART 200—[AMENDED]

Accordingly, 24 CFR 200 is proposed to be amended by adding a new § 200.941, to read as follows:

§ 200.941 Supplementary specific procedural requirements under HUD Building Products Standards and Certification Program for PVC window units.

(a) *Applicable Standards.* (1) PVC window units shall be designed, assembled and tested in accordance with the following standard:

ASTM D 4099–82 Standard Specification for Poly(Vinyl Chloride) (PVC) Prime Windows.

In addition, the window's weatherstripping shall be replaceable.

(2) PVC resin compound shall comply with the requirements of the following standard:

ASTM D 1784–81 Rigid Poly(Vinyl Chloride) (PVC) Compounds and Chlorinated Poly(Vinyl Chloride) (CPVC) Compounds

The manufacturer shall certify that the PVC resin compound has been tested for its ability to withstand five or more years of outdoor exposure with no chipping, cracking, peeling or other evidence of poor performance.

(3) This standard has been approved by the Director of the Federal Register for incorporation by reference, and is available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19013. The standard is also available for inspection at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

(b) *Labeling.* (1) Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standard are required to be on the certification label issued by the administrator to the manufacturer. In the case of PVC window units, the following additional information shall be included on the certification label:

(i) Manufacturer's statement of conformance to the ASTM standard.

(ii) Manufacturer's name and a code identifying the plant location.

(2) The certification label shall be affixed to each PVC window unit and located so that it is available for future identification. A visible location is not required.

(c) *Periodic tests and quality control inspections.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality control inspections, the frequency of testing for a product shall be described in the specific Building Product Standards nd Certification Program. In the case of PVC window units, testing and inspection shall be conducted as follows:

(1) At least every four years, a production unit of the maximum size commercially available which has been submitted for certification shall be selected by the administrator and tested for compliance with the applicable standard. Testing shall be conducted in an approved laboratory.

(2) The administrator shall visit the manufacturer's facility at least once every six months to assure that the initially accepted quality control procedures continue to be followed.

Authority: Sec. 521 of the National Housing Act, 12 U.S.C. 1735e; Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec. 211 of the National Housing Act, 12 U.S.C. 1715b.

Dated: May 21, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 84-14101 Filed 5-24-84; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Part 1710

[Docket No. R-84-1151; FR-1919]

Amendments Relating to Interstate Land Sales Registration—Technical Corrections

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

ACTION: Notice of correction regarding period for public comments.

SUMMARY: This notice corrects the public comment period and closing date recently published for a proposed rule which would increase interstate land sales registration fees. The proposed rule erroneously provided for a sixty-day comment period. This notice reduces the comment period to thirty days from the date of this notice.

DATES: Comment due date: June 25, 1984.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Interstate Land Sales Registration, Department of Housing and Urban Development, Room 6278, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755–0502. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On May 14, 1984, the Department published a proposed rule in the Federal Register (49 FR 20306), which would, among other things, increase interstate land sales registration fees. As in the case of most proposed rules issued by the Department, the public was provided a sixty day comment period. However, the provision for sixty day comment was made in error, the Department having intended to provide a comment period on this rule of thirty days.

The reduction in the public comment period to thirty days was considered necessary in order to fulfill the Department's intention of reviewing public comment before promulgating a final rule for effect during the current calendar year. (Because HUD's final rules are subject to a congressional review statute requiring that they be published for thirty congressional session days before effectiveness, and because of the early October adjournment schedule of the Congress in 1984, it will be necessary for the Department to publish its final rule early

in August, 1984 in order to fulfill congressional review requirements.)

In order to provide time both for full consideration of public comments and for early August publication, the Department had intended to close the comment period thirty days after publication of the proposed rule, that is, on June 13, 1984. In light of the Department's publication error and the short time remaining until June 13, this notice announces instead a thirty-day coment period for the rule beginning on the date of this document, and expiring on June 25, 1984.

Authority: Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d).

Dated: May 21, 1984.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 84-14102 Filed 5-24-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Abandoned Mine Land Reclamation Plan Amendment

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

ACTION: Proposed rule.

SUMMARY: On April 2, 1984, the State of Ohio submitted to OSM a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) Plan. The proposed amendment principally involves changes to four subject areas in the plan: administrative and management, realty procedures, project identification and selection, and public participation. OSM is seeking public comment on the proposed amendment.

DATE: Written comment on the amendment must be received on or before 5:00 p.m., June 11, 1984. A public hearing will be held on the amendment if sufficient requests for such a hearing are received.

ADDRESSES: Copies of the full text of the proposed amendment are available for review at the following locations:

Office of Surface Mining, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43232;

Ohio Department of Natural Resources, Fountain Square, Columbus, Ohio 43224.

Written comments must be mailed or hand carried to: Office of Surface Mining Reclamation and Enforcement, Columbus Field Offcie at the address given above. Comments received after 5:00 p.m., June 11, 1984 will not ordinarily be considered or included in the administrative record for this rulemaking.

The administrative record will be available for public review at the OSM Columbus Field Office on Monday through Friday, 8:00 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Nina Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, 2242 South Hamilton Road, Columbus, Ohio 43232, telephone (614) 866-0578.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 et seq., establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law. Title IV provides that a State with an approved AMLR program has the responsibility and primary authority to implement an abandoned mine land reclamation program.

The Ohio AMLR Plan was approved on August 16, 1982. On April 2, 1984, Ohio submitted a proposed amendment to the Plan. An approved State AMLR plan can be amended under the provisions of 30 CFR 884.15. Under these provisions, if the amendment or revision changes the objectives, scope, or major policies followed by the State in the conduct of its reclamation program, the Director should follow the procedures set out in 30 CFR 884.14 in approving an amendment or revisions of a State reclamation plan. This notice of proposed rulemaking begins the process of review of the proposed amendment.

Representatives of OSM's Field Office Director will be available to meet Monday through Friday, excluding holidays, between 8:00 a.m. and 4:00 p.m. at the OSM address indicated above to hear comments from the general public concerning the proposed amendment. Persons wishing to meet with OSM representatives should make requests with Williams Miska, telephone (614) 866-0578.

The Department intends to continue to discuss the State's amendment with representatives of the State throughout the review process. All contacts between Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979, at 44 FR 54444.

The Office of Surface Mining has examined this proposed rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it would not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval would not have an effect on costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; and

2. Approval would not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export market.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. and the Office of Surface Mining has determined that the rule would not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval would not have demographic effects, direct costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Ohio amendment does not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation program. Therefore, under the Department of the Interior Manual DM 5162.3(A) (1), the Assistant Secretary's decision on the Ohio amendment is categorically excluded from the National Environmental Policy Act requirements.

As a result, no environmental assessment (EA) or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS has been prepared by OSM in conjunction with the implementation of Title IV in general. Moreover, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The Ohio amendment can be approved if all the following Occur:

1. The Assistant Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure to carry out the amendment.

4. The amendment meets all requirement of the OSM, AMLR program provisions.

5. The State has an approved Surface Mining Regulatory Program.

6. It is determined that the amendment is in compliance with all applicable State and Federal laws and regulations.

Descriptions of the Proposed Amendment

1. Administration and Management

A new Engineering Section will be created within the Division of Reclamation to handle design preparation and consultant and construction contracting for AMLR projects. This responsibility originally rested with the Office of the Chief Engineer, an independent sister agency within the Department of Natural Resources. The Abandoned Mined Lands Section of the division of Reclamation will also undergo a substantial reorganization and staffing increase. Two new subsections will be created to deal with special studies and field operations. All changes are intended to improve the management structure, eliminate design and project delays, and correct deficiencies in the project selection and implementation processes.

2. Realty Procedures

Proposes AMLR Plan revisions here reflect the revised Federal regulations published June 30, 1982. Other changes expand the role of the Real Estate Section, establish preparation of the preliminary real estate report as a requirement for all land parcels included in AMLR projects, clarify lien filing and maintenance procedures, and eliminate the requirement to detemine mineral rights ownership on every parcel.

3. Project Identification and Selection

The Site Evaluation Matrix will now be used as a selection mechanism only for proposed projects of Priority Three or lower ranking. All higher priority projects will automatically be incorporated into annual work plans. The research and demonstration project selection procedure has been revised to reflect current OSM policy. Revisions also clarify that Priority One problems will be routinely handled in State grants not through cooperative agreements with OSM. Each annual work plan submission will now include the required property acquisition and approved project inventory data.

4. Public Participation

Although OMB Circular A-95 has been revoked, Ohio will retain its clearinghouse review process; the appropriate sections of the Plan have been so revised and updated.

The proposed amendment also incorporates numerous minor trechnical revisions and updates of factual material throughout the body of the AMLR Plan.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

(Pub. L. 95-87, 30 U.S.C. 1201 et seq.)

Dated: May 21, 1984.

Carson W. Culp,

Acting Director, Office of Surface Mining.

Dated: May 21, 1984.

Garrey Carruthers,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 84-14085 Filed 5-24-84; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50, 53, 58

[AD-FRL 2595-1]

National Ambient Air Quality Standards for Particulate Matter, Ambient Air Quality Surveillance for Particulate Matter, and Ambient Air Monitoring Reference and Equivalent Methods; Extension of Public Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of public comment periods.

SUMMARY: On March 20, 1984, EPA proposed revisions to the national ambient air quality standards for particulate matter (49 FR 10408), and to EPA's regulations concerning ambient air quality surveillance (49 FR 10435) and ambient air monitoring reference and equivalent methods (49 FR 10454). The deadlines for receiving public comments were May 21 for the Part 53 notice and June 18 for the Part 50 and Part 58 notices. In addition, the deadlines for rebuttal and supplementary information submitted pursuant to Section 307(d)(5)(iv) of the Clean Air Act regarding comments received at the April 30 public hearing were due May 30 for the Parts 53 and 58 notices, and June 18 for the Part 50 notice.

In response to requests from the public, today's notice extends the period for public comment on the proposals and on the public hearing for all three actions to a common date of September 17, 1984. In addition, as called for in the March 20 Parts 50 and 58 notices, EPA will anounce an additional review period for the limited purpose of taking comment on the implications for the air quality standards and the air quality surveillance regulations of the Parts 51 and 52 requirements scheduled for proposal this summer.

DATES: Written comments on these proposed rules must be received by September 17, 1984.

ADDRESSES: Submit comments (duplicate copies are preferred) on the proposed revisions to national ambient air quality standards for particulate matter to: Central Docket Section (LE-131), Environmental Protection Agency, Attn: Docket No. A-82-37, 401 M Street, SW, Washington, D.C. 20460. Comments on the proposed revisions to EPA's regulations on ambient air quality surveillance for particulate matter should be sent to the same address, Attn: Docket No. A-83-13. Comments on the proposed revisions to the ambient air monitoring reference and equivalent methods should also be sent to the same address, Attn: Docket No. A-82-43. The dockets are located in the Central Docket Section of the Environmental Protection Agency, West Tower Lobby Gallery I, 401 M Street, SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. John H. Haines, Strategies and Air Standards Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, MD-12, Research Triangle Park, N.C. 27711. Telephone (919) 541-5531 (FTS: 629-5531).

Dated: May 18, 1984.

Joseph A. Cannon,

Assistant Administrator for Air and Radiation.

[FR Doc. 84-14092 Filed 5-24-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL 2594-1]

Federal Assistance Limitations; State of Illinois: Correction

AGENCY: Environmental Protection Agency

ACTION: Proposed rulemaking; notice of correction.

SUMMARY: This notice provides additional information which should have been contained in the proposed rulemaking on federal assistance limitations for the State of Illinois. This proposed rulemaking was published in the May 4, 1984, **Federal Register** (49 FR 19039).

FOR FURTHER INFORMATION CONTACT: Randoloph O. Cano, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION:

Correction: In particular, on page 19041 of the May 4, 1984, **Federal Register** in the third column in section C. Opportunity for Public Hearing, reference to section 173(4) of the Clean Air Act was omitted from the second paragraph.

This paragraph should have read as follows:

Because the basis for proposing the section 176(b) and section 173(4) restrictions, i.e., failure to implement an approved I/M program as part of the 1979 SIP, is closely related to the reason for proposing 176(a) restrictions, i.e., failure to submit revisions to the implementation plan, USEPA intends to consolidate the two rulemakings. This will include a joint public hearing on both sets of proposed restrictions.

Robert Springer,

Acting Regional Administrator.

[FR Doc. 84-14076 Filed 5-24-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 145

[WH-FRL-2594-3]

Washington Department of Ecology Underground Injection Control Primacy Application—Indian Lands

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of extension of public comment period and scheduling of public hearings.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has extended the public comment period for that portion of the Washington Underground Injection Control (UIC) application addressing state jurisdiction over injection well activities on Indian lands; (2) the application is still available for inspection and copying; (3) public comments are requested; and (4) two public hearings will be held (March 21, 1984; 49 FR 10555).

The extended public comment period will provide EPA additional information to assist the agency in approving, or disapproving Washington's assertion of authority over injection well activities on Indian lands. The extension is based on an April 23, 1984, request from the Business Council of the Confederated Tribes of the Colville Reservation, Washington.

DATES: Two public hearings are scheduled as follows:

Conference Room, Grant County PUD No. 2, 312 West 3rd, Moses Lake, Washington 98837, July 11, 1984, 7:00 pm–10:00 pm, continued July 12, 1984 (9:00 am–12 noon)

Environmental Protection Agency, Room 12A, 12th Floor, 1200 Sixth Avenue, Seattle, Washington, July 13, 1984, 9:00 am–2:00 pm

The comment period will remain open until August 24, 1984.

ADDRESSES: Comments and requests to testify should be mailed to Harold Scott, M/S 409, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the application and pertinent material are available during normal business hours at the following locations:

Environmental Protection Agency, Region 10, Library, 1200 Sixth Avenue, Seattle, Washington 98101

Department of Ecology, Headquarters, Mail Stop PV-11, Olympia, Washington 98504, (206) 459-6077

Department of Ecology, Southwest Regional Office, 77272 Cleanwater Lane, Olympia, Washington 98504, (206) 753-2353

Department of Ecology, Northwest Regional Office, 4350 150th Avenue NE, Redmond, Washington 98502, (206) 885-1900

Department of Ecology, Central Regional Office, 3601 W. Washington, Yakima, Washington 98903, (206) 509-575-2491

Department of Ecology, Eastern Regional Office, East 103 Indiana, Spokane, Washington 99207, (509) 456-2925

FOR FURTHER INFORMATION CONTACT: Harold Scott, Environmental Protection Agency, Region 10, 1200 Sixth Avenue (M/S 409), Seattle, Washington 98101, (206) 442-1846 or FTS 399-1846.

SUPPLEMENTARY INFORMATION: The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/l of total dissolved solids. At present, the State of Washington has one Class I well, and 6000 inventoried Class V wells. Class V wells will be studied to assess whether further regulatory measures are required. A more comprehensive inventory is underway. The State of Washington does not intend to exempt any aquifers at this time.

This application from the Washington Department of Ecology is for the regulation of all injection wells in the State including those injection wells on Indian lands. The application includes a description of the State Underground Injection Control Program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement between the Washington Department of Ecology and Region 10 Office of the Environmental Protection Agency.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 145

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: May 21, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-14077 Filed 5-24-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 83

[General Docket No. 84-477; FCC 84-216]

Permitting the Use of Marine Radar Transponders and Radio Beacons

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: This Inquiry seeks comments on the need for and technical characteristics of marine radar transponders and radio beacons for offshore exploration and radiolocation. This inquiry responds to requests by several manufacturers, and will allow the Commission to determine whether the rules should be proposed.

DATES: Comments must be received on or before July 23, 1984, and reply comments must be received on or before August 22, 1984.

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

FOR FURTHER INFORMATION CONTACT: Richard Feser, Private Radio Bureau, (202) 632–7175.

List of Subjects

47 CFR Part 2

Communications equipment

47 CFR Part 83

Radiodetermination.

Notice of Inquiry

In the matter of Marine radar transponders and radio beacons, PR Docket No. 84–477.

Adopted: May 14, 1984.
Released: May 22, 1984.

By the Commission.

1. This inquiry concerns the operation of marine radar transponders and radio beacons for offshore exploration and radiolocation. This action responds to requests filed by Radar Devices, Incorporated (RDI), Mar-phonics, and Novatech Designs Limited (Novatech).

Radar Devices

2. RDI was granted a license under Part 5 of the Commission's rules to test an offshore oil exploration radar system in 1981. In 1983 RDI requested the Commission to provide information regarding type acceptance requirements for a transponder it had developed. RDI explained that in offshore oil explorations a vessel tows a hydrophone array known as a seismic streamer. The seismic streamer is used to make sounding measurements of the ocean bottom. The typical length of the streamer is one to three miles. A buoy attached to the end of the streamer supports a radar reflector. Signals transmitted by the vessel's radar are reflected by the radar reflector. From the direction and the time delay propagation of the returned signals, the vessel's radar determines the range and bearing of the reflector. This information is displayed on the radar screen and is used to establish the exact location of the streamer. Due to wave action however, it is often impossible to distinguish the signals returned by the radar reflector from the clutter of those returned by the ocean surface.

3. RDI stated that it has developed a system to remedy this problem. The RDI system consists of a radar interrogation transceiver (radar), a transponder, a VHF transmitter and a VHF receiver. The radar and VHF transmitter are installed on the vessel. The transponder and VHF receiver are battery powered and are installed at the streamer buoy. To conserve battery power the transponder is normally "off." The VHF receiver is continuously "on."

4.The VHF link is used to command the transponder "on" and fine tune it to the radar frequency. The radar then illuminates the transponder causing it to return a signal which is intercepted by the radar and displayed on its plan position indicator screen showing the exact position of the transponder. If the transponder is located in an area cluttered by ocean returns, a command is sent via the VHF link to delay the transponder's transmissions either by two or four nautical miles to make it appear that the signal emanates from a clutter free area. The RDI system can accommodate up to sixteen transponders which can be commanded individually, each one having a unique signal "signature."

5. The radar used in the RDI system operates in the 9300–9500 MHz band and consists of FCC type accepted equipment that is normally installed on vessels for navigation purposes. The VHF transmitter also consists of FCC type accepted equipment that is normally used in the land mobile services. It operates on 173.25 MHz with a maximum power output of 2.5 watts. Its carrier is modulated by a tone of 1633 Hz. Each VHF transmission lasts seven seconds and the time between transmissions can vary from a few minutes to several days. The transponder consists of RDI developed equipment which is not type accepted by FCC and operates in the 9300–9500 MHz band. The power output of the transponder is 300 milliwatts and its maximum effective radiated power is 4 watts.

Radio Beacon Devices

6. Mar-phonics and Novatech have requested the Commission to permit the use of a radio beacon for commercial fishing and oceanographic purposes. The American Tugboat Association supported the Mar-phonics request. The Mar-phonics device would be attached to a floating platform and would transmit fishing information on commercial fishing vessels. The requested area of operations would be more than 200 miles offshore. Mar-phonics claimed that the use of its device would conserve fuel and manpower. The Mar-phonics device would operate in the 151–174 MHz band, with a transmitter power output of 25 watts and a 2.5 kHz bandwidth. The carrier would be frequency keyed "on" (F2) for 50 seconds of every 30 minute period. Its antenna height would not be more than 20 feet above sea level. Mar-phonics requested the Commission to allocate ten land mobile frequencies for the operation of its device.

7. The Novatech radio beacon has been certified by Canada for operation in that country as a tracking beacon on 150.8 MHz and 150.9 MHz. It can be used to track the movement of ocean currents, tides, oil spills and ice and to locate schools of fish, offshore platforms and work sites, or to facilitate search and rescue operations. It operates on six channels with a transmitter power output of 200 milliwatts.

Inquiry

8. These uses of transponders and radio beacons could be of value to the marine community. However, some aspects of the proposed devices require further consideration. Therefore, in addition to comments on the need for such devices in the maritime services we request comments concerning what rules are necessary to accommodate their operation.

9. It appears that operation of the RDI transponder in the 9320–9500 MHz band for offshore oil exploration could interfere with other radionavigation operations that are currently authorized in this frequency band.[1] To avoid this problem these operations might be accommodated in the 9280–9320 MHz band.[2] Similarly, to prevent interference to land mobile radio users, the RDI VHF transmitters and the radio beacons might utilize frequencies that are normally authorized for maritime communications. Thus, these devices could utilize the frequencies of 156.400, 156.450, 156.475, 156.500, 156.525, 156.850 and 156.875 MHz. Operation on these frequencies however, could interfere

[1] The 9320–9500 MHz band is used by the U.S. Coast Guard for aid to maritime navigation (i.e., mark navigation hazards, bridge channel entrances and other maritime navigation obstacles). Also, number 775 of the international Radio Regulations states that transponders using the 9320–9500 MHz band must operate on a variable frequency mode.

[2] Number 722 of the international Radio Regulations states that in the 9200–9300 MHz band the use of shipborne transponders shall be confined to the 9280–9300 MHz sub-band. Therefore, shipborne transponders operating in a nonvariable frequency mode could utilize the 9280–9320 MHz band.

with intership and private coast station communications.[3]

10. Accordingly, we pose the following questions regarding the need for these devices and the appropriate technical and administrative requirements.

(a) Are transponders or radio beacons desirable additions to the Maritime Radio Services?

(b) Is the 9280–9320 MHz band acceptable for operations similar to the one requested by RDI? If not, what frequencies are recommended?

(c) What technical characteristics of the transponders should be required by the Commission?

(d) Should the use of systems similar to the one developed by RDI be limited to ocean bottom oil exploration only, to the exploration for minerals, or to any purpose where seismic sounding measurements of the ocean bottom are performed? Should transponders for collision avoidance and other radiolocation purposes be made available in the Maritime Mobile Service?

(e) Are the intership frequencies 156.400, 156.450, 156.475, 156.500, 156.525, 156.850 and 156.875 MHz acceptable for the type of VHF transmitters described by RDI, Mar-phonics and Novatech? If not, what frequencies are recommended?

(f) Should the use of radio beacons be limited to fishing operations or should other uses be permitted, such as the location of crews, equipment and other objects, tracking ocean currents, tides, oil spills, ice, and/or distress and search and rescue operations?

(g) What technical characteristics (e.g., output power, modulation tone, "on-off" periods) of the radio beacons should be required by the Commission?

(h) What limitations should be placed on transponders and radio beacons to prevent interference with currently authorized operations on the same frequencies?

(i) What scheme of licensing should the Commission require for the operation of transponders and radio beacons? Should they be authorized for use by any vessel under its existing ship station license or restricted to those vessels that are directly involved in operations related to the use of these devices?

11. In view of the foregoing, this Notice of Inquiry is hereby adopted. Authority for this action is contained in Sections 4(i), 303(r) and 403 of the Communications Act of 1934, as amended.

[3] In Appendix 18 of the international Radio Regulations these frequencies are assigned to intership and coast station operations.

12. Interested persons may file comments on or before July 23, 1984; and reply comments on or before August 22, 1984. Comments and reply comments shall be filed pursuant to § 1.419(b) which requires, among other things, an original and 5 copies of all findings. All relevant and timely comments and reply comments filed in this Docket will be considered by the Commission before further action is taken. The Commission may also take into account other pertinent information before it in addition to specific comments elicited by the Notice of this proceeding.

13. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

14. For further information concerning this matter contact Mr. Richard Feser or Mr. William Berges at (202) 632–7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–14018 Filed 5–24–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 15

[Gen. Docket No. 83–325; RM–4062; RM–4075; FCC 84–232]

Adding New Interim Provisions for Cordless Telephones

AGENCY: Federal Communications Commission.

ACTION: Further Notice of Proposed Rule Making.

SUMMARY: This Notice proposes a labelling requirement for cordless telephones to alert consumers of the features which protect against telephone calls being made by persons other than the owner. This action is necessary in order to address the concerns of consumers and telephone companies about misbilling caused by cordless telephones. The contemplated labelling will help consumers to select cordless telephones with features designed to protect against misbilling as appropriate for their needs. The collection of information requirements contained in the proposed rule have been submitted to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act. Comments on the collection of information requirement shall be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Federal Communications Commission.

DATE: Comments requested by June 29, 1984, reply comments by July 16, 1984.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Julius P. Knapp (202) 653–8247.

List of Subjects in 47 CFR Part 15

Communications equipment, Reporting requirements.

Further Notice of Proposed Rulemaking

In the matter of amendment of Part 15 to add new interim provisions for cordless telephones (General Docket No. 83–325, RM–4062, RM–4075).

Adopted May 17, 1984.

Released: May 23, 1984.

By the Commission

1. On December 22, 1983, the Commission adopted a *Report and Order* in this docket establishing new interim provisions for cordless telephones, released January 10, 1984, 49 FR 1512, January 12, 1984. The new regulations are set forth in 47 CFR 15.231–7. In paragraph 27 of the *Report and Order*, we explained that we would propose an additional labelling requirement for cordless telephones to inform consumers of the features designed to prevent others from dialing calls through their unit.

2. A cordless telephone is a device which performs the same functions as a conventional telephone, but the telephone cord is replaced by a low power two-way radio. Cordless telephones actually consist of two pieces of equipment: a base unit which connects to the telephone line and a portable handset. Most cordless telephones provide pushbutton dialers on the portable handset to allow the user to dial telephone calls from the handset through the base unit. One concern, however, is that the base unit may dial calls in response to signals other than those from the owner's handset. This could be due to intentional theft of service, inadvertent interaction with another nearby cordless telephone, or inadvertent responses to radio noise. As a result, the user may be charged for calls that he did not make.

3. In order to reduce the likelihood of the above described problems, most manufacturers include some form of "security" features in their cordless telephones of varying degrees of sophistication.[1] American Telephone &

[1] Cordless telephone manufacturers describe features which prevent unauthorized access of the telephone line generally as "security" features. This term does not refer to the ability of someone else to listen in on the conversation.

Telegraph Co. (AT&T) and General Telephone & Electronics Service Corporation (GTE) filed comments in this proceeding expressing concern that they may be adversely affected by cordless telephones that have what could be judged inadequate telephone network protection. They pointed out, for example, that telephone companies would be left to resolve cases of misbilling, and would have difficulty in tracing obscene calls made through someone's cordless telephone.

4. The *Notice of Proposd Rule Making* in this docket, 48 FR 16298, April 15, 1983, had proposed that cordless telephones be designed with some minimal security features. In adopting interim rules for cordless telephones, the Commission decided not to include a minimal design requirement for cordless telephone security features. This decision was based on a number of factors as elaborated in paragraphs 25 through 27 of the *Report and Order*. Chief among them were: marketplace forces already had brought about security features on most cordless telephones; little evidence had been submitted of actual costs to telephone companies caused by inadequate cordless telephone security features; and the degree of security protection needed varies for each consumer depending, among other things, on whether the cordless telephone will be operated in an area of high or low density usage. In addition, the Commission was concerned that consumers might be misled into believing they were buying a telephone that was immune to security problems because it met FCC standards, when in fact the minimal security obtained would not have alleviated security problems in many circumstances.

5. In lieu of a design requirement, it appears that the public interest can best be served by a labelling requirement whereby consumers would be informed of the security features that prevent others from dialing calls through the unit. This will bring the potential problem of inadequate cordless telephone security, as well as the means employed by the specific product to deal with such potential, to the consumer's attention. As a consequence, the marketplace will work to provide appropriate security features best suited to the individual consumer's needs. We are proposing that the label be carried on the outside of the box in which the cordless telephone is sold so that it can be readily seen by the consumer at time of purchase. The proposed label consists of essentially two parts: a specific statement warning the consumer that calls may be dialed unintentionally, resulting in misbilling;[2] and the manufacturer's description of the features designed to prevent such occurrences. The description is completely at the manufacturer's discretion and could for example range from "no security features" to "750 security codes." We invite comment on this recommendation

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. Section 601 *et seq.*, the Commission issues the following initial regulatory flexibility analysis:

I. Reason for Action

This action is a follow up to the Commission's *Report and Order* in this docket whereby interim rule provisions for cordless telephones were established. The Commission stated its intent to propose a labelling requirement concerning cordless telephone security in order to address the concerns of telephone companies about misbilling of calls and other potential problems.

II. The Objective

The Commission is proposing a labelling requirement to alert consumers that in certain environments cordless telephones may require features to preclude others from dialing calls via their telephone line. It is expected that the consumer can then purchase a unit with appropriate "security" features.

III. Legal Basis

The action proposed is in furtherance of Sections 4(i), 302(a), 303(g) and 303(r) of the Communications Act of 1934, as amended, which permit the Commission to make reasonable regulations governing the interference potential of RF equipment and to promote the larger and more effective use of radio in the public interest.

IV. Entities Affected; Nature of Economic Impact; Significant Alternatives

This action would affect all manufacturers of cordless telephones. The cost of the proposed label is not expected to be significant. Alternatives would be to require that the information be put in the user instruction manual or adopt no requirement whatsoever.

V. Recording, Recordkeeping and Other Compliance Requirements

FCC certification is currently required for cordless telephones. The only additional compliance requirement we are proposing is that the text and location of the subject label be stated in the application for certification.

7. For the purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time that a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is issued by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. any person who submits an oral *ex parte* presentation, addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served and must also state the docket number of the proceeding to which it relates. See § 1.1231 of the Commission's rules, 47 CFR 1.1231.

8. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis of the expected impact of these proposed policies and rules on small entities. The initial analysis is set forth in paragraph 6. Written public comments are requested on the initial analysis. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Notice, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601, et seq.).

9. Authority for issuance of this Notice is contained in Sections 4(i), 302, 303(g) and 303(r) of the Communications Act of 1934, as amended. In accordance with the applicable procedures set forth in § 1.415 of the regulations, interested

[2] The exact language proposed is set forth in the apendix hereto as proposed 47 CFR 15.236(b).

persons may file Comments on or before June 29, 1984 and Reply Comments on or before July 16, 1984. All relevant and timely comments will be considered. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. A summary of these Commission procedures governing *ex parte* presentations in informal rule making is available from the Commission's Consumer Assistance Office, Washington, D.C. 20554.

10. In accordance with the provisions of § 1.419 of the regulations, an original and five copies of all comments, reply comments, briefs and other documents shall be furnished to the Commission. To obtain the widest possible response in this proceeding, informal comments (without extra copies) will be accepted, but these comments should make specific reference to this proceeding. Responses will be available for public inspection during regular working hours in the Commission's Public Reference Room located at its headquarters at 1919 M Street, NW., Washington, D.C. 20554. For further information regarding this proceeding, contact Julius P. Knapp at (202) 653-8247.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)
Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART—15—[AMENDED]

It is proposed that Part 15 of the FCC Rules, 47 CFR Part 15, be amended by designating the present text of § 15.236 as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 15.236 Labelling and identification requirements for a cordless telephone.

* * * * *

(b) The box or other package in which a cordless telephone is marketed must carry a statement in a prominent location which reads as follows:

Caution: The base unit in this cordless telephone may respond to other nearby units or radio noise, resulting in telephone calls being dialed through this unit without your knowledge and, possibly, calls being misbilled. In order to protect against such occurrences this cordless telephone is provided with the following features: [to be completed by the manufacturer]."

The application for certification of the cordless telephone shall specify the complete text of the statement that will be carried on the box and indicate where, specifically, it will be located.

[FR Doc. 84-14017 Filed 5-24-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 22

[CC Docket No. 84-491; RM-4504; RM-4593; FCC 84-231]

Including Austin, Texas in the Table of Assignments for Air-Ground Stations in the Public Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Saleem Tawil and Mobilfone Communications, Inc. have filed a Petition for Rulemaking, proposing the assignment of air/ground channel 11, frequency 454.925, to Austin, Texas. The Commission has not made any prior assignment of an air/ground station to Austin, Texas.

DATES: Comments must be received on or before June 28, 1984 and reply comments on or before July 13, 1984.

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

FOR FURTHER INFORMATION CONTACT: Mary L. Brown, Mobile Services Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632-6450.

List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service, Radio common carriers.

Proposed Rulemaking

In the matter of amendment of § 22.521(b) of the Commission's rules to include Austin, Texas, in the table of assignments for air-ground stations in the Public Mobile Service; CC Docket No. 84-491, RM-4504, RM-4593.

Adopted May 15, 1984.
Released May 22, 1984.
By the Commission.

1. Saleem Tawil, in RM-4504, and Mobilfone Communications, Inc., in RM-4593, have filed petitions for rulemaking, proposing the assignment of air-ground Channel 11, frequency 454.925, to Austin, Texas. The Commission has not made any prior assignment of air-ground frequency to Austin, Texas, pursuant to the air-ground table of assignments, 47 CFR § 22.521(b).

2. Petitioners state that Austin, Texas, is the scene of significant aviation activity and that surveys of business and government agencies demonstrate an unsatisfied need for air-ground radiotelephone service. Petitioners further state that they received several firm requests for service as a result of the survey. According to the petitioners, present air-ground stations are inadequate to serve the Austin area due to the limited range of the existing stations and their distance from Austin. The petitioners argue that if aircraft passing over Austin are sufficiently high to enable communications to be conducted, the toll charges levied will be excessive due to the distance to the base station. Petitioners further state that Channel 11 will afford maximum co-channel separation.

3. In view of the apparent need for air-ground communications service from Austin, Texas, the Commission proposes to amend 47 CFR 22.521(b) to assign working Channel 11 to Austin, Texas, as set forth in the Appendix to this Notice.

4. The Commission invites comments on this proposal. The procedures to be followed in submitting comments in this proceeding are similar to those followed in proceedings to amend the FM or Television Table of Assignments in § 1.420 of the Commission's rules. The procedures are discussed below.

5. *Cut-off procedures.* The following procedures govern the consideration of filings in this proceeding:

(a) Counterproposals made in this proceeding will be considered if they are made in initial comments, so that parties may comment on them in reply comments. Counterproposals will not be considered if made in reply comments (See § 1.420(d) of the Commission's rules).

(b) Petitions for rulemaking which conflict with the proposal in this Notice will be considered as comments. Public notice to this effect will be given so long as the comments are filed before the date for filing initial comments. If they are filed after that date, they will not be considered in connection with the decision in this proceeding.

6. *Dates and service.* Under the procedures set out in §§ 1.415 and 1.420 of the Commission's rules, interested parties may file comments on or before June 28, 1984 and reply comments on or before July 13, 1984. All submissions made by parties to this proceeding or in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings. Reply comments must be served on the person(s) who filed comments to which the reply is directed. These comments and reply comments must be accompanied by a certificate of service. (See § 1.420(a)-(c) of the Commission's rules).

7. *Number of copies.* Under § 1.420 of the Commission's rules, an original and

four copies of all comments, reply comments, pleadings, briefs or other documents must be submitted to the Commission.

8. *Public inspection of filings.* All filings made in this proceeding are available for inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

9. *Ex parte contacts.* This is a restricted rulemaking proceeding subject to §§ 1.1207, 1.1209 and 1.1229 of the Commission's rules. Accordingly, members of the public should note that from the time a notice of proposed rulemaking is issued until the matter is no longer subject to Commission reconsideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. 47 CFR 1.1207, 1.1209 and 1.1229. An *ex parte* contact is a message, spoken or written, concerning the merits of a pending rulemaking other than comments officially filed with the Commission or oral presentations required by the Commission.

Regulatory Flexibility Act

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to this rulemaking proceeding to amend the table of assignments for base and mobile stations in the Public Mobile Service at Austin, Texas. The proposal relates to only one city, Austin, Texas, and the proposal will not have a significant economic impact on a substantial number of small entities.

11. This proceeding is initiated pursuant to the provisions of 47 U.S.C. 154(i)–(j) and 303.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

The Commission proposes to amend 47 CFR 22.521(b) by revising the table entry for Texas to read as follows:

§ 22.521 Nationwide plan for assignment of frequencies to land mobile systems rendering communication service to airborne stations.

* * * * *

(b) * * *

Location	Channel
Texas:	
Amarillo	6
Austin	11
Dallas	4, 7, 10
Harlingen	3
Houston	1, 9
San Antonio	8
Sweetwater	2

* * * * *

[FR Doc. 84-14015 Filed 5-24-84; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 49, No. 103
Friday, May 25, 1984

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

Office of the Secretary

Human Nutrition Board of Scientific Counselors; Board Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Office of the Secretary announces the following meeting:

Name: Human Nutrition Board of Scientific Counselors.

Date: June 14–15, 1984.

Time and place: June 14, 1984, 1:00–5:00 p.m.; June 15, 1984, 8:30 a.m.–3:00 p.m.; Room 3109 South Building, United States Department of Agriculture, Independence Avenue, between 12th and 14th Streets SW., Washington, D.C.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments

The public may file written comments before or after the meeting with the contact person below.

Purpose

To review and advise the Department as to the scope and quality of the research carried out at the Human Nutrition Research Centers in Houston, Texas; Boston, Massachusetts; San Francisco, California; Grand Forks, North Dakota; and Beltsville, Maryland. The board will also prepare an annual report of its review, including evaluation and recommendations, to be submitted to the Secretary of Agriculture.

Contact Person

Anne Winslow, Confidential Assistant, Office of the Assistant Secretary for Science and Education, U.S. Department of Agriculture, Room 217–W, Administration Building, Washington, D.C. 20250, telephone (202) 447–5035.

Done at Washington, D.C., this 22nd day of May 1984.

Orville G. Bentley,

Assistant Secretary, Science and Education.

[FR Doc. 84–14143 Filed 5–24–84; 8:45 am]

BILLING CODE 3401–01–M

COMMITTTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1984 a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: May 25, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Flecther, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On December 23, 1983, the Committee for Purchase from the Blind and Other Serverly Handicapped published a notice (48 F.R. 56820) of proposed addition to Procurement List 1984, October 18, 1983 (48 FR 48415).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractor for the service listed.

c. The action will result in authorizing small entities to provide a service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1984:

SIC 7349

Janitorial/Custodial, Equipment Maintenance Shops, Puget Sound Naval Shipyard, Bremerton, Washington

C. W. Fletcher,

Executive Director.

[FR Doc. 84–14067 Filed 5–24–84; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1984; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: June 27, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1984, October 18, 1983 (48 F.R. 48415):

Class 8455

Army Commendation Medal, Regular, 8455–00–246–3820
Air Force Commendation, Regular, 8455–00–682–6480
Medal, USCG Reserve, Good Conduct, 8455–01–GG0–0880
Medal Set, Coast Guard, Commendation, 8455–01–096–0276
Medal Set, Coast Guard, Achievement, 8455–01–096–0275

Medal, Good Conduct, USCG Red Brass, 8455-01-000-0004

SIC 0782

Grounds Maintenance, Lewiston Levee Parkway, Nez Perce County, Idaho
Asotin Recreation Area, Asotin County, Washington

SIC 7349

Janitorial Service, USDA Forest Service, Fernan Ranger Station, 2502 E. Sherman Avenue, Coeur d'Alene, Idaho,
Janitorial Service, Federal Building, 210 Walnut Street, Des Moines, Iowa
Janitorial Service, Eisenhower Center Complex, 200 S.E. 4th Street, Abilene, Kansas
Janitorial Service, U.S. Post Office and Courthouse, 601 East Broadway, Louisville, Kentucky
Janitorial Service, U.S. Army Engineer District, Buffalo, Buildings 1, 2, and 5, 1776 Niagara Street, Buffalo, New York
Janitorial/Custodial Service, U.S. Post Office and Courthouse, Washington Avenue and Linden Streets, Scranton, Pennsylvania
Janitorial Service, Harley O. Staggers Federal Building and Post Office, 75 High Street, Morgantown, West Virginia

C. W. Fletcher,

Executive Director.

[FR Doc. 84-14066 Filed 5-24-84; 8:45 am]

BILLING CODE 6820-33-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Conveniences and Necessity and Foreign Air Carrier Permits; Week Ended May 18, 1984

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceeding.

Date filed	Docket No.	Description
May 16, 1984	42208	Cargolux Airlines International, S. A., c/o George E. Farrell, Healey, Farrell & Lear, 1216 Sixteenth Street, NW., Washington, D.C. 20036. Application of Cargolux Airlines International, S. A. pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests renewal of its foreign air carrier permit to perform flights between Luxembourg and the United States. Answers may be filed by June 14, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-14131 Filed 5-24-84; 8:45 am]

BILLING CODE 6320-01-M

Fitness Determination; Coastal Air Transport, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84-5-57, Order to Show Cause.

SUMMARY: The Board is proposing to find that Coastal Air Transport, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall file their responses with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than June 8, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunnigan, Bureau of Domestic Aviation, Civil Aeronuatics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5918.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-5-57 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-5-57 to that address.

By the Civil Aeronautics Board: May 17, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-14128 Filed 5-24-84; 8:45 am]

BILLING CODE 6320-01-M

Fitness Determination; Ludlow Aviation, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84-5-56, Order to Show Cause.

SUMMARY: The Board is proposing to find that Ludlow Aviation, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall file their responses with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than June 7, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunnigan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5918.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-5-56 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-5-56 to that address.

By the Civil Aeronautics Board: May 17, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-14129 Filed 5-24-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41696]

Hawaiian Pacific Fitness Investigation; Cancellation of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding, which had been assigned to commence on June 12, 1984, before the undersigned Chief Administrative Law Judge, is hereby cancelled.

Dated at Washington, D.C., May 17, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-14127 Filed 5-24-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 42052; Order 84-5-66]

Complaint of Pan American World Airways, Inc. against the Government of Nigeria, Nigeria Airways; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of May, 1984.

On March 19, 1984, Pan American World Airways, Inc. (Pan American) filed a complaint against the Government of the Federal Republic of Nigeria (Nigeria) and its flag carrier, Nigeria Airways Limited. Pan American alleges that Nigeria has barred it from obtaining remittance in U.S. dollars of the bulk of its 1983 net airline revenues obtained in Nigerian currency for ticket sales made in Nigeria; that the value of such blocked funds for 1983 is $17 million; and that this $17 million is not a debt owed to Pan American as a creditor, but consists of funds owed by Pan American and held captive by Nigeria. Pan American alleges that these actions of Nigeria are in direct violation of Article 12 of the Air Transport Agreement between the United States and Nigeria, which provides for expeditious conversion and repatriation of local revenues in excess of sums locally disbursed; constitute an unreasonable restriction on its access to foreign markets; and are discriminatory in favor of Nigeria Airways *vis-a-vis* Pan American.

Pan American states that it will terminate one of its two Nigeria flights on or about April 29, 1984, and that it will terminate all of its Nigeria service on June 1, 1984, absent a recovery of its 1983 funds and an assurance that blocks to repatriation will cease in the future. Pan American requests that we take certain action under section 2(b) of the International Air Transportation Fair Competitive Practices Act of 1974, as amended and section 402(f) of the Federal Aviation Act of 1958, as amended, to rectify the situation.

On May 8, 1984, Pan American filed a motion requesting that we extend the period for taking action on its complaint for 30 days until June 17, 1984. In support of its motion, Pan American argues that an extension of the action date would serve the public interest, since its "discussions with Nigeria (aided by negotiations between the U.S. Embassy and Nigerian officials) have already proved productive" (PA Motion, at 3). Pan American states that on April 24, 1984, it received a substantial portion of its 1983 blocked funds; that an additional payment was received on May 8, 1984; and that a further portion is promised later this month. Pan American states that it will resume its cancelled second flight to Nigeria in June, 1984, assuming that continued payments due are made as promised and that timely repatriation of current funds is allowed.

We shall grant Pan American's request, and extend until June 18, 1984, the period for taking action on the complaint. As Pan American details in its motion, substantial progress has been made alleviating the circumstances that gave rise to the complaint. In these circumstances, we believe that the public interest will be best served by extending for 30 days the time for acting on the complaint. This action will provide all parties a further opportunity to resolve the issues raised by the complaint through negotiations.

Accordingly,

1. We grant the motion for deferral of Pan American World Airways, Inc. in Docket 42052, and we extend for 30 days until June 18, 1984, the period for taking action on the complaint of Pan American World Airways, Inc. in Docket 42052; and

2. We will serve this order upon Pan American World Airways, Inc., Nigeria Airways Limited, the Ambassador of the Federal Republic of Nigeria in Washington, D.C, and the United States Departments of State, Transportation, and Treasury.

We shall publish this Order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-14133 Filed 5-24-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 4254; Order 84-5-70]

Complaint of Pan American World Airways, Inc. Against the Government of the Italian Republic and Alitalia-Linee Aeree Italiane-S.p.A; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of May, 1984.

On March 20, 1984, Pan American World Airways, Inc. (Pan American) filed a complaint against the Government of the Italian Republic (Italy) and its flag carrier, Alitalia-Linee Aeree Italiane-S.p.A (Alitalia). It alleges that Italy refuses to allow Pan American to operate change-of-gauge service to Milan's Linate Airport and that such refusal violates the United States-Italy bilateral agreement.

Pan American requests that we exercise our authority under section 2(b) of the International Air Transportation Fair Competitive Practices Act of 1974, as amended (IATFCPA) and section 402(f) of the Federal Aviation Act 1958, as amended (Act), to issue a show-cause order in which we tentatively find that sanctions are warranted, and that we ultimately adopt sanctions if Italy does not permit Pan American to inaugurate New York-Milan (Linate) change-of-gauge service. Specifically, Pan American recommends that we (1) modify Alitalia's permit so that its right to serve a named U.S. point is conditioned upon the carrier's use of a more remote airport, and (2) if this does not result in Pan American's being able to offer its proposed service, modify Alitalia's permit to eliminate one U.S. point.

Section 2(b)(2) of the IATFCPA provides that we shall approve, deny, dismiss or set a complaint for hearing, or institute other proceedings proposing remedial action, within 60 days after receipt of the complaint. This deadline is May 21, 1984. We may, however, extend the period for taking action beyond the 60th day, in increments of 30 days, from the date of the complaint, if we conclude that it is likely that the complaint can be satisfactorily resolved through negotiations.

By Order 84-3-93, we invited answers and replies on the complaint from interested parties. Alitalia and the Department of Transportation submitted answers. Replies were filed by Alitalia and Pan American. Alitalia submitted a

sur-reply to Pan American's reply which Pan American answered.[1]

After careful review of the pleadings and other relevant facts, we have decided to extend for 30 days until June 20, 1984, the period for our taking action on the complaint. This will afford the parties an opportunity to resolve the issues raised by the complaint through negotiations. We will, however, not hesitate to act on the complaint if the issues raised by it are not resolved in a timely manner.

Accordingly,

1. We extend until June 20, 1984, the period for taking action on the complaint of Pan American World Airways, Inc. in Docket 42054;

2. We grant the motions of Alitalia-Linee Aeree Italiane-S.p.A and Pan American World Airways, Inc. in Docket 42054 for leave to file an unauthorized document; and

3. We will serve this order upon Pan American World Airways, Inc., Alitalia-Linee Aeree Italiane-S.p.A, the Ambassador of the Italian Republic in Washington, D.C., and the Departments of State and Transportation.

We shall publish this Order in the Federal Register.

All members concurred.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-14132 Filed 5-24-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 42155]

Premiere Airlines, Inc.; Continuing Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter will commerce on June 28, 1984, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., May 22, 1984.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 84-14126 Filed 5-24-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 42139]

Pride Air Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing in the above-entitled matter will be held on June 4, 1984, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

[1] Alitalia's sur-reply and Pan American's answers were accompanied by motions for leave to file an otherwise unauthorized document. We shall grant the motions.

Dated at Washington, D.C., May 17, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-14125 Filed 5-24-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 84-5-59, Docket 41642]

Application of Sun Country Airlines, Inc. for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause

SUMMARY: The Board is directing all interesting persons to show cause why it should not issue an order issuing Sun Country a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation.

DATES: Persons wishing to file objections should do so in Docket 41642 by June 8, 1984. Answers to objections should be filed by June 18, 1984.

ADDRESS: Objections and answers to objections should be filed in Docket 41642, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Steven B. Farbman Bureau of Domectic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-5340.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-5-59 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metroplitan area may send a postcard request for Order 84-5-59 to that address.

By the Civil Aeronautics Board: May 17, 1984.

Phillis T. Kaylor,

Secretary.

[FR Doc. 84-14130 Filed 5-24-84; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Mid-Atlantic Advisory Committees; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Mid-Atlantic Advisory Committees to the Commission (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia) will convene at 8:30 a.m. on June 28, 1984 and end at 4:00 p.m. on June 29, 1984, at the Channel Inn, 650 Water Street SW., Washington, DC 20024. The purpose of the conference is to identify and discuss civil rights issues in the mid-atlantic region.

Persons desiring additional information, or planning a presentation to the Committees, should contact the Mid-Atlantic Regional Office at (202) 264-6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 21, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-14149 Filed 5-24-84; 8:45 am]

BILLING CODE 6335-01-M

New Hampshire Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 7:30 p.m. and will end at 9:30 p.m., on June 20, 1984, at the Latin-American Center, 83 Hanover Street, Manchester, New Hampshire 03301. The purpose of the meeting is to discuss the current bilingual education policy of the Department of Education's Office of Civil Rights, and to share this information with the parents of language-minority students in the Manchester area.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Mr. Andrew T. Stewart, at (603) 448-5300 or the New England Regional Office at (617) 223-4671.

The meeting will be conducted prusuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 22, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-14147 Filed 5-24-84; 8:45 am]

BILLING CODE 6335-01-M

Southwestern and Western Advisory Committees; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Southwestern (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas) and Western (Arizona, California, Hawaii, and Nevada) Advisory Committees to the Commission will convene at 6:00 p.m. on June 14, 1984, and will end at 4:00 p.m. on June 17, 1984, at the El Paso Marriott

Hotel, 1600 Airways Boulevard, El Paso, Texas 79925. The purpose of the conference is to identify and discuss civil rights issues in the Southwestern and Western Regions.

Persons desiring additional information, or planning a presentation to the Committees, should contact the Southwestern Regional Office at (512) 220–5570 or the Western Regional Office at (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 21, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–14148 Filed 5–24–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

President's Commission on Industrial Competitiveness; Meeting

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of meetings.

SUMMARY: This notice announces the forthcoming meetings of the President's Commission on Industrial Competitiveness (Commission). The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce.

DATE: Time and place:

Research, Development Manufacturing Committee, June 12, 1984, 9:00 a.m.–4:00 p.m., American Enterprise Institute, Board Room, 12th Floor, 1150 17th Street NW., Washington, DC

International Trade and Marketing Committee, June 14, 1984, 9:00 a.m.–5:00 p.m., Council on Environmental Quality, 722 Jackson Place, Washington, DC.

SUPPLEMENTARY INFORMATION: The agenda for the June 12th meeting will be a presentation of study results on policies to support innovation, American Enterprise Institute; presentation on joint R&D automation project, American Apparel Manufacturing Association; and continued discussion of issue of improving manufacturing technologies and reducing cycle time. At the June 14th meeting the agenda includes trade law reform, foreign exchange value of the dollar, export promotion and other issues related to trade.

Public Participation

The meetings will be open to public attendance. A limited number of seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: J. Paul Royston, President's Commission on Industrial Competitiveness, 736 Jackson Place NW., Washington, DC 20503, telephone: 202–395–4527 on substantive issues or Marilyn McLennan, Chief, Information Management Division, 202–377–4217, on issues regarding administration of the Commission.

Dated: May 22, 1984.

Egils Milbergs,

Executive Director, President's Commission on Industrial Competitiveness.

[FR Doc. 84–14105 Filed 5–24–84; 8:45 am]

BILLING CODE 3510–18–M

Foreign-Trade Zones Board

[Docket No. 27–84

Foreign-Trade Subzone 78A, Nissan Truck Plant, Smyrna, Tennessee; Request for Approval for Automobile Manufacturing

The Metropolitan Nashville-Davidson County Port Authority, grantee of Foreign-Trade Zone 78, Nashville, and Subzone 78A at the truck manufacturing plant of Nissan Motor Manufacturing Corporation U.S.A. in Smyrna, Tennessee, has requested approval from the Foreign-Trade Zones Board for authority to expand the scope of operations conducted under zone procedures at Subzone 78A to include automobile manufacturing. The request was filed on May 17, 1984.

Subzone 78A was approved on April 2, 1982 (Board Order 190, 47 FR 16191, 4/15/82) as a truck manufacturing plant. Production began in June 1983, and by the end of 1984, the facility, which employs 1,900 persons, will be producing trucks at an annual rate of 120,000.

Nissan now plans to expand the scope of operations to produce some 100,000 automobiles, initially the Sentra model, adding some 1,100 new jobs. The company plans to use a mix of foreign and domestic parts with foreign parts expected to include engines, transaxles and other drive train components, brake and steering systems, electronic components and a portion of their steel requirement. At the outset a substantial majority of parts will be foreign sourced. The company indicates that it will attempt to shift to domestic suppliers for a number of components as soon as possible. Such a policy is already evident in its truck operation, which is served by some 83 U.S. suppliers.

Zone procedures would exempt Nissan from paying duties on foreign components used for its exports. On its domestic sales, the company will be able to take advantage of the same duty rate available to importers of finished autos. The average duty rate on auto parts is about 5 percent compared to 2.7 percent for autos. The savings from zone procedures will help Nissan's U.S. operation compete with auto production facilities offshore.

Comments on the proposed manufacturing operation are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 26, 1984.

A copy of the application is available for public inspection at each of the following locations: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Dept. of Commerce, Room 1872, 14th and Pennsylvania NW., Washington, D.C. 20230.

Dated: May 18, 1984.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84–14028 Filed 5–24–84; 8:45 am]

BILLING CODE 3510–DS–M

[Docket No. 28–84]

Foreign-Trade Zone 9, Honolulu, Hawaii; Application for Subzone at Hawaiian Flour Mills Plant

An application has been submitted to the Foreign-Trade Zones Board (the Board) on behalf of the State of Hawaii, grantee of Foreign-Trade Zone 9, by the Hawaii State Department of Planning and Economic Development, requesting special-purpose status for Hawaiian Flour Mills, Inc. (HFM) in Honolulu, Hawaii, within the Honolulu Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 18, 1984. The applicant is authorized to make this proposal under Act 7 of the Session Laws of Hawaii, 1983.

The proposed subzone would be located in a section of the Hawaiian Flour Mills plant, 703 No. Nimitz Highway, adjacent to Pier 23 at

Honolulu Harbor, Honolulu. The facility employs 97 persons engaged in the milling and blending of flour and the wholesaling of a variety of food products, with 16 persons engaged in milling and blending. The portion of the plant which would use zone procedures will produce bakery mixes for export by blending domestic flour, shortening, yeast and salt with foreign-sourced sugar and powdered milk. Bakery mixes produced for the domestic market would not get zone benefits.

Zone procedures would exempt HFM from duty payment and quota requirements on the foreign material used in its exports. The company indicates that this would improve its competitive position in foreign markets, creating the opportunity for a doubling of its exports sales and an increase in plant employment by 10 persons.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; George Roberts, District Director, U.S. Customs Service, Pacific Region, 335 Merchant, 228 Federal Bldg., P.O. Box 1641, Honolulu, HI 96806; and Brig. General Robert M. Bunker, Division Engineer, U.S. Army Engineer Division Pacific Ocean, Building 230, Ft. Shafter, HI 96858.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 26, 1984.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 4106 Federal Bldg., 300 Ala Moana Blvd., P.O. Box 40026, Honolulu, HI 96850

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania NW., Washington, D.C. 20230.

Dated: May 21, 1984.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-14029 Filed 5-24-84; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration, Import Administration

[A-570-006]

Postponement of Final Antidumping Determination and Postponement of Hearing; Barium Carbonate From the People's Republic of China

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that the Department of Commerce has received a request from counsel for Chemical Products Corporation (CPC) that the final determination be postponed until not later than 135 days after the date of publication of the preliminary determination, as provided for in section 353.44(b) of the Department of Commerce Regulations (19 CFR 353.44(b)), and that the Department will postpone its final determination as to whether barium carbonate from the People's Republic of China has been sold at less than fair value until not later then August 20, 1984.

EFFECTIVE DATE: May 25, 1984.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street & Constitution Avenue NW., Washington, D.C. 20230; Telephone (202) 377-2613.

SUPPLEMENTARY INFORMATION: On November 18, 1983, the Department of Commerce published notice in the **Federal Register** (48 FR 52495) that it was initiating under Section 732(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673a(b)), an antidumping investigation to determine whether barium carbonate from the People's Republic of China is being, or is likely to be, sold at less than fair value. The Department published a negative preliminary determination on April 6, 1984 (49 FR 13729). The notice stated that if this investigation proceeded normally we would make a final determination by June 18, 1984. Pursuant to section 735(a)(2) of the Act, CPC requested an extension of the final determination date. CPC is qualified to make such a request since it is the petitioner in this proceeding. If the petitioner properly requests an extension after a negative preliminary determination, the Department is required, absent compelling reasons, to grant the request. Accordingly, the Department will issue a final determination in this case not later than August 20, 1984.

The hearing originally scheduled for April 30, 1984, has been postponed. The new hearing date is July 9, 1984, at 9:30 a.m., in Room B-841, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy assistant Secretary by July 2, 1984. All written views should be filed in accordance with 19 CFR 353.46, at the above address and in at least 10 copies, not later than the date established for the submission of post-hearing briefs which will be annnounced at the hearing. If no hearing is held, all written views should be submitted not later than July 23, 1984.

This notice is published pursuant to section 735(d) of the Act.

Dated: May 18, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-14100 Filed 5-24-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-357-007]

Postponement of Final Antidumping Determination and Postponement of Hearing; Carbon Steel Wire Rod From Argentina

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that the Department of Commerce has received a request from Acindar Industria Argentina de Aceros S.A. (Acindar) that the final determination be postponed until not later than 135 days after the date of publication of the preliminary determination, as provided for in section 353.44(b) of the Department of Commerce Regulations (19 CFR 353.44(b)), and that the Department will postpone its final determination as to whether carbon steel wire rod from Argentina has been

sold at less than fair value until not later than September 20, 1984.

EFFECTIVE DATE: May 25, 1984.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street & Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 377–0161.

SUPPLEMENTARY INFORMATION: On December 30, 1983, the Department of Commerce published notice in the **Federal Register** (48 FR 57578) that it was initiating under section 732(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673a(b)), an antidumping investigation to determine whether carbon steel wire rod from Argentina is being, or is likely to be, sold at less than fair value. The Department published an affirmative preliminary determination on May 8, 1984 (49 FR 19542). The notice stated that if this investigation proceeded normally we would make a final determination by July 16, 1984. Pursuant to section 735(a)(2) of the Act, Acindar requested an extension of the final determination date. Acindar is qualified to make such a request since it accounts for one hundred percent of the exports of the merchandise. If an exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons, to grant the request. The Department will issue a final determination in this case not later than September 20, 1984.

The hearing originally scheduled for June 4, 1984, has been postponed. the new hearing date is July 26, 1984, at 10:00 a.m., in Room 3708, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication.

Requests should contain: (1) The party's name, address, and telephone number, (2) the number of participants, (3) the reason for attending, and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by July 19, 1984. All written views should be filed in accordance with 19 CFR 353.46, at the above address and in at least 10 copies not later than the date established for the submiss'on of post-hearing briefs which will be announced at the hearing. If no hearing is held, all written views should be submitted not later than August 10, 1984.

This notice is published pursuant to section 735(d) of the Act.

Dated: May 18, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84–14099 Filed 5–24–84; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Deletions of and Amendments to Notices for Systems of Records

AGENCY: Department of the Army, DoD.

ACTION: Deletion of and amendments to notices for systems of records.

SUMMARY: The Department of the Army proposes to delete 5 and amend 4 system notices for systems of records subject to the Privacy Act of 1974, as amended. Following identification of changes, amended notices are printed below in their entirety.

DATES: Actions shall be effective in 30 days.

ADDRESSES: Comments may be submitted to Headquarters, Department of the Army, ATTN: DAAG–AMR–S, 2461 Eisenhower Avenue, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Headquarters, Department of the Army, at the above address; telephone 703/325–6163.

SUPPLEMENTARY INFORMATION: The Army's system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** as follows:

FR Doc 83–12048 (48 FR 25502), June 6, 1983
FR Doc 83–18883 (48 FR 32046), July 13, 1983
FR Doc 83–24181 (48 FR 40291), September 6, 1983
FR Doc 83–28792 (48 FR 49086), October 24, 1983
FR Doc 84–1118 (49 FR 2006), January 17, 1984
FR Doc 84–2331 (49 FR 3506), January 27, 1984
FR Doc 84–3683 (49 FR 5170), February 10, 1984
FR Doc 84–6438 (49 FR 8993), March 9, 1984
FR Doc 84–11652 (49 FR 18600), May 1, 1984

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(*o*) which requires the submission of an altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 20, 1984.

Deletions

A0124.06aUSAREC

System name:

Recruiter Assignment Report (48 FR 25551), June 6, 1983.

Reason:

Records are redescribed in proposed revised system notice A0704.11aUSAREC, reprinted in this **Federal Register** as A0704.11DAPC.

A0701.02gDAPC

System name:

Dependents of Military Personnel/US Citizen Employees (48 FR 25637), June 6, 1983.

Reason:

Records do not constitute a "system of records" pursuant to the Privacy Act of 1974, as amended.

A0701.07cDAPC

System name:

Enlisted Evaluation System/Report (48 FR 25623), June 6, 1983.

Reason:

Records are covered in system notice A0708.02dDAPC, Enlisted Personnel Management Information System.

A0810.01aAMC

System name:

Educational Development/Contractor Personnel (48 FR 25703), June 6, 1983.

Reason:

Records are not subject to the Privacy Act.

A1402.20aUSAREUR

System name:

Procurement Management Information System Europe (48 FR 25761), June 6, 1983.

Reason:

Records are not subject to the Privacy Act.

Amendments

A0101.20DAMI

System name:

Controlled Accountable Document Inventory System.

Changes:

After "Authority for maintenance of the system", add:

"Purpose:

To conduct periodic inventory of classified documents and to determine or validate custodial accountablity of those documents."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See blanket routine uses at 48 FR 25503, June 6, 1983."

A0225.01bDAPE

System name:

Carpool Information/Registration System.

Changes:

System ID:

Change to read: "A0101.02DAAG".

System location:

Delete: "Primary System: * * * (DAPE–HRE):".

After "Authority for maintenance of the system", add:

"Purpose:

To assign and administer allocated carpool parking assignments; establish priority of assignments, assist members and applicants in contacting one another and provide printout of individuals in system to other participants who desire to arrange a carpool."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry: substitute therefor: "See blanket routine uses at 48 FR 25503, June 6, 1983."

System manager(s) and address:

Delete entry; substitute therefor: "The Adjutant General, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331."

Contesting record procedures:

Add: "(32 CFR Part 505)."

Record source categories:

Delete information following "individual".

A0704.11aUSAREC

System name:

Recruiter Identification Report.

Changes:

System ID:

Delete "aUSAREC"; substitute therefor: "DAPC".

System name:

Delete "Report"; add: "/Assignment Records".

System location:

Delete entries; substitute therefor: "US Army Recruiting Command, Ft Sheridan, IL 60037."

Categories of records in the system:

Add: "if either not selected for or relieved from recruiting duty, record includes reasons therefor and other relevant information."

Authority for maintenance of the system:

Delete entry; substitute therefor: "5 U.S.C., section 301".

Add:

"Purpose:

To evaluate recruiter production, assign recruiting objectives, ensure that previously relieved recruiters are not assigned to recruiting duties, and to render personnel and management reports."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See blanket routine uses at 48 FR 25503, June 6, 1983."

System manager(s) and address:

Delete entry; substitute therefor: "Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332."

Notification procedure:

Delete entry; substitute therefor: "Individuals desiring to know whether or not information on them exists in this system of records may inquire of the Commander, US Army Recruiting Command, ATTN: Director, Personnel, Administration and Logistics, Ft Sheridan, IL 60037, furnishing their full name, SSN, military status, duty or home address, and signature."

Record access procedures:

Delete entry; substitute therefor: "Individuals desiring access to their records should follow guidance in 'Notification procedure'."

Contesting record procedures:

After "determinations", delete remainder; add: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entry; substitute therefor: "From US Army Military Personnel Center (Enlisted Distribution Division), individual's unit commander, other Army records and reports."

A0725.01cDAPC

System name:

Personnel Actions—Personal Affairs.

Changes:

System name:

Change to read: "Personnel Affairs Files".

System location:

Delete the first paragraph. Change remaining paragraph to read: "Decentralized to major commands, installations, and activities. Official mailing addresses are in the organizational directory in the Appendix to Army system notices."

After "Authority for maintenance of the system", add:

"Purpose:

To review and answer inquiries concerning personal affairs of service members; e.g., dependent assistance, indebtedness, non-support, paternity claims, processing claims under the Civilian Health and Medical Program of the Uniformed Services, marriage in oversea areas, health and welfare, and similar matters that originate from third parties."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entries; substitute therefor: "See blanket routine uses at 48 FR 25503, June 6, 1983."

As amended, Systems A0101.02DAAG, A0101.20DAMI, A0704.11DAPC, and A0725.01cDAPC read as follows:

A0101.02DAAG

SYSTEM NAME:

Carpool Information/Registration System.

SYSTEM LOCATION:

Decentralized to Army installation/activity level: official mailing addresses are in the organizational directory in the Appendix to Army system notices (48 FR 25773, June 6, 1983).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel participating in carpool programs who voluntarily provide information for release.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individual, SSN, home phone and address, office phone and address, map coordinate of home or nearby reference points, working hours, and similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3012.

PURPOSE:

To assign and administer allocated carpool parking assignments; establish priority of assignments, assist members and applicants in contacting one another and provide printout of individuals in system to other participants who desire to arrange a carpool.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Reference cards, computer cards, disc or tape, file folders.

RETRIEVABILITY:

By name, SSN, grid coordinate reference, and working hours.

SAFEGUARDS:

Accessible only to authorized personnel and those providing identification and purpose for which information is requested; may be accessed by persons seeking members who have provided consent for release of information.

RETENTION AND DISPOSAL:

Retained only on active participants; destroyed upon request/reassignment.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Information may be obtained from command/installation/activity level.

RECORD ACCESS PROCEDURE:

Requests should be addressed to the command/installation/activity and include individual's name, current address, and sufficient information to permit locating the record.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0101.20DAMI

SYSTEM NAME:

Controlled Accountable Document Inventory System.

SYSTEM LOCATION:

Document Control Center/Security Office of Army installation or major command to the extent that classified inventories are directed by the Commander. Official mailing addresses are in the Appendix to Army system notices (48 FR 25573, June 6, 1983).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Custodians of classified Defense information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Custodian's name, SSN, and a listing of controlled classified documents for which custodian is responsible. Records may include document title, originator, type, and date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3012; 5 U.S.C., section 301.

PURPOSE:

To conduct periodic inventory of classified documents and to determine or validate custodial accountability of those documents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records; magnetic tapes/discs, computer printouts.

RETRIEVABILITY:

By custodian's surname or SSN.

SAFEGUARDS:

Access is restricted to security officers for verifying inventory of classified documents and to others having similar official need. Information is housed in buildings controlled by security guards during non-duty hours.

RETENTION AND DISPOSAL:

Retained until the next inventory has been completed satisfactorily, following which it is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assitant Chief of Staff for Intelligence, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals who desire to know whether or not this system of records contains information on them should write to the commander of the installation where information was collected or maintained.

RECORD ACCESS PROCEDURES:

An individual should write to the commander as indicated under "Notification procedure" and provide his/her name, SSN, date and place of employment, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual who receipts for classified documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0704.11DAPC

SYSTEM NAME:

Recruiter Identification/Assignment Records.

SYSTEM LOCATION:

US Army Recruiting Command, Ft Sheridan IL 60037.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Soldiers who are considered for, are assigned, or have been assigned to recruiting duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, SSM, rank, MOS, qualifications; duty station preference, unit of assignment and reporting date; recruiter identification number; if either not selected for or relieved from

recruiting duty, record includes reasons therefor and other relevant information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301.

PURPOSE:

To evaluate recruiter production, assign recruiting objectives, ensure that previously relieved recruiters are not assigned to recruiting duties, and to render personnel and management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tapes and printouts; paper records.

RETRIEVABILITY:

By individual's surname and four digit recruiter identification number.

SAFEGUARDS:

Records are maintained in areas accessible only to properly screened and trained personnel having official need therefor; paper records are stored in locked file cabinets.

RETENTION AND DISPOSAL:

Both automated and manual records are retained so long as individual is assigned to recruiting duty and for 6 years thereafter, following which records are destroyed by erasing and/or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether or not information exists on them in this system of records may inquire of the Commander, US Army Recruiting Command, ATTN: Director, Personnel, Administration and Logistics, Ft Sheridan, IL 60037, furnishing their full name, SSN, military status, duty or home address, and signature.

RECORD ACCESS PROCEDURES:

Individuals desiring access to their records should follow guidance in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From US Army Military Personnel Center (Enlisted Distribution Division), individual's unit commander, other Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0725.01cDAPC

SYSTEM NAME:

Personal Affairs Files.

SYSTEM LOCATION:

Decentralized to major commands, installations, and activities. Official mailing addresses are in the organizational directory in the Appendix to Army system notices (48 FR 25573, June 6, 1983).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army officers, warrant officers, and enlisted personnel on active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Third party inquiries pertaining to such matters as dependent assistance, indebtedness, nonsupport, paternity claims, marriage in oversea areas, health and welfare, claims under Civilian Health and Medical Program of the Uniformed Services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., section 3012; 5 U.S.C., section 301.

PURPOSE:

To review and answer inquiries concerning personal affairs of service members; e.g., dependent assistance, indebtedness, nonsupport, paternity claims, claims under the Civilian Health and Medical Program of the Uniformed Services, marriage in oversea areas, health and welfare, and similar matters that originate from third parties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses at 48 FR 25503, June 6, 1983.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; cards.

RETRIEVABILITY:

By service member's surname.

SAFEGUARDS:

Records are available only to designated persons having official need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Retained for 2 years, after which they are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Individuals may inquire of the office where inquiry is believed to have been sent, and should furnish their full name, present address and telephone number, and sufficient details to permit locating the record.

RECORD ACCESS PROCEDURE:

Individuals seeking records pertaining to them in this system of records should inquire of the appropriate command/installation/activity, providing information required under "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From third parties; official Army records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-14035 Filed 5-24-84; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Bilingual Education; Hearing

AGENCY: Department of Education.

ACTION: Notice of hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming hearing of the National Advisory Council on Bilingual Education. Notice of this hearing is required under Section 10 (a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: June 19, 1984—Public Hearing—9:00 a.m.–4:30 p.m., Public Hearing will

be held at the: Blue Shield/Blue Cross Building, in the Regents Room, 622 3rd Avenue between East 40th & 41st Street, New York City, New York.

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporter's Building, 400 Maryland Avenue, SW., Washington, D.C. 20202 (202–245–2600).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations.

June 19, 1984, in consonance with the Council's mission to advise in the preparation of regulations under the Bilingual Education Act, testimony will be heard on the following topics which impact on the bilingual community:

(1) Use of High Technology in Bilingual Education

(2) Needs of Special Populations

(3) Research

(4) 1988 Reauthorization

Witnesses should notify Ms. Blanche Ortner, Senior Stenographer at (212) 488–7294 of the New York SED, Bureau of Bilingual Education of their intention of testifying in New York City, New York.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis

(2) Witnesses shall limit their testimony to twenty minutes

(3) All testimony shall be tape recorded

(4) Exceptions to the aforementioned procedures shall be at the discretion of the Chairperson.

Records are kept of all Council proceedings, and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Room 421, Reporters Building, 400 Maryland Avenue, SW., Washington, D.C. 20202 from the hours of 8:00 a.m.–4:30 p.m.

Date: May 22, 1984.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 84–14138 Filed 5–25–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Western Area Power Administration

Central Valley Project, California; a Rate Order

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Notice of a Rate Order—Central Valley Project, California.

SUMMARY: Notice is given of Rate Order No. WAPA–23 of the Deputy Secretary for placing increased rates for third party transmission into effect on January 1, 1984, on an interim basis for the Central Valley Project (CVP) power marketed by the Western Area Power Administration (Western).

Much of the capacity and energy marketed by the CVP is delivered to the customers by transmitting (wheeling) it over the system of the Pacific Gas and Electric Company (PGandE). Western is proposing a minor rate adjustment to update and supersede the transmission charges for such wheeling contained in the CVP customers' power sales contracts. Charges and losses assessed for delivery of power by the PGandE at 44-kV or above, within the wheeling area boundary designated by Contract No. 14–06–200–2948A. (Contract 2948A) between PGandE and Western, are included in the CVP wholesale firm power rate. PGandE assesses a higher rate and additional losses for deliveries that are outside the Contract 2948A wheeling area boundary. Western proposes to bill those CVP customers whose power is wheeled by PGandE and delivered at below 44-kV, or delivered outside of the wheeling area boundary, for all costs greater than the charges and losses associated with the 44-kV or above deliveries within the wheeling area boundary.

The rate order also contains discussion of the principal factors leading to the decisions on the rate increase and responses to the major comments and criticisms received during the consultation and comment period.

EFFECTIVE DATE: The new rates have an effective date of January 1, 1984, in accordance with 10 CFR Part 903.

FOR FURTHER INFORMATION CONTACT:

Mr. David G. Coleman, Area Manager, Western Area Power Administration, 2800 Cottage Way, Sacramento, CA 95825, (916) 484–4251

Mr. Conrad K. Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1535

Mr. Ronald K. Greenhalgh, Assistant Administrator for Washington Liaison, Western Area Power Administration, ATTN: WAPA, Room 8G061, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–5581

SUPPLEMENTARY INFORMATION: Pursuant to section 302(a) of the Department of Energy (DOE)—Organization Act, 42 U.S.C. 7152(a), the power marketing functions of the Secretary of the Interior under the Reclamation Act of 1902, 43 U.S.C. 372 *et seq.*, as amended and supplemented by subsequent enactments, particularly by section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), and acts specifically applicable to the CVP for the Bureau of Reclamation (Bureau), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664), and Secretary of Energy delegated to the Administrator, Western Area Power Administration, the authority to develop power and transmission rates; to the Deputy Secretary, Department of Energy, the authority to confirm, approve, and place such rates in effect on an interim basis; and to the Federal Energy Regulatory Commission (FERC), the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove rates developed by the Administrator.

An announcement of the proposed minor rate adjustment in the CVP Rate Schedule for Third Party Transmission was published in the **Federal Register** at 49 FR 4828 (February 8, 1984). This notice initiated the 30-day customer consultation and comment period for the proposed minor rate adjustment. The consultation and comment period closed on March 9, 1984.

Therefore, Rate Order No. WAPA–23 confirming and approving the proposed minor rate adjustment on an interim basis is hereby issued pursuant to the delegatiaon to the Deputy Secretary and the rate adjustment procedures at 10 CFR Part 903. The new rate schedule will be promptly submitted to the FERC for confirmation and approval on a final basis.

Issued in Washington, D.C., May 15, 1984.

Danny J. Boggs,
Deputy Secretary.

DEPARTMENT OF ENERGY—DEPUTY SECRETARY

[Rate Order No. WAPA-23]

Order Confirming, Approving, and Placing Transmission Rates in Effect on an Interim Basis

May 15, 1984.

In the matter of Western Area Power Administration—Central Valley Project Rate Schedule for Third Party Transmission.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), the power marketing functions of the Secretary of the Interior under the Reclamation Act of 1902, 43 U.S.C. 372 *et seq.*, as amended and supplemented by subsequent enactments, particularly by section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), and acts specifically applicable to the Central Valley Project (CVP) for the Bureau of Reclamation (Bureau), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664), the Secretary of Energy delegated to the Administrator, Western Area Power Administration (Western), the authority to develop power and transmission rates; to the Deputy Secretary, Department of Energy, the authority to confirm, approve, and place such rates in effect on an interim basis; and to the Federal Energy Regulatory Commission (FERC), the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove rates developed by the Administrator. This rate order is issued pursuant to the delegation to the Deputy Secretary and the rate adjustment procedures at 10 CFR Part 903.

Background

Rate History

Contract No. 14-06-200-2948A (Contract 2948A) provides that the Pacific Gas and Electric Company (PGandE) will wheel CVP power over PGandE's transmission system from Tracy Substation, which is designated as load center, to the customers' delivery points. The contract stipulates that higher rates and additional losses will be charged for below 44-kV transmission service than for service at or above 44-kV. At the time Contract 2948A was executed, the Bureau (and later Western) policy regarding repayment of transmisson costs was to include in the wholesale firm power rates the 1 mill per kWh wheeling cost and 5 percent losses associated with service at or above 44-kV. The policy for repayment of below 44-kV service was to bill below 44-kV customers all additional costs and losses associated with below 44-kV service. The transmission charges incorporated in the CVP contracts reflect this policy.

In setting the wholesale firm power rates, Western has traditionally included in those rates the costs charged by PGandE for providing at or above 44-kV transmission service. The new transmission rate schedule will reflect Western's practice with regard to passing on to the below 44-kV customers those transmission costs related to the below 44-kV service.

In 1967, the charges by PGandE for wheeling to customers within the Contract 2948A wheeling area boundary were set at 1 mill per kWh for deliveries at 44-kV or above and 1 mill per kWh plus $.22 per kW-month for below 44-kV deliveries. Under article 32 of Contract 2948A, the rates could be adjusted at 5-year intervals starting on April 1, 1971. Losses of 5 percent for 44-kV or above deliveries and 9 percent for below 44-kV deliveries were set in 1967 and were changed in 1971, pursuant to article 24(b) of Contract 2948A, to 4.5 percent and 8 percent, respectively. In 1976, PGandE proposed to change the wheeling charges to 1.7 mills per kWh for 44-kV or above deliveries and 3.9 mills per kWh for below 44-kV deliveries. No changes in losses were proposed. These proposed charges were opposed by the Bureau (and later Western) and the CVP customers. Since a settlement of these rates was not approved, the matter was set for hearing (Docket No. ER76-532) before the Federal Power Commission, now the FERC. The Federal Power Commission allowed the rates to go into effect on April 1, 1976, subject to refund.

By Opinion No. 143 issued August 16, 1982 (20 FERC ¶ 61,190), as modified by Opinion No. 143-A issued November 22, 1982 (21 FERC ¶ 61,115), the FERC ordered the 1976 to 1981 transmission rates for wheeling CVP power over the PGandE transmission system to be 1.7 mills per kWh for 44-kV or above deliveries and 1.7 mills per kWh plus $.75 per kW-month for below 44-kV deliveries. The costs of the 44-kV or above deliveries and associated losses are included in the current CVP wholesale firm power rates. The $.75 per kW-month charge was billed to the below 44-kV customers effective January 1, 1983. This charge had previously been $.22 per kW-month. Those costs not recovered from the below 44-kV customers are incorporated in the current CVP wholesale firm power rates.

On August 17, 1982, as completed October 15, 1982, PGandE filed with the FERC (Docket No. ER82-729-000) new transmission rates for the December 1982 to April 1986 period. PGandE proposed to increase revenues for transmission service for customers receiving CVP power in two steps (Phase I and Phase II). The Phase I rates would increase revenues by about $5.5 million, and the Phase II by an additional $2 million. Western filed a motion to intervene, as did the Northern California Power Agency and its members, the Sacramento Municipal Utility District, certain irrigation districts which are CVP commercial power customers, and the DOE laboratories in the CVP service area. In its order of December 14, 1982 (21 FERC ¶ 61,296), the FERC allowed the Phase I rates to become effective on December 16, 1982, subject to refund. These rates were $1.354 per kW-month for 44-kV or above and $2,470 per kW-month for below 44-kV service. The Phase II rates were $1.551 per kW-month for 44-kV or above and $2,841 per kW-month for below 44-kV service. FERC allowed the Phase II rates to go into effect on May 16, 1983, subject to refund. Because Western intervened to protest these rate increases, the $.75 per kW-month charge billed to the below 44-kV customers was not increased by Western to reflect these new rates.

A settlement agreement resolving FERC docket No. ER82-729-000 was signed August 5, 1983, between PGandE and Western, settling the dispute over these Phase I and II rates. FERC approved this settlement on December 21, 1983. The settlement states that the Phase I rates would be effective from December 16, 1982, to July 31, 1983, and that effective August 1, 1983, the new transmission rates would be $1.275 per kW-month for 44-kV or above deliveries and $2.335 per kW-month for below 44-kV deliveries. The settlement rates are lower than the Phase I rates; however, the Phase I rate differential of $1.116 per kW-month for below 44-kV service was never billed from Western to the CVP customers, and Western will not bill retroactively for the Phase I rate. Effective the first full billing month (January 1984) after the FERC approval of the settlement, Western has billed the below 44-kV customers $1.06 per kW-month for the additional cost incurred from PGandE to deliver to the below 44-kV customers. (The $1.06 is the difference between the at or above 44-kV charge of $1.275 per kW-month and the below 44-kV charge of $2.335 per kW-month.)

Also effective January 1984, the 5 percent charge for transmission system losses previously included in the wholesale firm power rate was reduced to 4.5 percent to reflect the current amounts assessed by PGandE in the delivery of all capacity and energy at 44-kV or above within the wheeling area boundary. Those losses above 4.5 percent incurred for the below 44-kV deliveries will be billed on the monthly charge to the below 44-kV customers. The loss factor for the below 44-kV deliveries will be changed from the existing 3 percent that is added to the bill to 3.5 percent. This will then reflect the current loss assessment of 4.5 and 8 percent incurred by the CVP from PGandE for wheeling power over its system within the wheeling area boundary.

In January 1980, Western increased the customer load level by 102 MW and certain entities outside the Contract 2948A wheeling area boundary (out-of-boundary) became eligible to receive CVP power. Like the entities within the Contract 2948A wheeling area boundary, PGandE bills Western for wheeling CVP power over its transmission system from the load center at Tracy Substation to the out-of-boundary delivery point, and the wheeling rates and amounts of losses charged by PGandE depend upon whether the service received is 44-kV or above, or below 44-kV. Since the delivery outside the Contract 2948A wheeling area boundary is provided under separate contracts, the wheeling rates and loss amounts are not likely to be the same as for those entities within the boundary and may vary from one entity to another outside the boundary. Effective the first full billing month (January 1984) after the FERC approval of the settlement, Western passed through all costs greater than the $1.275 per kW-month and 4.5 percent losses to the out-of-boundary customers. The out-of-boundary transmission costs that were incurred prior to the approval

of this procedure will not be retroactively billed to the out-of-boundary customers. Those costs, along with the below 44-kV charges not retroactively billed to the within-the-boundary customers, will be recovered in the wholesale firm power rate.

The charges and losses discussed in the preceding paragraphs for absorbing the $1.275 per kW-month and 4.5 percent losses in the wholesale firm power rate and passing through to the below 44-kV customers, or outside the Contract 2948A wheeling area customers, the additional costs and losses associated with those deliveries may change periodically. However, before the charges or losses are changed in the customer bill, the FERC and the CVP customers will have an opportunity to review these changes, as transmission rates and losses must be filed by PGandE with the FERC before they become effective.

Public Notice

An announcement of the proposed minor rate adjustment in the CVP Rate Schedule for Third Party Transmission was published in the **Federal Register** at 49 FR 4828 (February 8, 1984). This notice initiated the 30-day customer consultation and comment period for the proposed rate adjustment. The consultation and comment period closed on March 9, 1984.

Discussion of Public Comments

Comments were received from one customer. The major issues raised and Western's response to each follow:

Issue: PGandE does not incur any additional costs for the transmission of power to customers located outside the Contract 2948A service area.

Response: Under Contract 2948A, PGandE must charge all CVP customers within the Contract 2948A service area the same wheeling rate, but may charge CVP customers outside the boundary at a different rate. Since different rates have been approved by the FERC for deliveries within and outside the Contract 2948A service area, those charges must be recovered.

Issue: These transmission charges are not necessary as a revenue device to Western and would constitute a very insignificant amount in relation to Western's overall operation.

Response: The costs of the transmission charges must repaid. If they are not repaid by the out-of-boundary customers that incur the additional costs, then the other CVP customers will be required to recover those costs.

As stated in the response to the first issue cited above, different rates have been approved by the FERC for deliveries within and outside the Contract 2948A service area, and those charges must be recovered.

It should be recognized that Western is treating the out-of-boundary customers and the within-the-boundary customers the same in regards to the amount of transmission cost that is recovered in the wholesale firm power rate.

Other Considerations

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 and the DOE regulations published in the **Federal Register** at 47 FR 7976 (February 23, 1982), Western conducts environmental evaluations of certain rate and allocation actions. Under the DOE regulations, Western has made an evaluation of the possible environmental impacts of the proposed change in the CVP Rate Schedule for Third Party Transmission. A memorandum was signed October 5, 1983, documenting that the proposed action will clearly have no significant environmental effects and is on file in Western's offices.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for the CVP relates to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the act. Since the rate is of limited applicability and is being set in accordance with Contract 2948A and FERC order, Western believes that no flexibility analysis is required.

E. O. 12291

The DOE has determined that this is not a major rule within the meaning of the criteria of Section 1(b) of that order. In addition, Western has received an exemption from sections 3, 4, and 7 of E. O. 12291 and, therefore, will not prepare a regulatory impact statment.

Availability of Information

Information regarding this rate adjustment is available for public review in the Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, California 95825; in the Office of the Administrator, Western Area Power Administration, 1627 Cole Boulevard, Golden, Colorado 80401; and in the Office of the Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G061, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Submission to the FERC

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis Rate Schedule CV-TPT1, effective January 1, 1984. These rates shall remain in effect pending the FERC confirmation and approval of them, or substitute rates on a final basis, or until they are superseded.

Issued in Washington, D.C., May 15, 1984.

Danny J. Boggs,

Deputy Secretary.

Western Area Power Administration

Central Valley Project, California; Rate Schedule for Third Party Transmission

Effective: January 1, 1984.

Available: In the area served by the CVP.

Applicable: To customers of the CVP who require transmittion service to receive power and energy sold by Western.

Character and Conditions of Service: Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points specified in the service contract.

Monthly Rate: When the United States utilizes transmission facilities other than its own in providing service under a customer's power sales contract, and costs are incurred by the United States for the use of such facilities, .

1. The customer:

(a) Shall pay that portion of such costs, including transmission losses, which are in excess of the at or above 44-kV customers' transmission charge and in excess of the at or above 44-kV customers' transmission losses specified by Contract No. 14-06-200-2948A incurred in the delivery of,

(i) All power up to the numer of kilowatts on which the demand or capacity applies; and

(ii) All energy up to the amount equal to the number of kilowatthours on which the energy charge applies; and

(b) Shall pay all such costs, including transmission energy losses, incurred in the delivery of all energy (including secondary and dump energy) in excess of the amount stated in (a) of this rate schedule..

2. The transmission losses chargeable to the customer shall, for billing purposes, be added to the meter readings of the power and energy delivered to the customer under the customer's power sales contract with the United States.

Minimum bill: None.

Adjustments: None.

[FR Doc. 84-14119 Filed 5-24-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[(OPTS-51520); TSH-FRL 25934]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture

or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of forty PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84–693, 84–694, 84–695, 84–696, 84–697, 84–698, 84–699, and 84–700—August 8, 1984

PMN 84–701, 84–702, 84–703, 84–704, and 84–705—August 11, 1984

PMN 84–706, 84–707, 84–708, 84–709, 84–710, 84–711, 84–712, 84–713, 84–714, and 84–715—August 12, 1984

PMN 84–672, 84–716, 84–717, 84–718, 84–719, 84–720, 84–721, 84–722, 84–723, 84–724, 84–725, and 84–726—August 13, 1984

PMN 84–727, 84–728, 84–729, 84–730, and 84–731—August 14, 1984.

Written comments by:

PMN 84–693, 84–694, 84–695, 84–696, 84–697, 84–698, 84–699, and 84–700—July 9, 1984

PMN 84–701, 84–702, 84–703, 84–704, and 84–705—July 12, 1984

PMN 84–706, 84–707, 84–708, 84–709, 84–710, 84–711, 84–712, 84–713, 84–714, and 84–715—July, 13, 1984

PMN 84–672, 84–716, 84–717, 84–718, 84–719, 84–720, 84–721, 84–722, 84–723, 84–724, 84–725, and 84–726—July 14, 1984

PMN 84–727, 84–728, 84–729, 84–730, and 84–731—July 15, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–51520]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hemnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street SW., Washington, DC 20460 (202–382–3729).

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

PMN 84–672

Manufacturer. Confidential.

Chemical. (G) Reaction product of epoxides and aromatic amine.

Use/Production. (G) Epoxy resin curing agent—open, non-dispersive use. Prod. range: 6,000–12,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 21 workers, up to 2.0 hrs/da, up to 12 da/yr.

Environmental Release/Disposal. 4 to 8 kg/batch released to land. Disposal by approved landfill.

PMN 84–693

Manufacturer. Confidential.

Chemical. (G) Dithiocarbamate salt.

Use/Production. (G) Water treatment chemical. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–694

Importer. Degussa Corporation.

Chemical. Further clarification needed before information can be released to the public files.

Use/Import. (G) Destructive use, chemical intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–695

Manufacturer. McWhorter, Inc.

Chemical. (G) Oil modified polyester.

Use/Production. (S) Resin for industrial coatings. Prod. range: 52,363 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: inhalation, a total of 2 workers, up to 1 hr/da, up to 12 da/yr.

Environmental Release/Disposal. Unknown amount of release to air. Disposal by landfill.

PMN 84–696

Manufacturer. Confidential.

Chemical. (G) Organic salt of quaternary aliphatic cyclic amine.

Use/Production. (S) Industrial urethane polymerization catalyst. Prod. range: Confidential.

Toxicity Data. Acute oral: >2.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Not a primary irritant.

Exposure. Manufacture: dermal, a total of 3–5 workers, up to 8 hrs/da, up to 16 da/yr.

Environmental Release/Disposal. No release.

PMN 84–697

Manufacturer. The Upjohn Company.

Chemical. (G) Polyurethane plastics.

Use/Production. (S) Industrial, transportation, and recreation use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and inhalation, a total of 3 workers, up to 6 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. Less than 20 kg released to land. Disposal by sanitary landfill via licensed commercial carting service.

PMN 84–698

Importer. Confidential

Chemical. (G) 9,10-Anthracenedione sulfonic acid, sodium salt.

Use/Import. (G) Carpet dye. Import range: Confidential.

Toxicity Data. Acute oral: >2,500 mg/kg; Irritation: Skin—None, Eye—Minimal; Ames Test (without activation): Negative; Ames Test (with activation): Positive; TL_0 48 hr (Trout): 30 mg/l; TL_{50} 48 hr (Trout): 58 mg/l; TL_{100} 48 hr (Trout): 100 mg/l; TL_0 96 hr (Trout): >30 mg/l; TL_{50} 96 hr (Trout): 43 mg/l TL_{100} 96 hr (Trout): 100 mg/l; TL_0 48 hr (Zebra fish): 100 mg/l; TL_{50} 48 hr (Zebra fish): 192 mg/l; TL_{100} 48 hr (Zebra fish): 300 mg/l; TL^0 96 hr (Zebra fish): 100 mg/l; TL_{50} 96 hr (Zebra fish): 170 mg/l; TL_{100} 96 hr (Zebra fish): 300 mg/l; COD: 1.3 g/gO_2; BOD_5: 0 g/gO_2.

Exposure. Processing: inhalation, a total of 14 workers, up to 8 hrs/da, up to 37 da/yr.

Environmental Release/Disposal. 0.1 to 1.0 kg/batch released to water. Disposal by publicly owned treatment works (POTW), and navigable waterway.

PMN 84–699

Importer. Confidential.

Chemical. (G) Substituted substituted substituted naphthalenedisulfonic acid, sodium salt.

Use/Import. (S) Industrial colorant for textiles. Import range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Nonirritant, Eye—Nonirritant: LC_{50} 96 hr (Brachydanio rerio): 100 mg/l.

Exposure. Import: inhalation, a total one/shift, less than 5 min/weighing.

Environmental Release/Disposal. No release to air, water and land. Disposal by POTW and customer's own treatment facility.

PMN 84–700

Manufacturer. Confidential.

Chemical. (G) Substituted polyamine.

Use/Production. (G) Dispersant for printing ink materials. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84-701

Manufacturer. Confidential.

Chemical. (G) Modified styrene methacrylate polymer.

Use/Production. (G) A component of a coating having a dispersive use in industry. Prod. range: 50,000-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 26 workers, up to 4 hrs/da, up to 38 da/yr.

Environmental Release/Disposal. 5 to 150 kg/batch released to land. Disposal by incineration and landfill.

PMN 84-702

Importer. Union Camp Corporation.

Chemical. (G) Terpene ether alcohol.

Use/Import. (G) Chemical intermediate. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 2 operators/shift, 1 work/shift.

Environmental Release/Disposal. No data submitted.

PMN 84-703

Manufacturer. Confidential.

Chemical. (S) Oxo/octyl acetate.

Use/Production. (S) Industrial tail solvent for surface coatings and other potential uses may include inks, sealants and other solvent related uses. Prod. range: Confidential.

Toxicity Data. Acute oral: 5 g/kg; Acute dermal: > 3.16 g/kg; Irritation: Skin—Moderate, Eye—Slight.

Exposure. Manufacture: dermal and inhalation.

Environmental Release/Disposal. Release to air, water and land. Disposal by navigable waterway and deep well injection.

PMN 84-704

Manufacturer. Confidential.

Chemical. (G) Substituted alkyl arene.

Use/Production. (G) Site-limited, contained use intermediate in a closed manufacturing process. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Confidential.

PMN 84-705

Manufacturer. Monsanto Company.

Chemical. (S) Benzenamine, 2-ethyl-6-methyl-N-methylene.

Use/Production. (S) Site-limited and industrial process intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 1,127 mg/kg; Acute dermal: 1,414 mg/kg; Irritation: Skin—Corrosive, Eye—Corrosive; Ingestion: Slightly toxic; LC_{50} 96 hr (Trout): 42 mg/1; LC_{50} 96 hr (Bluegill): 45 mg/1; LC_{50} 48 hr (Daphnia magna): 17 mg/1.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84-706

Manufacturer. Confidential.

Chemical. (G) Polyesterimide resin.

Use/Production. (G) Intermediate for electrical insulation. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-707

Manufacturer. Confidential.

Chemical. (G) Polyamideimide resin.

Use/Production. (G) Intermediate for electrical insulation coating Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-708

Importer. American Hoechst Corporation.

Chemical. (S) Polymer of: Naphtha, (petroleum) light stem cracked debenzenized polymers, linseed oil, soya oil, phthalic anhydride, isophthalic acid, glycerine, caster oil, maleic anhydride fumaric acid, oxalic acid, pentaerythriol.

Use/Import. (G) Open, non-dispersive. Import range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Import and use: dermal, a total of 10-12 workers, up to 160 manhours/yr.

Environmental Release/Disposal. No data submitted.

PMN 84-709

Manufacturer. Confidential.

Chemical. (G) Alkanediol based polyester.

Use/Production. (G) Intermediate which will find ultimate use in industrially applied coatings. Prod. range: 25,000-50,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 28 workers, up to 2 hrs/da, up to 28 da/yr.

Environmental Release/Disposal. 30 to 150 kg/batch released to land. Disposal by incineration and landfill.

PMN 84-710

Manufacturer. Confidential.

Chemical. (G) Copolymer of acrylates and methacrylates.

Use/Production. (G) Major component of a coating applied by industrial shops in an open use. Prod. range: 5,000-50,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 30 workers, up to 6 hrs/da, up to 72 da/yr.

Environmental Release/Disposal. 5 to 20 kg/batch released to land. Disposal by incineration and landfill.

PMN 84-711

Manufacturer. Confidential.

Chemical. (G) Modified, maleated metal resinate.

Use/Production. (S) Industrial publication gravure printing inks. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 6 workers.

Environmental Release/Disposal. Less than 0..2 kg/batch released to water with 20 kg/batch to land. Disposal by sanitary landfill and plant air oxidation lagoon.

PMN 84-712

Manufacturer. Confidential.

Chemical. (G) Substituted phenyleneazonaphthalene trisulfonic acid.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84-713

Manufacturer. Diamond Shamrock Chemicals Company.

Chemical. (G) Acrylated alkoxylated aliphatic polyol.

Use/Production. (G) Inks coatings. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild to severe; Ames Test: Negative; L5178Y TK +/− Mouse Lymphoma: Positive.

Exposure. Manufacture: dermal, a total of 28 workers, up to 2 hrs/dy, up to 1/da/yr.

Environmental Release/Disposal. Released to land. Disposal by approved landfill.

PMN 84–714

Manufacturer. The Upjohn Company.
Chemical. (G) Polyurethane elastomer.
Use/Production. (S) Industrial, transportation and agricultural use. Prod. range: 60,000–200,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and inhalation.
Environmental Release/Disposal. Less than 20 kg released to land. Disposal by landfill via licensed commercial carting service.

PMN 84–715

Manufacturer. Petrarch Systems, Inc.
Chemical. (G) Hexadecyl functional silane.
Use/Production. (G) Open, non-dispersive use. Prod. range: 500–4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 10 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 2 kg released to land. Disposal by approved landfill.

PMN 84–716

Manufacturer. Confidential.
Chemical. Further clarification needed before informatin can be released to the public files.
Use/Production. (G) Tackifier for natural and synthetic elastomers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–717

Imported. Confidential.
Chemical. (G) Modified essential oil.
Use/Production. (G) Highly dispersive use. Import range: Confidential.
Toxicity Data. Irritation: Skin—Moderate, Eye—Moderate; Ames Test (With activation): Positive, Ames Test (Without activation): Negative; Skin sensitization: Non-sensitizer; Photoxicity: No pototoxic potential; 10 Repeat insult patch test: Negative; Photosensitization: No photosensitizing capacity.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84–718

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (S) 2,4–dinitrobenzaldehyde.
Use/Production. (S) Site-limited synthesis of 2–(2,4–dinitrophenyl)benzothiazoline. Prod. range: Confidential.
Toxicity Data. Ames Test: Mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84–719

Manufacturer. E. I. Du Pont de Nemours and Company, Inc.
Chemical. (S) 2–(2,4–dinitrophenyl)benzothiazoline.
Use/Production. (G) Photographic film additive. Prod. range: Confidential.
Toxicity Data. Acute oral: > 17,000 mg/kg; Irritation: Skin—Slight, Eye—Mild; Ames Test: Mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Release to air and water. Disposal by POTW.

PMN 84–720

Manufacturer. American Cyanamid Company.
Chemical. (G) Modified polyvinyl amide.
Use/Production. (S) Industrial Captive intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 gm/kg; Acute dermal: >2 gm/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Mouse micronucleus: Negative.
Exposure. Manufacture: a total of 5 workers, up to 1 hr/da, up to 150 da/yr.
Environmental Release/Disposal. No release to water. Disposal by biological treatment system.

PMN 84–721

Manufacturer. Confidential.
Chemical. (G) Epoxy modified acrylic polymer.
Use/Production. (S) Site-limited intermediate used in metal coating. Prod. range: 50,000–1,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers, up to 3 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. No release.

PMN 84–722

Importer. Superior Materials Inc.
Chemical. (S) 1-Naphthalene sulfonic acid, 4-[(2-hydroxy-1-naphthalenyl)azo]-barium salt (2:1).
Use/Import. (S) Industrial component of pigment mixture used to colour printing inks. Import range: 1,000–5,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: inhalation, a total of 300 workers, up to 2–3 hrs/da.
Environmental Release/Disposal. No data submitted.

PMN 84–723

Importer. Superior Materials Inc.
Chemical. (S) 1-Naphthalenesulfonic acid, 5-[(2-hydroxy-1-naphthalenyl)azo]-barium salt (2:1).
Use/Import. (S) Industrial component of pigment mixture used to colour printing inks. Import range: 1,000–5,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: inhalation, a total of 300 workers, up to 2–3 hrs/da.
Environmental Release/Disposal. No data submitted.

PMN 84–724

Importer. Superior Materials Inc.
Chemical. (S) 1-Naphthalenesulfonic acid, 2-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo]-barium salt (1:1).
Use/Import. (S) Industrial component of pigment mixture used to colour printing inks. Import range: 1,000–5,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: inhalation, a total of 300 workers, up to 2–3 hrs/da.
Environmental Release/Disposal. No data submitted.

PMN 84–725

Importer. Superior Materials Inc.
Chemical. (S) 1-Naphthalenesulfonic acid, 4-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo]-barium salt (1:1).
Use/Import. (S) Industrial component of pigment mixture used to colour printing inks. Import range: 100–500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: inhalation, a total of 300 workers, up to 2–3 hrs/da.
Environmental Release/Disposal. No data submitted.

PMN 84–726

Importer. Superior Materials Inc.
Chemical. (S) 1-Naphthalenesulfonic acid, 5-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo]-barium salt (1:1).
Use/Import. (S) Industrial component of pigment mixture used to colour printing inks. Import range: 100–500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: inhalation, a total of 300 workers, up to 2–3 hrs/da.
Environmental Release/Disposal. No data submitted.

PMN 84–727

Manufacturer. E. I. Du Pont De Nemours and Company, Inc.
Chemical. (S) 5-[(3,5-dinitrophenyl)methylthio]-1-phenyl-1H-tetrazole.
Use/Production. (G) Photographic film additive. Prod. range: Confidential.

Toxicity Data. Acute oral: > 11,000 mg/kg; Irritation: Skin—Moderate, Eye—Moderate; Ames Test: Mutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Release to air and water. Disposal by POTW.

PMN 84–728

Manufacturer. Confidential.

Chemical. (G) Polyesterimide resin.

Use/Production. (G) Intermediate for electrical insulation. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–729

Manufacturer. Confidential.

Chemical. (G) Polyesterimide resin.

Use/Production. (G) Intermediate for electrical insulation. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–730

Manufacturer. Confidential.

Chemical. (G) Modified polyester.

Use/Production. (G) Component of an industrially applied coating in both an open and dispersive use. Prod. range: 5,000–20,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 23 workers, up to 8 hrs/da, up to 14 da/yr.

Environmental Release/Disposal. 10 to 16 kg/batch released to land. Disposal incineration and landfill.

PMN 84–731

Importer. Confidential.

Chemical. (G) Polymer of aliphatic diacid, aliphatic polyamines and substituted alkane.

Use/Import. (S) Industrial auxiliary for paper. Import range: Confidential.

Toxicity Data. Acute oral: 8.403 g/kg; Irritation: Skin—No observable effects, Eye—Slight; IC_{50} (Leuciscus idus): 10 to 20 mg/1:

Exposure. Processing: dermal.

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

Dated: May 21, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84–13950 Filed 5–24–84; 8:45 am]

BILLING CODE 6560–50–M

(OPTS–59158); BH–FRL 2593–3

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

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

DATE: Written comments by: June 11, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–59158]" and the specific TME number should be sent to: Document Control Officer (TS–793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW., Washington, DC 20460.

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

TME 84–52

Close of Review Period. June 24, 1984.

Manufacturer. Texaco Chemical Company.

Chemical. (G) Mixed glycol oligoesters of a dicarboxylic acid.

Use/Production. (S) Component in making rigid polyurethane and polyisocyanurate. Prod. range: 1,000,000 maximum 18 months.

Toxicity Data. No data submitted.

Exposure. Manufacture processing and distribution dermal a total of 90 workers, up to 540 manhours/yr.

Environmental Release/Disposal. 0.5 released to air. Disposal by incineration or landfill.

TME 84–53

Close of Review Period. June 24, 1984.

Importer. Confidential.

Chemical. (G) Vinyl acetate–acrylate copolymer.

Use/Import. (S) Polymer base for water-borne caulks carpet and carpet tile adhesives, an adhesive for pressure sensitive tapes, decal stock and automobile headliners.

Import range: confidential.

Toxicity Data. No data on the TME substance submitted.

Exposure. Processing dermal, a total of 118 workers, up to 1–3 shifts/da, up to 60–150 da/yr.

Environmental Release/Disposal. No release.

TME 84–54

Close of Review Period. June 28, 1984.

Manufacturer. Confidential.

Chemical. (G) Substituted benzocyazoleydine ethylidine.

Use/Production. (G) Industrial coating component. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: skin—Non-irritant, Eye—Extremety.

Exposure. Manufacture and processing: dermal a total or 10 workers.

Environmental Release/Disposal. No data submitted.

TME 84–55

Close of Review Period. June 30, 1984.

Manufacturer. Confidential.

Chemical. (G) Alkylaromatic.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5 g/kg Acute dermal: > 2 g/kg; Irritation: Skin—Not a primary irritant, Eye—Slight; Ames Test: Negative.

Exposure. Manufacture: dermal, a total of 60 workers, less than 1 hr per test set-up.

Environmental Release/Disposal. No data submitted.

Dated: May 18, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84–13951 Filed 5–24–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS-53060; TSH-FRL 2585-2]

Premanufacture Notice; Monthly Status Report for March 1984

Correction

In FR Doc. 84-12508 beginning on page 20062 in the issue of Friday, May 11, 1984, make the following corrections to the tables:

1. On page 20062, in table I, in PMN No. 84-485, "ethandeiyl" should read "ethanediyl".
2. On page 20063, in table I, in PMN No. 84-536, "anydride" should read "anhydride".
3. ON the same page, in table I, in PMN No. 84-540, "methylflroroalkyl" should read "methylfluoroalkyl".
4. On page 20064, in table II, in PMN No. 84-450, insert the word "ester" after "terpene".
5. On the same page, in table II, in PMN No. 84-452, "acryulate" should read "acrylate".
6. On page 20065, in table IV, in PMN No. 83-671, "benxothiazole'l' should read "benzothiazole".
7. On the same page, in table IV, in PMN No. 83-1008, "1H/indole" should read "1H-indole".
8. On page 20067, in table V, in PMN No. 84-467, "substututed" should read "substituted".

BILLING CODE 1505-01-M

[ER-FRL-2593-7]

Availability of Environmental Impact Statements Filed May 14 Through May 18, 1984 Pursuant to 40 CFR 1506.9

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 840204, Final, EPA, AK, Nome Harbor Entrance Channel, Ocean Dredged Material Disposal Site, Designation, Due: June 25, 1984, Contact: John Hill (202) 245-3036.

EIS No. 840205, Final, FHW, MI, MI-32 Reconstruction, Atlanta to Hillman, Montmorency County, Due: June 25, 1984, Contact: Kenneth Barkema (517) 377-1851.

EIS No. 840206, Draft, BLM, UT, Cedar, Beaver, Garfield and Antimon Planning United, Resource Management Plan, Iron, Beaver, Garfield, Washington and Kane Cos., Due: August 10, 1984, Contact: Jay Carlson (801) 586-2458.

EIS No. 840207, DSuppl, COE, LA, Mississippi River Bank Restoration, Baton Rouge to Gulf of Mexico, Plaquemines Parish, Due: July 20, 1984, Contact: David Carney (504) 838-2528.

EIS No. 840208, Draft, COE, FL, Pinellas Beach Erosion Control Project, Pinellas County, Due: July 9, 1984, Contact: Richard Makinen (202) 272-0121.

EIS No. 840209, DSuppl, FHW, IA, I-380 Extension, Waterloo to Cedar Falls, Black Hawk County, Due: July 9, 1984, Contact: H. A. Willard (515) 233-1664.

EIS No. 840210, Final, SCS, OK, Cane Creek Watershed Flood Protection Plan, Okmulgee and Muskogee Counties Due: June 25, 1984, Contact: Roland Willis (405) 624-4360.

EIS No. 840211, Draft, FERC, AK, Susitna River Hydrolectric Project, C/O/M, License, Due: July 9, 1984, Contact: Mark Robinson (202) 376-9060.

EIS No. 840212, Final, DOE, SC, L-Reactor Operation, Resumption, Savannah River Plant, Aiken County, Due: June 25, 1984, Contact: M. J. Sires (803) 725-2597.

EIS No. 840214, Final, COE, MS, Jackson Mississippi Flood Control Plan, Pearl River, Rankin County, Due: June 25, 1984, Contact: Dru Barrineau (205) 690-2725.

EIS No. 840215, Draft, COE, NJ, Lower Saddle River/Sprout Brook Flood Control Plan, Bergen County, Due: July 9, 1984, Contact: Robert Kurtz (212) 264-3609.

EIS No. 840216, Draft, COE, AL, AK, CA, GA, KY, NY, TN, WA, New Army Light Infantry Division, Stationing, Due: July 9, 1984, Contact: James Hildreth (205) 694-4141.

EIS No. 840217, Draft, COE, VA, NC, Hampton Roads Area, Water Supply Project, Construction and Operation, Chowan River and Tributaries, Due: July 9, 1984, Contact: Craig Seltzer (804) 441-3767.

EIS No. 840218, Draft, NOA, PAC, Ocean Management Deep Seabed Mining Exploration, License, Pacific Ocean, Central America to Hawaii, Due: July 13, 1984, Contact: James Lawless (202) 653-7695.

EIS No. 840219, Draft, NOA, PAC, Kennecott Deep Seabed Mining Exploration, License, Pacific Ocean, Central America to Hawaii, Due: July 13, 1984, Contact: James Lawless (202) 653-7695.

EIS No. 840220, Draft, NOA, PAC, Ocean Minerals Deep Seabed Mining Exploration, License, Pacific Ocean, Cental Americe to Hawaii, Due: July 13, 1984, Contact: James Lawless, (202) 653-7695.

EIS No. 840221, Draft, NOA, PAC, Ocean Mining Associates, Deep Seabed Mining Exploration, License, Pacific Ocean, Central America to Hawaii, Due: July 13, 1984, Contact: James Lawless (202) 653-7695

Dated: May 22, 1984.

Dave Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 84-14118 Filed 5-24-84; 8:45 am]

BILLING CODE 6560-50-M

[WH-FRL 2596-2]

Pretreatment Implementation Review Task Force; Open Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Pretreatment Implementation Review Task Force will be held on June 12, 1984 from 9:00 a.m. to 5:00 p.m. and June 13, 1984 from 9:00 a.m. to 4:00 p.m. in Room 2126, Waterside Mall, 401 M Street, SW., Washington, D.C.

The agenda involves developing solutions to implementation concerns which were not addressed or resolved prior to the Interim Report. The Task Force meeting will have a presentation and discussion of each member's assessment of the outstanding issues. Any member of the public wishing to make comments is invited to submit them in writing to Mr. Richard Kinch no later than June 22, 1984. The meeting will be open to the public. Any member of the public wishing additional information should contact Mr. Richard Kinch or Dr. Jerry Parker (EN-366), U.S. EPA, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0750.

For Further Information Contact: Jerry Parker, (202) 755-0750.

Dated: May 21, 1984.

Jack E. Ravan,

Assistant Administrator, Office of Water.

[FR Doc. 84-14237 Filed 5-24-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

May 16, 1984.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submission are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on this information collection should contact Martin Wagner, Office of Management and Budget, Room 3235

NEOB, Washington, DC 20503, (202) 395-4814.

Title: Application for a New Noncommercial Educational Broadcast Station License
Form No. FCC 341
Action: Extension
Respondents: Applicants for new noncommercial FM and TV station licenses
Estimated Annual Burden: 204 Respondents; 30,396 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-14016 Filed 5-24-84; 8:45 am]

BILLING CODE 6712-01-M

New FM Stations; Applications for Consolidated Hearing; Battery Creek Communications Co.; et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and state	File No.	MM Docket No.
A. Battery Creek Communications Company, Parris Island, SC.	BPH-830504AB	84-453
B. Vivian Broadcasting Corporation Parris Island, SC.	BPH-830808AK	84-454
C. Jack A. Carpenter et al, d/b/a Carpenter Broadcasting Company Parris Island, SC.	BPH-830808AM	84-455

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at Fed. Reg. 22428, May 18, 1983. The issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to the particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), C
2. Air Hazard, A,B,C
3. Comparative A,B,C
4. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the copy the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief,

Audio Services Division, Mass Media Bureau.

Appendix

Additional Issue Paragraph

1. If a final environmental impact statement is issued with respect to C (Carpenter) which concludes that the proposed facility is likely to have an adverse effect on the quality of the environment,

(a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301-1.1319 of the Commission's Rules; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84-14010 Filed 5-24-84; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-634]

Changes in the Corporate Structure and Operations of the Communications Satellite Corporation; Correction

AGENCY: Federal Communications Commission.

ACTION: Second Memorandum Opinon and Order; Correction.

SUMMARY: This document corrects a typographical error made in the Second Memorandum Opinion and Order in this proceeding concerning Changes in the Corporate Structure and Operations of the Communications Satellite Corporation, published on May 4, 1984 on page (49 FR) 19118. The FCC number appearing in the Preamble of that document should have read: *FCC 84-128.*

FOR FURTHER INFORMATION CONTACT: Joel Pearlman, (202) 632-3214.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-14012 Filed 5-24-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of the agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on the agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. 9836-14.

Title: Malaysia-Pacific Rate Agreement.

Parties:

American President Lines, Ltd.
A.P. Moller-Maersk Line
Sea-Land Service, Inc.

Synopsis: The proposed amendment would authorize the parties to collectively enter into and implement service contracts, as defined by the Shipping Act of 1984. Individual members would be prohibited from entering into or modifying on their own behalf any service contract in the agreement trade through the exercise of independent action or any other means.

Filing party: Richard D. Gluck, Lillick, McHose and Charles, 21 Dupont Circle, NW., Washington, D. C. 20036.

By order of the Federal Maritime Commission.

Dated: May 21, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-13788 Filed 5-24-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Community National Corp., et al.

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 (49 FR 794) 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 June 18, 1984.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Community National Corporation*, Grand Forks, North Dakota; to become a bank holding company by acquiring at least 90 percent of the voting shares of Community National Bank of Grand Forks, Grand Forks, North Dakota.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *BancOklahoma Corp.*, Tulsa, Oklahoma; to acquire 100 percent of the voting shares of Grove Bancshares, Inc., Grove, Oklahoma and thereby indirectly to acquire First Bank of Grove, Grove, Oklahoma.

2. *Financial Shares, Inc.*, Morland, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Citizens State Bank, Morland, Kansas.

3. *Holden Bankshares, Inc.*, Holden, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Holden, Holden, Missouri.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bankers Southwest Corporation*, Waxahachie, Texas; to acquire 51 percent of the voting shares of State Bank and trust Company, Dallas, Texas and of State Bank and Trust Company, Ovilla, Texas, both of which are *de novo* banks.

2. *First Western Bancshares, Inc.*, Duncanville, Texas; to acquire 100 percent of the voting shares of The National Bank of Grand Prairie, Grand Prairie, Texas.

Board of Governors of the Federal Reserve System, May 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-14043 Filed 5-24-84; 8:45 am]

BILLING CODE 6210-01-M

Applications To Engage de Novo in Permissible Nonbanking Activities; Guaranty Bancshares, Inc., et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) 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 (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 14, 1984.

A. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas Texas 75222:

1. *Guaranty Bancshares, Inc.*, Mount Pleasant, Texas; to engage through its subsidiary Guaranty Leasing Company, Inc. in leasing personal or real property.

2. *Kilgore First Bancorp, Inc.*, Tyler, Texas; to engage through its subsidiary Bankers Computer Service, Inc., Longview, Texas in data processing activities which would include daily posting of commercial loans, installment loans, savings balances, DDA balances, time deposit balances, and general ledger trial balances. Other services offered would include payroll ledgers, accounts receivable ledgers, and other permissible services.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BanCal Tri-State Corporation/The Mitsubishi Bank, Limited*, Tokyo, Japan; to engage through its subsidiary Bank of California New York Trust Company, New York, New York in corporate trust, special agency, stock transfer, custodial, securities clearance and other services for a market which consists of all corporations, public and private, that issue debt, issue commercial paper, transfer shares and the like and generally perform functions or activities that may be performed by a trust (including activities of a fiduciary or custodial nature) in the manner authorized by federal and state law.

2. *Midland Bank plc*, London, England; to enage *de novo*, indirectly through its subsidiary Samuel Montague & Co. (Holdings) Limited in providing foreign exchange advisory and transactional services.

3. *Rainier Bancorporation*, Seattle, Washington; to engage through its subsidiary Rainier Financial Services Company, Seattle, Washington in consumer/commercial/mortgage lending and loan servicing and credit-related insurance sales.

Board of Governors of the Federal Reserve System, May 21, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-14044 Filed 5-24-84; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Company Engaged in Permissible Nonbanking Activities; Norstar Bancorp Inc.

The organization listed in this notice has applied under § 225.23 (a)((2) or (f) of the Board's Regulation Y (49 FR 794) 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 (49 FR 794) 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 Untied 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 June 15, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Norstar Bancorp Inc.*, Albany, New York; to acquire Adams, McEntee & Company, New York, New York, and thereby engage in acting as a broker with respect to, and dealing in and underwriting: (1) General obligations of states and their political subdivisions; (2) obligations of the United States; (3) bankers acceptances, certificates of deposit and related money market instruments; and (4) such other obligations as state member banks may be authorized to deal in and underwrite under 12 U.S.C. 24 and 335.

Board of Governors of the Federal Reserve System, May 21, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-14045 Filed 5-24-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Information Collection Request for OMB Review Consumer Survey

AGENCY: Federal Trade Commission.

ACTION: Notice of request for OMB review under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

SUMMARY: The FTC is requesting clearance for a voluntary survey of 2,000 auto insurance consumers. The survey will focus on consumers who in the past six months have either purchased automobile insurance for the first time, or changed automobile insurance companies, or changed a major part of their automobile insurance policy. The study seeks to determine the role of various types of information, including that provided by insurance companies and state agencies, in the insurance carrier selection process. The study is being conducted at the request of the Committee on Energy and Commerce of the House of Representatives.

DATES: Comments on these applications must be submitted on or before June 25, 1984.

ADDRESS: Send comments to Mr. Don Arbuckle, FTC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Mark Plummer, Bureau of Economics, Federal Trade Commission, Washington, D.C. 20580. (202) 634-9013.

Emily H. Rock,

Secretary.

[FR Doc. 84-14041 Filed 5-24-84; 8:45 am]

BILLING CODE 6750-01-M

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:

Transaction	Waiting period terminated effective
(1) 84-0231—CalFed Incorporated's proposed acquisition of voting securities of nine subsidiaries of Beneficial Standard Corporation.	Apr. 5, 1984.
(2) 84-0351—TLC Associates' proposed acquisition of voting securities of Columbia National Life Insurance Company (Armco, Incorporated, UPE).	May 2, 1984.
(3) 84-0354—Ogden Corporation's proposed acquisition of voting securities of Air La Carte, Incorporated (ARA Services, Incorporated, UPE).	Do.
(4) 84-0365—Cardis Corporation's proposed acquisition of voting securities of Autowize Distributors, Incorporated (ITT Corporation, UPE).	Do.
(5) 84-0361—Samuel J. Heyman's proposed acquisition of voting securities of GAF Corporation.	Do.
(6) 84-0380—Eli Lilly and Company's proposed acquisition of voting securities of Advanced Cardiovascular Systems, Incorporated through the merger of a wholly-owned subsidiary of Eli Lilly and Company into Advanced Cardiovascular Systems, Incorporated.	Do.
(7) 84-0385—Butler Manufacturing Company's proposed acquisition of assets of Archicultural products Division of Alumax Aluminum Corporation (Amax Incorporated, UPE).	Do.
(8) 84-0394—Revco D. S. Incorporated's proposed acquisition of voting securities of Odd Lot Trading Incorporated.	May 3, 1984.
(9) 84-0395—Bernard A. Marden's proposed acquisition of voting securities of Revco D. S. Incorporated.	Do.
(10) 84-0396—Issac Perlmutter's Proposed acquisition of voting securities of Revco D. S. Incorporated.	Do.
(11) 84-0377—Petrofina, S.A.'s proposed acquisition of assets of Arco Chemical Company (Atlantic Richfield Company, UPE).	Do.
(12) 84-0404—Empire of America's proposed acquisition of voting securities of Pacific Thrift and Loan Company (A & B Discount Corporation, UPE).	Do.
(13) 84-0439—Royal Dutch Petroleum Company's proposed acquisition of assets of Petro-Lewis Corporation.	May 4, 1984.
(14) 84-0439—Sun Company Incorporated's proposed acquisition of assets of Petro-Lewis Corporation.	Do.
(15) 84-0382—Computer and Systems Engineering p.l.c.'s proposed acquisition of voting securities of Rixon, Incorporated, and certain assets of Schlumberger, Limited.	Do.
(16) 84-0371—Dyno Industries A. S.'s proposed acquisition of assets of IRECO Chemicals (Gulf Resources and Chemical Corporation, UPE).	Do.
(17) 84-0383—Whirlpool Corporation's proposed acquisition of assets of Microwave Cooking Products Division of Litton Industries, Incorporated.	May 9, 1984.
(18) 84-0345—Roxboro Investments (1976) Ltd.'s proposed acquisition of voting securities of H. H. Robertson Company.	May 10, 1984.
(19) 84-0364—Pennsylvania Engineering Corporation's proposed acquisition of voting securities of Fischbach Corporation.	Do.
(20) 84-0399—Anderson, Clayton & Company's proposed acquisition of voting securities of GFP Incorporated, (General Foods Corporation, UPE).	Do.
(21) 84-0400—Digital Switch Corporation's proposed acquisition of voting securities of Granger Associates.	Do.

Transaction	Waiting period terminated effective
(22) 84-0445—Costain Group PLC's proposed acquisition of voting securities of Costain Land, Incorporated, Alabama Land & Mineral Company, King Coal Company, Incorporated Coal Systems, Incorporated and Walker Machinery & Supply Company, Incorporated, (Pyro Energy Corporation, UPE).	May 10, 1984.
(23) 84-0391—Veba, A. G.'s (through a wholly-owned subsidiary, Demines U.S. Oil Company) proposed acquisition of voting securities of Jet Oil Company.	May 11, 1984.
(24) 84-0412—Investment AB Beijer's proposed acquisition of voting securities of Calmar, Incorporated.	Do.
(25) 84-0419—Bally Manufacturing Corporation's proposed acquisition of assets of Great America Amusement Park, (Marriott Corporation, UPE).	Do.
(26) 84-0435—G. I. Export Corporation's through subsidiary G. I. Acquisition Subsidiary, Incorporated proposed acquisition of voting securities of Johnston Industries, Incorporated, (Paul A. Johnston, UPE).	May 14, 1984.
(27) 84-0442—Dawson International PLC's proposed acquisition of voting securities of J. E. Morgan Knitting Mills, Incorporated, (John E. Morgan, UPE).	May 15, 1984.
(28) 84-0350—Nortek Incorporated's proposed acquisition of voting securities of Amerace Corporation.	May 16, 1984.
(29) 84-0407—Avon Products Incorporated's proposed acquisition of voting securities of Foster Medical Corporation.	Do.
(30) 84-0444—Preway Incorporated's proposed acquisition of assets of the Appliance Division and the Engineered Products Division of Arkla, Incorporated.	Do.
(31) 84-0411—DMG Incorporated's proposed acquisition of voting securities of Wellcraft Marine Corporation, (Aegis Corporation, UPE).	May 17, 1984.
(32) 84-0414—The Gillette Company's proposed acquisition of voting securities of Cooper Care, Incorporated (Cooper Laboratories, Incorporated, UPE).	Do.
(33) 84-0423—Lisa and Mitchel Garrett's proposed acquisition of voting securities of Shapiro and Son Bedspread Corporation and Shapson Realty Corporation (Jerry Shapiro, UPE).	Do.
(34) 84-0440—Lisa and Mitchel Garrett's proposed acquisition of voting securities of Shapiro and Son Bedspread Corporation and Shapson Realty Corporation, (Sidney Shapiro, UPE).	Do.
(35) 84-0457—A. Alfred Taubman's proposed acquisition of voting securities of Woodward and Lothrop Incorporated.	Do.
(36) 84-0472—John B. Anderson's proposed acquisition of voting securities of Dunes Hotels and Casinos, Incorporated.	Do.
(37) 84-0475—Theo Albrecht's proposed acquisition of voting securities of Albertson's Incorporated.	Do.

FOR FURTHER INFORMATION CONTACT:
Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 84-14040 Filed 5-24-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on May 18.

Public Health Service

National Institutes of Health

Subject: Feasibility Study for the Acquisition, Quality Assurance and Distribution of Biological Response Modifiers—New
Respondents: Users and suppliers of biological response modifiers
Subject: Qualifications Evaluation Inquiry (0925-0036)—Reinstatement
Respondents: Individuals

Alcohol, Drug Abuse, and Mental Health Administration

Subject: Simulation of Gambling Responses on the Addiction Research Center Inventory—New
Respondents: Individuals
OMB Desk Officer: Fay S. Iudicello.

Health Care Financing Administration

Subject: Home Health Agency—Request for Certification in the Medicare/Medicaid Program and the Home Health Agency Survey Report Form—Existing Collection
Respondents: State health agencies under contract to the Health Care Financing Administration
Subject: Information Collection in Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program Regulation (BERC-506-F), Sections 441.56(a)(2)(i)-(iv), 441.56(d), 441.58(b), 441.60(a)(4) and 5, and 441.61(a)—New
Respondents: Medicaid state agencies
Subject: Forms Order—Existing Collection
Respondents: Computer firms that bill for intermediaries and carriers
OMB Desk Officer: Fay S. Iudicello.

Social Security Administration

Subject: Annual Report of Earnings SSA-777 and SSA-7770 (0960-0057)—Extension/No Change
Respondents: Selective social security beneficiaries
Subject: Federal Annual Magnetic Tape Reporting Request for Authorization SSA-2478 thru SSA-2482 (0960-0307)—Extension/No Change
Respondents: Businesses, state and local governments, and other institutions
Subject: System Status Report (SSA-1171)New
Respondents: State agencies administering AFDC programs
Subject: Partnership Questionnaire (0960-0025)—Extension/No Change
Respondents: Individuals
OMB Desk Officer: Milo Sunderhauf.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503; Attn: (name of OMB Desk Officer).

Dated: May 18, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-13960 Filed 5-24-84; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D-84-762; FR-1803]

Delegation of Authority With Respect to the Approval and Sanctioning of Mortgagees Under the Department's Direct Endorsement Program

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

ACTION: Notice of delegation of authority.

SUMMARY: With respect to the approval of mortgagees to participate in the Department's single family Direct Endorsement mortgage insurance

program, and the sanctioning of mortgagees as a result of noncompliance with Direct Endorsement requirements, the Assistant Secretary for Housing—Federal Housing Commissioner has determined that the authority to approve mortgagees and to take sanctions should be redelegated to HUD field office staff.

EFFECTIVE DATE: May 21, 1984.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On Tuesday, March 22, 1983, a Final Rule on Direct Endorsement processing was published in the **Federal Register** (48 FR 11928). The rule became effective on May 3, 1983. The purpose of the Direct Endorsement program is to simplify and expedite the process by which mortgagees can secure mortgage insurance endorsements from HUD. Under this program, the mortgagee underwrites and closes the mortgage loan and submits the mortgage to HUD for endorsement, without prior HUD review, approval or commitment. The rule sets forth specific requirements mortgagees must meet in order to participate in the program. The rule also sets forth sanctions which the Department may take against mortgagees which fail to comply with the program requirements. The purpose of this Notice is to redelegate the authority to approve and sanction mortgagees, for Direct Endorsement purposes only, from the Assistant Secretary for Housing—Federal Housing Commissioner to HUD staff in the field offices. This redelegation of authority will expedite the approval process and will enable the Department to respond quickly to instances of mortgagee noncompliance.

Accordingly, the Assistant Secretary for Housing—Federal Housing Commissioner redelegates:

To the position of Regional Administrator—Regional Housing Commissioner, and under his/her general supervision to the position of Director, Office of Housing in each Regional Office; and under the general supervision of the Regional Administrator—Regional Housing Commissioner to the positions of Manager and Chief in the field offices; and under their general supervision to the position of Director, Housing Development Division, the following authorities:

(a) To approve a mortgagee for partcipation in the Department's single family Direct Endorsement mortgage insurance program, as set forth in § 200.164, paragraphs (a) through (g), Chapter II, Title 24 of the Code of Federal Regulations.

(b) To take sanctions against a mortgagee as a result of noncompliance with the requirements of the Direct Endorsement program, as set forth in § 200.164(h), Chapter II, Title 24 of the Code of Federal Regulations.

Authority: Sec. 211, National Housing Act (12 U.S.C. 1715(b)); Section 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Dated: May 21, 1984.

Shirley M. Wiseman,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-14103 Filed 5-24-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[N-38196]

Nevada; Airport Lease Application Amended

Notice is hereby given that pursuant to the Act of May 24, 1928, (49 U.S.C. 211-214), General Recreation Products Corporation has applied to amend their airport lease application N-38196, to request the following described lands:

Mount Diablo Meridian, Nevada

T. 18 S., R. 60 E.,
Sec. 30, Lots 3, 4; SE¼SW¼;
Sec. 31, Lots 1, 2, 3, 4; E½W½; W½NE¼; SE¼NE¼; SE¼;
Sec. 32, SW¼SW¼;
T. 19 S., R. 60 E.,
Sec. 5, Lots 3, 4; S½NW¼;
Sec. 6, Lots 1, 2, 3, 4; Lots 5, 9; S½NE¼; SE¼NW¼; E½E½SW¼; W½NE¼ SW¼; W½E½NW¼SW¼; SE¼;
Sec. 7, NE¼; NE¼NW¼.

The purpose of this notice is to inform the public that the filing of this amended application segregated the prescribed public lands from all other forms of appropriation under the public land laws. Interested persons desiring to express their views should promptly send their comments together with their name and address to the Las Vegas District Manager, Bureau of Land Management, P.O. Box 26569, Las Vegas, Nevada 89126.

William Calkins,

Acting District Manager.

[FR Doc. 84-14117 Filed 5-24-84; 8:45 am]

BILLING CODE 4310-HC-M

Vale District Meeting

A public meeting will be held Friday, June 22nd to discuss the use of helicopters in gathering horses from the Cottonwood Creek Wild Horse Herd. All 120 horses in the herd area are planned to be removed from public lands.

The meeting will be held at 11:00 A.M. in the Conference Room of the Vale District Office, 100 East Oregon Street, Vale, Oregon 97918.

Fearl M. Parker,

District Manager.

[FR Doc. 84-13898 Filed 5-24-84; 8:45 am]

BILLING CODE 4310-33-M

Bureau Forms Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Copies of the proposed information collections requirement and related forms and explanatory material may be obtained by contacting the Bureau of Land Management's (BLM) clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearnace Officer and the Office of Management and Budget Reviewing Official at 202-395-7340.

Title: 43 CFR 2920, "Land Use Application and Permit"
Bureau Form Number: 2920-1
Frequency: Once

Description of Respondents: Individuals, State and local government entities, and other qualified proponents applying for use of BLM administered land via lease, permit, or easement.

Annual Responses: 435
Annual Burden Hours: 3230
Bureau Clearance Officer (alternate): Linda Gibbs at 202-653-8853

Dated: April 20, 1984.

James M. Parker,

Acting Director.

[FR Doc. 84-14052 Filed 5-24-84; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Stagecoach Project, Oak Creek, Routt County, Colorado; Intent To Prepare a Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare a draft environmental impact statement for the proposed Stagecoach Project, Colorado.

The Upper Yampa Water Conservancy District of Routt County, Colorado, has given the Bureau of Reclamation a notice of intent to apply for a loan under the Small Reclamation Projects Act of 1956 (Pub. L. 84-984) as

amended. Under this program, the Upper Yampa Water Conservancy District will be responsible for planning, design, construction, operation, maintenance, and repayment of project costs. The district has contracted with a private consultant to prepare an environmental assessment report. This report will be a basis for preparation of the draft environmental statement which is expected to be available for public review in 1985. In addition, this process will insure compliance with Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands).

The Project is tentatively planned to consist of a dam and reservoir with recreation facilities. From preliminary water needs studies, the annual reservoir demands are expected to be 4,000 acre-feet of irrigation water, 10,000 acre-feet of industrial water, 1,000 acre-feet of municipal water, and 15,000 acre-feet for recreation, fish and wildlife. The design capacity of the reservoir is expected to be approximately 34,000 acre-feet, with an active capacity of about 15,000 acre-feet. The remaining storage of approximately 4,000 acre-feet will be for sediment deposition. The tentative damsite is located about 18 miles south of Steamboat Springs and 4 miles east of Oak Creek on the Yampa river.

The draft environmental statement will analyze the specific impacts of the dam, reservoir, river depletions, site specific uses of water, and changes in flow patterns. Projected water uses will be correlated with population and development projections to provide a programmatic impact analysis. Other possible alternatives will also be analyzed such as no action, a smaller reservoir, a larger reservoir, and offstream sites.

Scoping will be carried out to receive public input from interested organizations and individuals for the impact analysis. This process will aid in identifying and ranking significant issues. The district and their consultant will hold scoping meetings on June 13, 1984, at 2 p.m. at the Social Services Building, room 711, 1575 Sherman Street, Denver, Colorado 80204 and on June 14, 1984, at 7:30 p.m. at the Community Center, 12th Street, Steamboat Springs, Colorado.

Anyone interested in this project or the draft environmental statement should contact Mr. Donald Bruemmer, 125 South State Street, P.O. Box 11568, Salt Lake City, Utah 84147, phone 801–524–5535.

Dated May 22, 1984.

Robert A. Olson,

Acting Commissioner.

[FR Doc. 84–14152 Filed 5–24–84; 8:45 am]

BILLING CODE 4310–09–M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Land Reclamation Program; Grant Application From the State of Wyoming Addressing All Coal-Related Impacts From Pre-August 3, 1977, Mining Practices

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

ACTION: Use of abandoned mine land funds for non-coal projects in Wyoming.

SUMMARY: In a **Federal Register** notice on March 5, 1984 (49 FR 8091), the Office of Surface Mining (OSM) announced the certification by the State of Wyoming that following its next proposed Abandoned Mine Land Reclamation (AMLR) grant application under the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87 (SMCRA), if approved and funded by OSM, it will have addressed, for the present, all known existing coal-related impacts in the State eligible for funding under the SMLR Program.

The **Federal Register** notice requested public comment on the State's certification and on OSM's policy for funding future State grant requests for coal-related impacts that might occur. Since no new coal-related problems were identified during the review and comment period, OSM intends to accept the State's certification and allow the State to submit in its annual grant application requests for funding of noncoal reclamation projects not directly related to the protection of the public health or safety.

FOR FURTHER INFORMATION CONTACT: James Fary, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Ave., NW., Washington, D.C. 20240, Telephone (202) 343–7946 or William Powell, Casper Field Office, Office of Surface Mining, P.O. Box 1420, 935 Pendall Boulevard, Mills, Wyoming 82644, Telephone (307) 261–5827.

SUPPLEMENTARY INFORMATION: Title IV of SMCRA established an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. The program is funded by a reclamation fee on the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State and other Federal law.

Each State having within its borders coal-mined lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary a State Reclamation Plan demonstrating its capability for administering an abandoned mine lands reclamation program.

Upon approval of the State Reclamation Plan by the Secretary, the State may submit to OSM on an annual basis an application for funds to be expended in that State on specific reclamation projects which are necessary to implement the approved State reclamation plan. Such annual requests are reviewed and approved by requirements of 30 CFR Part 886.

AMLR funds are to be utilized to address the problems caused by past mining in the following order. First, reclamation efforts are to be directed at correcting or mitigating the problems caused by past coal mining. Certain noncoal mining-related problems may also be addressed at the same time, however, if they involve direct threats to the public health or safety. Second, following the completion of all coal-related impacts, a State program may then direct its efforts to alleviating the problems caused by all other types of mining. Finally, when all coal- and noncoal-related impacts have been addressed, and if certain other conditions set forth in section 402(2) of SMCRA are satisfied, AML funds may be used for construction of specific public facilities in communities impacted by coal mining development.

Under Section 409 of SMCRA, funding for noncoal reclamation projects, not directly related to the protection of the public health or safety, may be approved only after a State has addressed all reclamation with respect to abandoned coal mined lands. Monies available for all noncoal reclamation projects, regardless of their priority, however, may be derived only from those funds allocated to the States under section 402(g)(2) of SMCRA. Secretarial share funds, by statute, on the other hand, may be utilized only to address coal-related impacts from abandoned mine lands.

On February 14, 1983, the Wyoming Abandoned Mine Land Plan was officially approved by the Department. Since this Plan approval, the State has received OSM approval of

approximately 107 coal construction sites at a total reclamation cost of $36,013,417. In addition, 14 noncoal construction sites at a cost of $407,066 have also been approved by OSM. At the current time the State of Wyoming has approximately $75 million in its State share of the SML Fund. In addition, under the latest draft version of the Secretary's policy for allocating the Secretarial share of the AML Fund, the State would have had available for coal-related impacts approximately $24 million.

At the end of 1983, the State of Wyoming officially notified OSM that, following the submission in June 1984, of the Hanna Subsidence Project in Hanna, Wyoming, the State will have addressed all of its known coal impacted areas. Accordingly, it is requesting additional funds to reclaim low priority noncoal sites. The Surface Mining Act, however, provides that the Secretary may fund these lower priority noncoal projects only after all coal-related impacts have been addressed.

On March 5, 1984, the Office of Surface Mining announced in a **Federal Register** notice (49 FR 8091) the State certification and requested public comment. Only one commenter responded, however, and no new AML problems presently existing were identified.

Based on the State's certification and the absence of any known presently existing coal-related impacts, it is the opinion of the Office of Surface Mining that the requirements in Section 409 of SMCRA have been satisfied. Accordingly, the State is now able to submit in the annual grant requests noncoal projects which do not directly relate to the public health or safety.

This determination, however, means that Secretarial share funds tentatively set aside for Wyoming under OSM's draft allocation policy for reclamation of abandoned coal mine lands will no longer be available to the State.

Disposition of Comments

Only one commenter responded to OSM's March 5, 1984, **Federal Register** notice. This commenter's opinion was considered and is addressed in the following preamble. The comments received are available for inspection at the Casper Field Office, Office of Surface Mining, P.O. Box 1420, 935 Pendell Boulevard, Mills, Wyoming 82644.

This commenter raised the following concerns:

First, that the State Plan should have a provision that allows for continuation of funding for future reclamation projects in Rock Springs, Wyoming; second, that future plans, yet unfunded, should take precedence over noncoal projects; and third, this commenter requests OSM involvement in securing for the State of Wyoming seed money for a State subsidence insurance program.

This commenter should be assured that both OSM and the State are acutely aware of the potential subsidence-related problems faced by various communities in Wyoming. To deal with such potential threats, the State previously requested monies for the creation of a subsidence reserve fund. This request, however, was denied as contrary to Title IV of SMCRA and Federal grants regulations.

As an alternative for handling future problems, the State has agreed to a plan which would give top priority to any coal-related problem that occurs during the life of the AML program; that is, if and when a coal-related problem occurs which meets the eligibility requirements of Section 404 of SMCRA, the State would seek the immediate funding for the reclamation efforts. This plan is acceptable to OSM. The State currently has approximately $75 million alloted to its State-share of the AML Fund. Based on these figures, the State appears to have the ability to fund all potential coal problems, if they occur, during the life of the AML program.

Finally, OSM is currently considering involvement in securing the seed money for a subsidence insurance program and will be contacting the States in the near future concerning this project.

Dated: May 18, 1984.

William B. Schmidt,

Assistant Director, Program, Operations & Inspection Office of Surface Mining

[FR Doc. 84-14084 Filed 5-24-84; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395-7340.

Type of Clearance: Revision
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Application by Motor or Water Carrier for Temporary Authority Under Section 10928 of the I.C. Act.
OMB Form No.: 3120-0038 & 3120-0001
Agency Form No.: New Number OCCA-95 (old numbers OP-MCB-95 & OP-WC-25)
Frequency: On occasion
Respondents: Motor & Water Carriers
No. of Responsents: 8,000
Total Burden Hrs.: 16,000

James H. Bayne,

Secretary.

[FR Doc. 84-14072 Filed 5-24-84; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide updated notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intent to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Burlington Northern Inc., 999 Third Avenue, Seattle, Washington 98104-4097.

2. Wholly-owned subsidiaries which will participate in the operations and states of incorporation:

Company and State of Incorporation

(1) Burlington Northern Airmotive Inc., Wold Chamberlain Field, Minneapolis, Hennepin County, Minnesota—Minnesota
(2) Burlington Northern Dock Corporation, 176 East Fifth Street, St. Paul, Minnesota 55101—Delaware
(3) BN Financial Services Inc., 176 East Fifth Street, St. Paul, Minnesota 55101—Delaware
(4) Burlington Northern International Services Inc., Suite 2300, First Interstate Center, 999 Third Avenue, Seattle, Washington 98104—Delaware
(5) Burlington Northern (Oregon-Washington) Inc., P.O. Box 571, Portland, Oregon 97207—Oregon
(6) Burlington Northern Railroad Properties Inc., 176 East Fifth Street, St. Paul, Minnesota 55101—Delaware
(7) Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, Minnesota 55101—Delaware
(8) BNT Terminals, Inc., 6775 East Evans Avenue, P.O. Box 22694, Wellshire Station, Denver, Colorado 80222—Delaware

(9) Burlington Northern Trading Company Inc., Suite 2300, First Interstate Center, 999 Third Avenue, Seattle, Washington 98104—Delaware
(10) BN Transport Inc., 6775 East Evans Avenue, P.O. Box 22694, Wellshire Station, Denver, Colorado 80222—Delaware
(11) Clarkland, Inc., Suite 1660, One Centerre Plaza, St. Louis, Missouri 63101—Missouri
(12) Clarkland Royalty, Inc., Fort Worth, Texas and St. Louis, Missouri—Texas
(13) Colt Intermodal Inc., 6775 East Evans Avenue, P.O. Box 22694, Wellshire Station, Denver, Colorado 80222—Delaware
(14) Dreyer Bros., Inc., 1111 Third Avenue, Suite 1000, Seattle, Washington 98101—Montana
(15) El Can Petroleum Company, P.O. Box 1492, El Paso, Texas 79978—Delaware
(16) EPX Company, P.O. Box 1492, El Paso, Texas 79978—Texas
(17) Ex-Mission Ranches, Inc., P.O. Box 1492, El Paso, Texas 79978—Delaware
(18) El Paso Natural Gas Building Co., P.O. Box 1492, El Paso, Texas 79978—Texas
(19) El Paso del Peru Company, P.O. Box 1492, El Paso, Texas 79978—Delaware
(20) El Paso Development Company, P.O. Box 1492, El Paso, Texas 79978—Delaware
(21) El Paso Exploration Company, P.O. Box 1492, El Paso, Texas 79987—Delaware
(22) Federal Transport, Inc., 1829 Merriam Lane, Kansas City, Kansas 66106—Delaware
(23) Glacier Park Boulder Company, 1111 Third Avenue, Suite 1000, Seattle, Washington 98101—Delaware
(24) Glacier Park Company, 1111 Third Avenue, Suite 1000, Seattle, Washington 98101—Delaware
(25) Glacier Park Denver Company, 1111 Third Avenue, Suite 1000, Seattle, Washington 98101—Delaware
(26) Glacier Park Liquidating Company, 1111 Third Avenue, Suite 1000, Seattle, Washington 98101—Minnesota
(27) Heritage Glacier Park Company, 1111 Third Avenue, Suite 1000, Seattle, Washington 98101—Delaware
(28) Intermodal Transportation of America Inc., 999 Third Avenue, 22nd Floor, Seattle, Washington 98104–4097—Delaware
(29) Maplewood Glacier Park Company, 1111 Third Avenue, Suite 1000, Seattle, Washington 98101—Delaware
(30) Meridian Land & Mineral Company, First Northwestern Bank Center, Billings, Montana 59101—Montana
(31) Milestone Petroleum Inc., 5613 DTC Parkway, Englewood, Colorado 80111—Delaware
(32) 906 Olive Corporation, Suite 1660, One Centerre Plaza, St. Louis, Missouri 63101—Missouri
(33) Northern Rockies Pipe Line Co., 5613 DTC Parkway, Englewood, Colorado 80111—Delaware
(34) Osage Milestone Petroleum Inc., 5613 DTC Parkway, Englewood, Colorado 80111—Delaware
(35) Plum Creek Timber Company, Inc., Suite 2300, First Interstate Center, 999 Third Avenue, Seattle, Washington 98104—Delaware
(36) R–H Holdings Corporation (Registered Agent and Office), The Corporation Trust Company, 100 West 10th Street, Wilmington, County of New Castle, Delaware 19801—Delaware
(37) Saxony Corporation, 5613 DTC Parkway, Englewood, Colorado 80111—Illinois
(38) Tennessee Glacier Park Company, 1111 Third Avenue, Suite 1000, Seattle, Washington, 98101—Delaware
(39) The El Paso Company, P.O. Box 1492, El Paso, Texas 79978—Delaware
(40) Washington Glacier Park Company, 1111 Third Avenue, Suite 1000, Seattle, Washington 98101—Delaware
(41) Western Fruit Express Company, 176 East Fifth Street, St. Paul, Minnesota 55101—Delaware

1. Parent corporation and address of principal offices: Emhart Corporation (a Virginia Corporation), 426 Colt Highway, Farmington, CT 06032.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

Emhart Industries, Inc. (a Connecticut Corporation), 426 Colt Highway, Farmington, CT 06032
USM Corporation (a New Jersey Corporation), 181 Elliott Street, Beverly, MA 01915
Hill Refrigeration Corporation (a California Corporation), 5804 E. Slauson Avenue, Los Angeles, California 90040
Fellows Corporation (a Delaware Corporation), Precision Park, North Springfield, VT 05150
Mallory Components Sales Corporation (a Delaware Corporation), 3029 East Washington Street, Indianapolis, IN 46206
Notifier Company (a Connecticut Corporation), 560 Alaska Avenue, Torrance, CA 90503
Texon, Inc. (a Connecticut Corporation), South Hadley, Massachusetts 01075
PCI Group Inc. (a Massachusetts Corporation), New Bedford, Massachusetts 02741

1. Name and address of parent corporation or organization:

Worthington Industries, Inc., 1205 Dearborn Drive, Columbus, OH 43085.

2. Wholly-owned subsidiaries:

a. The Worthington Steel Company (a Maryland corporation)
b. The Worthington Steel Company (an Illinois corporation)
c. The Worthington Steel Company (a North Carolina corporation)
d. Worthington Cylinder Corporation
e. U-Brand Corporation (f/k/a Worthington Acquisition Corp.)
  a. Subsidiary of U-Brand Corporation
  i. U-B Leasing Corp. (f/k/a U-Brand Corporation)
f. Worthington Industries of Puerto Rico, Inc. (Delaware)
  a. Subsidiary of Worthington Industries of Puerto Rico, Inc.
  i. U-Brand Corporation of Puerto Rico, Inc. (Puerto Rico)
g. MowSafe Products, Inc.
h I. H. Schlezinger & Sons, Inc.
i. Buckeye International, Inc.
  a. Subsidiaries of Buckeye International, Inc.
  i. Warrent Molded Plastics, Inc.
  ii. B–I Sales, Inc. (Michigan)
  iii. Buckeye Energy Company, Inc.
  iv. Buckeye International Development, Inc.
  v. Bethandale Corporation
j. National Rolling Mills, Incorporated
k. NRM Trucking Co. (Delaware)

Note.—All corporations are Ohio corporations unless otherwise noted. Unincorporated divisions are not separately identified.

James H. Bayne,

Secretary.

[FR Doc. 84–14075 Filed 5–24–84; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 30460]

Illinois Central Gulf Railroad Co.; Abandonment Exemption in Yalobusha County, MS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903 *et seq.* the abandonment by Illinois Central Gulf Railroad Company of a line of railroad extending from milepost 600.7 near Coffeeville to milepost 603.0 at Bruce Junction, a distance of 2.3 miles, in Yalobusha County, MS, subject to standard labor protective conditions.

DATES: This exemption will be effective on June 25, 1984. Petitions to stay must be filed by June 4, 1984, and petitions for

reconsideration must be filed by June 14, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30460 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representive: John W. Adams, Jr., P.O. Box 8271, Mobile, AL 36608

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: May 16, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84–14071 Filed 5–24–84; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 328]

Investigation of Tank Car Allowance System

AGENCY: Interstate Commerce Commission.

ACTION: Notice of interim modification of tank car allowance formula.

SUMMARY: The Interstate Commerce Commission under authority of 49 U.S.C. 11122 and 10747 and 10324(b) is modifying portions of the Tank Car Allowance Agreement, approved in a decision served June 15, 1979, generally relating to the formula for computation of the allowances. The modifications would remain in effect until September 1, 1985. The current December 1, 1983 deadline for reaching a final agreement will also be extended to September 1, 1985, unless modified by further order of the Commission.

DATES: Petitions to reopen must be filed by June 14, 1984.

ADDRESS: Pleadings referring to Ex Parte No. 328 should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission,, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

This action will not significantly affect the quality of the human environment or energy conservation.

We certify that this modification of our prior decision served June 15, 1979, will not have a significant economic impact upon a substantial number of small entities. In this proceeding, we are merely modifying for a limited time the formula by which tank car allowances are computed in accordance with the agreement of the railroads and most tank car owners and lessors.

Authority: 49 U.S.C. 10321, 10324(b), 10747, and 11122 and 5 U.S.C. 553.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84–14069 Filed 5–24–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–52 (Sub-No. 31X)]

The Atchison, Topeka and Santa Fe Railway Co.; Abandonment in Tazewell County, IL; Exemption

The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is the Morton Industrial Spur line extending between milepost 36.62 near Pekin Junction and milepost 42.51 near Crandall, a distance of 5.89 miles, in Tazewell County, IL.

Santa Fe has certified: (1) That no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Illinois has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on June 24, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by June 4, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by June 14, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Mr. Michael W. Blaszak, 80 East Jackson Boulevard, Chicago, IL 60604.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: May 21, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84–14068 Filed 5–24–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–52 (Sub-No. 29X)]

The Atchison, Topeka and Santa Fe Railway Co.; Abandonment in Fresno County, CA; Exemption

The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is the Wahtoke District, extending from milepost 2.00 at Radwin (near Reedley) to the end of the line at milepost 6.24 near Cella, a distance of 4.24 miles, in Fresno County, CA.

Santa Fe has certified: (1) That no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in California has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—*

Abandonment—Goshen, 360 I.C.C. 91 (1979).

The exemption will be effective on June 24, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by June 4, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by June 14, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Mr. Michael W. Blaszak, 80 East Jackson Boulevard, Chicago, IL 60604.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: May 21, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-14073 Filed 5-24-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-No. 112X)]

Illinois Central Gulf Railroad Co.; Abandonment in Champaign and Piatt Counties, IL; Decision

Decided: May 22, 1984.

A notice of exemption for abandonment of an out-of-service line of railroad under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* was published in the **Federal Register** on April 25, 1984. The line to be abandoned is an Illinois Central Gulf Railroad Company (ICG) line between milepost 11 near Seymour and milepost 15 near White Heath, a distance of approximately 4 miles, in Champaign and Piatt Counties, IL. The exemption becomes effective May 25, 1984.

On May 7, 1984, the Illinois Commerce Commission (ILCC) and Patrick W. Simmons, Illinois Legislative Director for the United Transportation Union (UTU), jointly filed a petition to stay the effective date of the notice. In a telegram dated May 7, 1984, Cisco Cooperative Grain Company (Cisco Grain) also seeks a stay. ICG filed a reply on May 12, 1984. On May 15, 1984, ILCC and UTU jointly filed an additional petition for stay pending judicial review. The petitions for stay are without merit and will be denied.

Petitioners have not presented justification for a stay in accordance with the criteria enunciated in *Washington Metropolitan Area, Holiday Tours, Inc.*, 559 F.2d 841 (D.C. Cir. 1977). Most important, petitioners have not presented a substantial case addressing serious legal questions that will likely cause reversal on reconsideration.

In accordance with the rules established in *Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983), ICG certified that no local traffic has moved over the line for at least two years and that any overhead traffic can be rerouted over other lines. ICG also certified that no complaint involving a user of service on the line is pending or has been decided against the carrier for the two-year period. Petitioners have not challenged ICG's certification.

ILCC and UTU argue that the rules relating to out-of-service lines are invalid because they allow abandonment for lack of local service if an alternative route exists for overhead traffic—even though the alternative route may be less efficient for the overhead business. ILCC and UTU attempt to support their position with unverified "supplemental facts". The Commission has long held that routing for overhead traffic is a matter of managerial discretion. Petitioners' argument concerning efficiencies of overhead routing is without merit.

ILCC and UTU also seek a stay of the rules in *Out of Service Rail Lines, supra*. A petition for review of those rules is now pending in the United States Court of Appeals for the District of Columbia Circuit (No. 83-1836). The Court of Appeals did not stay the implementation of these rules pending its decision, and the rules have been in effect for several months. It would be inappropriate to stay those rules in this decision.

Cisco Grain argues that it is acquiring another ICG line and that it needs the line involved here to operate with that line. It argues that this exemption prevents it from also acquiring the involved line under 49 U.S.C. 10905. However, the small amount of traffic on the other line which Cisco Grain is acquiring does not move over the line involved here, and would not be affected by this abandonment exemption. In any event, Cisco Grain is free to enter negotiations with ICG regarding sale of this line even without 49 U.S.C. 10905.

In view of the above, it is not likely that petitioners will prevail on reconsideration. Additionally, petitioners have not shown that they will be irreparably harmed by denial of a stay. On the other hand, ICG does incur at least some opportunity costs attributable to its continued investment in the line. Recognizing that ICG will be harmed if a stay of the effective date of the abandonment is granted, while petitioners will not be irreparably harmed by denial of a stay, and that petitioners are not likely to prevail on reconsideration, I conclude that a stay of the effective date of the exemption would not be in the public interest.

This decision does not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

1. The petitions for stay are denied.
2. This decision is effective on the date of service.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-14236 Filed 5-24-84; 8:45 am]

BILLING CODE 7035-01-M

Release on Waybill Data For Use in Preparing Bids for Conrail Acquisition

Pursuant to 49 CFR Part 1244, the Commission requires rail carriers to file waybill sample information for all line-haul revenue waybills terminated on their lines if they terminate at least (1) 4,500 revenue carloads, or (2) 5 percent of the revenue carloads terminating in any state in any of the three preceding years. Commission rules allow release of waybill data only under certain restrictions and, except for use in cases before the Commission, only after public notice. 49 FR 40328 September 6, 1983; see 49 CFR 1011.7(f).

Although the question of acquisition of Conrail is not a matter pending before the Commission, we intend to treat it as one for purposes of releasing waybill data to consultants acting for any party requesting the data in order to prepare or to determine whether to propose a bona fide bid for Conrail. Release of the data will be subject to the usual protective conditions imposed in connection with release of waybill data which include: (1) Information contained in the waybill documents is made available only to members of the consulting firm; (2) waybill information released shall be used solely for the filing of bids for Conrail; (3) after completion of the case, the consulting firm must agree to return to the Comission all materials obtained under this notice; (4) data shall not be released

by the consultant except in aggregated form, i.e. at least three shippers.

In addition, in response to a request by the Chessie System (CSX) that it be allowed to receive from its consultant data in form which would otherwise be provided by our usual procedures, we intend to make an exception to the usual confidentiality requirements outlined above and allow CSX's consultants to release information to their clients as follows:

(1) In terms of corridors, movements between Business Economic Areas;

(2) In terms of commodities, 2 digit STCC;

(3) In terms of carriers participating, CSX, Norfolk Southern, and Conrail. All other carriers would be aggregated in an "all other carriers" category; and

(4) There would be no shipper identification.

Specific permission to supply information to potential bidders in the manner we intend to permit it to be made available to CSX need not be obtained if this proposal is adopted.

Because of the pending June 18 deadline on bids for Conrail, objections to release this data must be received within seven calendar days of the date of this announcement. If objections are received by that date, the Director of Transportation Analysis will consider such objections in determining whether to release the waybill data to parties requesting such data in preparing a bid for Conrail under the conditions outlined above. However, because of the shortage of time, no further notice will be provided before release of the data.

James H. Bayne,

Secretary.

[FR Doc. 84-14379 Filed 5-24-84; 1:55 pm]

BILLING CODE 7035-01-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in Room 5565, Internal Revenue Service Building, 1111 Constitution Avenue, NW., in Washington, DC on June 25, 1984, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B) and to review the May 1984 Joint Board examinations in order to make recommendations relative thereto, including the minimum acceptable pass scores.

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that the subject of the meeting falls within the exceptions to the open meeting requirement set forth in Title 5, U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: May 22, 1984.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 84-14055 Filed 5-24-84; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; First State Chemical Company, Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 19, 1984, First State Chemical Company, Inc., 803 East Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II.
Oxycodone (9143)	II.
Morphine (9300)	II.
Thebaine (9333)	II.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representive (Room 1203), and must be filed no later than June 25, 1984.

Dated: May 18, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-14062 Filed 5-24-84; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application; Applied Science Laboratories Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 13, 1983, Applied Science Laboratories Inc., a Division of Altech Associate Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315)	I.
Mescaline (7381)	I.
Normorphine (9313)	I.
Dihydromorphine (9145)	I.
1-phenylcyclohexylamine (7460)	II.
Phencyclidine (7471)	II.
1-piperidinocyclohexanecarbonitrile (PCC) (8603)	II.
Codeine (9050)	II.
Benzoylecgonine (9187)	II.
Ecgonine (9180)	II.
Dextropropoxyphene (9273)	II.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than (30 days from publication).

Dated: May 18, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-14061 Filed 5-24-84; 8:45 am]

BILLING CODE 4410-09-M

Office of Juvenile Justice and Delinquency Prevention

National Advisory Committee for Juvenile Justice and Delinquency Prevention; Meeting

On April 24, 1984 on page 18054, the Office of Juvenile Justice and Delinquency Prevention announced that the thirty-first quarterly meeting of the National Advisory Committee for Juvenile Justice and Delinquency Prevention would be held on May 31, 1984. The agenda has been modified to include the following: the meeting will be held on May 31, 1984 between the hours of 9:00 a.m. and 5:00 p.m. and on June 1, 1984, beginning at 10:00 a.m. and concluding no later than 12:30 p.m.

As previously announced, the meeting will be held at the Georgetown Inn, Lafayette Room, 1310 Wisconsin Avenue, NW., Washington, D.C. The Public is welcome to attend.

For further information, please contact Roberta Dorn, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, D.C., 20531, (202) 724–7655.

Dated: May 22, 1984.

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 84–14086 Filed 5–24–84; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

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

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particulat revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or ask to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration
Job Training Longitudinal Survey
JTLS–3, 4, 6, 103, 203
Initial interview; 6 and 15 month follow-up interviews
Individuals or households
5,000 responses; 3750 hours

DOL/ETA will use the interview data to evaluate the Job Training Partnership Act (JTPA) Title IIA and III programs. A sample of 2,500 participants selected from a sample of 194 JTPA officers each quarter will be interviewed. Reasondents will be interviewed 3 times over a period of 16 months.

Signed at Washington, D.C. this 22nd day of May, 1984.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 84–14122 Filed 5–24–84; 8:45 am]

BILLING CODE 4510–30–M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Bridgeport Brass Co., et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 14, 1984—May 18, 1984.

In order for an affirmation determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–15,179; Bridgeport Brass Co., South Norwalk, CT

TA–W–15,150; The Torrington Co., South Bend, IN

TA–W–15,095; Hanimex Manufacturing, Inc., Jackson, MI

TA–W–15,209; Royal Coal Co., #5 Mine, Fayette Station, WV

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–15,204; Wharton #4 Mine, Lightfoot #1 Mine, Wharton, WV

Aggregate U.S. imports of metellurgical coal did not increase as required for certification.

TA–W–15,197; Gregory Galvanizing & Metal Processing, Inc., Canton, OH

The worker's firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA–W–15,051; PT Components, Inc., Link-Belt Industrial Chain Div., Indianapolis, IN

A certification was issued covering all workers engaged in production of small pitch power transmission roller chain separated on or after May 1, 1983.

TA–W–15,035; Alatex, Inc., Pike Plant, Troy, AL

A certification was issued covering all workers separated on or after September 16, 1982 and before November 1, 1983.

TA–W–15,036; Alatex, Inc., Troy Plant, Troy, AL

A certification was issued covering all workers separated on or after September 16, 1982 and before February 1, 1983.

TA–W–15,108; Isley Knitting Mills, Inc., Graham, NC

A certification was issued covering all workers separated on or after November 4, 1982 and before January 1, 1984.

TA–W–15,219; Inland Steel Mining Co., Minorca Mine, Virginia, MN

A certification was issued covering all workers separated on or after October 31, 1983.

TA–W–15,213; United States Steel Corp., Jacksonville, FL Sales Office

A certification was issued covering all workers separated on or after October 31, 1983 and before March 31, 1984.

TA–W–15,220; Inland Steel Mining Co., General Office, Virginia, MN

A certification was issued covering all workers separated on or after October 31, 1983.

TA–W–15,149; Selvin Shoe Co., Inc., Baltimore, MD

A certification was issued covering all workers separated on or after December 10, 1982.

TA–W–15,191; Mississippi Chemical Corp., Carlsbad, NM

A certification was issued covering all workers separated on or after January 19, 1983.

I hereby certify that the aforementioned determinations were issued during the period May 14, 1984—May 18, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 22, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–14123 Filed 5–24–84; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; General Motors Corp; et al.

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 4, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 4, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 21st day of May 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers of former workers of—	Location	Date Received	Date of petition	Petition No.	Articles produced
General Motors Corp., General Motors Assembly Div.(wkrs).	Fremont, CA	5/15/84	5/2/84	TA-W-15,328	Security staff and office workers.
Maine Woods Shoe Co., Div. of Bennett Industries (workers).	Livermore Falls, ME	5/17/84	5/14/84	TA-W-15,329	Shoes and boots—men and women.
New B Manufacturing Corp (ACTWU)	Hawthorne,	4/3/84	5/30/84	TA-W-15,330	Knitwear, suits—jogging, shorts sportswear, tops—maternity
Roots Div., Dresser Industries, Inc. (UAW)	Connersville, IN	5/14/84	5/9/84	TA-W-15,331	Blowers—industrial, pumps, compressors.
Transamerica Delaval Inc., Turbine & Commpressor Dive. (USWU).	Trenton NJ	5/15/84	5/8/84	TA-W-15,332	Turbines, compressors, pumps.
Wean United, Inc. (company)	Pittsburgh, PA	5/16/84	5/11/84	TA-W-15,333	sales and engineering.

[FR Doc. 84–14124 Filed 5–24–84; 8:45 am]

BILLING CODE 4510–30–M

Office of Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 10:00 a.m., on Thursday, June 14, 1984, in Federal Ballroom North, Quality Inn/Capitol Hill, 415 New Jersey Avenue NW., Washington, D.C.

The purpose of the meeting is to inaugurate The National Pension Forum of the ERISA Adivisory Council. The agenda will be comprised of presentations by Department of Labor officials concerning ERISA legislative history, and the present status of Department of Labor functions in discharging its obligations under Title I; and a discussion of the scope of recommendations for improvement to be considered by the Forum.

Individuals or organizations wishing to submit written statements pertaining to The National Pension Forum should send 20 copies to Edward F. Lysczek, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room S4522, Third and Constitution Avenue NW., Washington, D.C. 20216. Telephone (202) 523–8753. Papers will be accepted and included in the record of the meeting if received on or before June 8, 1984.

Signed at Washington, D.C., this 21st day of May 1984.

Robert A. G. Monks,

Administrator, Office of Pension and Welfare Benefit Programs.

[FR Doc. 84–14038 Filed 5–24–84; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–4114 et al.]

Proposed Exemptions; Chatham Steel Corporation Profit-Sharing Plan and Trust et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Chatham Steel Corporation Profit-Sharing Plan and Trust (the Plan) Located in Atlanta, Georgia

[Application No. D–4114]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the loan of $500,000 by the Plan to the Chatham Steel Corporation (the Employer) for a period of 25 years, provided the terms are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with approximately 200 participants. The Plan had total net assets of $2,200,000 as of May 31, 1982. The Plan trustee is the Savannah Bank and Trust Company (the Trustee).

2. The Employer is a Gerogia corporation engaged in the business of distributing structural steel and other metal products.

3. It is proposed that the Plan loan the sum of $500,000 (the Loan) to the Employer to provide long-term financing of approximately two-thirds of the cost of a new 14,400 square foot building (the Building) recently occupied by the Employer. The Loan will represent approximately 23 percent of the total assets of the Plan. In order to fund the Loan, the Plan will sell certain of its U.S. Government Short Term Funds.

4. The Building is located on a 40 acre tract of land (the Property) owned by the Tennenbaum family (the Owners). The Building occupies approximately 10 percent of this tract. The Owners also own the stock of the Employer.

5. The existing lease between the Employer and the Owners (the Ground Lease) which enables the Employer to occupy the Property covers a term beginning January 1, 1977 and ending December 31, 2012. The rent during the five-year period ending December 31, 1981 was $2,624 per month. During the current five-year period from January 1,

1982 to December 31, 1986, the monthly rent is $5,000. The Ground Lease provides for an adjustment of the rent at five-year intervals to "fair rental value" as determined by an agreed to appraisal (or by arbitration if an appraisal cannot be mutually agreed upon). The Ground Lease is a net lease, i.e. the Employer pays the real property ad valorem taxes, and insures and maintains the improvements located thereon. The Employer may make any use of the Property it desires under the terms of the Ground Lease, subject only to the requirement that the use be lawful. The Employer may apply for rezoning of the Property, demolish or alter any improvements, or build new improvements. It may also sell, mortgage, assign or sublet its leasehold interest in the land, in whole or in part. The buildings and other improvements located on the Property are owned by the Employer and can be removed at the end of the term of the Ground Lease. The buildings and improvements become the property of the Owners if not removed within a reasonable time after the Ground Lease expires.

6. The Loan will bear interest computed at a rate equal to the current yield of U.S. Treasury Bonds with five year maturity plus 4.5 percent, but in no event less than 10 percent. Based upon recent bond yields, an interest rate of approximately 15 percent would now be in effect. The interest rate would thereafter be adjusted on the annual anniversary date of the Loan using the same computation of interest rate.

7. The principal of the Loan will be repaid in equal quarterly installments over a period of 25 years. The interest will also be repaid in quarterly installments.

8. The Loan will be secured by a Leasehold Deed to Secure Debt (the Leasehold Deed) on the Building and the portion of the Property on which it is located, as well as all fixtures and other equipment forming part of the Building. The applicant represents that the Leasehold Deed is the type of real estate security instrument used almost universally in Georgia in lieu of a mortgage. The Leasehold Deed is a statutory security interest which performs the same function as a mortgage, but is not subject to certain equitable doctrines (such as the mortgagor's right to redeem the land after default under certain conditions). Therefore, it is represented that the Leasehold Deed is much preferred by lenders in Georgia as security for loans.

9. The Leasehold Deed contains numerous protective covenants by the Employer intended to preserve the security interest given. For example, the Employer is required to keep the improvements fully insured, pay all charges which may become a lien, and pay over any condemnation award. The Employer will also be required to prepay a portion of the Loan or to give additional security if the Plan fiduciary believes in good faith that the property subject to the Leasehold Deed has a fair market value less than 150 percent of the outstanding balance of the Loan. Other provisions of the Leasehold Deed give the Plan the full range of creditor remedies in the event of default by the Employer, i.e. the Leasehold Deed can be sold outright by the Plan or the Building and Property may be leased to another party.

10. The Trustee has confirmed by letter dated May 31, 1983 that a Leasehold Deed is the type of security interest which an experienced lender would expect to receive in a transaction similar to the Loan. Further, Ticor Title Insurance Company, an unrelated company, has represented in a letter dated May 26, 1983, that a Leasehold Deed is a well-recognized security instrument in Georgia.

11. As further security for the Loan, the Plan will be given an Agreement to Enter into Lease (the Agreement). The Agreement gives the Plan the direct contractual commitment of the Owners (the landlord): (1) Not to sell the Building and Property except subject to the rights of the Plan; (2) to give the Plan notice of default by the Employer under the Ground Lease; and (3) to enter into a new lease directly with the Plan for the portion of the Property on which the Building is located, having the same terms and conditions as the Ground Lease, if the Employer defaults on the Ground Lease. Rent under such new lease will be one-tenth of the rent then being paid by the Employer under the Ground Lease since only a portion (1/10) of the Property would be involved.

12. An independent appraisal performed by Julius Oelsner, SRA, established the value of the Building at $750,000 and the Property at $25,000 as of January 29, 1982. By letter of June 24, 1983, Mr. Oelsner established the value of the leasehold interest in the Building and the property on which it and necessary related improvements are located. He stated that the leasehold interest has a value of not less than $750,000.

13. Mr. George Hill, a retired former partner of the accounting firm of Arthur Anderson & Co., living in the Savannah, Georgia area will serve as the independent fiduciary for the Loan (the Independent Fiduciary). Mr. Hill has no relationship with the Plan, the Employer or the Trustee. The Independent Fiduciary has been retained by the Trustee to make an independent determination that the Loan is appropriate and suitable for the Plan. The Independent Fiduciary will be required to make this determination immediately prior to the consummation of the Loan. The Independent Fiduciary will thereafter make an annual review of the performance of the Loan, specifically determining whether events or circumstances have affected the collateral securing the Loan and whether such collateral remains equal to at least 150 percent of the outstanding balance of the Loan, and report to the Trustee thereon at least annually. In addition, the Independent Fiduciary will review the determination of the rate of interest which will be adjusted each year on the anniversary of the Loan. The Independent Fiduciary will be entitled to such information from the Employer and the Plan as he may reasonably require in fulfilling his responsibilities (including independent appraisals). The Trustee will follow the lawful directions of the Independent Fiduciary given to protect the interests of the Plan. In the event the Independent Fiduciary becomes incapacitated, the Trustee will appoint another unrelated, qualified and independent person or institution to serve as Independent Fiduciary.

13. The Independent Fiduciary has made the following representations in connection with the Loan:

(1) He has consulted with counsel as to his duties, obligations, and liabilities with respect to his role as independent fiduciary under the specific provisions of the Act;

(2) He has reviewed the proposed interest rate for the Loan and specifically considered whether the yield to maturity of United States Treasury debt obligations having a five year maturity is an appropriate index for determining the interest payable to the Plan on the Loan, with the 4.5 percent addition to such yield, and has determined that this is an accurate and reliable method for determining the value of money for a loan of this type and term and will produce an interest rate that is the same or greater than the rate that would be charged for comparable mortgage loans made by commercial lenders in Savannah, Georgia;

(3) He has reviewed the Building, the Leasehold Deed and other collateral for the Loan and determined that it is protective of the Plan because it has a value of 150 percent or more of the amount of the Loan. The Independent Fiduciary notes that while the value of the Leasehold Deed will necessarily

decline over time, the unpaid balance of the Loan will likewise decline. Under the Leasehold Deed, he can require the Employer to either repay a portion of the Loan or to post additional collateral if there is concern about the adequacy of the Building and the Leasehold Deed as security for the Loan; and

(4) He has considered the Loan in terms of the overall financial objectives of the Plan after taking into account the Plan's present portfolio and alternative investment opportunities. He represents that, in his judgment, the opportunity for the Plan to invest approximately 23 percent of its assets in a long-term loan paying 4.5 percent above U.S. Treasury Bonds is entirely consistent with the Plan's financial objectives and represents a prudent investment for the benefit of Plan participants.

14. In summary, the applicant represents that the proposed Loan meets the statutory criteria of section 408(a) of the Act because:

(1) The Loan represents less than 25 percent of the total assets of the Plan;

(2) The Plan will receive a fair market value interest rate for the Loan;

(3) The Loan will be adequately secured; and

(4) The Independent Fiduciary has determined that the Loan is in the best interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Vern Hammarlund, Inc. Employees Profit Sharing Trust (the Plan) Located in Troy, Michigan

[Application No. D–4320]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1) (A) through (E) of the Code shall not apply to the sale of a limited partnership interest in Birmingham Place (the Partnership) by the Plan to Mr. Vernon W. Hammarlund (Mr. Hammarlund), a party in interest with respect to the Plan, provided the terms and conditions of sale are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a profit sharing plan that has two participants (the Participants) and total assets of approximately $170,000 as of December 1, 1983. The Participants are Mr. Hammarlund and his brother Jerry Hammarlund. The investment decisions of the Plan are made by Mr. Hammarlund, who is the sole shareholder of Vern Hammarlund, Inc. (the Employer).

2. On June 30, 1980, the Plan purchased a 1.75% interest in the Partnership (the Partnership Interest), located in Birmingham, Michigan for $100,000 from an unrelated party. Since the original purchase by the Plan of the Partnership Interest, the Plan has paid an additional $20,000 into the Partnership. The business of the Partnership is the ownership and opertation of a building (the Building), located in Brimingham, Michigan. The Building contains residential apartments, office suites, and commercial businesses. It is represented by Mr. Paul H. Johnson (Mr. Johnson), the general partner of the Partnership, that the apartment space is 97% rented, the commercial businesses are approximately 80% rented, but the office space in only 20% rented. There is approximately $1,000,000 of unrented office space in the Building. The applicant represents neither Mr. Johnson nor other partners is the Partnership, nor the lessees of the Building are parties in interest with respect to the Plan. The Partnership Interest represents approximately 71% of the Plan's assets.[1]

3. The Partnership Interest has been and continues to be non-income producing. The applicant represent that the Plan's Partnership Interest generated losses of $13,404.55 in 1982 and $25,097.04 in 1983. Despite these losses, it is represented that the Plan was not required to make any further capital contributions to the Partnership beyond its $120,000 investment. Further, the applicant represents that should there be any profits they may be subject to unrelated business income tax.

4. Mr. Johnson, in a letter dated February 4, 1983, stated that the value of the Plan's Partnership Interest was $120,000. Mr. Johnson also stated that there was one prior sale of a partnership interest and the price paid was the same amount as the original investment.

5. The Plan proposes to sell its Partnership Interest to Mr. Hammarlund, for $120,000 in cash. The applicant represents that the sale would: (a) Eliminate an investment which produces no return; (b) provide funds for more profitable investiments and help diversify the Plan's assets; and (c) provide the Plan with greater liquidity with which to meet its obligations. No sales commissions would be paid in connection with the sale.

6. In summary, the applicant represents that the proposed sale by the Plan would meet the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sale is a one-time transaction for cash; (b) the Plan will be able to dispose of an investment which is non-income producing and reinvest the proceeds in assets earning a greater return; and (c) the sale price, which has been represented to be the fair market value of the Partnership Interest by Mr. Johnson, is equal to the Plan's total cost outlay for the investment.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number).

American Savings Pension Plan (the Pension Plan) and American Savings Profit Sharing Plan (the Profit Sharing Plan) (collectively, the Plans) Located in Salt Lake City, Utah

[Application Nos. D–4712 and D–4713, respectively]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective February 3, 1981, to certain interest-bearing loans (the Loans) from American Savings & Loan Association (the Association) to the Plans.

Effective Date: If the proposed exemption is granted, it will be effective February 3, 1981.

Summary of Facts and Representations

1. The Association, a stock company chartered under the laws of the State of Utah, is regulated by the Federal Home Loan Bank Board and is also subject to the rules and regulations of the Federal Home Loan Mortgage Corporation and the Federal Savings & Loan Insurance Corporation.

[1] In this proposed exemption the Department expresses no opinion as to whether the Plan's investment violated any provision of Part 4 of Title I of the Act.

The Plans are sponsored by the Association for its employees. As of December 31, 1980, the Pension Plan had 377 participants and $1,739,769 in assets and the Profit Sharing Plan had 513 participants and $4,648,122 in assets. Members of the Plan's Trust Committees (the Committees), which are identical for both Plans and are comprised of officers, directors and employees of the Association, make all investment decisions for the Plans.

2. Historically, the Plans have invested the major portion of their assets in time certificates of deposit (C.D.s) issued by the Association. In early 1981, the Committees reviewed the Plans' investments as of the fiscal year end, December 31, 1980. They were concerned about the low yield provided by some of the C.D.s in the investment portfolios of the Plans, particularly in light of the then-current interest rates available on C.D.s. The Plans held a number of C.D.s, which had been purchased years previously, earning interest as low as 7.75% per annum, while the Association was then paying as much as 17% per annum on some C.D.s. This wide disparity between the rate paid on C.D.s held by the Plans versus the current rates available was viewed by the Committees as a potential income loss for the Plans which could be avoided if the Plans borrowed against the old C.D.s to buy new, higher-rate C.D.s. The Committees also considered that through such a course of action early withdrawal penalties on the old C.D.s would be avoided, thus making available substantially higher sums for subsequent investment.

The Committees requested an analysis of the financial impact of borrowing against the old C.D.s to invest in new C.D.s versus cashing in the old C.D.s, paying the attendant early withdrawal penalties and investing the net proceeds in new C.D.s. The analysis, which was prepard by the Accounting Department of the Association, indicated that using loan proceeds to purchase C.D.s having interest rates as little as ¼ of 1% above the rate of interest on the pledged C.D. would result in increased revenue to the Plans and provided a better return than could be achieved by cashing in the old C.D.s.

At meetings of the Committees on January 27, 1981, the Committees determined that it was in the best interests of the Plans to borrow against the old C.D.s and invest the proceeds in higher yielding C.D.s. Therefore, the Committees decided to obtain loans on all outstanding C.D.s, subject to the Plans' liquidity needs, and reinvest the proceeds in new jumbo C.D.s at higher rates.

3. On February 3, 1981, the Pension Plan borrowed a total of $823,723.20 from the Association in five transactions (the Pension Loans). C.D.s owned by the Pension Plan having a face value of $915,248.01 were pledged to secure the Pension Loans. The rate of interest charged on the Pension Loans was 1% above the rate of interest payable on the C.D.s collateralizing the Pension Loans, which rate was the lowest rate of interest the Association could charge under existing regulations of the Federal Home Loan Bank Board.

The proceeds of the Pension Loans were invested in C.D.s earning 17.75% whereas the interest rates on the old C.D.s ranged from 7.75% to 11%. As a result of the Pension Loans and reinvestment in higher yielding C.D.s, the Pension Plan had $1,046,956.71 cash available from these investments when they were concluded. Had the Pension Plan cashed in the old C.D.s, paid the early withdrawal penalties and reinvested the proceeds, it would have had $1,002,528.84 cash available. Thus, the Pension Plan had $44,427.87 more from the Pension Loans than it would have had from cashing in the old C.D.s. All the Pension Loans have been repaid.

4. On February 3 and 12, 1981, the Profit Sharing Plan borrowed a total of $2,304,536.13 from the Association in six transactions (the Profit Sharing Loans). C.D.s having a face value of $2,560,595.70 were pledged to secure the Profit Sharing Loans. As with the Pension Loans, the rate of interest charged on the Profit Sharing Loans was 1% greater than the earnings rate on the C.D.s collaterilizing the Profit Sharing Loans.

The old C.D.s which collateralized the Profit Sharing Loans bore interest ranging from 7.75% to 12.75%. The new C.D.s acquired from the proceeds of the Profit Sharing Loans earned interest ranging from 14% to 17.75%. As a result of the Profit Sharing Loans, the Profit Sharing Plan had a gain of $141,334.46 over the amount it would have had by cashing in the old C.D.s and reinvesting the proceeds. The Profit Sharing Loans have been repaid.

5. The Committees are aware that the Internal Revenue Service (the Service) may take the position that the income earned by the Plans from investing the proceeds of the Pension Loans and the Profit Sharing Loans (collectively, the Loans) constitutes unrelated debt-financed income which is taxable income for the Plans. The Plans will still have a gain from the Loans even if they are liable for an income tax.

6. In summary, the Committees represent that the transactions satisfy the statutory criteria of section 408(a) of the Act for the following reasons: (A) the Loans were obtained to enable the Plans to increase their investment return; (b) the Loans were made at an interest rate which was the lowest rate the Association could charge under Federal banking regulations; (C) the Committees determined prior to engaging in the Loans that the investment gain to the Plans would be greater from the Loans than from cashing in the old C.D.s; and (D) the Committees concluded prior to engaging in the Loans that they were in the best interests of the Plans and their participants and beneficiaries.

For Further Information Contact: Mrs. Mary Jo Fite of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Crenshaw, Dupree & Milam Self-Employed Retirement Plan and Trust (the Plan) Located in Lubbock, Texas

[Application No. D–4787]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406)(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the past loan of $71,678 (the Loan) by the Plan to Crenshaw, Dupree & Milam (the Employer), provided that the terms of the Loan are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Effective Date: If granted, the exemption will be effective November 1, 1983.

Summary of Facts and Representations

1. The Plan is a self-employed retirement pension plan with 36 participants. There are no owner-employees as defined in section 401(c)(3) of the Code participating in the Plan. The Plan had total assets of approximately $1,984,234 as of June 30, 1983. The trustee of the Plan (the Trustee) is the First National Bank at Lubbock, located in Lubbock, Texas. The Trustee has complete investment authority for the Plan. The Employer, a

law firm, is a Texas general partnership, with 20 partners.

2. On September 23, 1983, the Department granted PTE 83–150, 48 FR 43425, effective November 30, 1982, to exempt the past loan of $34,331 by the Plan to the Employer. The proceeds of that loan were used to purchase certain IBM equipment then being leased to the Employer. On November 1, 1983 (after the filing of this application for exemption), the Plan loaned the Employer an additional $71,678. The proceeds of the Loan were used for the purchase of IBM equipment then being leased to the Employer by IBM and for the purchase of additional equipment (collectively, the Equipment) from IBM.

3. The Loan is evidenced by a promissory note (the Note) signed by the Employer. The Note bears interest at an annual rate of 13.75% and is payable in 36 monthly installments of principal and interest in the amount of $2,441.09 each. In a letter dated August 12, 1983, IBM represented that if the Equipment were financed by IBM, the payment terms would be set at 36 equal monthly installments of principal and interest at a 13.75% interest rate. The Note may be prepaid at any time without premium or penalty and contains specific provisions as to acceleration of maturity and payment of reasonable attorney's fees in case of default.

4. The collateral for the Loan includes a perfected security interest in the Equipment. In a letter dated October 31, 1983, IBM represented that the fair market value of the Equipment was $107,517 as of that date. However, in a letter dated December 15, 1983, IBM represented that IBM does not establish a secondary market in used IBM equipment. Subsequently, on February 2, 1984, the Employer secured a one year irrevocable letter of credit in favor of the Plan from Bank of the West, located in Lubbock, Texas (the Bank) in the amount of $72,738.44 (the Letter of Credit) representing the full amount of the Loan plus forty days interest thereon at 13.75% per annum. By its terms, the Letter of Credit is renewable annually unless the Bank gives the Trustee written notice thirty days prior to any renewal date that the Bank will not renew the Letter of Credit. If the Bank gives notice that the Letter of Credit will not be renewed and the Employer cannot acquire an equally suitable letter of credit within ten days of such notification, or if the Employer fails to make full payment of principal and interest within ten days of such notification, the Trustee is authorized to draw on the Letter of Credit for the full balance due plus interest. Further, if the Employer fails to make any of the scheduled payments under the Loan within ten days of the payment due date, the Trustee will draw on the Letter of Credit.

5. In addition to the Letter of Credit and the perfected security interest in the Equipment, the assets of the Employer are collateral for the Loan. As of October 31, 1983, the partners' equity in the Employer amounted to $1,092,391.95. Because the Employer is a partnership, each of the twenty general partners is subject to joint and several liability on the Note. The applicant represents that the net worth of each of the general partners of the Employer is in excess of the amount of the Note.

6. The Trustee is independent of the Employer. The relationship between the Trustee and the Employer is and has been minimal in that the accounts maintained by the Employer with the Trustee represent less than 1/10th of 1 percent of the total deposits of the Trustee. Also, Mr. James H. Milam, a partner in the Employer, is a member of the Board of Directors of the Trustee. However, Mr. Milam has no voting control of the Board of Directors of the Trustee in that his vote represents one out of 25 of the total votes of the Board of Directors. Mr. Milam represents that although he is a member of the Trust Committee of the Trustee, he has not and will not participate or vote on any decision concerning the Loan by the Plan to the Employer or any action thereon.

7. In letters dated August 10, 1983 and March 5, 1984, the Trustee represented that it reviewed all the specific terms of the Loan prior to the time it was made. The Trustee further represented that prior to the consummation of the Loan, it determined that the Loan was in the interests of and protective of the Plan and its participants and beneficiaries.

8. The Trustee represented that it:

(a) Reviewed the Plan's entire investment portfolio and decided that the Loan fit into the investment scheme of the Plan;

(b) Determined that the Loan represented diversification for the Plan's assets, an adequate rate of return, and met all other standards for Plan investments;

(c) Has reviewed the collateral, including the Letter of Credit, and determined that there is and has been adequate collateral for the Loan at all times since the Loan was made;

(d) Has the authority to call in the collateral for the Loan in the event of default and will draw on the Letter of Credit if the Employer fails to make a payment within ten days of the payment due date or if the Bank gives notice that it will not renew the Letter of Credit and the Employer cannot acquire an equally suitable letter of credit or fails to make full payment of principal and interest within ten days of being notified of the non-renewal;

(e) Has been acting in accordance with its responsibilities as an independent fiduciary prior to the making of the Loan.

9. In summary, the applicant represents that the statutory criteria of section 408(a) of the Act have been met because:

(a) The Loan is adequately collateralized; and

(b) The Plan's independent fiduciary has represented that it made the determination prior to the making of the Loan that the Loan was in the interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

West Center Dental Corporation Pension and Profit Sharing Plan (the Plan) Located in Omaha, Nebraska

[Application No. D–5313]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale by the Plan for cash in the amount of $55,000 of certain real property (the Property) to Terrance L. Fangman, Thomas M. Fangman and Richard Tighe, parties in interest (the Parties In Interest) with respect to the Plan, provided that such amount is at least the fair market value of the Property at the time of sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which as of December 31, 1982 had eleven participants and assets of $828,651. The sponsor of the Plan is West Center Dental Corporation. The Parties In Interest are the trustees of the Plan. As a part of its assets, the Plan owns the Property which consists of land improved with a one-story building.

The Property is leased to parties who are unrelated to the Plan.

2. The applicants represent that because the Property does not appear to be a proper investment for the Plan (for reasons described below), they are requesting an exemption which will permit the Plan to sell the Property to the Parties In Interest for cash in the amount of $55,000. The Plan will not pay any real estate commissions in the transaction. The trustees of the Plan represent that such sale will be in the best interests of the participants and beneficiaries of the Plan. The applicants have submitted with their application two appraisals (the Appraisals) of the Property performed by independent parties. Progress West Corporation, a real estate firm located in Omaha Nebraska, represents that as of August 3, 1983 the fair market value of the Property was $55,000. The Maenner Co., a real estate firm located in Omaha, Nebraska, represents that as of July 7, 1983 the fair market value of the Property was $52,500. An independent party, Mr. Paul Jessen (Jessen), an attorney with the law firm of McGill, Koley, Parsonage and Lanphier, P.C. located in Omaha, Nebraska, has examined the proposed transaction. Jessen represents that he is independent of the parties to the proposed transaction and that he is experienced in real estate transactions of this type. In addition, Jessen acknowledges that he is acting as a fiduciary of the Plan. Jessen represents that the proposed sale is in the best interests of the participants and beneficiaries of the Plan. This conclusion is based in part on the following:

(1) The Appraisals accurately reflect a range of values within which to value the Property. The proposed sale price is at the highest end of the range of appraised values.

(2) The proceeds received from the proposed sale by the Plan will be substantially greater than the proceeds which would be received from a sale to an independent third party due to (1) above and the absence of real estate commissions.

(3) The cash nature of the payment terms is very advantageous for the Plan.

(4) The investment performance of the Property to date has been marginal and has resulted in a cash drain on the other Plan assets.

(5) The potential for further appreciation in the Property appears minimal.

(6) The potential for depreciation in the value of the Property below the proposed sale price seems quite possible if not probable due to existing market conditions and the location of the Property.

(7) The sale of the Property will enhance the liquidity of the Plan and avoid the possibility of a forced sale at some later date. This is particularly important in a Plan with only 11 participants since the unexpected death or other termination of a participant with a large account balance could seriously impair the liquidity of the Plan and its ability to meet obligations to other participants.

3. In summary, the applicants represent that the proposed transaction will satisfy the criteria of section 408(a) of the Act as follows: (1) The trustees of the Plan represent that the transaction will be in the best interests of the participants and beneficiaries of the Plan; (2) the sales price was determined by independent appraisers of the Property; (3) the transaction has been examined and approved by an independent fiduciary of the Plan; and (4) the Plan will eliminate an asset of uncertain investment quality.

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

W. W. Williams Company Employees Pension Plan and Trust (the Plan); Located in Columbus, Ohio

[Application No. D-4747]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406 (a), 406 (b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1) (A) through (E) of the Code shall not apply to (1) the proposed purchase by the Plan of certain improved real property (the Property) from the W. W. Williams Company (the Employer), the sponsor of the Plan, (2) the proposed lease (the Lease) of the Property by the Plan to the Employer, and (3) the potential repurchase of the Property by the Employer from the Plan, provided that the terms of each transaction are at least as favorable to the Plan as those the Plan could obtain in a similar transaction with an unrelated party; and in the event of such repurchase, the purchase price is no less than the fair market value of the Property on the date of the sale, and is fully paid in cash on the date of the sale.

Summary of Facts and Representations

1. The Employer is a diversified distributor of heavy construction equipment, rebuilt engines and transmissions, and small and medium-sized rental equipment and is a publicly-traded, SEC-reporting company with equity of $12,878,365 as of December 31, 1982. The Plan is a defined benefit plan which covered 782 participants as of December 31, 1982 and had assets totalling $5,139,616.56 as of January 1, 1984. The Plan is administered by three trustees (the Trustees), each of whom is an officer and/or director of the Employer. In order to provide more diversification of Plan assets, the Trustees wish to invest a greater proportion of Plan assets into real estate holdings.

2. Among the assets of the Employer is the Property, an improved parcel of real estate located at 1055 Harbor Avenue in Memphis, Tennessee. The Property consists of a 153,750 square foot parcel of land improved with a one-story office and warehouse building containing approximately 21,125 square feet. The Employer has occupied the Property since January 1, 1981, when the Employer began occupancy of the Property as lessee under a lease with the former unrelated owner of the Property. The Employer purchased the Property on March 24, 1983 from the Estate of Howard H. Bonnett, Deceased (Peggy Lee Bonnett, Executrix). Neither Howard H. Bonnett nor Peggy Lee Bonnett were related to the Employer or its principals. In order to achieve the desired diversification of Plan assets, the Trustees would like the Plan to own the Property and lease it to the Employer. The Employer is requesting an exemption to permit the Employer to sell the Property to the Plan and to lease the Property back from the Plan under the Lease as proposed.

3. The Trustees have appointed the First Tennessee Bank, N.A. (the Bank) of Memphis, Tennessee as an independnent fiduciary to represent the interests of the Plan for all purposes with respect to the proposed purchase and Lease of the Property. The Bank represents that it is unrelated to and independent of the Employer and that it has substantial fiduciary experience and expertise under the Act. The Bank and the Trustees have entered into an agreement under which the Trustees have delegated to the Bank the authority to represent the interests of the Plan with repsect to the proposed purchase and lease of the Property and under which the Bank has agreed to represent

the Plan in a fiduciary capacity for the duration of the proposed transactions.

4. The Employer proposes to sell the Property to the Plan without attendant sales costs for a purchase price of $400,000 in cash. The Employer will insure title to the Property as free and clear. The Property was appraised for its fair market value by Joel A. Fullmer (Fullmer), Vice President of the Boyle Investment Company, Realtors, Insurors, Mortgage Brokers, in Memphis, Tennessee. It is represented that Fullmer is not related to the Employer or its principals. Fullmer represents that as of July 13, 1983, the fair market value of the Property was $425,000. The Bank has reviewed and evaluated all terms of the Plan's proposed purchase of the Property, including a visual inspection of the Property and an interview with the Property's general manager, the Bank represents that the Plan's purchase of the Property would be in the best interests of the Plan for the following reasons:

a. Based upon Fullmer's appraisal, which the Bank finds to be well supported and competently performed, the proposed purchase price of $400,000 is a fair price for the Property.

b. The Property is located in a preferred location in a successful industrial park.

c. The Property is adaptable to other uses, is favorably zoned, and is served by all municipal utilities.

d. It is the Bank's opinion that appreciation of the Property is likely and that there is little risk of any decline in value of the Property.

e. Considering the liquid position of the Plan, the anticipated employer contributions to the Plan, and the income potential of the Property, the Plan's purchase of the Property represents an appropriate diversification and a good investment for the Plan.

5. The proposed purchase price of the Property represents approximately 7.8% of the Plan's total assets as of January 1, 1984, when the Plan also held employer real property in Smyrna, Tennessee (valued at $345,000) and 32,750 shares of common stock of the Employer (valued at $245,625) respectively representing 7.5% and 4.8% of the Plan's total assets on that date. Approximately 92% of the Plan's total assets are currently invested in marketable securities or liquid funds. The Plan has applied for two other administrative exemptions: one, regarding the continued leasing of the Smyrna, Tennessee property mentioned above to the Employer (exemption application no. D–5213); and the other, regarding the proposed purchase by the Plan of a parcel of real property in Brook Park, Ohio, which is leased to an independent third party, for less than its appraised value of $580,000 (exemption application no. D–5104). If the Plan purchases the Property, the Plan's total holdings of both employer securities and employer real property (as defined in section 407(d) (1) and (2), respectively, of the Act) would comprise approximately 20% of the Plan's total assets. If the Plan also purchases the Brook Park, Ohio property mentioned above, the Plan's total real estate holdings would comprise approximately 26.7% of the Plan's total assets (but the Plan's holdings of employer real property within the meaning of section 407(d)(2) would not increase because the Brook Park, Ohio property would not constitute employer real property as so defined inasmuch as it is leased to an unrelated third party). The Plan's actuaries believe that no Employer contributions to the Plan are required for the 1983 Plan year because the Plan is fully funded. They estimate that the cash needs of the Plan for the next five years for benefit payments are approximately $100,000 per year.

6. Upon the Plan's proposed purchase of the Property, it is proposed that the Employer will continue to occupy the Property under an absolute net lease (the Lease) under which the Employer will pay all costs of maintenance and repair, taxes, utilities, and extended coverage insurance with the Plan named as the insured. Under the Lease the Employer will agree to indemnify and save harmless the Plan from any and all claims and demands arising from or in any way connected with the Property or by the Employer's use of the Property. The interests of the Plan as lessor under the Lease will be represented for all purposes by the Bank, which will monitor the Employer's performance under the Lease and pursue appropriate remedies on behalf of the Plan in the event of deficiencies of performance or default by the Employer. The Lease provides for an initial term of 10 years and one optional five-year renewal term. Such renewal term may be entered into only with the consent of the Bank. Initial annual rental under the Lease will be $48,000. E.B. LeMaster, Jr., an unrelated industrial real estate agent in Memphis, Tennessee has appraised the Property for its fair market rental value and represents that as of September 20, 1983 the annual fair market rental value was $48,000. The Lease requires that on the fifth anniversary of the initial term of the Lease, the Bank and the Employer will select a qualified professional real estate appraiser who will determine whether there has been an increase in the fair market rental value of the Property since the commencement of the Lease. At that time, if such appraiser determines that there has been such increase in the fair market rental value of the Property, the rental for the remaining five years of the initial term shall be the amount determined by such appraiser to be the increased fair market rental value of the Property. Rental during the optional renewal term, if entered into, shall be the fair market value of the Property as determined by a qualified real estate appraiser selected by the Bank and the Employer but in no event will such rental be less than the initial rental under the Lease. The Plan will incur no costs of remodeling or any other alterations of or additions to the Property for the duration of the Lease.

7. The Lease includes a provision (the Purchase Option) which grants to the Employer the right to repurchase the Property from the Plan under certain circumstances. The Employer is requesting an exemption to permit the potential repurchase of the Property upon the potential exercise of the Purchase Option. The Purchase Option provides that the Employer, solely with the consent of the Bank, may purchase the Property at any time after the commencement of the fourth year of the initial term of the Lease, and continuing through any renewal thereof, for the full fair market value of the Property as determined at that time by a qualified professional real estate appraiser selected by the Bank and the Employer. Such sale for the Property to the Employer, if the Purchase Option is exercised, shall be without any expenses to the Plan and shall terminate the Lease. The full sales price would be paid in cash on the date of the sale. The Bank represents that it will consent to the sale of the Property after the Employer's exercise of the Purchase Option only if such sale would be in the best interests of the Plan participants and beneficiaries. The Employer also has the first right of refusal under the Lease, permitting the Employer to purchase the Property if the Plan receives a bona fide offer from any third party to purchase the Property, at the price offered by such third party, fully payable in cash by the Employer on the date of the sale, if the Bank, acting for the Plan, wishes to accept the offer. The Lease specifies that with respect to both the Purchase Option and the first right of refusal, the sales price must be no less than the fair market value of the Property on the date of the sale determined without regard to any reduction in value attributable to the Employer's first right of refusal or the Purchase Option.

8. As the fiduciary of the Plan, for purposes of the proposed Lease, the Bank has reviewed and evaluated all terms and conditions of the Lease. The Bank represents that the lease of the Property by the Plan to the Employer under the Lease as proposed will be in the best interests of the participants and beneficiaries of the Plan for the following reasons:

a. Since expenses of the Property will be borne by the Employer as lessee, the Plan will net all of the rental, representing a favorable return on the Plan's investment in the Property.

b. The Employer's financial statements indicate that the Employer will be a favorable and capable tenant under the Lease.

c. The Plan will incur no expenses of remodeling or other alteration of the Property either at the inception of the Lease or during its terms, including any renewal.

d. The Plan will pay no commissions or fees in connection with the Lease.

e. Any renewal of the Lease will require the approval of the Plan's fiduciary under the Lease, the Bank.

f. The Lease requires the Employer to pay rental equal to the appraised fair market rental value of the Property and includes provisions requiring review of the rental every five years to insure that the Plan continues to receive the appraised fair market rental value of the Property in rentals from the Employer.

g. The Bank will approve the Employer's repurchase of the Property pursuant to the provisions of the Lease only if the Bank determines that the proposed repurchase would be in the best interests of the participants and beneficiaries of the Plan.

9. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The Plan's purchase of the property will enable the Plan to acquire, without attendant sales costs, a valuable, income-producing asset for a price below its appraised fair market value, thereby achieving a desired diversification of Plan assets; (2) the Lease of the Property by the Employer will be absolutely net of all expenses related to the Property, ensuring a favorable return to the Plan from a capable tenant; (3) the Lease ensures that the Plan will continue to receive the property's fair market rental value in rentals from the Employer; (4) the Trustees have appointed an independent fiduciary, the Bank, to represent the interests of the Plan with respect to the property and the Bank has reviewed and approved the proposed purchase and Lease as transactions which will be in the best interests of the Plan; (5) the Bank will represent the interests of the Plan in all proposed transactions and for the duration of the Lease will monitor the Employer's performance thereunder and pursue appropriate remedies on behalf of the Plan in the event of deficencies of performance or default by the Employer; and (6) the Employer's potential repurchase of the Property would return to the Plan the Property's full fair market value determined as of the date of the sale without regard to any reduction in value attributable to the Purchase Option or the Employer's first right of refusal, and would occur without costs to the Plan and only if the Bank determines that it would be in the best interests of the Plan participants and beneficiaries.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

The W. W. Williams Company Employees' Pension Trust (the Plan) Located in Columbus, Ohio

[Application No. D-5104]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase of certain improved real property (the Property) by the Plan from the W. W. Williams Company (the Employer) provided the purchase price does not exceed the fair market value of the property on the date of the purchase.

Summary of Facts and Representations

1. The Plan is a defined-benefit plan which covered 782 participants as of December 31, 1982 and had assets totalling $5,139,616.56 as of January 1, 1984. The trustees of the Plan, responsible for investment of Plan assets, are Richard M. Gilbert, Vice President of the Employer, Sarah G. Coulter, Corporate Personnel Manager of the Employer, and Stephen E. Auch, a director and Secretary of the Employer and attorney for the Employer.

2. The Property is a concrete block and metal multipurpose commercial warehouse/office facility built in 1966 and consisting of 3,350 square feet of office space and 22,060 square feet of warehouse space situated on 3.644 acres. The Property is located at 5370 West 130th Street, Brook Park, Ohio. It is currently leased to Tire America Inc. (the Tenant), an independent third party, under a net lease which expires June 30, 1993 and provides an annual rental of $61,900. Under such lease, the Tenant is responsible for all costs and expenses except for exterior wall and roof maintenance, which is the obligation of the Employer. The lease is guaranteed by B. Ewing Development Corporation, the Tenant's parent corporation.

3. Mr. Eric D. Edlund, of Ostendorf-Morris Real Estate (O-M) estimates that as of August 5, 1983, the market value of the Property was $580,000. Mr. Edlund has certified that he has no personal interest or bias with respect to the Property or the parties involved. Mr. Edlund has been employed by O-M since 1980 and by a firm of real-estate appraisers and consultants from 1977-1980. He states that he is a certified appraiser in the American Association of Certified Appraisers and an associate member of the Society of Real Estate Appraisers and that his experience includes analysis and appraisal of apartments, shopping centers, industrial buildings, office buildings, single family residences, and vacant land.

4. The Employer proposes to sell the Property to the Plan free and clear, except for the lease described in 2, above, for $525,000, payable in cash at the closing date of the sale. The Employer will pay all expenses and closing costs in connection with the sale. 7.5% of the Plan's assets are currently invested in real estate holdings which are leased to the Employer. The Plan has applied for another administrative exemption regarding the purchase of a parcel of Employer real property in Memphis, Tennessee. The parcel presently held, the Memphis parcel, and the Property, if all acquired, would raise the real estate holdings of the Plan to 26.7% of its total assets.[2] The Plan's actuaries believe that no Employer contributions to the Plan are required for the 1983 Plan year because the Plan is fully funded. They estimate that the cash needs of the Plan for the next five years for benefit payments are approximately $100,000 per year. Approximately 92% of the Plan's total

[2] It should be noted that the purchase of the Property by the Plan would not increase the Plan's holdings of employer real property, within the meaning of section 407(d)(2) of the Act, because the Property will continue to be leased to Tire America Inc., an independent third party.

assets are currently invested in marketable securities or liquid funds.

5. The Huntington Bank of Northeast Ohio (the Bank) has agreed to serve as an independent fiduciary to the Plan with respect to the proposed purchase. The Employer has no relationship with the Bank but has borrowed approximately $7,500,000 from The Huntington National Bank of Columbus Ohio, whose total loan portfolio is approximately $900,000,000 and which has a common parent with the Bank. The Bank represents that it has extensive experience as a personal and corporate fiduciary with responsibility for assets exceeding $1,700,000,000 and that it is familiar with the duties and obligations of the Act as it is trustee for plan assets subject to the Act exceeding $500,000,000.

6. The Bank has inspected the Property, verified the facts upon which the above mentioned appraisal is based, reviewed the proposed sale, and considered the Plan's funding and liquidity requirements. The Bank states that having inspected the sales comparables of the appraisal and the appraisal methodology utilized, the Bank believes the appraiser's value conclusions are both valid and supportable. The Bank notes that the Plan would pay no real estate commissions or selling expenses, that no alterations to suit the tenant are required, and that the net rental income from the Property would bring the Plan a return of approximately 12% on its $525,000 investment therein. The Bank considers this a prudent rate of return comparing favorably to other investment opportunities and believes the proposed investment shows a strong possibility of appreciation and is consistent with the Plan's funding policy. The Bank has determined that the Plan is very well funded; that its real estate assets, with the addition of the Property and the Memphis parcel, will be located in three cities and two non-contiguous states and involve multi-purpose buildings and tenants of excellent quality; that the remaining Plan assets are very liquid and well diversified; and that the Plan's very low cash requirements are presently easily satisfied and exceeded by the Plan's short-term investments alone. The Bank states that the proposed purchase is a better than arm's-length deal and would be a sound investment for the Plan. The Bank recommends that the Plan purchase the Property as the Bank believes such purchase is in the best interests of the participants of the Plan.

7. In summary, the applicant represents that the proposed transaction satisfies the exemption criteria set forth in section 408(a) of the Act because (a) the proposed purchase price is less than the fair market value of the Property as appraised by an independent appraiser, (b) no commissions or selling expenses wil be charged to the Plan, and (c) the Bank, an independent fiduciary, recommends that the Plan purchase the Property because the Bank believes such purchase is in the best interests of the participants of the Plan.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

The W. W. Williams Company Employees' Pension Trust (the Plan) Located in Columbus, Ohio

[Application No. D-5213]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the proposed lease of certain improved real property (the Property) by the Plan to The W. W. Williams Company (the Employer), which employs Plan participants, and (2) the possible future sale of the Property by the Plan to the Employer pursuant to the provisions of such lease, provided the terms of each transaction are at least as favorable to the Plan as those the Plan could obtain in a similar transaction with an unrelated party, and provided further that in the event of such sale, the sales price is at the then fair market value of the Property and is fully paid in cash on the date of the sale.

Effective Date: If the proposed exemption is granted, the exemption will be effective July 1, 1984.

Summary of Facts and Representations

1. The Plan is a defined-benefit plan which covered 782 participants as of December 31, 1982 and had assets totalling $5,139,616.56 as of January 1, 1984. The trustees of the Plan, responsible for investment of Plan assets, are Richard M. Gilbert, Vice President of the Employer, Sarah G. Coulter, Corporate Personnel Manager of the Employer, and Stephen E. Auch, a director and Secretary of the Employer and attorney for the Employer.

2. The Property consists of a 4.64 acre tract of land improved by a one-story light industrial facility especially designed for the Employer to be used as a branch office, equipment repair shop, and parts warehouse facility. The Property is located at I-24 East and Almaville Road, Smyrna, Tennessee, in the Nashville, Tennessee area, and has been appraised at $345,000 as of January 9, 1984, by Douglas C. Smith, M.A.I., who has stated that he has no personal interest or bias with respect to the Property or the parties involved. Mr. Smith has also stated his opinion that the rental value of the Property as of January 9, 1984 should be based on a 12% net annual return on the market value of the Property. (12% × $345,000 = $41,400/year.)

3. The Property was developed by the Employer, sold to the Plan on December 7, 1971, and has been leased by the Plan to the Employer since January 1, 1972 at an annual rental of $23,700, which, according to the applicant, has provided a 10% return each year on the fair market value of the Property at the inception of that lease. The applicant represents that the Employer has always complied with the terms of said lease in a timely manner and that said lease, which is still in effect, is exempt under section 414(c)(2) of the Act.[3]

4. The Property represents approximately 7½% of the Plan's total assets as of January 1, 1984, when the Plan also held 32,750 shares of common stock of the Employer, valued at $245,625, representing approximately 4.8% of the Plan's total assets on that date. Approximately 92% of the Plan's total assets are currently invested in marketable securities or liquid funds. The Plan has applied for two other administrative exemptions: one, regarding the proposed purchase by the Plan of employer real property in Memphis, Tennessee, for less than its appraised value of $425,000 (exemption application no. D-4747); and the other, regarding the proposed purchase by the Plan of a parcel of real property in Brook Park, Ohio, which is leased to an independent third party, for less than its appraised value of $580,000 (exemption application no. D-5104). If the Plan purchases the Memphis, Tennessee property mentioned above, the Plan's total holdings of both employer securities and employer real property (as defined in section 407(d) (1) and (2), respectively, of the Act) would comprise approximately 20% of the Plan's total

[3] The Department is expressing no opinion herein as to the applicability of section 414(c)(2) of the Act to the existing lease.

assets. If the Plan also purchases the Brook Park, Ohio property mentioned above, the Plan's total real-estate holdings would comprise approximately 26.7% of the Plan's total assets (but the Plan's holdings of employer real property within the meaning of section 407(d)(2) would not increase because the Brook Park, Ohio property would not constitute employer real property as so defined inasmuch as it is leased to an independent third party). The Plan's actuaries believe that no Employer contributions to the Plan are required for the 1983 Plan year because the Plan is fully funded. They estimate that the cash needs of the Plan for the next five years for benefit payments are approximately $100,000 per year.

5. The proposed lease provides for an annual rental of $41,400, payable $3,450 per month, and is a net-net-net lease, requiring the Employer to pay all utilities, taxes, repair and maintenance expenses, to provide both hazard and liability insurance with respect to the Property, and to indemnify the Plan against any claims, expenses, causes of action, etc. in any way connected with the Property. The proposed lease is for an ititial term of five years with two five-year options to renew. The rental during any renewal period will be no less than during the original term of the lease but shall be increased to reflect any increase in the fair market rental value of the Property as determined by a qualified independent appraiser agreed upon by both the Plan and the Employer. The proposed lease provides the Employer with an option to purchase the Property, exercisable after three years at the then fair market value of the Property as determined by such qualified independent appraiser without regard to any reduction in value attributable to the Employer's purchase option or the Employer's first right to refusal (described below), provided such purchase price is fully paid in cash on the date of the sale. The Employer also has the first right of refusal under the proposed lease, permitting the Employer to purchase the Property if the Plan receives a bona fide offer from any third party to purchase the Property, at the price offered by such third party, fully payable in cash by the Employer on the date of the sale, if the Plan wishes to accept the offer, provided such price is no less than the fair market value of the Property on the date of the sale determined without regard to any reduction in value attributable to the Employer's first right of refusal or the Employer's purchase option. The option to renew, the option to purchase, and the right of first refusal are subject to approval by the independent fiduciary described in 6, below.

6. First Tennessee Bank N.A. Memphis (the Bank) has agreed to serve as fiduciary to the Plan without regard to the proposed lease. The Bank has extensive experience as a corporate fiduciary, including management of approximately $500,000,000 in assets, both real and personal, held in trust for various retirement plans subject to the Act. The Bank states that it is familiar with ERISA and the fiduciary duties, responsibilities and liabilities prescribed therein. The Bank is currently employed by the Plan as investment advisor on the transaction which is the subject of exemption application no. D–4747 (see 4, above). The Bank represents that it has no other business, deposit, or credit relationship of any nature with the Plan or the Employer.

7. The Bank has reviewed various documents relating to the proposed lease, including (among others) the proposed lease agreement, the existing lease agreement, Mr. Smith's appraisal (see 2, above), the Employer's 1982 annual report, the Plan's financial statements and 1982 annual return, and the actuary's 1981 valuation of the Plan; has interviewed a representative of the Employer; has visually inspected the Property; and has concluded that the proposed lease is in the interests of the Plan's participants and beneficiaries, is protective of their rights, and is at least as favorable as an arm's length transaction with an unrelated third party. In reaching this conclusion, the Bank has considered the facts that the proposed lease provides an annual rental on a net-net-net basis to the Plan at the 12% rate of net annual return suggested by the appraisal (see 2, above); that the Employer's financial statements indicate that the Employer is capable of meeting its obligations under the proposed lease; that the Plan will experience no vacancy expense or alteration expense because the Employer will continue as tenant for at least five years; that because of the provisions of the proposed lease and the nature of the Property, the Plan will not have the expense of compensating outside professional property managers; that the Plan will bear no commissions or fees in connection with leasing the Property; and that if the proposed lease is renewed, the rent will be adjusted based on an appraisal of the fair market rental value of the Property at the time of the renewal.

8. The Bank believes the proposed lease exceeds usual commercial standards in that the option to renew the lease will be exercised only with the Plan's consent. The Bank acknowledges that its duty as independent fiduciary extends to consenting to the exercise of any renewal or purchase option contained in the proposed lease and states that its consent will be given only if the Bank determines that such exercise is in the best interests of the Plan participants and beneficiaries.

9. If the proposed exemption is granted, the Bank and the Plan will enter into an Agency Agreement conveying legal title to the Property to the Bank, which shall hold the Property in a fiduciary capacity for the Plan, for the duration of the proposed lease. Concurrently, the Bank, as agent for the Plan, will execute the proposed lease with the Employer. The Agency Agreement will expire when the proposed lease expires or when the Property is sold. During the term of the Agency Agreement, the Bank shall administer the proposed lease, as lessor, pursuant to its terms and conditions and shall enforce the performance of the proposed lease terms and conditions which are to be performed by the Employer, as lessee. The Bank shall invest for or remit to the Plan all rentals or other monies received under the proposed lease by the Bank, as the Plan directs (except for any insurance proceeds required to restore the Property from any damage by specified types of casualty not due to the fault of the Employer, its representatives, or its customers).

10. In summary, the applicant represents that the proposed transactions satisfy the exemption criteria set forth in section 408(a) of the Act because (a) the initial rental under the proposed lease equals that determined to be the fair rental value of the Property by a qualified independent appraiser; (b) the proposed lease term is five years initially and may be renewed for two additional five-year periods with the rental for each renewal period equal to the fair rental value of the Property at the beginning of each renewal term, as determined by a qualified independent appraiser, or, if greater, the initial rental rate; (c) the proposed lease is a net-net-net lease requiring the Employer to pay all utilities, taxes, repair and maintenance expenses, to provide both hazard and liability insurance with respect to the Property, and to indemnify the Plan against any claims, expenses, causes of action, etc. in any way connected with the Property; (d) the Bank, an independent fiduciary, believes the proposed lease is in the interests of the Plan's participants and beneficiaries and protects their rights; (e) the Bank, as independent fiduciary, will hold the

Property and administer the proposed lease for the Plan until the proposed lease terminates or the Property is sold; and (f) the Employer's options to renew the proposed lease or to purchase the Property shall be exercised only if the Bank, as independent fiduciary to the Plan, determines that such exercise is in the best interests of the Plan's participants and beneficiaries.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary reponsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 22nd day of May 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-14146 Filed 5-24-84; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 84-46 (Application Nos. D-1366 and D-1382)]

Class Exemption Relating to the Recapture of Brokerage Commissions on Behalf of Insurance Company Pooled Separate Accounts

AGENCY: Department of Labor.

ACTION: Grant of class exemption.

SUMMARY: This document contains an exemption that will permit an insurance company to utilize its affiliates to effect or execute securities transactions in order to recapture brokerage commissions for the benefit of employee benefit plans whose assets are maintained in pooled separate accounts managed by the insurance company. The exemption affects participants and beneficiaries of, and fiduciaries with respect to, employee benefit plans that invest in pooled separate accounts, insurance companies which manage the assets of such plans through the mechanism of pooled separate accounts, and other persons who engage in the described transactions.

EFFECTIVE DATE: May 25, 1984.

FOR FURTHER INFORMATION CONTACT: Shelby J. Hoover, Esq., Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 523-8658. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 3, 1983, notice was published in the **Federal Register** (47 FR 54576) of the pendency before the Department of Labor (the Department) of a proposed class exemption from the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and form the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) of the Code.[1]

[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), transferred the authority of the Secretary of the Treasury to issue exemptions of the type granted herein to the Secretary of Labor.

The proposed class exemption was requested in two applications for exemption—one (D-1366) filed by the Equitable Assurance Society of the United States and the other (D-1382) filed by the American Council of Life Insurance on behalf of its member companies. One public comment was received pursuant to the provisions of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975); no requests for a hearing on the proposal were received. The Department, having considered the matter, has determined, on the basis of the entire record in the matter, including the comment received, to grant the exemption in the form it was proposed.

Description of the Exemption

This exemption provides relief, in addition to that provided by Prohibited Transaction Exemption 79-1 (PTE 79-1) (44 FR 5963), from the restrictions of section 406 of the Act and section 4975 (a) and (b) of the Code, for insurance companies maintaining pooled separate accounts in which employee benefit plans are invested and which recapture, on behalf of the accounts, profits made through the use of an affiliated broker-dealer to effect securities transactions for the accounts. The first type of additional relief is that recapture arrangements (or material changes in those arrangements) under which the insurance company provides brokerage services may take place without prior written authorization by fiduciaries of investing plans so long as they are notified in advance of the changes and are given an equitable opportunity to withdraw from the pooled separate account before the changes take place. See sections I (b), (c) and (d) of the exemption.

The second is that, in the case of a plan covering employees of the insurance company managing the separate account, the fiduciary that acts on behalf of the plan need not be independent of the insurance company (which includes its affiliates). See section I(a) of the exemption.

Information collection requirements contained in this class exemption have been approved by the Office of Managment and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB #1210-0059 approved for use through 4/30/85.

Discussion of the Comment Received

The Department received one comment on the proposed exemption

from the American Council of Life Insurance (ACLI). In its letter, ACLI generally supported the proposal but suggested two changes: (1) Elimination of the quarterly reporting requirement contained in section I(e) of the exemption, and (2) modification of the definition of the term "profit", contained in section II(c), to include a provision for carrying forward losses to offset profits in future years. The Department, however, has under consideration proposed amendments to PTE 79–1 generally and intends to review, in connection therewith, the continued appropriateness of the quarterly reporting requirement and the definition of "profit" as they appear in both that exemption and the instant one. The Department has advised ACLI that its comments on these matters will be given full consideration by the Department in the course of that review, and ACLI has indicated, by letter dated June 29, 1983, that in reliance on those assurances it does not object to the issuance of this exemption in its present form. The Department believes it is appropriate to defer any substantial modification of the provisions of the exemption until these matters are considered in connection with PTE 79–1, in order to avoid any possibly inappropriate disparity in regulatory constraints between similarly situated persons. Accordingly, it is granting the exemption in the form it was proposed.

Paperwork Reduction Act Statement

The paperwork burden for this class exemption was incorporated in the calculation of the burden for PTE 79–1. The total paperwork burden for the two exemptions is estimated to be 111,115 hours.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, the Department makes the following determinations: (i) The class exemption set forth herein is administratively feasible; (ii) It is in the interests of plans and of their participants and beneficiaries, and (iii) It is protective of the rights of the participants and beneficiaries of plans;

(3) This class exemption is applicable to a particular transaction only if the transaction satisifies the conditions specified in the class exemption; and

(4) The exemption, set forth herein, is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Exemption

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). (Approved for use through 4/30/85 OMB #1210–0059).

I. Transactions. Effective May 25, 1984, the restrictions of section 406 of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the effecting or executing by an insurance company of any securities transactions on behalf of, and as agent for, a pooled separate account maintained by the insurance company or to the performance by such insurance company of clearance, settlement, custodial or other functions incidental to such transactions, provided that the insurance company returns or credits to the account all profits earned by the insurance company in connection with such transactions and that the following conditions are met:

(a) The arrangement under which such securities transactions are to be effected or executed is subject to the prior and continuing approval, in the manner described in paragraphs (b), (c), and (d) below, of a plan fiduciary (the "authorizing fiduciary") with respect to each plan whose assets are invested in the account, who is (other than in the case of a plan covering only employees of the insurance company) independent of the insurance company;

(b) The insurance company shall furnish the authorizing fiduciary with any reasonably available information which the insurance company reasonably believes to be necessary to determine whether such approval should be given or continued, not less than 30 days prior to implementation of the arrangement or material change thereto, and, where requested, upon the reasonable request of the authorizing fiduciary at any time;

(c) In the event any such authorizing fiduciary submits a notice in writing to the insurance company objecting to the implementation of, material change in, or continuation of, the arrangement, the plan on whose behalf the objection was tendered is given the opportunity to terminate its investment in the account, without penalty to the plan, within such time as may be necessary to effect such withdrawal in an orderly manner that is equitable to all withdrawing plans and to the nonwithdrawing plans. In the case of a plan that elects to withdraw pursuant to the foregoing, such withdrawal shall be effected prior to the implementation of, or material change in, the arrangement; but an existing arrangement need not be discontinued by reason of a plan electing to withdraw;

(d) In the case of a plan whose assets are proposed to be invested in the account subsequent to the implementation of the arrangement and which has not authorized the arrangement in the manner described in paragraphs (b) and (c) above, the plan's investment in the account or fund is subject to the prior written authorization of an authorizing fiduciary;

(e) The insurance company furnishes the authorizing fiduciary with a report containing the information described in this paragraph, not less frequently than every three months and not later than 45 days following the end of the period to which the report relates. Such report shall disclose:

(i) The total of all transaction-related charges incurred by the account during the preceding three months in connection with transactions in which the insurance company performed any of the functions permitted by this exemption;

(ii) The amount of the transaction-related charges retained by the insurance company and the amount of such charges paid to other persons for execution or other services; and

(iii) Rates for transaction-related charges anticipated to be charged in the coming three months for transactions of the type normally entered into by the account; and

(f) The report described in paragraph (e) of this exemption contains a statement to the effect that brokerage commissions in the United States are not fixed by any stock exchange or other authority and are subject to negotiation.

II. Definitions. For purposes of this exemption:

(a) The term "insurance company" means an insurance company that has been appointed as an investment manager (as defined in section 3(38) of the Act) with respect to the account by each employee benefit plan whose assets are invested in the account, and any affiliate of such company;

(b) The term "affiliate" of another person includes:

(i) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(ii) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), brother, a sister, or a spouse of a brother or sister, of such other person; and

(iii) Any corporation or partnership of which such other person is an officer, director or partner.

For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual;

(c) The term "profit" shall include all charges relating to the effecting or executing of securities transactions subject to this exemption, less reasonable and necessary expenses—including reasonable indirect expenses (such as overhead costs) properly allocated to such transactions under generally accepted accounting principles—incurred by the insurance company.

Approved by the Office of Management and Budget under OMB control number 1210–0059 approved for use through 4/30/85.

Signed at Washington, D.C., this 17th day of May 1984.

Alan D. Lebowitz,

Acting Deputy Administrator for Program Operations, Office of Pension and Welfare Benefit Programs.

[FR Doc. 84–14144 Filed 5–24–84; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 84–47; Exemption Application No. D–2835 et al.]

Grant of Individual Exemptions; the Teamsters Pension Trust Fund of Philadelphia & Vicinity et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Deprtment.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Teamsters Pension Trust Fund of Philadelphia & Vicinity (the Pension Fund) and the Teamsters Health and Welfare Fund (the Welfare Fund, collectively, the Funds) of Philadelphia & Vicinity Located in Philadelphia, Pennsylvania

[Prohibitied Transaction Exemption 84–47; Exemption Application Nos. D–2835 and D–2836]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the past loan (the Loan) of money by the Pension Fund to the Welfare Fund, a party in interest with respect to the Pension Fund, provided that the terms of the Loan were at least as favorable to the Pension Fund and the Welfare Fund as the Pension Fund and the Welfare Fund would have obtained in an arm's length transaction with an unrelated party.

Effective Date: The effective date of this expemption is July 31, 1975.

One written comment was received by the Department from an interested person with respect to the proposed exemption. The Department has determined that the commentator did not offer information of sufficient substance to warrant any change in the proposed exemption. Therefore, the Department, considering the record as a whole, has determined that the exemption should be granted as proposed.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 23, 1984 at 49 FR 11035.

For Further Information Contact: Louis Campagna of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

The Diamond Shamrock Corporation Retirement Income Plan; Employees' Retirement Plan of Diamond Shamrock Oil and Gas Company; Pession Plan for Employees of Process Chemicals Division; and Diamond Shamrock Pension Plan for Hourly-Rated Employees Located in Dallas, Texas

[Prohibited Transaction Exemption 84–48; Exemption Application Nos. D–3271, D–3233, D–3234 and D–3235]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the

application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The contribution (the Contribution) of an oil and gas royalty interest (the Royalty Interest) to a master trust (the Trust) comprised of the Diamond Shamrock Corporation Retirement Income Plan (the DSC Plan); the Employees' Retirement Plan of Diamond Shamrock Oil and Gas Company (the Retirement Plan); the Pension Plan for Employees of Process Chemicals Division (the Pension Plan); and the Diamond Shamrock Pension Plan for Hourly-Rated Employees (the Hourly Plan, collectively, the Plans) by Diamond Shamrock Corporation (the Employer), the sponsor of the Plans; and (2) a guarantee (the Guarantee) by the Employer related to the Royalty Interest.

Effective Date: The effecitve date of this exemption is January 1, 1982.

Written Comments

The applicant has represented that it has complied with the requirements of notice to interested persons as stated in the notice of pendency. No requests for a public hearing were received; however, the Department did receive four comments, two of which were subsequently withdrawn. One comment was submitted by the Employer. The Employer submitted five specific comments, four of which were later withdrawn. The Employer in its remaining comment states that the notice of proposed exemption incorrectly listed the total assets attributable to the DSC Plan, the Retirement Plan and the Pension Plan. The notice should have stated that as of December 31, 1980, the DSC Plan had assets of $122,231,000; the Retirement Plan, $6,841,000; and the Pension Plan, $2,982,000.

The remaining commentator opposes the grant of the exemption on the grounds that: (1) The Plans would be concentrating too high a percentage of their assets (18%) in one speculative investment; (2) that the use of proven reserves in calculating the value of the Royalty Interest by H. G. Gruy, (Gruy) an independent appraiser, is not a precise method of calculating the quantity or the future rates of production of the Royalty Interest; (3) that the Guarantee of the Employer of a rate of return to the Plan from the Royalty Interest would be affected by merger, financial distress or other guarantees of the Employer; and (4) that the contribution of the Royalty Interest is a self-structured device by the Employer for the reduction of the Employer's funding obligations to the Plans by the exchange of the Royalty Interest for liquid monetary assets.

The Employer was asked by the Department to respond to the comments of the commentator. In response the Employer stated that the Contribution has been credited to a common fund in which all Plans participate. The Contribution represents approximately 18% of the common fund. However, the Plans have other assets in addition to those invested in the common fund. As a result, the greatest percentage of assets any one Plan has invested in the Royalty Interest is 13%. In addition the Employer stated that, Rotan Mosle, Inc., the independent fiduciary utilized to review the Contribution of the Royalty Interest on the Plans' behalf, stated that the transaction was in the Plans' best interest because the terms were arms' length and the risk associated with the Contribution was minimal because of the low percentage of the Plans' assets involved. Secondly, the Employer states that while the Gruy appraisal is only an estimate, Gruy's expertise is not challenged and Rotan Mosle, Inc. in considering the Gruy appraisal concluded that the Royalty Interest may be worth as much as $21 million dollars, $3 million more than the Gruy appraisal. Further, Rotan Mosle, Inc. concluded that through the Guarantee the Plans are provided "downside protection." Thirdly, the Employer represents that under the Guarantee, in the event of disposal or transfer of the assets of the Employer, the transferee of such assets or the surviving corporation assumes the Employer's obligations under the Guarantee. In addition, the Employer represents that the Guarantee is absolute and unconditional and shall not be affected by the Employer's financial distress. The Employer states that the inherent conflict of interest in the Contribution of the Royalty Interest to the Plan has been removed because independent determinations have been made by Rotan Mosle, Inc., based in part on an independent appraisal by Gruy. Finally, as an additional matter of clarification, the Employer states that it contributed its entire interest in Royalty Interest, and that the owner of the Royalty Interest is contractually entitled to revenues from production from certain oil and gas leases which are owned and operated by a corporation independent of the Employer. The Employer has no control over, and is not in any way involved in the operation of the Royalty Interest or the leases to which it relates or the determination of the level of production thereunder.

The Department has examined the comments submitted by the commentators and the response by the Employer. Based on the record taken as a whole the Department has concluded that the exemption should be granted as proposed.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published July 6, 1982 at 47 FR 29418.

For Further Information Contact: Louis Campagna of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Prince George's Orthopaedic Assoc., P.A. Employees' Pension Plan (the Plan) Located in Clinton, Maryland

[Prohibited Transaction Exemption 84–49; Exemption Application No. D–4183]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The 50 percent participation by the Plan in a loan of $700,000 (the Loan) to the Woodyard Road Partnership, in which interests are owned by four shareholders (the Shareholders) of Prince George's Orthopaedic Associates, P.A., the sponsor of the Plan, provided that the terms and conditions of the Loan are at least as favorable to the Plan as those it could obtain from an unrelated party; and (2) the personal guarantees of the Loan by the Shareholders to the extent of the Plan's participation therein.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 23, 1984 at 49 FR 11037.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

MountainWest Savings and Loan Profit Sharing Plan (the Plan) Located in Ogden, Utah

[Prohibited Transaction Exemption 84–50; Exemption Application No. D–4228]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective November 30, 1979, to five

interest-bearing loans from MountainWest Savings and Loan, the employer whose employees are covered by the Plan, to the Plan.

Effective Date: The exemption is effective November 30, 1079.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 3, 1984 at 49 FR 13213.

For Further Information Contact: Mrs. Mary Jo Fite of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Burlington Northern Inc. Pension Trust Indenture Number Two (Indenture Trust) Located in Seattle, Washington

[Prohibited Transaction Exemption 84–51; Exemption Application No. D–4499]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Indenture Trust of a promissory note (the Note) to Burlington Northern, Inc. (Burlington) for a cash price of the higher of $9,389,000 or its appraised value on the date of sale, provided that the amount received by the Indenture Trust is no less than the fair market value of the Note on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 28, 1984 at 49 FR 7312.

Comments and Hearing Requests: One comment was received by the Department. The comment questions whether Burlington or any of its executives or directors has an interest in the success of Boulders/Carefree Partners (Boulders) limited partnership and why Burlington would be willing to purchase this investment if it is "still risky". The applicant states that neither Burlington nor any of Burlington's executives have any direct interest in Boulders. Also, Burlington considers the Note to be a good investment and believes that the project can be successful with an additional infusion of funds. The comment also questions why the Indenture Trust loaned funds to Boulders at 9% interest and why this investment which was prudent a year ago is no longer appropriate. The applicant states that although it is true that the Note provides for a fixed interest rate of 9%, the Note further provides that the Indenture Trust was entitled to receive 50% of the excess of the fair market value of the Boulders' proprerty, over $15,000,000, when the Note was paid off. Accordingly, as demonstrated by the appraisal of the Note establishing a proposed sales price that reflects an effective 16% annual rate of return, the Indenture Trust also directly benefited from the appreciation of Boulders' property. The applicant represents that the Indenture Trust originally made the loan to Boulders because it appeared to be a sound economic investment, adequately secured and with a relatively high rate of return (considering possible appreciation). As Boulders broadened the scope of the project, the amount of funds loaned by the Indenture Trust proved to be inadequate for the proposed improvements and the Indenture Trust determined that it was no longer appropriate from the standpoint of diversification to provide additional funds to Boulders.[1]

The comment raises several other questions which either were discussed in the proposed exemption of do not go to the merits of this case.

After consideration of the entire record, the Department has determined to grant the exemption.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

First American Corporation Comprehensive Employee Benefit Plan and Trust (the Plan) Located in Nashville, Tennessee

[Prohibited Transaction Exemption 84–52; Exemption Application No. L–4622]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act shall not apply to the proposed transfer of group term life insurance policy (the Policy) to the Plan by First American Corporation (the Corporation), a party in interest to Plan, provided that in the event the Corporation claims a deduction on its Federal income tax return for the transfer of the Policy, the deduction will not exceed the fair market value of the Policy on the date of its transfer to the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 30, 1984 at 49 FR 12774.

For Further Information Contact: Mrs Mary Jo Fite of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Drs. Bickmore, Boyles & Steinfurth, Inc. Employees' Profit-Sharing Plan and Drs. Bickmore, Boyles & Steinfurth, Inc. Employees' Pension Plan (the Plans) Located in Dayton, Ohio

[Prohibited Transaction Exemption 84–53; Exemption Applications Nos. D–4911 and D–4912]

Exemption

The restrictions of section 406(a), 406 (b)(1), and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reasons of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of a parcel of unimproved real property (the Property) by the Plans to Practical Interests Limited, a party in interest with respect to the Plans, provided that the price paid for the Property is no less than its fair market value at the time the sale is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 30, 1984 at 49 FR 12775.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified persons from certain other provisions of the Act and/or Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation

[1] In granting this exemption the Department makes no determination with regard to the appropriateness of the Indenture Trust's initial investment in the Note under section 404(a) of the Act.

of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C. this 22nd day of May 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 14145 Filed 5-24-84; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84-54]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC) Informal Earth System Sciences Committee.

DATES: Date and time: June 11-14, 1984, 8:30 a.m., to 5 p.m. each day; and June 15, 1984, 8:30 a.m. to 3 p.m.

ADDRESS: University of Virginia, Birdwood Pavilion, Charlottesville, Virginia 22903.

FOR FURTHER INFORMATION CONTACT: Mr. Ray J. Arnold, Code EE, National Aeronautics and Space Administration, Washington, DC 20546 (202) 453-1707.

SUPPLEMENTARY INFORMATION: The NASA Advisory Council, Informal Earth System Sciences Committee has been formed to provide advice and counsel to NASA on the future role, responsibilities, and implementation strategies for the Earth Science and Applications program. This committee is chaired by Dr. Francis L. Bretherton and has a total of 18 members.

Type of meeting: Open.

Agenda

June 11, 1984

8:30 a.m.—Summer Study, Goals, Objectives, and Process.
1 p.m.—Reports on Special Topics.
5 p.m.—Adjourn.

June 12, 1984

8:30 a.m.—Formation of Working Groups and Initial Assignments.
10 a.m.—Working Group Activities on Task Assignments.
5 p.m.—Adjourn.

June 13, 1984.

8:30 a.m.—Plenary Session on Working Group Progress and Concerns.
10 a.m.—Working Group Activities on Task Assignments.
5 p.m.—Adjourn.

June 14, 1984

8:30 a.m.—Working Group Activities on Task Assignments.
1 p.m.—Working Group Reports on Progress and Results.
5 p.m.—Adjourn.

June 15, 1984

8:30 a.m.—Working Group Reports on Progress and Results.
10 a.m.—Report to Associate Administrator for Space Science and Applications.
1 p.m.—Future Plans of the Committee.
3 p.m.—Adjourn.

Dated: May 15, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84-14007 Filed 5-24-84; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C.

Date: June 12, 1984.
Time: 9:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review applications submitted to the Publication Program, Division of Research Programs, for projects beginning after April 1, 1984.

Date: June 14, 1984.
Time: 9:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review applications submitted to the Publications Program, Division of Research Programs, for projects beginning after April 1, 1984.

Date: June 20-21, 1984.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted for the Exemplary Projects and Teaching Materials Programs, Division of Education Programs, for projects beginning after January 1, 1985.

Date: June 28, 1984.
Time: 9:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review applications submitted for the Planning and Assessment Studies Program, Office of Program and Policy Studies, for projects beginning after October 1, 1984.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 84-14037 Filed 5-24-84; 8:45 am]

BILLING CODE 7536-01-M

Artist in Education Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub L. 92-463), as amended, notice is hereby given that a meeting of the Artist in

Education Panel (Special Projects) to the National Council on the Arts will be held on June 14–15, 1984, from 9:00 a.m.–5:30 p.m. in room MO–7 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Gary O. Larson,

Acting Director, Office of Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 84–14048 Filed 5–24–84; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Fellowships Section) to the National Council on the Arts that was to be held on May 25–27, 1984, from 9:00 a.m.—5:30 p.m. in room MO–7 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. has been changed. The meeting will be held on May 25–26, 1984, from 9:30 a.m.—6:00 p.m., and on May 27, from 9:00 a.m.—3:45 p.m. in room M14 of the Nancy Hanks Center 1100 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on May 25, from 3:15 p.m.—5:00 p.m. The topics of discussion will be policy and guidelines.

The remaining sessions of this meeting on May 25, from 9:30 a.m.—3:15 p.m.; May 25, from 5:00 p.m.—6:00 p.m.; May 26, from 9:30 a.m.—6:00 p.m.; and May 27, from 9:30 a.m.—3:45 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Gary. O. Larson,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–14049 Filed 5–24–84; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Crafts Fellowships Section) to the National Council on the Arts will be held on June 11–15, 1984, from 9:00 a.m.—6:00 p.m. in room 718 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Gary O. Larson,

Acting Director, Office of Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 84–14047 Filed 5–24–84; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Burlington Northern Railroad Co.; Public Hearing

In connection with its investigation of the head-end collision of Burlington Northern Railroad Company freight trains Extra 6714 West and Extra 7820 East at Wiggins, Colorado, on April 13, 1984, and the rear-end collision of Burlington Northern Railroad Company freight trains Extra ATSF 8112 East and Extra 7843 East, near Newcastle, Wyoming, on April 22, 1984, the National Transportation Safety Board will convene a public hearing at 9 a.m., June 4, 1984, in the Presidential Range Ballroom of the Stapleton Plaza Hotel, 3333 Quebec Street, Denver, Colorado.

Dated: May 22, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84–14032 Filed 5–24–84; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325/324]

Carolina Power and Light Co. (Brunswick Steam Electric Plant Units 1 and 2); Exemption

I

The Carolina Power & Light Company (the licensee) is the holder of Facility Operating License Nos. DPR–62 and DPR–71 (the licenses) which authorize the operation of the Brunswick Steam Electric Plant, Units 1 and 2, respectively (the facilities) at a steady-state power level not in excess of 2436 megawatts thermal. The facilities consist of two boiling water reactors (BWRs) located in Brunswick County, North Carolina. These licenses provide among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.1.a of Appendix E requires each licensee to hold emergency preparedness exercises at a frequency which will enable each State and local government within the plume exposure pathway EPZ to

participate in at least one full-scale exercise per year.

By letter dated February 21, 1984, the licensee requested an exemption from the requirements of 10 CFR 50, Appendix E, Section IV.F.1.a as it applies to the participation of State and local government agencies in the forthcoming May 8, 1984 emergency preparedness exercise to be held at the Brunswick Steam Electric Plant. The licensee bases this request for exemption on correspondence from the State of North Carolina Department of Crime Control and Public Safety, acting on behalf of State and local government agencies within the plume exposure pathway EPZ, referencing the exemption option of FEMA 44 CFR 350.9, and on previous successful participation by State and local government agencies in exercises in August 1981 and May 1983. Based on participation in the 1983 exercise, the licensee contends that the experience gained by the State and local government agencies during the exercise is sufficient basis for relief from the annual exercise frequency requirement.

The NRC staff has reviewed the results of FEMA findings of past exercises which indicate the performance of State and local government agencies to be satisfactory. Based on this review and a review of past NRC inspection and appraisal results, the staff has determined that the agencies demonstrated a capability to respond effectively to nuclear power station emergency conditions. The staff has also discussed the licensee's request with FEMA Headquarters. FEMA indicates that the State and local government agencies involved in the Brunswick emergency plan are qualified under the provisions of 44 CFR 350.9(c) and they need not participate in a full-scale exercise in 1984. From the above evaluation, the staff concludes that an exemption pursuant to the requirements of 10 CFR 50, Appendix E, Section IV.F.1.a, is justified, provided that as agreed in the February 21, 1984 letter, the State and local government agencies provide such minimal support as may be essential to the conduct of the May 8, 1984 emergency preparedness exercise.

Based on our evaluation, the staff has concluded that non-participation by state and local government agencies in the May 8, 1984 emergency preparedness exercise at the Brunswick Steam Electric Plant will not adversely affect the overall state of emergency preparedness at the Brunswick site and that the requested exemption from the requirement of 10 CFR 50, Appendix E, Section IV.F.1.a should be granted.

III

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption request.

Exemption is granted from the requirement of 10 CFR 50, Appendix E, Section IV.F.1.a, that State and local governemnt agencise fully participate in the emergency preparedness exercise scheduled to be held at Brunswick Steam Electric Plant, Units 1 and 2 during May 1984.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an evironmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 17th day of May, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-14018 Filed 5-24-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power and Light Co. (H. B. Robinson Plant Unit 2); Exemption

I

The Carolina Power and Light Company (the licensee) is the holder of Facility Operating License No. DPR-23, which authorizes operation of the H. B. Robinson Steam Electric Plant, Unit 2 (the facility). This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect. The facility is a pressurized water reactor (PWR) located at the licensee's site in Darlington County, South Carolina.

II

Section, 10 CFR 73.55 and Appendices B and C to 10 CFR Part 73 address the requirements of physical security, guard training and qualification, and safeguards contingency planning for nuclear power reactors. 10 CFR 73.55 became effective on March 28, 1977, and Appendices B and C became effective on October 23, 1978, and June 6, 1978 respectively.

These regulations require, inter alia, that each applicant for a license to operate a nuclear power reactor pursuant to 10 CFR Part 50 establish, prior to receipt of the license, a physical protection system designed to protect the facility against radiological sabotage by a specified design basis threat. The licensee has been in operation since March, 1977, the date the regulations became effective.

III

By letter dated October 25, 1983, as supplemented by letter dated March 5, 1984, the licensee requested a temporary exemption from the requirements of 10 CFR 73.55, thereby relaxing the physical security measures currently implemented at the site during their steam generator repair program. In support of this request, the licensee notes that the reactor has been shutdown and fuel removed from the core and stored in the spent fuel storage building in order to facilitate this major construction at the facility. The acceptability of the exemption request for temporary relaxation from the requirement of 10 CFR 73.55 is addressed below.

IV

The licensee requested a temporary exemption from the requirements of 10 CFR 73.55 during a period of extended shutdown.

Although 10 CFR 73.55 contains no provisions for relaxation of security requirements during periods of extended shutdown, this would seem to be a reasonable course of action if it could be shown that the public safety would not be adversely affected. Accordingly, it is necessary to examine whether or not the relaxation would increase the risk of radiological sabotage either in the present or in the future.

The reactor has not been critical since January 26, 1984. All fuel has been removed from the pressure vessel and placed in storage in the spent fuel pool which will continue to be protected. There are currently no activities on site related to reactor operations, and none of the reactor safety systems are in use. Therefore, from a practical standpoint, the reactor has reverted to the pre-licensing construction stage, and accordingly there exists no current potential for radiological sabotage.

Without full scale security at the site, there is the possibility of illegal activities taking place designed to damage the plant or compromise the security system at some future time after operation has commenced. This same potential exists at all new reactors prior

to the issuance of the operating license, and while vandalism, property damage and bomb threats are not uncommon at sites under construction, there is little evidence of malevolent actions undertaken with the intent of seriously endangering the safe operation of the reactor.[1] For protection against this, the licensee has committed to maintaining certain elements of the security system. These measures include, among other things:

—Controlling and limiting site access to individuals having work-related needs,
—Maintaining the tamper protection features of the intrusion alarm system,
—Continuing the operation of the central alarm station and the ablity to call for assistance from the local police forces,
—Maintaining a qualified and trained guard force onsite, and
—Additionally restricting access to the reactor control room to individuals on company business.

To insure that sabotage has not taken place and that sabotage materials have not been introduced into vital areas, the licensee has established a return-to-service test and inspection program. Prior to reload of the reactor, the licensee has agreed to the following:

—A team of security and operations personnel will conduct an inspection of the protected area and each designated vital area to detect the presence of unauthorized materials or personnel,
—Operations personnel will conduct a walkdown of all systems which handle, contain or maintain reactor fuel to insure operability of these systems, and
—Pre-op testing of safety systems as set forth in the re-start license condition will be completed.

The staff believes that the licensee's proposed re-start inspection and test program in conjunction with the continuing safeguards elements will be an effective technique in detecting acts of sabotage prior to start-up. Accordingly, the probability of undetected damage or destructive devices being introduced into the reactor system during this period is considered to be low.

During this period, all irradiated fuel will be stored in the spent fuel pool, which will continue under full scale protection. (In this regard staff analysis shows that the decay activity of the fuel will have decreased below the level at which special protection is required, e.g., it will no longer be considered vital material.) The protection measures will include isolation of the fuel pool from other plant areas, an armed guard force, intrusion alarm system on access portals to the pool, an operating central alarm station, communications to local police response units, and security patrols.

Based on the above evaluation, the temporary suspension of certain portions of the licensee's security plan during this shutdown period is not inconsistent with the purpose and intent of the NRC security requirements contained in 10 CFR 73.55 (a) through (h), and will not significantly increase the risk of radiologial sabotage at the present time or over the life of the facility. The shutdown period for the purpose of this exemption is considered to terminate 30 days prior to fuel loading into the reactor vessel (see license revision to Section 3.F item 3 dated May 17, 1984). Therefore, the temporary exemption from 10 CFR 73.55 (a) through (h) is granted.

V

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5 an exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest, and hereby grants a temporary exemption from the requirements of Section 10 CFR 73.55 (a) through (h) and Appendix C of 10 CFR Part 73 as stated in the H. B. Robinson Unit 2 Physical Security and Safeguards Contingency Plan and to the extent discussed in Section IV above.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 50.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 18th day of May, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-14109 Filed 5-24-84; 8:45 am]

BILLING CODE 7590-01-M

[1] The only recent incident of this nature occurred in April of 1983 at Diablo Canyon. A reactor coolant pipe was apparently deliberately gouged during a period of relaxed security.

[Docket No.27-47]

License Issuance and Negative Delcaration; Chem-Nuclear Systems, Inc.

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: License Issuance and Negative Declaration.

SUMMARY: NRC has issued an amended license for Chem-Nuclear Systems, Inc. (CNSI) of Oak Brook, Illinois, for disposal of special nuclear material (SNM) at CNSI's low-level waste disposal facility located at Barnwell, South Carolina. The amended license reflects the implementation of the waste manifest, waste form, and waste classification requirements of 10 CFR Parts 20 and 61. The amended license also reflects the operational changes in disposal necessary to implement the new requirements. NRC has determined that issuance of this amended SNM license will not result in any significant impact on the environment and therefore does not require preparation of an environmental impact statement.

FOR FURTHER INFORMATION CONTACT: Mr. Leo Higginbotham, Chief, Low-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 427-4433.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) has issued to Chem-Nuclear Systems, Inc. (CNSI) an amended license for disposal of special nuclear material (SNM) at CNSI's low-level waste disposal facility located in Barnwell County, South Carolina.[1] The amended SNM license supersedes the previous one authorizing disposal activities at the CNSI facility at Barnwell, South Carolina.

The amended SNM license incorporates the waste manifest, waste form, and waste classification requirements of 10 CFR Parts 20 and 61, along with operational changes necessary to implement the new requirements. The requirements of 10 CFR Part 20, § 20.311 that apply to waste generators, brokers, and shippers became effective on December 27, 1983 and the amended license implements the requirements for the disposal facility operator that are necessary for disposal of SNM wastes under the new requirements.

The South Carolina Department of Health and Environmental Control (DHEC) already issued an amended State license for disposal of source and by product material that implements the new requirements of 10 CFR Parts 20 and 61. The amendments to the NRC SNM license were coordinated with the South Carolina DHEC and reflect the

[1] Chem-Nuclear Systems' main office is located at 3003 Butterfield Road, Oak Brook, Illinois 60521.

waste form and packaging requirements contained in the State of South Carolina license. The NRC and State licenses have been made as consistent as possible to minimize generator, broker and shipper confusion.

The NRC issued a Draft Environmental Impact Statement (DEIS) NUREG–0782 and a Final Environmental Impact Statement (FEIS), NUREG–0945 during the development of the requirements for waste disposal established in 10 CFR Parts 20 and 61. Based on the analyses done as part of the rulemaking and presented in these environmental statements, the NRC concludes that issuance of this amended SNM license to implement these requirements will not result in any significant impact on the environment and therefore does not require preparation of an environmental impact statement. The DEIS and FEIS may be obtained by written request to the Division of Technical Information and Document Control, U.S.N.R.C. Washington, D.C. 20555.

The Commission finds that the issuance of the amended license complies with the requirements of the Atomic Energy Act of 1954, as amended, and the requirements of Title 10, Chapter 1, Code of Federal Regulations.

Dated at Silver Spring, Maryland this 17th day of April 1984.

For the Nuclear Regulatory Commission.

Leo B. Higginbotham,

Chief, Low-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management.

[FR Doc. 84–14110 Filed 5–24–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on June 14, 1984, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open to the public.

At this meeting the Panel will receive a presentation from General Public Utilities Nuclear Corporation, the licensee, on the planned reactor pressure vessel head lift. The licensee will also provide the current funding plan for the cleanup. Alternative methods of funding and completing the cleanup will be discussed by the Panel.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492–7466.

Dated: May 21, 1984.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 84–14107 Filed 5–24–84; 8:45 am]

BILLING CODE 7590–01–M

Abnormal Occurrences; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incidents were determined to be abnormal occurrences using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). These abnormal occurrences are described below, together with the remedial actions taken. These events are also being included in NUREG–0090, Vol. 6, No. 4 ("Report to Congress on Abnormal Occurrences: October-December 1983"); this report will be available in the NRC's Public Document Room 1717 H Street, NW, Washington, D.C. about three weeks after the publication date of this **Federal Register** Notice.

Emergency Diesel Generator Problems

Example I.D.4 of the abnormal occurrence criteria notes that incidents with implications for similar facilities (generic incidents), which create major safety concern, can be considered an abnormal occurrence.

Date and Place—On August 12, 1983, emergency diesel generator (EDG)–102 at the Shoreham Nuclear Power Plant (99% construction completion) failed due to a fractured crankshaft. The applicant for the plant is Long Island Lighting Company, New York. There are three EDG units at Shoreham, all manufactured by Transamerica Delaval, Inc. (TDI). During the following investigations of the failure and needed repairs, several conditions were identified which raised questions about the reliability of all TDI diesels at other nuclear power stations.

Nature and Probable Consequences—The failure at Shoreham occurred after 1.75 hours of testing at the two-hour overload rating (3900 kW). At the time of failure, EDG–102 had accumulated about 718 operating hours and about 19 hours at the 110% overload rating. The test in progress when the crankshaft fractured was being performed to demonstrate EDG load carrying ability following replacement of all eight cylinder heads with a newer design (originally supplied cylinder heads had developed leaks from the cooling water area).

The EDG–102 crankshaft fracture occurred on the generator (load) side of the No. 7 cylinder and extended through the load side crank arm into the crank pin. (The No. 8 cylinder is closest to the load.) Examination of the other two EDGs identified cracks similar in location and orientation to the one which developed into a fracture on EDG–102. In addition, four of 24 connecting rod bearings were found to contain cracks in the bearing shells.

The EDGs are TDI Model DSR–48 diesels. These EDGs are the only DSR–48 diesels manufactured with a crankshaft assembly having an 11" crank pin diameter and 13" crankshafting diameter (11 x 13). On November 3, 1983, the applicant and its technical consultant reported that the crankshaft failures were definitely caused by a basic design inadequacy. Independent analysis by the contractor established that the crankshaft was overstressed relative to industry standards, a conclusion supported by various considerations, including: Industry-standard torsional analysis methods, detailed stress analyses, and actual torsional test results on EDG–101. Factors contributing to the bearing cracks were found to include unsupported, overhung bearing ends, excessive crack pin journal yawing, and the presence of large pores or voids in the aluminum bearings shells.

In 1974, the licensee contracted with TDI to purchase three EDGs for the Shoreham station. This was the first order received by TDI to provide an EDG for a commercial nuclear power station. Preoperational testing of the engines at Shoreham commenced in late 1981. Each engine has eight cylinders in a straight line (straight-8). One of the Shoreham engines had been used by TDI to qualify the straight-8 series (R48) diesel engine for nuclear service. Since testing began, the licensee has experienced several problems with the EDGs. Many component parts required reworking, redesign, and/or replacement.

At the present time, only two plants with operating licenses have TDI engines installed. One is San Onofre Unit 1 which has been shut down since February 27, 1982 for seismic modifications. The other is Grand Gulf which is authorized for power only up to 5%. A third operating plant, Rancho Seco, is presently installing TDI engines to supplement the existing non-TDI engines.

Grand Gulf has also experienced several problems with TDI engines. In 1981, preoperational testing of two V–16 engines at Grand Gulf commenced. These engines represent the first V–16 units ordered from TDI; one of the Grand Gulf engines was used to qualify the entire TDI V–16 line of machines for nuclear applications.

There has been a total of 57 TDI engines ordered for 16 nuclear power plant sites in the United States. A list of these sites is shown in Table 1. Only San Onofre Unit 1, Grand Gulf, and Shoreham have any significant equipment run time; therefore, the experience base of TDI units in United States nuclear service is limited.

Cause or Causes—The large number of failures together with the inspection history of TDI described below, indicate that quality assurance problems exist at TDI.

TABLE 1.—NUCLEAR PLANTS WITH TRANSAMERICA DELAVAL, INC. DIESEL GENERATORS

Site	Licensee	Location	Engine model No.
Bellefonte	Tennessee Valley Authority	Jackson County, AL	DSRV 16.
Catawaba	Duke Power Company	York County, SC	DSRV 16.
Comanche Peak	Texas Utilities Generating Co	Somervell County, TX	DSRV 16.
Grand Gulf	Mississippi Power & Light Co	Claiborne County, MS	DSRV 16.
Harris	Carolina Power & Light Co	Wake & Chatham Counties, NC	DSRV 16.
Hartsville [1]	Tennessee Valley Authority	Trousdale & Smith Counties, TN	DSRV 16.
Midland	Consumers Power Co	Midland County, MI	DSRV 12.
Perry	Cleveland Electric Illuminating Co	Lake County, OH	DSRV 16.
Phipps Bend [1]	Tennessee Valley Authority	Hawkins County, TN	DSRV 16.
Rancho Seco	Sacramento Municipal Utility District	Sacramento County, CA	DSR 48.
River Bend [2]	Gulf States Utilities	West Feliciana Parish, LA	DSR 48.
San Onofre	Southern California Edison Co	San Diego County, CA	DSRV 20.
Shoreham	Long Island Lighting Co	Suffolk County, NY	DSR 48.
Vogtle	Georgia Power Co	Burke County, GA	DSRV 16.
WPPSS 1	Washington Public Power Supply System	Benton County, WA	DSRV 16.
WPPSS 4 [1]	Washington Public Power Supply System	Benton County, WA	DSRV 16.

[1] Project delayed or cancelled.
[2] River Bend Unit 2 has been cancelled.
NOTE.—Of the plants listed above, only San Onofre Unit 1, Rancho Seco, and Grand Gulf have received operating licenses.

Actions Taken To Prevent Recurrence

Long Island Lighting Company—The licensee has replaced the three 11 x 13 crankshaft assemblies with the 12 x 13 crankshaft assemblies like those reportedly installed in all other DSR–48 diesels. In addition, the connecting rod bearings were replaced with bearings designed to accommodate the new 12" crank pin diameter and to address the factors which caused the earlier bearings to develop cracks.

The applicant still intends to apply for a license to operate the Shoreham facility with the TDI diesel generators. However, as part of a long-term solution for the TDI diesel problems, the applicant has recently placed purchase orders for three diesel generators from Colt Industries. It is understood that the applicant intends to ultimately replace the TDI diesels with Colt diesels. Delivery of the Colt diesels is scheduled for the Fall of 1985 which coincides with the completion of a new diesel generator building that is currently under construction.

Additional actions will also be required in conjunction with the other actions described below.

Other Licensees—By letter dated December 23, 1983, the NRC staff was informed that a TDI diesel engine owners group has been formed to address the EDG reliability issue.

NRC—The staff continues to gather information regarding problems concerning TDI units, reviewing specifics of the problems, and developing a course of action to assure that the affected plants have reliable EDG capability.

The NRC Region IV Vendor Inspection Branch performed inspections of the TDI facility in Oakland, California, during July, September, and October 1983. These inspections were performed at the request of Region I (Region I has responsibility for inspection activities at the Shoreham facility) and in response to allegations of irregularities in the quality assurance program. Several potential nonconformances with NRC requirements were found during the July 1983 inspections. During the September and October 1983 inspections, the staff identified conditions which indicate that portions of the TDI quality assurance program may not have been carried out in accordance with the provisions of 10 CFR Part 50, Appendix B.

The staff has met with the applicant for Shoreham and the licensee for Grand Gulf to discuss the failures to date, the results of the Shoreham investigation, and the actions to be taken to recover from the failures. The staff has also developed several lists of questions that it feels need to be addressed as part of the TDI engine evaluations. One list, which has been sent to all TDI diesel owners, requested specific information about each engine. Another was sent to TDI on December 1, 1983, requesting information about the design development history of various parts of TDI machines. Delaval responded on December 16, 1983.

On January 16, 1984, a special NRC project group was formed to coordinate the overall NRC review of TDI diesel generators. Their primary responsibility is to evaluate the overall qualification of TDI diesel generators for nuclear service. Pacific Northwest Laboratory has been chosen to assist the staff in assessing and evaluating the corrective action plans being submitted by utilities possessing TDI diesel generators.

The staff held a meeting on January 26, 1984, with senior utility executives representing each of the applicants listed in Table 1. The staff informed them of its concerns regarding the breakdown in quality assurance in the TDI manufacturing facility and emphasized the significance of the widespread operating problems to date with TDI engines.

The staff believes that before additional licensing action is taken to authorize the operation of a nuclear power plant with TDI engines, these issues, relating to quality assurance, operating experience, and the ability of the machines to reliably perform their intended function, must be addressed.

On August 30, 1983, the NRC issued Inspection and Enforcement Information Notice No. 83–58 ("Transamerica Delaval Diesel Generator Crankshaft Failure") to licensees to inform them of the Shoreham event. Previous to the Shoreham event, the NRC issued Information Notice No. 83–51 ("Diesel Generator Events") to licensees to inform them of various diesel genertor problems.

Overexposure of a Radiographer

One of the general abnormal occurrence criteria notes that major deficiencies in design, construction, use of, or management controls for licensed facilities or material can be considered an abnormal occurrence.

Date and Place—On January 9, 1984, the NRC Region I office was informed that on December 20, 1983, a radiographer working at Pittsburgh Testing Laboratory in Pittsburgh, Pennsylvania, received an estimated 3400 rem to his right thumb and 2.9 rem to the whole body while performing radiography with a state (Pennsylvania) regulated x-ray unit. During the same calendar quarter, the radiographer also received exposure from NRC licensed

material resulting in a combined whole body exposure of 3.1 rem for the quarter. Both the extremity and whole body doses are in excess of applicable 10 CFR part 20 quarterly restrictions.

Nature and Probable Consequences—During November 1982, the state regulated x-ray unit was replaced. At that time, the interlock on the room door was disconnected, and never reconnected. On December 20, 1983, the radiographer turned on the x-ray unit to allow it to warm up prior to making his first exposure. He later entered the radiography room to set his film and make final adjustments in the position of the piece to be radiographed. This involved localizing the beam center with a plumb-bob, which had to be held under the beam port with the radiographer's thumb. There were no indicators inside the room which showed when the x-ray was on. The radiographer realized that he had been exposed when he returned to the console to start the exposure and found that the beam was already on. It is estimated that the radiographer's thumb was in the beam port for about 5 seconds.

The licensee reported the incident to, and it was investigated by, the Commonwealth of Pennsylvania because the source of the overexposure (the x-ray tube) is regulated by the state. The state's reconstruction of the event, using ionization chambers, indicated that the radiographer's right thumb received an estimated 3400 rem, and that the whole-body dose was about 5–10 rem. The radiographer's film badge showed a dose of 2.9 rem for the month of the incident, and, including the two previous month's exposure, was 3.1 rem for the fourth quarter of 1983.

As discussed later, the NRC Region I office also performed an inspection. The room used for x-ray radiography is also used for radiography with NRC licensed materials. As such, the room was supposed to have been equipped with a radiation-sensitive visible and audible alarm. It was found that such an alarm had never been installed.

The exposure to the radiographer's right thumb has resulted in erythema and blistering. At the time of the NRC inspection, the radiographer had not yet been seen by a medical specialist in radiation injuries, and, consequently, additional medical information is unavailable. NRC Region I has urged the licensee to obtain a consultant in radiation injuries.

Cause or Causes—The principal causes of the incident were the failure of the licensee to install the NRC-required radiation alarm and the absence of an interlock on the room door. A contributing cause was the absence of a beam-status indicator inside the room.

Actions Taken to Prevent Recurrence

Licensee—The interlock on the room door was immediately reconnected. The radiation alarm required by the NRC has been ordered, and radiography with NRC-licensed materials will not be resumed in the room until the alarm is in place.

State Agency—The Commonwealth of Pennsylvania investigated the incident and found that the interlock on the room door was disconnected. The agency also reconstructed the event to estimate the amount of radiation received by the radiographer. The agency is taking appropriate actions with the licensee.

NRC—Since NRC licensed material was also involved in the radiographer's whole body overexposure for the calendar quarter, and since the licensee had a history of several violations of NRC requirements, the NRC also performed an investigation. The NRC confirmed the State Agency's findings and found that the NRC required radiation alarm had not been installed. Had the alarm been installed, the radiographer would have known that the x-ray beam was on before he attempted to adjust it.

The NRC Region I office held an enforcement conference with the licensee on January 31, 1984. NRC Region I expressed their serious concern with the licensee management's procedures and controls for the use of radiography devices, as evidenced not only with the immediate violations, but also with the numerous violations of requirements found during several previous inspections. On March 2, 1984, the NRC sent to the licensee a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $8,000, which the licensee subsequently paid.

Dated in Washington, D.C. this 21st day of May 1984.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-14106 Filed 5-24-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power and Light Co., et al. (Grand Gulf Nuclear Station, Unit 1); Receipt of Petition for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated March 29, 1984, the Jacksonians United For Livable Energy Policies has asked that the Commission order the Mississippi Power and Light Company, *et al.* to show cause why the license for Grand Gulf Nuclear Station, Unit 1, should not be revoked and a stay of operation not be issued. The petitioner bases its request for relief on discrepancies discovered in technical specifications since the issuance of the license in 1982 and on problems associated with the capabilities of diesel generators used at the plant which were designed and manufactured by Transamerica Delaval, Incorporated. The petitioner also asks for modification of the license to remove management personnel responsible for problems at Grand Gulf and to ensure implementation and verification of corrective actions for identified deviations from NRC requirements. The petition is being treated under 10 CFR 2.206 and, accordingly, appropriate action will be taken on the petition within a reasonable time.

Copies of the petition are available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 and in the local public document room for the Grand Gulf Nuclear Station at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154.

Dated at Bethesda, Maryland this 22nd day of May 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc 84-14113 Filed 5-24-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-184]

National Bureau of Standards; Renewal of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. TR-5 to the National Bureau of Standards (the licensee) which renews the license for operation of the test reactor for a period of 20 years and authorizes a power increase from 10 MW (thermal) to a power level not in excess of 20 MW (thermal). The facility is located on the grounds of the National Bureau of Standards in Gaithersburg, Maryland.

The amended license 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. Those findings are set forth in the amended license. Notice of the proposed

issuance of this renewal and power increase was published in the **Federal Register** on December 24, 1980 at 45 FR 85235. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared a Final Environmental Statement (NUREG–0877) for the renewal of the Facility Operating License and has concluded that there will be no significant environmental impact attributable to the action.

The Commission has also prepared a Safety Evaluation Report (NUREG–1007) and Supplement 1 to NUREG–1007 regarding the renewal of the Facility Operating License and has concluded that the facility can continue to be operated by the licensee without endangering the health and safety of the public

For further details with respect to this action, see (1) the application for amendment dated December 2, 1980, as supplemented, (2) Amendment No. 5 to License TR–5, (3) the Commission's related Safety Evaluation Report (NUREG–1007), (4) Supplement 1 to the Safety Evaluation Report and (5) the Environmental Impact Statement (NUREG–0877). These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Copies of NUREG–0877, NUREG–1007, and Supplement 1 to NUREG–1007 may be purchased by calling (301) 492–9530 or by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Bethesda, Maryland, this 16th day of May 1984.

For the Nuclear Regulatory Commission.

Cecil O. Thomas, Chief,

Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 84–14114 Filed 5–24–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 70–687]

Negative Declaration Regarding Renewal of Special Nuclear Material License No. SNM–639; Union Carbide Corp., Medical Products Division, Tuxedo, New York

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License No. SNM–639 for the continued operation of the Medical Products Division at Tuxedo, New York.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the proposed renewal of Special Nuclear Material License No. SNM–639. On the basis of this appraisal, the Commission has concluded that the environmental impact created by the proposed license renewal action would not be significant and does not warrant the preparation of an environmental impact statement and, accordingly, it has been determined that a Negative Declaration is appropriate. The Environmental Impact Appraisal, dated May 1984, is available for public inspection and copying at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, under the Union Carbide Docket No. 70–687.

A single copy of the Environmental Impact Appraisal may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Silver Spring, MD this 21st day of May 1984.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 84–14116 Filed 5–24–84; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new revision or extension: Revision

2. The title of the information collection: 10 CFR Part 51, Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions

3. The form number if applicable: Not applicable

4. How often the collection is required: Occasionally

5. Who will be required or asked to report: Applicants for construction permits, operating licenses, and material licenses

6. An estimate of the number of responses: 21

7. An estimate of the total number of hours needed to complete the requirement or request: 72,540

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable

9. Abstract: Policy and procedures are established for the preparation and processing of environmental impact statements and related documents relative to the Commission's licensing and regulatory activities.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland this 21st day of May 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–14115 Filed 5–24–84; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

River Assessment Task Force; Meeting

AGENCY: River Assessment Task Force of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Work plan outline
- Subgroup reports due dates
- Incorporation of ongoing state efforts
- Establishment of future meeting dates
- U.S. Forest Service presentation on existing information and current studies
- Other
- Public comment

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its River Assessment Task Force.

DATE: May 31, 1984. 9:00 a.m.

ADDRESS: The meeting will be held at the Council Conference Room in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT:
Peter Paquet, 503–222–5161.

Edward Sheets,
Executive Director.

[FR Doc. 84–14036 Filed 5–24–84; 8:45 am]
BILLING CODE 0000–00–M

DEPARTMENT OF STATE

[CM–8/747]

Advisory Committee on International Investment, Technology, and Development, Meeting

The Department of State will hold a meeting of the Working Group on International Data Flows of the Advisory Committee on International Investment, Technology, and Development on June 18, 1984 from 10:00 a.m. to noon. The meeting will be in the East Auditorium (Room 2925D) of the Department of State, 2201 "C" Street, NW., Washington, D.C. 20520.

The purpose of the meeting will be to discuss the July 2–3 session of the OECD Working Party on Transborder Data Flows and report on TBDF work related to the UN Center on Transnational Corporations.

Members of the public wishing to attend the meeting must contact the Office of Investment Affairs ((202) 632–2728) in order to arrange admittance to the State Department. Please use the "C" street entrance.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public at the meeting.

Dated: May 11, 1984.

Philip T. Lincoln, Jr.,
Executive Secretary.

[FR Doc. 84–14079 Filed 5–24–84; 8:45 am]
BILLING CODE 4719–97–M

[CM–8/746]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Energy and Development of the Advisory Committee on International Investment, Technology, and Development on June 13, 1984 from 10:00 a.m. to 1:00 p.m. The meeting will be in Room 6909 of the Department of State, 2201 "C" Street, NW., Washington, D.C. 20520.

The purpose of the meeting will be to discuss constraints to energy investment in less developed countries.

Members of the public wishing to attend the meeting must contact the Office of Investment Affairs ((202) 632–2728) in order to arrange admittance to the State Department. Please use the "C" street entrance.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public at the meeting.

Dated: May 15, 1984.

Philip T. Lincoln, Jr.,
Executive Secretary.

[FR Doc. 84–14080 Filed 5–24–84; 8:45 am]
BILLING CODE 4719–97–M

[CM–8/743]

Department of State Advisory Committee on Oceans and International Environmental and Scientific Affairs; Open Meeting

The Department of State's Advisory Committee on Oceans and International Environmental and Scientific Affairs will meet at 9:00 a.m. on Thursday, June 21, 1984, in Room 150 of the National Academy of Sciences, 2101 Constitution Avenue, NW., Washington, D.C. This meeting, with a break for lunch, is expected to end at aproximately 3:30 p.m.

At the meeting, responsible officials of the Department of State, and members of the Advisory Committee, will discuss the following subjects:

—The London Dumping Convention
—The United Nations Environmental Program
—Outerspace Commercialization
—The World Population Conference

This meeting is to be open to the public. Members of the public will be admitted to the limits of the meeting room's seating capacity and will be given the opportunity to participate in the discussions according to the instructions of the chairman.

People wishing further information on this meeting should direct their inquiries to Francesco Alberti of the Office of Science and Technology Support of the Department of State's Bureau of Oceans and International Enviornmental and Scientific Affairs. He may be reached by telephone on (202) 632–2764.

Dated: May 15, 1984.

James L. Malone,
Chairman.

[FR Doc. 84–14083 Filed 5–24–84; 8:45 am]
BILLING CODE 4710–09–M

[CM–8/745]

Fine Arts Committee; Meeting

The Fine Arts Committee of the Department of State will meet on Tuesday, June 19, 1984 at 2:00 p.m. in the John Quincy Adams State Drawing Room. The meeting will last approximately until 3:30 p.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in March 1984, the announcement of gifts, loans, and financial contributions for December 31, 1984 to June 1, 1984, and a report on the last two architectural improvement projects.

Public access to the department of state is controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Thursday, June 14, 1984, telephone (202) 632–0298 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: May 14, 1984.

Clement E. Conger,
Chairman, Fine Arts Committee.

[FR Doc. 84–14081 Filed 5–24–84; 8:45 am]
BILLING CODE 4710–38–M

[Docket No. CM–8/744]

National Committee of the U.S. Organization for the International Radio Consultative Committee; Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on June 13, 1984, at 2:00 p.m. in Room 1912, Department of State, 2201 C Street, NW., Washington, D.C.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCIR activities; provides advice on matters of policy and positions in preparation for CCIR Plenary Assemblies and meetings of the international Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCIR which are submitted to the Committee for consideration.

The main purposes of the meeting will be:

1. Review results of the interim Study Group meetings (1938/84);
2. Discuss preparations for the Space Conference Preparatory Meeting (June–July 1984);
3. Discuss preparations for final Study Group meetings (Fall 1985);
4. Discuss CCIR organization in general.

Members of the general public may attend the meeting and join in the

discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled. All persons wishing to attend the meeting should contact the office of Richard Shrum, Department of State, Washington, D.C.; telephone (202) 632–2592. All attendees must use the C Street entrance to the building.

Dated: May 16, 1984.

William H. Jahn,

Acting Director, Office of International Communications Policy.

[FR Doc. 84-14082 Filed 5-24-84; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/742]

UNESCO Monitoring Panel; Meeting

The Monitoring Panel on UNESCO will meet on June 11, 1984, 9:00 a.m., room 1110, 1400 Key Boulevard, Arlington, Virginia. The purpose of this meeting is to continue the process of monitoring and reporting on the activities of UNESCO during 1984.

The principal agenda items will concern:

a. Reports of the Informal Task Forces.

b. Reports on the IPDC meeting.

c. Reports on UNESCO's 119th Executive Board.

The meeting will be open to the public; members of the public may attend up to the seating capacity of the room. Members of the public may present written statements. Any oral interventions by interested members of the public will be made at the discretion of the chairman.

For further information contact the Executive Secretary of the Monitoring Panel, Mr. I. Lee Sanders, or Assistant Executive Secretary, Ms. Jamie Miller at: Room 4808, Department of State, 2201 C Street, NW., Washington, D.C. 20520, (202) 632–2674.

Dated: May 9, 1984.

I. Lee Sanders,

Executive Secretary, UNESCO Monitoring Panel.

[FR Doc. 84-14078 Filed 5-24-84; 8:45 am]

BILLING CODE 4710-19-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Fundamental Tax Reform and Simplification Study; Meetings and Solicitation of Comments

AGENCY: Office of Tax Policy, U.S. Department of the Treasury.

ACTION: Notice of meetings on Fundamental Tax Reform and Simplification. Solicitation of comments on Fundamental Tax Reform and Simplification.

SUMMARY: In the State of the Union Address in January 1984, the President directed the Secretary of the Treasury to develop a plan to "simplify the entire tax code, so that all taxpayers * * * are treated fairly." The objectives of the plan are to simplify the tax code and to improve compliance and make the tax base broader so that personal tax rates can be reduced. The Treasury Department is currently developing specific proposals to accomplish these objectives. In order to solicit public input on tax reform and simplification, the Treasury Department will hold public meetings at selected locations around the country during June 1984. Public officials, representatives of interested groups, tax professionals, and other individuals are invited to attend and participate in the discussions. In addition, a docket is being established to receive comments on tax reform and simplification. The docket will remain open through November 1984. Individuals and groups are invited to submit relevant information and suggestions throughout the study.

Dates and locations: The first meeting will be held on Wednesday, June 6, 1984, beginning at 9:30 a.m., in the Cash Room, U.S. Department of the Treasury, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220 and convened by Deputy Secretary R. T. McNamar. It and subsequent meetings will be chaired by the Assistant Secretary of the Treasury for Tax Policy or his representative. Additional meetings will be held on the following dates at the locations listed below:

Friday, June 8: Federal Building, 515 Rusk Street, Room 4401, Houston, Texas 77082

Tuesday, June 12: City Hall, 200 North Spring Street, Room 350, Los Angeles, California 90012

Tuesday, June 19: Minneapolis Public Library, 300 Nicollet Mall, Heritage Room, Minneapolis, Minnesota 55401

Wednesday, June 20: Richard B. Russell Building, 75 Spring Street, SW., Atlanta, Georgia 30303

Monday, June 25: Customs Ceremonial Room, 6 World Trade Center, 7th Floor, New York, New York 10048

Tuesday, June 26: U.S. Department of the Treasury, Cash Room, 15th & Pennsylvania Ave., NW., Washington, D.C. 20220

Thursday, June 28: Sky Harbor Inn, 1700 North Walnut, Springfield, Illinois 62702

Conduct of Meetings: Each meeting will begin at 9:30 a.m. There will be a morning and an afternoon session. The morning session will be reserved for public officials and other witnesses representing groups or organizations. In the afternoon session, witnesses speaking as individuals will have an opportunity to testify.

All persons wishing to testify are required to request time in advance of the meeting by writing to: Treasury Tax Reform Study, Department of the Treasury, P.O. Box 299, Washington, D.C. 20044.

Requests to testify at the morning and afternoon sessions will be approved in the order they are received. Witnesses should indicate their name, address, telephone number, affiliation (if any), and the location where they wish to speak (and the date, in the case of the Washington, D.C. meetings). In addition, those wishing to testify are required to submit a written statement that will be received at least five working days in advance of the meeting at the address shown above and are requested to bring at least five copies of the testimony to the meetings. In order to accommodate as many views as possible, each oral presentation will be limited to eight minutes. Testimony that cannot be accommodated at the meetings can be submitted for the record. At the end of each meeting, time will be set aside for brief presentations from members of the audience who have not been allotted time before the meeting. These people will not be required to submit a written statement in advance. There will be a signup list for these persons at the meeting room.

Maintenance of Docket: A docket will be maintained at the Department of the Treasury throughout the study. This will contain the full record of the public meetings and the written statements of those who testify and those who are unable to testify. In addition, members of the public will have an opportunity to submit material for the docket by writing to: Treasury Tax Reform Study, Department of the Treasury, P.O. Box 299, Washington, D.C. 20044.

The docket will remain open until November 30, 1984.

FOR FURTHER INFORMATION CONTACT: Brian Riley, Hearings Coordinator, U.S. Department of the Treasury, P.O. Box 299, Washington, D.C. 20044, (202) 566–4017.

Dated: May 22, 1984.

John E. Chapoton,

Assistant Secretary, (Tax Policy).

[FR Doc. 84-14097 Filed 5-24-84; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

Commissioner's Advisory Group; Open Meeting

There will be a meeting of the Commissioner's Advisory Group on June 18 & 19, 1984. The meeting will be held in Room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue NW., Washington, D.C. The meeting will begin at 9:00 a.m. on Monday, June 18, and 9:00 a.m. on Tuesday, June 19. The agenda will include the following topics:

Monday, June 18, 1984

Competent Authority Matters
Automated Examination System
Corps of Volunteers
(Grace Commission Recommendations)
Rulings as they affect Small Business

Tuesday, June 19, 1984

Counsel Topics
Information Returns Program (IRP)

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. If you would like to have the Committee consider a written statement, please call or write to Frederic P. Williams, Acting Assistant to the Deputy Commissioner, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Frederic P. Williams, Acting Assistant to the Deputy Commissioner, (202) 566–4143 (Not toll free).

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 84–14136 Filed 5–24–84; 8:45 am]

BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

Evaluators of International Exchange Programs

This is a corrected version of our announcement on the above subject which was printed in the **Federal Register** at 49 FR 20592, May 15, 1984.

The Bureau of Educational and Cultural Affairs of the United States Information Agency is assembling a resume file of individuals available for short- to medium-term part-time assignment as evaluators of programs and projects administered under the Fulbright-Hays Act.

Minimum qualifications for consideration for these assignments include the following:

Experience with international educational and cultural exchange programs
Experience in American and/or foreign educational, cultural or exchange of person institutions
Experience in data collection, interpretive analysis and report writing.

Many assignments will also require area specialization and/or knowledge of foreign languages. Some assignments will require formal background in evaluation and the associated research-design and statistical competencies.

Evaluators work closely with Agency staff and may be appointed to work alone or as part of a project team. Domestic and international travel may be required. Compensation will vary, and the shortest-term assignments may be unpaid.

Individuals interested in being considered for evaluation assignments should submit detailed resumes and brief writing samples to: Ronald L. Trowbridge, Associate Director, Bureau of Educational and Cultural Affairs, U.S. Information Agency, Room 849, 301 Fourth Street SW., Washington, D.C. 20547.

Deadline for receipt of resumes is June 15, 1984.

Dated: May 22, 1984.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 84–14140 Filed 5–24–84; 8:45 am]

BILLING CODE 8239–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 103
Friday, May 25, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1
Consumer Product Safety Commission	2
Federal Energy Regulatory Commission	3
Federal Home Loan Mortgage Corporation	4
Federal Maritime Commission	5
Federal Reserve System	6, 7
National Credit Union Administration	8

1

CIVIL AERONAUTICS BOARD

[M-404 amdt 2, 5/17/84

Deletion From and Additions To the May 17, 1984 Meeting.

TIME AND DATE: 10:00 a.m. (Closed), 2:30 p.m. (Open), May 17, 1984.

PLACE: Room 1012 (Closed), Room 1027 (Open), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

5a. Discussion on Peru. (BIA)
10a. Discussion on Costa Rica. (BIA)
20. Docket 41874. Application of South Pacific Island Airways, Inc. (Memo 2334, BIA, OGC)

STATUS: 5a & 10a Closed, 20 Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-14139 Filed 5-22-84; 5:10 pm]

BILLING CODE 6320-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, May 30, 1984.

LOCATION: Third Floor Hearing Room, 1111-18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Election of Vice Chairman

The Commission will elect a Vice Chairman for the term beginning June 1, 1984 and ending May 31, 1985.

2. Unvented Gas-Fired Space Heaters: Final Revocation

The Commission will consider a proposed revocation of the Commission's mandatory standard requiring the oxygen depletion sensor on unvented gas-fired space heaters (16 CFR, Part 1212).

3. Closure Test Equipment Report

The staff will brief the Commission on the status of studies to correlate closure testing equipment forces with PPPA protocol test data.

Closed to the Public.

4. FOIA Appeal (OS #3831): Nitrosamines Package

The Commission will consider FOIA Appeal OS #3831.

For a recorded message containing the latest agenda information, call: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md 20207, 301-492-6800

Sheldon D. Butts,

Deputy Secretary.

May 22, 1984.

[FR Doc. 84-14151 Filed 5-23-84; 10:07 am]

BILLING CODE 6355-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 17, 1984, 49 FR 20977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., May 23, 1984.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

ER-4 EL83-24-000, Seminole Electric Cooperative, Inc.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14150 Filed 5-23-84; 9:20 am]

BILLING CODE 6717-02-M

4

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: May 30, 1984, 2:30 p.m.

PLACE: 1776 G Street, NW., Washington, D.C., Conference Room 4-G.

STATUS: Closed/Open.

CONTACT PERSON FOR MORE INFORMATION: Alan B. Hausman, 1776 G Street, NW., P.O. Box 37248, Washington, D.C. 20013, (202) 789-4763.

MATTERS TO BE CONSIDERED:

Closed—Minutes of April 30, 1984 Board of Directors' Meeting
Closed—President's Report
Closed—Financial Report
Open—Cost of Funds ARMs

Date sent to Federal Register: May 23, 1984.

[FR Doc. 84-14252 Filed 5-23-84; 4:00 pm]

BILLING CODE 6720-02-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m., May 30, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. 82-30: Contract Marine Carriers, Inc.—Further consideration of the record.
2. Docket No. 83-53: U. S. Atlantic & Gulf/Australia New Zealand Conference (Agreement No. 6200-24)—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84-14153 Filed 5-23-84; 11:10 am]

BILLING CODE 6730-01-M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, May 30, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed revision of Regulation K (International Banking Operations).
2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: May 22, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–14170 Filed 5–23–84; 11:18 am]

BILLING CODE 6210–01–M

7

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Wednesday, May 30, 1984, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employee.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: May 22, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–14171 Filed 5–23–84; 11:18 am]

BILLING CODE 6210–01–M

8

NATIONAL CREDIT UNION ADMINISTRATION

Change in Subject of Meeting.

The National Credit Union Administration Board determined that its business required that the previously announced closed meeting on Tuesday, May 22, 1984 include the following additional item which was closed to public observation:

Prohibition action ageinst brokers marketing illegal investments to credit union. Closed pursuant to exemptions (8), (9)(A)(ii) and (9)(B)

Earlier announcement of this change was not possible.

The previously announced items were:

1. Approval of Minutes of Previous Closed Meeting.

2. Termination of Outstanding Cease and Desist Order. Closed pursuant to exemptions (8) and (9)(a)(ii).

3. Administrative Action (termination of share insurance) under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

4. Conservatorship under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

5. Special Assistance under Section 208(a) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

6. Personnel Actions. Closed pursuant to exemptions (2) and (6).

The meeting was held at 9:30 a.m., in the Filene Board Room, 7th Floor, 1776 G Street NW., Washington, D.C.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84–14176 Filed 5–23–84; 11:30 am]

BILLING CODE 7535–01–M

Federal Register

Friday
May 25, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notices

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modification to General Wage Determinations Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona: AZ84–5005	Mar. 9, 1984.
Connecticut: CT83–3032	June 3, 1983.
Iowa: IA84–4006	Feb. 17, 1984.
Kentucky: KY83–1061	Sept. 16, 1983.
Louisiana:	
LA84–4010	Mar. 9, 1984.
LA84–4024	Apr. 20, 1984.
New Mexico: NM83–4074	Oct. 21, 1983.
New York: NY81–3039	Apr. 4, 1981.
Oregon: OR83–5100	Feb. 18, 1983.
Pennsylvania:	
PA81–3080	Oct. 23, 1981.
PA81–3090	Dec. 18, 1981.
PA82–3012	Mar. 5, 1982.
PA84–3001	Feb. 10, 1984.
PA84–3002	Do.
PA84–3013	May 11, 1984.
PA81–3076	Oct. 9, 1981.
Rhode Island: RI83–3042	Aug. 19, 1983.
Texas:	
TX84–4405	Feb. 24, 1984.
TX84–4020	Apr. 13, 1984.
TX84–4028	May 4, 1984.
TX84–4032	May 11, 1984.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State.

Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Kansas:	
KS83–4021 (KS84–4038)	Apr. 27, 1984.
KS84–4023 (KS84–4040)	Do.
KS84–4022 (KS84–4039)	Do.
Minnesota: MN83–2038 (MN84–5015)	May 6, 1983.
Texas:	
TX83–4082 (TX84–4036)	Oct. 21, 1983.
TX83–4078 (TX84–4037)	Do.

Cancellation of General Wage Determination Decision

The general wage decision listed below is cancelled. Agencies with construction projects pending to which the cancelled decision would have been applicable should utilize the project determination procedure by submitting

Form SF–308. See Regulations Part 1 (29 CFR), section 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR, 1.6(c)(2)(i)(A), the incorporation of the cancelled decision in contract specifications, the opening of bids is within ten (10) days of this notice, need not be affected.

NE84–4035—Cass, Douglas and Sarpy Counties, Nebraska, dated May 18, 1984—Residential Construction.

Signed at Washington, D.C. this 18th day of May 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

MODIFICATIONS P. 1

DECISION NO. AZ84-5005 - MOD. #3
(49 FR 9059 - March 9, 1984)
Statewide, Arizona

CHANGE:

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS		
Area 2		
Group 5	13.01	2.93
Group 8	14.51	2.93

DECISION NO. CT83-3032 - MOD. #15
(48 FR 25090 - June 3, 1983)
STATEWIDE, CONNECTICUT

CHANGE:

	Basic Hourly Rates	Fringe Benefits
PLUMBERS:		
Area 1	18.61	3.79

DECISION NO. IA84-4006 - MOD. #7
(49 FR 6206 - 2/17/84)
Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Counties, Iowa

Omit all wage rates & classifications for Zone 1 Electricians

ADD:

	Basic Hourly Rates	Fringe Benefits
Electricians:		
Zone 1	$15.14	1.15+ 3-3/4%

DECISION NO. KY83-1061
Mod # 3
(48 FR 41706 - September 16, 1983)
Allen. . .Webster Counties Kentucky

ADD:

	Basic Hourly Rates	Fringe Benefits
BOILERMAKERS	$18.05	3.175

DECISION NO. NY81-3039 - MOD. #9
(45 FR 23264 - April 4, 1981)
MONROE COUNTY, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION (Includes excavating for site preparation):		
Master Mechanic	16.78	4.30+a
GROUP I	15.81	4.30+a
GROUP II	15.27	4.30+a
GROUP III	13.74	4.30+a
GROUP IV	12.39	4.30+a

DECISION NO. DE82-3015 - MOD. #14
(47 FR 24526 - June 4, 1982)
State of Delaware

CHANGE:

	Basic Hourly Rates	Fringe Benefits
PLUMBERS:	16.22	6.16

MODIFICATIONS P. 2

DECISION NO. NM83-4074 - MOD. #1
(48 FR 48905 - 10/21/83)
Statewide New Mexico

CHANGE:

	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK:		
AREA A:		
Linemen-technicians:		
Zone I	$17.00	P
Zone II	18.53	P
Zone III	19.55	P
Zone IV	21.42	P
Cable splicers:		
Zone I	18.70	P
Zone II	20.23	P
Zone III	21.25	P
Zone IV	23.12	P
Equipment ops.(includes helicopter op.):		
Zone I	16.15	P
Zone II	17.68	P
Zone III	18.70	P
Zone IV	20.57	P
Equipment mechanic(includes helicopter mechanic) & powderman:		
Zone I	14.79	P
Zone II	16.32	P
Zone III	17.34	P
Zone IV	19.21	P
Groundman & jackhammer:		
Zone I	12.07	P
Zone II	13.60	P
Zone III	14.62	P
Zone IV	16.49	P
P - 3½%+$2.00		
AREA B:		
Linemen-technicians:		
Zone I	14.20	.80+3½%
Zone II	15.65	.80+3½%
Cable splicers:		
Zone I	14.45	.80+3½%
Zone II	15.90	.80+3½%
Equipment op.(includes helicopter ops.):		
Zone I	12.35	.80+3½%
Zone II	13.62	.80+3½%
Equipment mechanic(includes helicopter mechanic):		
Zone I	12.35	.80+3½%
Zone II	13.62	.80+3½%
Powderman:		
Zone I	11.93	.80+3½%
Zone II	13.15	.80+3½%
Groundman-jackhammer:		
Zone I	10.08	.80+3½%
Zone II	11.11	.80+3½%

	Basic Hourly Rates	Fringe Benefits
AREA C:		
Linemen-technicians:		
Zone I	$17.10	.80+3½%
Zone II	17.55	.80+3½%
Zone III	17.70	.80+3½%
Zone IV	17.95	.80+3½%
Cable splicers:		
Zone I	17.45	.80+3½%
Zone II	17.90	.80+3½%
Zone III	18.05	.80+3½%
Zone IV	18.30	.80+3½%
Equipment op.(includes helicopter op.):		
Zone I	14.88	.80+3½%
Zone II	15.33	.80+3½%
Zone III	15.48	.80+3½%
Zone IV	15.73	.80+3½%
Equipment mechanic(includes helicopter mechanic):		
Zone I	14.88	.80+3½%
Zone II	15.33	.80+3½%
Zone III	15.48	.80+3½%
Zone IV	15.73	.80+3½%
Powderman:		
Zone I	14.36	.80+3½%
Zone II	14.81	.80+3½%
Zone III	14.96	.80+3½%
Zone IV	15.21	.80+3½%
Groundman-jackhammer		
Zone I	12.14	.80+3½%
Zone II	12.59	.80+3½%
Zone III	12.74	.80+3½%
Zone IV	12.99	.80+3½%
LINE CONSTRUCTION-UTILITY FOR ELECTRIC & TELEPHONE UTILITIES, REA CO-OPS, RAILROADS & MUNICIPALITIES:		
Linemen-technician	15.47	1.80+ 3½%
Cable splicers	16.55	"
Equipment op.(includes helicopter op.)	13.46	"
Equipment mechanic(includes helicopter mechanic)	13.46	"
Powderman	12.99	"
Groundman-jackhammer	10.52	"

DECISION NO. NM83-4074 - MOD. #1 (CONT'D)

CLASSIFICATION AREA & ZONE DEFINITIONS

COMMERCIAL LINE WORK(Excluding work done for electric & telephone utilities, REA co-ops, railroad & municipalities)

AREA A - Also applies to switching stations and substations adjacent to power plants. Bernalillo,Catron,Chaves,Cibola,Colfax,Curry,Debaca, Grant,Guadalupe,Harding,Lincoln,Los Almos,McKinley,Mora,Quay,Rio Arriba,Roosevelt,Sandoval,San Juan,San Miquel,Santa Fe,Sierra, Socorro,Taos,Torrance,Union,Valencia,White Sands Missile Range & that portion of Fort Bliss in New Mexico

ZONE 1 - Cities & Towns Basing Points & Miles from Main Post Office

*Albuquerque - 25 miles	Roswell - 12 miles
Santa Fe - 10 miles	Ruidoso - 12 miles
Las Vegas - 8 miles	Portales - 12 miles
Farmington - 6 miles	Carrizozo - 12 miles
Raton - 6 miles	Clovis - 12 miles
Tucumcari - 6 miles	Gallup 10 miles
Aztec - 6 miles	**Pojoaque - 2 miles

*The eastern edge of the Albuquerque Zone extends no further than the western boundary of the Village of Tijeras

**All areas adjacent to Pojoaque that are two miles distance from the main post office in that town will be zoned out of Santa Fe

ZONE II - Extending up to 20 miles beyond Zone I, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 9% of the journeyman rate of Zone I

ZONE III - Extending up to 30 miles beyond Zone I, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 15% of the journeyman rate of Zone I

ZONE IV - Anything beyond 30 miles from Zone I, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 26% of the journeyman rate for Zone I

For establishing the outlying free zones from the Albuquerque free zone only, Zone II shall extend up to 10 miles beyond Zone I, Zone III shall extend up to 20 miles beyond Zone I, and Zone IV anything beyond 20 miles from Zone I

FOR WORK IN LOS ALAMOS COUNTY, USE THE ZONE III RATE

AREA B - applies to switching stations & substations adjacent to power plants in Zone I & Zone II in Luna, Dona Ana,Otero & Hidalgo Cos., exclusive of White Sands Missile Range & that part of Fort Bliss in New Mexico

ZONE I - that area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss & Biggs Field; the area within a 5 mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area within 10 mile radius from the Post Office in Alamogordo, New Mexico

ZONE II - all other areas of the jurisdiction except those specified in Zone I

AREA C - applies to switching stations adjacent to power plants in Eddy & Lea Cos.; the following zones listed shall be designated from the Main Post Office of Artesia, Carlsbad, Hobbs & Lovington

ZONE I - 0 to 12 miles
ZONE II - 12 to 22 miles
ZONE III - 22 to 40 miles
ZONE IV - 40 miles & beyond

DECISION NO. LA84-4010 - MOD. #5 (49 FR 9064 - 3/9/84)	Basic Hourly Rates	Fringe Benefits
Statewide Louisiana		
CHANGE:		
Electricians:		
Zone 1 - Electricians	$17.64	13.30% +5/10%
Cable splicers	17.89	13.30% +5/10%
Zone 5 - Electricians	16.15	1.68+9%
Cable splicers	16.15	1.68+9%
Line construction:		
Zone 1:		
Linemen	16.15	1.68+9%
Hole digging equip.; tractor w/winch & derrick; line truck w/winch & derrick working hot lines	75%JR	1.68+9%
Pole truck & trailer or pole hauling & setting truck (not energized lines)	65%JR	1.68+9%
Truck w/o winch	45%JR	1.68+9%
Groundmen	50%JR	1.68+9%
Zone 2:		
Linemen	17.64	13.30% +5/10%
Cable splicers	17.89	13.30% +5/10%
Heavy equipment ops.	75%JR	13.30% +5/10%
Truck drivers & groundmen	45%JR	13.30% +5/10%
Plumbers & pipefitters:		
Zone 4	15.19	3.14
OMIT:		
Laborers:		
Zone 7		
Group 6 - General Job Cleanup	5.45	1.08
Zone 8		
Group 4 - General Job Cleanup	5.30	1.08

DECISION NO. LA84-4024 - MOD. #1 (49 FR 16928 - 4/20/84)	Basic Hourly Rates	Fringe Benefits
Jefferson,Orleans,St. Bernard,Bossier,Caddo, Calcasieu,Cameron, Beauregard,Jefferson Davis,Allen,Plaquemines & St. Charles Pars., Louisiana		
CHANGE:		
Electricians:		
Zones 1,6 & 7:		
Electricians	$16.15	1.68+9%
Cable splicers	16.15	1.68+9%
Line construction:		
Zone 1, 6 & 7:		
Group 1	16.15	1.68+9%
Group 2	75%JR	1.68+9%
Group 3	65%JR	1.68+9%
Group 4	45%JR	1.68+9%
Group 5	50%JR	1.68+9%
Plumbers & pipefitter:		
Zone 2	15.19	3.14

DECISION NO. OR83-5100 - Mod. #14

(48 FR 7379 - Feb. 18, 1983)
Statewide Oregon

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Groups 1 thur 6 Finge Benefits ONLY		$3.72
Cement Masons:		
Finge BenefitsONLY		4.22
Laborers:		
All Zones and All Groups Fringe Benefit Only		4.80
Power Equipment Operators:		
All Zones and All Groups Fringe Benefit ONLY		4.60
Truck Drivers:		
All Zones and All Groups Fringe Benefit ONLY		4.19
ELECTRICIANS:		
Area 4:		
Projects under $100,000.00:		
Electricians	$15.00	3%+ 2.42
Cable Splicers	110%JR	3%+ 2.42
Projects over $100,000.00:		
Electricians	18.00	3%+ 2.42
Cable Splicers	110%JR	3%+ 2.42
IRONWORKERS:		
Structural, Reinforcing, Ornamental, Riggers, Signal Men	18.04	4.15

DECISION NO. RI83-3042 - MOD. #8
(48 FR 37809 - August 19, 1983)
Statewide Rhode Island

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Roofers:		
Composition, Waterproofers	14.80	4.24
Slate, Tile, Precast Concrete	15.00	4.25

DECISION NO. PA81-3080 - MOD. #10
(46 FR 52078 - October 23, 1981)
Lehigh County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
GROUP 1	16.52	26.6%+a
GROUP 2	16.23	26.6%+a
GROUP 3	15.17	26.6%+a
GROUP 4	14.52	26.6%+a
GROUP 5	13.26	26.6%+a
GROUP 6	12.36	26.6%+a

DECISION NO. PA81-3090 - MOD. #10
(46 FR 61813 - December 18, 1981)
Lycoming County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
GROUP 1	16.52	26.6%+a
GROUP 2	16.23	26.6%+a
GROUP 3	15.17	26.6%+a
GROUP 4	14.52	26.6%+a
GROUP 5	13.26	26.6%+a
GROUP 6	12.36	26.6%+a

DECISION NO. PA82-3012 - MOD. #10
(47 FR 9681 - March 5, 1982)
Columbia, Montour, & Snyder Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
GROUP 1	16.52	26.6%+a
GROUP 2	16.23	26.6%+a
GROUP 3	15.17	26.6%+a
GROUP 4	14.52	26.6%+a
GROUP 5	13.26	26.6%+a
GROUP 6	12.36	26.6%+a

DECISION NO. PA84-3001 - MOD. #2
(49 FR 5294 - February 10, 1984)
Berks County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
GROUP 1	16.52	26.6%+a
GROUP 2	16.23	26.6%+a
GROUP 3	15.17	26.6%+a
GROUP 4	14.52	26.6%+a
GROUP 5	13.26	26.6%+a
GROUP 6	12.36	26.6%+a

DECISION NO. PA84-3002 - MOD. #1
(49 FR 5295 - February 10, 1984)
Adams & York Counties Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
GROUP 1	16.52	26.6%+a
GROUP 2	16.23	26.6%+a
GROUP 3	15.17	26.6%+a
GROUP 4	14.52	26.6%+a
GROUP 5	13.26	26.6%+a
GROUP 6	12.36	26.6%+a

DECISION NO. PA84-3013 - MOD. #1
(49 FR 20229 - May 11, 1984)
Bucks, Chester, Delaware, Montgomery, Philadelphia Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
HEAVY & HIGHWAY TRUCK DRIVERS:		
Include Site Preparation, Paving and Utilities on Building Construction		
Class 1	12.90	3.2225 +f+g
Class 2	13.00	3.2225 +f+g
Class 3	13.20	3.2225 +f+g

	Basic Hourly Rates	Fringe Benefits
DECISION NO. TX84-4005 - MOD. #3 (49 FR 7069 - 2/24/84) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties, Texas		
CHANGE:		
Soft floor layers	$13.75	1.25
DECISION NO. TX84-4020 - MOD. #2 (49 FR 14839 - 4/13/84) Galveston & Harris Cos., Texas		
CHANGE:		
Cement masons:		
Harris County	13.43	2.18
Roofers:		
Roofers	12.00	2.08
Kettlemen	10.50	2.08
DECISION NO. TX84-4028 - MOD. #1 (49 FR 19207 - 5/4/84) Brazos County, Texas		
CHANGE:		
Cement masons	13.43	2.18
DECISION NO. TX84-4032 - MOD. #1 (49 FR 20232 - 5/11/84) Travis County, Texas		
CHANGE:		
Carpenters:		
Carpenters	14.56	2.18
Millwrights	14.81	2.18
Lathers	14.56	2.18

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA81-3076 - MOD. #11 (46 FR 50263 - October 9, 1981) Schuylkill County, Pennsylvania		
CHANGE:		
POWER EQUIPMENT OPERATORS		
GROUP 1	16.52	26.6%+a
GROUP 2	16.23	26.6%+a
GROUP 3	15.17	26.6%+a
GROUP 4	14.52	26.6%+a
GROUP 5	13.26	26.6%+a
GROUP 6	12.36	26.6%+a

SUPERSEDEAS DECISION

STATE: Kansas

COUNTIES: Barber, Barton, Cheyenne, Clark, Comanche, Decatur, Edwards, Ellis, Ellsworth, Finney, Ford, Gove, Graham, Grant, Gray, Greely, Hamilton, Haskell, Holdgeman, Jewell, Kearny, Kiowa, Lane, Lincoln, Logan, Meade, Mitchell, Morton, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Rawlings, Rice, Rooks, Rush, Russell, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Thomas, Trego, Wallace and Wichita

DECISION NO.: KS84-4038 DATE: Date of Publication

Supersedes Decision NO. KS83-4021, dated April 27, 1984, in 49 FR 18215.

DESCRIPTION OF WORK: Highway Projects (does not include bridges over nevagable waters, Tunnels; Building structures in rest area projects; failroad construction) and Water and Sewer Line Construction.

AREA I

	BASIC HOURLY RATES	FRINGE BENEFITS
Asphalt Paver Screed Operator	$6.48	
Asphalt Paving Machine Operator	6.74	
Asphalt Plant Operator	7.47	
Asphalt Raker	5.73	
Backhoe Operator	7.50	
Batching Plant Scaleman	5.63	
Blowing Mechanism or Mulch Seeder Operator	7.00	
Brick, Block and Stonesetter	8.20	
Bulldozer Operator (Push Cat)	7.61	
Carpenter	8.00	
Carpenter (rough)	6.16	
Concrete Finisher	6.94	
Crane or any Machine Power Swing	8.19	
Crusher and Screening Plant Operator	6.58	
Distributor Operator	6.68	
Electrician	7.94	
Fence Erector	7.75	
Form Liner and Setter	5.90	
Front End Loader Operator	6.70	
Laborer (Construction)	5.37	
Mechanic	7.29	
Mechanic Helper	7.00	
Motor Grader Operator (finish)	8.26	
Motor Grader Operator (rough)	7.45	
Motor Scraper Operator	7.55	
Painters (Structural Steel & Bridge)	8.00	
Paving Equipment Operator	7.71	
Piledrivermen	6.25	
Post Driver and/or Auger Operators	6.50	
Reinforcing Steel Setter	7.80	
Roller/Compactor Operator (self-propelled)	6.28	
Rotary Broom Operator	6.00	
Rotomill Operator	6.98	
Sandblaster (Structural Steel & Bridge)	8.00	
Serviceman (Equipment)	6.13	
Spreader Box Operator (self-propelled)	6.00	

	BASIC HOURLY RATES	FRINGE BENEFITS
Tank Heater Attendant	4.25	
Tractor Operator (80 HP or less)	5.25	
Tractor Operator (80 HP or more)	6.49	
Trenching Machine Operator	7.35	
Truck Driver (Single Axle)	5.53	
Truck Driver (tandem axle)	5.81	
Truck Driver (triple axle & semi)	6.00	
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).		

SUPERSEDEAS DECISION

STATE: Kansas

COUNTIES: Allen,Anderson,Atchinson, Bourbon,Brown,Butler,Chase,Chautauqua, Cherokee,Clay,Cloud,Coffey,Cowley, Crawford, Dickinson,Doniphan,Elk, Franklin,Geary,Greenwood,Harper, Harvey,Jackson,Kingman,Labette, Linn,Lyon,Marion,Marshall,McPherson, Montgomery,Morris,Nemaha,Neosho, Osage,Ottawa,Pottawatomie,Reno, Republic,Riley,Saline,Sumner, Wabaunsee,Washington,Wilson,& Woodson HIGHWAY CONSTRUCTION - Geary,Riley, Labette and Saline Counties ONLY

DECISION NO. KS84-4040 DATE: Date of Publication

Supersedes Decision No. KS84-4023, dated April 27, 1984, in 49 FR 18216.

DESCRIPTION OF WORK: Highway Projects (does not include bridges over navigable waters, tunnels; Building structures in rest area projects; Railroad construction) and Water and Sewer Line Construction.

AREA III

	BASIC HOURLY RATES	FRINGE BENEFITS
Asphalt Paver Screed Operator	$ 7.33	
Asphalt Paving Machine Operator	9.01	
Asphalt Plant Operator	9.50	
Asphalt Raker	7.33	
Backhoe Operator	7.44	
Batching Plant Scaleman	4.75	
Blowing Mechanism or Mulch Seeder Operator	6.67	
Brick, Block and Stonesetter	6.28	
Bulldozer Operator (Push Cat)	7.73	
Carpenter	8.45	
Carpenter (rough)	6.69	
Concrete Central Mix Plant Operator	7.30	
Concrete Finisher	9.62	
Concrete Saw Operator	6.12	
Crane or any Machine Power Swing	9.53	
Crusher and Screening Plant Operator	5.00	
Distributor Operator	7.11	
Electrician	8.27	
Form Liner and Setter	6.62	
Front EndLoader Operator	9.17	
Laborer (Construction)	5.87	
Mechanic	9.72	
Mechanic Helper	6.87	
Motor Grader Operator (finish)	8.52	
Motor Grader Operator (rough)	8.03	
Motor Scraper Operator	7.68	
Painters (structural steel & bridge)	8.02	
Paving Equipment Operator	9.00	
Piledriverman	6.87	
Post Driver and/or Auger Operator	8.00	
Reinforcing Steel Setter	7.92	
Roller/Compactor Operator (self-propelled)	8.42	
Rotary Broom Operator	5.35	
Rotomill Operator	6.35	

	BASIC HOURLY RATES	FRINGE BENEFITS
Sandblaster (structural steel & bridge)	6.00	
Serviceman (equipment)	8.95	
Spreader Box Operator (self-propelled)	7.70	
Steelworker (structural)	10.15	
Tractor Operator (80 HP or less)	6.15	
Tractor Operator (80 HP or more)	6.49	
Trenching Machine Operator	5.35	
Truck Driver (single axle)	7.50	
Truck Driver (tandem axle)	7.23	
Truck Driver (triple axle and semi)	8.04	
Welder	7.98	
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR, 5.5 (a)(1)(ii)).		

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Sedgwick
DECISION NO.: KS84-4039 DATE: Date of Publication
Supersedes Decision No. KS84-4022, dated April 27, 1984, in 49 FR 18216.
DESCRIPTION OF WORK: Highway Projects (does not include bridges over navigable waters, tunnels; Building structures in rest area projects; Railroad construction) and Water and Sewer Line Construction.

AREA II

	BASIC HOURLY RATES	FRINGE BENEFITS
Asphalt Paver Screed Operator	$8.00	
Asphalt Paving Machine Operator	8.25	
Asphalt Plant Operator	7.00	
Asphalt Raker	7.20	
Backhoe Operator	8.03	
Bulldozer Operator (Push Cat)	8.85	
Carpenter	8.86	
Carpenter (rough)	7.85	
Concrete Central Mix Plant Operator	7.88	
Concrete Finisher	8.69	
Concrete Saw Operator	7.50	
Crane or any Machine Power Swing	8.44	
Crusher and Screening Plant	9.15	
Distributor Operator	7.88	
Electrician	11.50	
Form Liner and Setter	8.08	
Front End Loader Operator	7.70	
Laborer (Construction)	6.36	
Mechanic	8.60	
Mechanic Helper	7.50	
Motor Grader Operator (finish)	9.02	
Motor Grader Operator (rough)	7.65	
Motor Scraper Operator	7.75	
Painters (structural steel & bridge)	8.00	
Paving Equipment Operator	8.23	
Pavement Breaker Tamper Operator (self-propelled)	5.00	
Piledrivermen	6.50	
Reinforcing Steel Setter	6.55	
Roller/Compactor Operator (self-propelled)	7.76	
Rotomill Operator	5.75	
Sandblaster (structural steel & bridge)	8.00	
Servicemen (equipment)	7.43	
Tractor Operator (80 HP or less)	6.86	
Tractor Operator (80 HP or more)	8.00	
Trenching Machine Operator	7.25	
Truck Driver (single axle)	6.69	
Truck Driver (tandem axle)	6.30	
Truck Driver (triple axle and semi)	8.00	
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).		

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN84-5015
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision No. MN83-2038 dated May 6, 1983, in 48 FR 20594
DESCRIPTION OF WORK: Building Construction Projects (Does not include single family homes and apartments up to and including 4 stories)

*Aitkin, Becker, Beltrami, Big Stone, Cass, Chisago, Clay, Clearwater, Cottonwood, Crow Wing, Dodge, Douglas, Goodhue, Grant, Hubbard, Isanti, Jackson, Kittson, Lac Qui Parle, Lake of the Woods, LeSueur, Lincoln, Lyon, Mahnomen, Marshall, McLeod, Meeker, Mille Lacs, Morrison, Murray, Nicollet, Nobles, Norman, Otter Tail, Pennington, Pine, Polk, Pope, Red Lake, Redwood, Renville, Rice, Roseau, Sibley, Steele, Stevens, Swift, Todd, Traverse, Wabasha, Wadena, Waseca, Wilkin, Winona, Wright & Yellow Medicine

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
AREA 1	$18.90	$1.71
AREA 2	18.06	1.84
AREA 3	18.32	3.65
AREA 4	15.70	2.30
BOILERMAKERS	17.345	3.00
BRICKLAYERS; Stonemasons:		
AREA 1	15.73	1.95
AREA 2	17.45	1.10
AREA 3	16.86	.50
AREA 4	16.88	2.69
AREA 5	16.86	.50
AREA 6	17.19	1.20
AREA 7	18.20	.50
AREA 8	16.86	1.50
AREA 9	16.66	1.70
AREA 10	16.86	1.50
AREA 11	16.89	.50
AREA 12	15.24	.50
AREA 13	16.86	1.50
AREA 14	17.19	1.20
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:		
AREA 1:		
Carpenters; Piledrivermen; & Soft Floor Layers	15.04	1.00
AREA 2:		
Carpenters; Soft Floor Layers	14.64	1.40
AREA 3:		
Carpenters; Soft Floor Layers	15.15	.70
AREA 4:		
Carpenters	12.50	1.60
AREA 5:		
Carpenters	15.00	.60
AREA 6:		
Carpenters	11.40	.85
AREA 7:		
Carpenters	13.00	.85
AREA 8:		
Carpenters; Piledrivermen	15.86	3.62
CARPENTERS (CONT'D):		
AREA 9:		
Soft Floor Layers	$15.78	$3.02
AREA 10:		
Carpenters	11.99	.91
Piledrivermen	12.24	.91
AREA 11:		
Carpenters	14.97	
AREA 12:		
Carpenters; Soft Floor Layers	15.00	2.10
AREA 13:		
Carpenters; Soft Floor Layers	13.40	3.35
AREA 14:		
Carpenters; Soft Floor Layers	16.72	
AREA 15:		
Carpenters; Soft Floor Layers	14.70	1.30
AREA 16:		
Carpenters	12.10	1.00
AREA 17:		
Carpenters; Millwrights; & Soft Floor Layers	14.35	.70
AREA 18:		
Carpenters:		
East Portion	16.47	.85
West Portion	14.12	.85
AREA 19:		
Carpenters; Millwrights; & Piledrivermen	14.93	.90
AREA 20:		
Carpenters	11.45	
AREA 21:		
Carpenters; Soft Floor Layers	15.00	1.60
Millwrights	15.54	1.60
AREA 22:		
Carpenters	12.68	.82
Piledrivermen	12.94	.82
AREA 23:		
Carpenters; Soft Floor Layers	15.52	1.20

	Basic Hourly Rates	Fringe Benefits
CARPENTERS (CONT'D):	-	-
AREA 24:		
Carpenters; Soft Floor Layers	$15.32	$1.40
AREA 25:		
Millwrights	16.36	3.62
CEMENT MASONS; Plasterers:		
AREA 1:		
Cement Masons	15.85	.95
AREA 2:		
Plasterers	15.50	1.50
AREA 3:		
Cement Masons	17.10	1.10
AREA 4	16.10	.50
AREA 5:		
Cement Masons	17.03	2.02
AREA 6:		
Plasterers	14.05	3.72
AREA 7	13.75	
AREA 8	16.10	.50
AREA 9	17.10	
AREA 10	16.70	
AREA 11:		
Cement Masons	17.85	.50
AREA 12:		
Cement Masons	16.10	1.50
AREA 13:		
Plasterers	14.90	2.87
AREA 14:		
Cement Masons	16.70	
Plasterers	16.75	.01
AREA 15	16.10	.50
AREA 16	14.45	.50
AREA 17:		
Cement Masons	15.65	1.20
AREA 18	16.70	
ELECTRICIANS:		
AREA 1	15.75	31½%
AREA 2:		
Electricians	12.95	10% +1.70
Cable Splicers	13.60	10% +1.70
AREA 3:		
Electricians	15.93	32½%
Cable Splicers	16.48	32½%
AREA 4:		
Electrical Installations over $75,000.00	15.75	13.5% +1.32
Electrical Installations under $75,000.00	13.31	13.5% +1.32
ELECTRICIANS (CONT'D):		
AREA 5:		
Electricians	$16.80	12½% +3.54
Cable Splicers	17.40	12½% +3.54
AREA 6:		
Electrical Installations over $75,000.00	15.75	13.5% +1.32
Electrical Installations under $75,000.00	12.53	13.5% +1.32
AREA 7:		
Electricians	12.95	10% +1.70
Cable Splicers	13.60	10% +1.70
AREA 8:		
0 to 10 miles from Worthington:		
Electricians	12.65	10% +2.05
Cable Splicers	13.91	10% +2.05
Beyond 10 miles from Worthington:		
Electricians	14.00	10% +2.05
Cable Splicers	15.40	10% +2.05
AREA 9:		
Electrical Installations over $75,000.00	15.75	13.5% +1.32
Electrical Installations under $75,000.00	12.58	13.5% +1.32
AREA 10:		
Electricians	17.76	28½%
Cable Splicers	18.26	28½%
ELEVATOR CONSTRUCTORS: Chisago & Isanti Cos.:		
Mechanic	17.99	2.69 +a+b
Helpers	70%JR	2.69 +a+b
Helpers (Prob.)	50%JR	

DECISION NO. MN84-5015

PAGE 3

	Basic Hourly Rates	Fringe Benefits
GLAZIERS:		
AREA 1	$17.65	$1.31
AREA 2	16.25	
AREA 3	17.01	.50
AREA 4	11.80	
IRONWORKERS:		
AREA 1	14.97	3.85
AREA 2	17.10	3.39
AREA 3	14.63	2.66
AREA 4	12.19	1.795
LATHERS; Drywall Hangers:		
AREA 1	14.13	3.46
MARBLE SETTERS	17.30	1.79
PAINTERS:		
AREA 1:		
Brush	13.45	1.59
Tapers	12.47	1.59
Sandblaster; Spray; Steel	14.45	1.59
Sanders	9.35	1.59
AREA 2:		
Brush	10.95	.77
Sandblaster; Spray; Steel	11.70	.77
AREA 3:		
Brush	12.48	1.59
Tapers	12.47	1.59
Sandblaster; Spray; Steel	13.48	1.59
Sanders	9.35	1.59
AREA 4:		
Brush; Drywall Finishers; & Paperhangers	15.12	1.82
Drywall Sander	11.34	1.82
Sandblaster; Spray; Steel	15.82	1.82
AREA 5:		
Brush; Roller	15.32	1.35
Drywall Tapers & Finishers	15.52	1.35
Paperhanging; Sandblaster; Spray; Steel	16.07	1.35
AREA 6:		
Brush; Roller	15.40	1.62
Drywall Sander	11.63	1.62
Drywall Finisher	15.50	1.62
Paperhanger; Steel	15.65	1.62
Sandblasting; Spray	15.90	1.62
Stageman; Beltman	16.40	1.62
AREA 7:		
Brush; Roller; Wallpaper	16.06	2.43
Sandblast; Spray; Steel	16.81	2.43
Finishers & Tapers	17.01	1.47
Sanders	12.76	1.47
AREA 8:		
Brush	14.61	1.53
Paperhangers; Spray; Steel & Taping	15.21	1.53
PIPEFITTERS; Plumbers; & Steamfitters:		
AREA 1	$15.03	$2.66
AREA 2	15.62	2.54
AREA 3	15.80	3.60
AREA 4:		
Pipefitters; Steamfitters	18.37	3.43
Plumbers	16.52	3.44
AREA 5	14.26	3.40
AREA 6	15.77	.90
AREA 7	19.26	2.35
AREA 8:		
Pipefitters; Steamfitters	17.99	3.81
Plumbers	14.95	7.45+c
AREA 9	17.36	3.35
ROOFERS:		
AREA 1	14.33	1.57
AREA 2	12.50	
AREA 3	9.74	1.52
AREA 4	16.48	2.77
AREA 5	13.73	1.47
AREA 6	12.62	1.47
AREA 7:		
Roofers	13.78	3.30
2nd Roofers	13.53	3.30
Kettlemen	13.33	3.30
SHEET METAL WORKERS:		
AREA 1	16.63	3.75
AREA 2	16.01	1.72
AREA 3	11.95	2.9+d
AREA 4	11.94	2.43
AREA 5	15.68	1.17
AREA 6	19.19	2.27
AREA 7	14.32	2.36+d
AREA 8	16.89	1.46
AREA 9:		
Light Commercial ($175,000 and less H.V.A.C.) Contract	12.34	1.73+d
All Other Work	15.79	1.73+d
AREA 10	19.66	2.20
SPRINKLER FITTERS	16.47	3.23
TERRAZZO WORKERS	18.32	.89
TERRAZZO WORKERS' FINISHERS	17.67	.65
TILE SETTERS:		
AREA 1	18.45	
AREA 2	17.25	1.72
TILE SETTERS' FINISHERS	14.65	1.32+e
TRUCK DRIVERS:		
AREA 1:		
Group 1: Boom Truck Op.	14.90	2.10
Group 2: Ready-Mix; Tractor Trailer	14.55	2.10
Group 3: Mechanic; Fork Lift Op.; & Tandem or 3 Axles	14.45	2.10
Group 4: Farm Tractor; Single or 2 Axle; & Dumpman	13.60	2.10

DECISION NO. MN84-5015

PAGE 4

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D):		
AREA 2	$9.40	
AREA 3	9.00	
AREA 4	10.05	
AREA 5	14.00	
AREA 6	10.45	
AREA 7	12.05	
AREA 8	8.90	
AREA 9	9.00	
AREA 10	10.40	
AREA 11	12.80	
LANDSCAPERS	6.80	$1.10
LABORERS:		
AREA 1:		
Group 1	9.40	1.25
Group 2	9.55	1.25
Group 3	9.80	1.25
Group 4	10.00	1.25
AREA 2:		
Group 1	9.00	.95
Group 2	9.10	.95
Group 3	9.20	.95
AREA 3:		
Group 1	10.05	1.25
Group 2	10.20	1.25
Group 3	10.45	1.25
Group 4	10.65	1.25
AREA 4:		
Group 1	14.00	2.60
Group 2	14.15	2.60
Group 3	14.40	2.60
Group 4	14.70	2.60
AREA 5:		
Group 1	10.45	1.15
Group 2	10.60	1.15
Group 3	10.85	1.15
Group 4	11.05	1.15
AREA 6:		
Group 1	12.05	1.45
Group 2	12.20	1.45
Group 3	12.45	1.45
Group 4	12.75	1.45
LABORERS (CONT'D):		
AREA 7:		
Group 1	$8.90	$.95
Group 2	9.00	.95
Group 3	9.25	.95
AREA 8:		
Group 1	9.00	.95
Group 2	9.10	.95
Group 3	9.20	.95
AREA 9:		
Group 1	10.40	.65
Group 2	10.50	.65
Group 3	10.60	.65
Group 4	10.65	.65
Group 5	10.75	.65
Group 6	10.80	.65
AREA 10:		
Group 1	12.80	.95
Group 2	12.85	.95
Group 3	12.90	.95
Group 4	12.95	.95
Group 5	13.05	.95
Group 6	13.10	.95
Group 7	13.15	.95
POWER EQUIPMENT OPERATORS:		
Class 1	19.34	2.15
Class 2	19.00	2.15
Class 3	18.20	2.15
Class 4	17.59	2.15
Class 5	17.25	2.15
Class 6	17.08	2.15
Class 7	15.57	2.15
Class 8	14.45	2.15
Class 9	13.89	2.15

FOOTNOTES:

a. 7 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving; & Christmas Day

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employees who have worked in the business more than 5 years; 6% for employees who have worked in business less than 5 years

c. 1 Paid Holiday: Labor Day

d. 3% of gross earnings to SASMI

e. 2 Weeks' Paid Vacation

AREA DESCRIPTIONS

ASBESTOS WORKERS:
AREA 1: Aitkin, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Lake of the Woods, Pine, Roseau & Wadena Cos.
AREA 2: Becker, Clay, Kittson, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, & Red Lake Cos.
AREA 3: Big Stone, Chisago, Cottonwood, Dodge, Douglas, Goodhue, Grant, Isanti, Lac Qui Parle, LeSueur, Lyon, McLeod, Meeker, Mille Lacs, Morrison, Nicollet, Pope, Redwood, Renville, Rice, Sibley, Steele, Stevens, Swift, Todd, Traverse, Wabasha, Waseca, Winona, Wright & Yellow Medicine Cos.
AREA 4: Jackson, Lincoln, Murray & Nobles Cos.
BRICKLAYERS & STONEMASONS:
AREA 1: Aitkin (E ½) & Pine Cos.
AREA 2: Aitkin (W ½), Becker, Beltrami, Cass, Clay, Clearwater, Crow Wing, Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Mille Lacs (N. of an E-W extension of the northern border of Isanti Co.), Norman, Otter Tail, Pennington, Polk, Red Lake, Roseau & Wadena Cos.
AREA 3: Big Stone, Lac Qui Parle, Lincoln, Lyon, Redwood, Renville & Yellow Medicine Cos.
AREA 4: Chisago, Isanti, Mille Lacs (S. of an E-W extension of the northern border of Isanti Co.) & Wright Cos.
AREA 5: Cottonwood, Jackson, Murray & Nobles Cos.
AREA 6: Dodge & Wabasha (S. of a line running E & W on Hwy #247) Cos.
AREA 7: Douglas, Grant, Morrison, Todd, Traverse & Wilkin Cos.
AREA 8: Goodhue (E. part, inclu. Bellechester, Frontenac, Goodhue, Harrishay Creek, Pine Island, Red Wing, Vasawelch, Whiterock & Zumbrota) & Wabasha (N. of a line running E & W on Hwy #247) Cos.
AREA 9: Goodhue (W. part, exclu. Bellechester, Frontenac, Goodhue, Harrishay Creek, Pine Island, Red Wing, Vasawelch, Whiterock & Zumbrota), Rice & Steele (N ½) Cos.
AREA 10: LeSueur, Nicollet & Sibley Cos.
AREA 11: McLeod, Meeker & Swift Cos.
AREA 12: Pope & Stevens Cos.
AREA 13: Steele (S ½) & Waseca Cos.
AREA 14: Winona Co.
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS:
AREA 1: Aitkin (Jacobson) Co.
AREA 2: Aitkin (N ½) & Cass (NE Section) Cos.
AREA 3: Aitkin (S 3/4), Cass (Exclu. NE & NW portions), Crow Wing, Hubbard (Exclu. cities of Becida, Guthrie, Lake George, Laporte, Nary & Rosby), Mille Lacs (N. part, inclu. cities of Opstead & Vineland), Todd (N ½), & Wadena Cos.
AREA 4: Becker, Clay (Except Moorhead), Otter Tail & Wilkin Cos.
AREA 5: Beltrami, Cass (NW portion), Clearwater, & Hubbard (N. part, inclu. cities of Becida, Guthrie, Lake George, Laporte, Nary & Rosby) Cos.
AREA 6: Big Stone (N ½), Douglas, Grant, Pope, Stevens, & Traverse Cos.
AREA 7: Big Stone (S ½), Lac Qui Parle, McLeod (W. part), Meeker, Renville (N ½), Swift & Yellow Medicine Cos.
AREA 8: Chisago, Isanti, McLeod (E. part), Mille Lacs (SE part, inclu. cities of Bock, Long Siding, & Princeton), Pine (S. part, inclu. cities of Beroun, Brook Park, Henriette, Pine City, Rock Creek & W. Rock), Sibley (NE edge), & Wright (Exclu. NW part) Cos.
AREA 9: Chisago & Isanti Cos.
AREA 10: Clay (City of Moorhead & a radius of 5 miles NE & S of the city limits) Co.
AREA 11: Cottonwood, Jackson, Lincoln, Lyon, McLeod (S. tip), Murray, Nicollet (W. part, inclu. cities of Courtland, Klossner & Lafayette), Nobles, Redwood, Renville (S ½), & Sibley (W 2/3) Cos.
AREA 12: Dodge (NE part, inclu. cities of Burne, Concord, Dodge Center, Kasson, & Mantorville), Goodhue (city of Pine Island) & Wabasha (Exclu. NW part & cities of Kellogg, Minneska & Weaver) Cos.

AREA DESCRIPTIONS (CONT'D)

CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS (CONT'D):
AREA 13: Dodge (NW part, inclu. cities of Claremont & W. Concord), Goodhue (cities of Dennison, Kenyon, Skyberg, Sogn, Stanton, & Wanga), LeSueur (E. part, inclu. cities of Elysian, Lexington, Montgomery, New Prague, St. Thomas, & Waterville), Rice, Steele (N. part, exclu. Blooming Prairie & Ellendale) & Waseca (exclu. Smiths Mill, Matawan & New Richland) Cos.
AREA 14: Dodge (S. portion, includes cities of Hayfield & Oslo), & Steele (SE tip, inclu. Blooming Prairie) Cos.
AREA 15: Goodhue (Exclu. city of Pine Island & Dennison, Kenyon, Skyberg, Sogn, Stanton & Wanga) & Wabasha (NW part, inclu. Lake City, Wabasha, Zumbrota & Cannon Falls) Cos.
AREA 16: Kittson, Mahnomen, Marshall, Norman, Pennington, Polk (Exclu. E. Grand Forks & an area 5 miles outside city limits), Red Lake & Roseau Cos.
AREA 17: Lake of the Woods Co.
AREA 18: LeSueur (W. part, inclu. cities of Cleveland, Kasota, LeCenter, LeSueur & Ottawa), Nicollet (E. part, inclu. cities of New Sweden, Nicollet, Norseland, N. Mankato, & St. Peter), Sibley (SE Tip), Waseca (NW Tip, inclu. Smiths Mill) Cos.
AREA 19: Mille Lacs (SW part, inclu. cities of Foreston, Milaca, & Pease) & Wright (NW part) Cos.
AREA 20: Mille Lacs (Central part, inclu. cities of Cove, Isle, Onamia, & Waukon), Morrison, & Todd (S ½) Cos.
AREA 21: Pine (N. part, exclu. cities of Beroun, Brook Park, Henriette, Pine City, Rock Creek, & W. Rock) Co.
AREA 22: Polk (E. Grand Forks & an area 5 miles outside city limits) Co.
AREA 23: Steele (SW Tip, inclu. Ellendale) & Waseca (S. part, inclu. Matawan & New Richland) Cos.
AREA 24: Wabasha (Kellogg, Minneska & Weaver) & Winona Cos.
AREA 25: All aforementioned areas, except 17, 19 & 21
CEMENT MASONS; PLASTERERS:
AREA 1: Aitkin & Pine (N 2/3, inclu. Sandstone & Hinckley) Cos.
AREA 2: Aitkin & Pine (N ½) Cos.
AREA 3: Becker, Beltrami, Cass, Clay, Crow Wing, Hubbard, Otter Tail & Wadena Cos.
AREA 4: Big Stone, Lac Qui Parle, Lincoln, Lyon, Redwood, Renville & Yellow Medicine Cos.
AREA 5: Chisago, Isanti, McLeod, Mille Lacs, Pine (S. of the Northern boundaries of Dell Grove, Sandstone & Danforth Twps.), Sibley & Wright Cos.
AREA 6: Chisago & Pine (S ½) Cos.
AREA 7: Clearwater, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, & Roseau Cos.
AREA 8: Cottonwood, Jackson, Murray & Nobles Cos.
AREA 9: Dodge (E. of a line running N & S of Dodge Center) Co.
AREA 10: Dodge (W. of a line running N & S of Dodge Center), LeSueur (E ½), Rice, Steele, & Waseca (E 2/3) Cos.
AREA 11: Douglas, Grant, Morrison, Todd, Traverse, & Wilkin Cos.
AREA 12: Goodhue (E ½ at a line running North & South of the East city limits of Wanamingo) & Wabasha (N. of a line running E. & W. on Hwy #247) Cos.
AREA 13: Isanti (Except extreme eastern section), McLeod, Mille Lacs, Sibley & Wright Cos.
AREA 14: LeSueur (W 3/4), Nicollet & Waseca (W 1/3) Cos.
AREA 15: Meeker & Swift Cos.
AREA 16: Pope & Stevens Cos.
AREA 17: Wabasha (Plainview & Elgin, & that part S. of a line running E. & W. of Hwy #247) Co.
AREA 18: Winona Co.

AREA DESCRIPTIONS (CONT'D)

ELECTRICIANS:
AREA 1: Aitkin, Cass (S 2/3), Crow Wing, Hubbard (S ½, exclu. Becida, Guthrie, Lake George, Laporte, Nary & Rosby), Mille Lacs (N. part, includes cities of Cove, Isle, Onamia, Opstead, Vineland & Waukon), Morrison, Pine (N. part, inclu. Sandstone & Hinckley Twps.), Todd & Wadena Cos.
AREA 2: Becker, Clay, Kittson, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, & Roseau Cos.
AREA 3: Beltrami, Cass (N. 1/3), Clearwater, Hubbard (N. part, inclu. cities of Becida, Guthrie, Lake George, Laporte, Nary & Rosby), & Lake of the Woods Cos.
AREA 4: Big Stone, Cottonwood, Jackson, Lac Qui Parle, LeSueur (W 1/3), Lincoln, Lyon, McLeod, Meeker, Nicollet, Pope, Redwood, Renville, Sibley, Stevens, Swift, Waseca, Wright (W 2/3), & Yellow Medicine Cos.
AREA 5: Chisago, Goodhue (W. of Belle Creek, Minneola, Roscoe, & Vasa Twps.), Isanti, LeSueur (E. of Cleveland, Sharon, Tyrone & Washington Twps.), Mille Lacs (S. of Bradbury, Lewis & Onamia Twps.), Pine (S. of Arione, Barry, Clover, Hinckley & Omega Twps.) & Rice Cos.
AREA 6: Dodge, Goodhue (E. part, inclu. Cannon Falls, Red Wing, Zumbrota & Pine Island), Steele & Wabasha Cos.
AREA 7: Douglas, Grant, Otter Tail, Traverse & Wilkin Cos.
AREA 8: Murray & Nobles Cos.
AREA 9: Winona Co.
AREA 10: Wright (E 1/3) Co.

GLAZIERS:
AREA 1: Chisago, Isanti, McLeod, Pine, Sibley & Wright Cos.
AREA 2: Cottonwood, Jackson, Lac Qui Parle, Lincoln, Lyon, Murray, Nobles, Redwood, Steele & Yellow Medicine Cos.
AREA 3: Dodge, Goodhue, Wabasha & Winona Cos.
AREA 4: LeSueur, Nicollet, Rice & Waseca Cos.

IRONWORKERS:
AREA 1: Aitkin, Becker, Beltrami, Cass, Clearwater, Crow Wing (Exclu. SW portion), Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Mille Lacs (N part, includes cities of Cove, Isle, Onamia, Opstead, Vineland & Waukon), Norman, Otter Tail (NE part, includes cities of Butler, Hillview, Luce & Vergas), Pennington, Pine (N. part, exclu. cities of Henriette, Pine City, Rock Creek & W. Rock), Polk, Red Lake, Roseau, Wabasha, & Wadena (N. of city of Wadena) Cos.
AREA 2: Big Stone, Chisago, Cottonwood, Crow Wing (SW portion), Dodge, Douglas, Goodhue, Grant, Isanti, Lac Qui Parle, LeSueur, Lincoln, Lyon, McLeod, Meeker, Mille Lacs (S. part, includes cities of Rock, Foreston, Long Siding, Milaca, Pease & Princeton), Morrison, Nicollet, Otter Tail (Exclu. cities of Butler, Hillview, Luce & Vergas), Pine (S. part, includes the cities of Henriette, Pine City, Rock Creek, & W. Rock), Pope, Redwood, Renville, Rice, Sibley, Steele, Stevens, Swift, Todd, Traverse, Wabasha, Wadena (city of Wadena & S. to county line), Waseca, Winona, Wright & Yellow Medicine Cos.
AREA 3: Clay & Wilkin Cos.
AREA 4: Jackson, Murray & Nobles Cos.

LATHERS & DRYWALL INSTALLERS:
AREA 1: Becker (Exclu. NE section), Big Stone, Chisago, Clay, Crow Wing (S ½), Douglas, Goodhue (exclu. S 1/3), Grant, Isanti, LeSueur, McLeod, Meeker, Mille Lacs, Morrison, Nicollet, Otter Tail, Pine (S 1/3, exclu. Hinckley), Pope, Renville, Rice, Sibley, Stevens, Swift, Todd, Traverse, Wabasha (N. part, inclu. Lake City), Wadena (portion S. of a line drawn from Becker-Hubbard-Wadena Co. line to Cass-Todd-Wadena Co. line), Waseca (NW section, inclu. Janesville), Wilkin & Wright Cos.

AREA DESCRIPTIONS (CONT'D)

PAINTERS:
AREA 1: Aitkin, Beltrami, Big Stone, Cass, Clearwater, Crow Wing, Hubbard, Lake of the Woods, Morrison (N. part, exclu. Little Falls), Stevens, Swift, Todd & Wadena Cos.
AREA 2: Becker, Clay, Grant, Kittson, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Red Lake, Roseau, Traverse & Wilkin Cos.
AREA 3: Douglas, Meeker, Mille Lacs, Morrison (S. part, inclu. Little Falls), & Pope Cos.
AREA 4: Chisago & Pine (S 1/3, inclu. Pine City) Cos.
AREA 5: Cottonwood, Jackson, Lac Qui Parle, LeSueur, Lincoln, Lyon, Murray, Nicollet, Nobles, Redwood, Renville, Rice, Sibley, Steele, Waseca & Yellow Medicine Cos.
AREA 6: Dodge, Goodhue, Wabasha & Winona Cos.
AREA 7: Isanti, McLeod & Wright Cos.
AREA 8: Pine (N 2/3, exclu. Pine City) Co.

PIPEFITTERS; PLUMBERS; & STEAMFITTERS:
AREA 1: Aitkin, Becker, Beltrami, Cass (S. ½), Clay (Exclu. city of Moorhead), Clearwater, Crow Wing, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk (exclu. city of E. Grand Forks), Red Lake, Roseau, Traverse, Wadena & Wilkin Cos.
AREA 2: Big Stone, Lac Qui Parle, Meeker, Morrison, Pope, Stevens, Swift, Todd & Yellow Medicine Cos.
AREA 3: Cass (N ½) Co.
AREA 4: Chisago & Goodhue (N ½) Cos.
AREA 5: Clay (City of Moorhead) & Polk (city of E. Grand Forks) Cos.
AREA 6: Cottonwood, Jackson, LeSueur, Lincoln, Lyon, Murray, Nicollet, Nobles, Redwood, Renville & Sibley Cos.
AREA 7: Dodge, Goodhue (S ½), Rice, Steele, Wabasha, Waseca & Winona Cos.
AREA 8: Isanti, McLeod, Mille Lacs & Wright Cos.
AREA 9: Pine Co.

ROOFERS:
AREA 1: Aitkin, Cass, Douglas, Hubbard, Isanti (N. of St. Hwy #95, exclu. city of Cambridge), Mille Lacs, Morrison, Pope, Stevens, Todd, Wadena & Wright (N. of Wright Co. Rd. #39, from S. Haven to Monticello, inclu. both towns) Cos.
AREA 2: Becker, Clay, Grant, Kittson, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Red Lake, Roseau, Traverse & Wilkin Cos.
AREA 3: Beltrami, Clearwater & Lake of the Woods Cos.
AREA 4: Chisago, Goodhue, Isanti (S. of St. Hwy #95, inclu. city of Cambridge), LeSueur, McLeod, Nicollet, Rice, Sibley, Wabasha & Wright Cos.
AREA 5: Crow Wing Co.
AREA 6: Dodge, Steele, Waseca & Winona Cos.
AREA 7: Pine Co.

SHEET METAL WORKERS:
AREA 1: Aitkin Co.
AREA 2: Becker, Douglas, Grant, Mahnomen, Mille Lacs, Morrison, Otter Tail, Pope, Stevens, Todd & Traverse Cos.
AREA 3: Beltrami, Clearwater & Lake of the Woods Cos.
AREA 4: Big Stone, Lac Qui Parle, Meeker (W ½), Renville, Swift & Yellow Medicine Cos.
AREA 5: Cass, Crow Wing, Hubbard & Wadena Cos.
AREA 6: Chisago, Isanti, Pine & Rice Cos.
AREA 7: Clay, Norman & Wilkin Cos.
AREA 8: Cottonwood, Dodge, Goodhue, Jackson, LeSueur, Lincoln, Lyon, Murray, Nicollet, Nobles, Redwood, Steele, Wabasha, Waseca & Winona Cos.
AREA 9: Kittson, Marshall, Pennington, Polk, Red Lake & Roseau Cos.
AREA 10: McLeod, Meeker (E ½), Sibley & Wright Cos.

TILE SETTERS:
AREA 1: Dodge & Wabasha (Cities of Plainview & Elgin S. of a line E & W on Hwy #247) Cos.
AREA 2: Remaining Counties & Remainder of Wabasha Co.

AREA DESCRIPTIONS (CONT'D)

TRUCK DRIVERS:
AREA 1: Chisago (S ½) & Wright Cos.
AREA 2: Aitkin, Cass (S. of a line drawn in an easterly direction from the NW corner of Wadena Co. to the NE corner of Crow Wing Co.), Crow Wing, Morrison, Todd & Wadena Cos.
AREA 3: Becker, Big Stone, Clay, Otter Tail, Traverse & Wilkin Cos.
AREA 4: Beltrami, Cass (N. of a line drawn in an easterly direction from the NW corner of Wadena Co. to the NE corner of Crow Wing Co.), Clearwater & Hubbard Cos.
AREA 5: Chisago (N ½), Isanti & Pine Cos.
AREA 6: Cottonwood, Jackson, Lac Qui Parle, Lincoln, Lyon, Murray, Nobles, Redwood, Renville & Yellow Medicine Cos.
AREA 7: Dodge, Goodhue, LeSueur, McLeod, Nicollet, Rice, Sibley, Steele, Wabasha, Waseca & Winona Cos.
AREA 8: Douglas, Grant, Meeker, Pope, Stevens & Swift Cos.
AREA 9: Kittson, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake & Roseau Cos.
AREA 10: Lake of the Woods Co.
AREA 11: Mille Lacs Co.

LABORERS:
AREA 1: Aitkin, Cass (S. of a line drawn in an easterly direction from the NW corner of Wadena Co. to the NE corner of Crow Wing Co.), Crow Wing, Morrison, Todd & Wadena Cos.
AREA 2: Becker, Big Stone, Clay, Otter Tail, Traverse & Wilkin Cos.
AREA 3: Beltrami, Cass (N. of a line drawn in an easterly direction from the NW corner of Wadena Co. to the NE corner of Crow Wing Co.), Clearwater & Hubbard Cos.
AREA 4: Chisago, Isanti, Pine & Wright Cos.
AREA 5: Cottonwood, Jackson, Lac Qui Parle, Lincoln, Lyon, Murray, Nobles, Redwood, Renville & Yellow Medicine Cos.
AREA 6: Dodge, Goodhue, LeSueur, McLeod, Nicollet, Rice, Sibley, Steele, Wabasha, Waseca,& Winona Cos.
AREA 7: Douglas, Grant, Meeker, Pope, Stevens & Swift Cos.
AREA 8: Kittson, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake & Roseau Cos.
AREA 9: Lake of the Woods Co.
AREA 10: Mille Lacs Co.

LABORERS CLASSIFICATIONS FOR AREAS 1, 3, 4, 5 & 6:
Group 1: General; Carpenter Tender; Concrete; Damp Proofer below grade; Drill Runner Tender Dumpman - dirt, asphalt, concrete, cement; Heater Tender; Hot Tar Caulker - corker; Joist Handler; Material Handler - all types Power Buggy; Rebar; Snow Blower Operator; & Tool Crib Checker
Group 2: Chain Saw Operator; Concrete Saw, Drill Operator; Concrete Vibrator; Demolition & Wrecking excluding remodeling; Mason Tender; Mortar Mixer - cement or any other substitute material or composition; Pipe Handler; Pneumatic & Electric Tools, Jackhammer, Paving Buster, Chipping Hammer, Tamper Operator, etc.; Swing Stage Line Scaffold (not including "patent" Scaffolding); & Torchman - gas, electric, thermal or similar device
Group 3: Caisson Work; Nozzle Operator - Gunite, Cement, Sandblasting; Pipelayer; Refractory Worker; Sheeting Setter & Drivers, Heavy Building Excavation; Underground Work open ditch or excavation 5' below grade; & Underpinning
Group 4: Driller for Blasting purposes; Dynamite Blasters or substitute products Tovex TR, water, gas, gel, bristar, silent Dynamite, etc.

LABORERS CLASSIFICATIONS FOR AREA 2:
Group 1: Laborers; Concrete Bucket Man
Group 2: Power Tool Operators of tools that come under the Laborers' jurisdiction; Brick and Plasterer Tender; Mortar Mixer
Group 3: Hod Carriers; Non-metallic Pipe Layer; Gas Line Wrapping and Taping (distribution only); Cutting Torch for Demolition

LABORERS CLASSIFICATIONS FOR AREA 7:
Group 1: Common; Damp Proofer below grade; & Power Buggy Operator
Group 2: Air Tool Operator; Automatic Tamper Operator; Concrete Saw - Core Drill; Dumpmen; Laborer on Rope Swing Scaffold, but not including Safety Scaffold; Mason Tender; Men Handling Cement 2 hours or more per day; Mixers of Mortar, Cement, or any other substitute materials or composition; Operator of Concrete Vibrator; Torchmen Demolition; & Underground work, Caisson Work, Cofferdam Work, Tunnel Work, House Moving & Underpinning Work, including Sheeting Setters & Drivers of Heavy Building Excavation (all work 8 ft. or more below the adjoining ground where the excavation is not more than 8 ft. wide (Not Applicable to Air Pressure Work)
Group 3: Nozzlemen

LABORERS CLASSIFICATIONS FOR AREA 8:
Group 1: Laborers; Concrete Bucket Man

Group 2: All power tools (air, gas, and electric); Operators of tools that come under the Laborers' jurisdiction: Brick, Plaster and Finisher Tender; Sandblaster and Gunnite Pot Tender; Hose Tender where under the Laborers' jurisdiction

Group 3: Hod Carriers; Non-metallic Pipelayers; Gas Line Wrapping or Taping; Sand Blaster and Gunnite Nozzleman where under Laborers' jurisdiction; Cutting Torch for demolition

LABORERS CLASSIFICATIONS FOR AREA 9:
Group 1: Common; Concrete Shoveler; Damp Proofer below grade; Steel Joist Handler; Salamander & Gas Heater Tender; Snow Blower Operator; Tamper; & Reinforced Steel
Group 2: Carpenter Tender; Bricklayer Tender; Mason Tender; Stone Mason Tender; Jackhammer Operator; Pavement Breaker Operator; Cement Handler (bulk or bag); Cement, Mortar or any other substitute or composition mixer - mixer, one bag; Concrete Vibrator Operator; Concrete Puddler; Hand Cement Mixer; Hand Frame or Pnuematic Concrete & Power Operated Tamper Operator; Chipping Hammer Operator; Power Buggy Operator; Kettleman; Pump Operator 3" & Under; & Torchman Demolition
Group 3: Cement Gun Operator; Nozzleman; Concrete Saw - Core Drill; Gunite Machine Operator; & Underground work which is 8 ft. or more below the adjoining ground where the excavation is not more than 8 ft. wide
Group 4: Pipe Handler (water, gas, cast iron & non-metallic)
Group 5: Pipe Layer - non-metallic
Group 6: Power Chain Saw Operator

LABORERS CLASSIFICATIONS FOR AREA 10:
Group 1: General; Demolition & Wrecking; Torchman Demolition; Hot Tar Caulker & Cooker; Concrete Joint Saw Op.; & Damp Proofer below grade
Group 2: Concrete Core Drill; & Power Buggy Operator
Group 3: Miner Tender; Dumpman; Chipping Hammer Operator; Concrete Vibrator Operator; Mixer of Mortar, Cement or any substitute materials or composition; Automatic Tamper Operator; Laborers on Rope Swing Scaffold, but not inclu. Safety Scaffold; Cement Handler (dry sack or bulk, over two hours per day); Plaster Tender; Block Tender Handling 12" concrete blocks or larger; Gunite Machine Operator
Group 4: Jackhammer Man
Group 5: Underground Work, Caisson Work, Cofferdam Work, Tunnel Work, House Moving & Underpinning Work, including Sheet Setters & Drivers on Heavy Building Excavation. Eight Ft. or more below the adjoining ground where the excavation is not more than 8 ft. wide (Not Applicable to Air Pressure Work)
Group 6: Dynamite Men; & Pipe Layers
Group 7: Nozzleman

POWER EQUIPMENT OPERATORS CLASSIFICATIONS:

CLASS 1 - Helicopter Operator; Truck & Crawler Cranes with 300' of Boom and over, including jib; Tower Crane 300' & over

CLASS 2 - Truck & Crawler Crane w/200' of Boom, up to and no: including 300' of Boom, including jib; Tower Crane 250' & over

CLASS 3 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib; Tower Crane 200' & over

CLASS 4 - Traveling Tower Crane; Master Mechanic; Pile Driving Operator; Tower Crane 150' & over

CLASS 5 - Truck & Crawler Cranes up to & not including 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary 100' & over; Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License.

CLASS 6 - Air Compressor Operator, 450 CFM or over, Pump Operator and/or Conveyor Operator (2 or more machines); Hoist Engineer (2 drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift; Boom Truck Operator; Concrete Mixer Op.; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End Loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator

CLASS 7 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.

CLASS 8 - Air Compressor Operator, 450 CFM or over, Pump and/or Conveyor Operator; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Operator

CLASS 9 - Mechanical Space Heater (temporary heat); Oiler or Greaser; Elevator Operator

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: TEXAS COUNTIES: Jefferson & Orange
DECISION NO.: TX84-4036 DATE: Date of Publication
Supersedes Decision No. TX83-4082, dated October 21, 1983 in 48 FR 48913.
DESCRIPTION OF WORK: Building (including Residential) Projects.

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers:		
Jefferson County	$18.19	3.23
Orange County	18.645	2.375
Boilermakers	16.40	2.645
Bricklayers & Stonemasons	19.08	2.20
Carpenters:		
Carpenters - Commercial	16.52	3.065
Carpenters - Residential const. of not more than 2 units & condominium townhouses of not more than 10 units excluding all apt. const. & multiple bldgs. for rental purposes	16.09	3.065
Millwrights	16.875	2.95
Piledrivermen	16.76	2.90
Cement Masons		
Electricians	19.63	1.135 +3%
Elevator Constructors:		
Mechanics	16.85	3.00 +a
Helpers	70%JR	3.00 +a
Helpers (Prob.)	50%JR	
Glaziers:		
Northern 1/2 Jefferson Co.	15.53	1.29
Southern 1/2 Jefferson & all of Orange Co.:		
Commercial	16.89	1.29
Residential	11.95	.65
Ironworkers	16.95	2.95
Laborers:		
Group 1	10.66	1.50
Group 2	10.86	1.50
Group 3	10.96	1.50
Group 4	11.11	1.50
Lathers	16.52	3.065
Line Construction:		
Linemen & cable splicers	21.77	.80+ 3-1/2%
Groundmen	15.89	.80+ 3-1/2%

	Basic Hourly Rates	Fringe Benefits
Painters:		
Southern 1/2 of Jefferson Co. & all of Orange Co.:		
Commercial:		
Group 1 - Brush, steel wood & wallpaperhanger	$16.89	1.29
Group 2 - Spray, roller, sandblaster, power cleaning, all time spent rigging; hot paint or creosote brush	17.34	1.29
Group 3 - Hot paint or creosote spray or roller	17.69	1.19
Residential:		
Brush	11.95	.65
Paperhanger	12.20	.65
Spray	12.47	.65
Sandblaster, power cleaning	12.21	.65
North 1/2 Jefferson Co.:		
Brush, drywall hand cleaning operation	15.53	1.29
Paper & vinyl	15.78	1.29
Spray, sign, power tool operations	15.95	1.29
$.25 per hour above the prevailing wage rate when working on window sills or ledge, swing stage, bosun chair, cat walks, spider & skates in all classifications		
Pipefitters	18.32	2.02
Plasterers	16.55	1.94
Plumbers	18.71	1.09
Power Equipment Operators:		
Group 1	17.985	1.65
Group 2	15.21	1.65
Group 3	13.99	1.65
Group 4	13.74	1.65

	Basic Hourly Rates	Fringe Benefits
Roofers:		
Roofers	$12.00	2.08
Kettlemen	10.50	2.08
Sheet Metal Workers:		
Commercial Work on a single family dwelling or multiple family housing unit less than 3 stories in height where each individual family apt. is individually conditioned by a separate & independent unit or system	17.43	2.96+3%
	11.33	2.96+3%
Sprinkler Fitters	16.17	3.23
Tile Setters	17.57	2.20
Truck Drivers:		
Group 1 - Under 1-1/2 ton	13.99	1.25
Group 2 - 1-1/2 tons thru 2-1/2 tons	14.78	1.25
Group 3 - Dump truck less than 7 yds.	15.07	1.25
Group 4 - Over 2-1/2 tons; euclids (not self-loading)	15.25	1.25

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A)).

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A - New Years' Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - the Friday after Thanksgiving Day; G - Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate; Also seven paid holidays A thru G

LABORERS CLASSIFICATION DEFINITIONS
Group 1 - All hand digging & dirt work;backfilling;loading & unloading of material to & from hoist or cages;loading & unloading of tools & equip.;handling of lumber,steel,cement;distribution of materials;wrecking & razing of bldgs. & Struc.; storing materials & tools in & out of receiving lots & sheds;dumper;spotter; carpenter tender & all construction work not hereinafter classified
Group 2 - Air power tool op.; cutting torch op.; gunnite rebound man;machine ops.; power buggy;sandblaster (potmen);drill tenders;concrete grademen;wagon drill op.; metal pan & steel form men
Group 3 - Conc. burner;cement mason tender;hod carrier,mortar mixers,plaster tenders & brick mason tenders;pipelayer,pumpcrete nozzlemen;scaffold builder; water pump op.;tank cleaning;all pipe cleaning & wrapping;mortar & plaster mixing machines,grout machines;pumpcrete machines;gunnite mixing machines,incl. placing & cleaning of all pipe & conduits used in placing of conc.
Group 4 - Powdermen & blasters;sandblaster;gunnite workers;terrazzo grinders

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
Group 1 - Heavy duty mechanic;Blade grade,self-propelled;Bullclam;Backfiller; Derrick,power operated,all types;Dragline;Push cat;Bulldozer & all types of cat tractors;Cableway;Backhoe;Shovel;Cranes,power operated,all types; Elevating grader,self-propelled;Hoist-motor driven,two drum or more; Mixmobile;Winch truck;Locomotive crane;Mixer, 14 cu. ft. or more;Paving mixer, all sizes;Piledrivers;Scraper-heavy type,over 3 cu. yds.;Trench machine,all sizes;Gradeall;High-lift;Foundation boring machines;Gasoline or diesel driven welding machines - 7 to 12 machines;Pumpcrete machine;Drill op. - Water well;DW-10 euclid;Tournapulls;Asphalt plants;crushing machine & Batch plants;Scoopmobiles;Fingerlift op.; Elevator when used to haul men or material on const. work; Well point system & operation of similar dewatering devices
Group - Air compressor;Blade grade-towed;Flex plane;Formgrader;Mixer,less than 14 cu. ft.;Pump,Pulsometer;Truck crane driver;Gasoline or diesel welding mach., 3 to 6 machs.;Hoist,single drum;Scraper,3 cu. yds. or less;Conveyors, power op.
Group 3 - Fireman
Group 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO.: TX84-4037 DATE: Date of Publication

Supersedes Decision No. TX83-4078, dated October 21, 1983 in 48 FR 48909.

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to including 4 stories). (Use current heavy & highway general wage determination for paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.60	$2.37
BOILERMAKERS	16.40	2.645
BRICKLAYERS, STONEMASONS & MARBLE MASONS (exterior):		
0 to 24 miles from Potter Co. Courthouse in Amarillo	12.50	1.00
25 to 60 miles from Potter Co. Courthouse in Amarillo	13.00	1.00
Over 60 miles from Potter Co. Courthouse in Amarillo	13.75	1.00
CARPENTERS:		
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:		
Carpenters	14.85	.81
Millwrights	15.20	.81
ZONE 2 - Childress Co.:		
Carpenters	13.45	2.18
Millwrights	13.95	2.18
CEMENT MASONS	15.00	
ELECTRICIANS:		
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:		
Electricians	$14.48	1.90 +3%%
Cable Splicers	15.93	1.90 +3%%
ZONE 2 - Childress Co.:		
Electricians	14.30	.80+ 3-1/10%
Cable Splicers	14.55	.80+ 3-1/10%
IRONWORKERS:		
ZONE 1 - Armstrong, Carson, Castro, Childress (excluding southeastern ¼), Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.	14.30	3.00

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS: (Cont'D)		
ZONE 2 - Childress Co. (southeastern ¼)	12.625	2.95
LABORERS:		
GROUP 1 - General or construction laborers	8.49	1.41
GROUP 2 - Air or electric tool ops., jackhammers, vibrator tampers, chipping hammers, pipe wrappers, asphalt rakers, sand blasterers, rip-rap stone pavers, cutting torch op. (demolition), mortar mixer (hand or machine), mason tenders, plasterer tenders, hod carriers, loader & placer, chuck tenders, timberman, collapsible form setters, concrete buggy ops.; carpenter tenders, pipe layers: main, sewer & drainage; make-up man, powderman & blasters; gunite op. or concrete operators	8.64	1.41
LATHERS	16.35	
LINE CONSTRUCTION:		
ZONE 1 - Childress Co.:		
Lineman; Operators	14.30	.80+3%%
Cable Splicers	14.55	.80+3%%
Groundman	70%JR	.80+3%%
ZONE 2 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:		
Linemen	14.48	1.90+ 3%%
Cable Splicers	15.93	"
Groundmen	9.57	1.70+ 3%%
Operator-hole digger, line truck	11.15	1.76+ 3%%
Flat bed truck driver	8.40	1.65+ 3%%
PAINTERS:		
GROUP 1 - Brush & roller, paperhanger; perfa-taper	12.75	.50
GROUP 2 - Structural steel; swinging stage or chair below 60 ft.	12.87	.50
GROUP 3 - Spray & sandblasters	13.50	.50
PLASTERERS	16.75	.01
PLUMBERS & PIPEFITTERS	14.80	2.91
POWER EQUIPMENT OPERATOR:		
GROUP 1	15.15	1.30
GROUP 2	14.65	1.30
GROUP 3	12.70	1.30
ROOFERS	8.00	2.00
SHEET METAL WORKERS	15.20	2.00+3%
SPRINKLER FITTERS	16.17	3.23
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Blade grader, self-propelled; Clam shells; Cable ways; Cranes, power operated (all types); Air compressors, pumps, welding machines & light plants (7 to 12 machines); Derricks, power operated (all types); Draglines; Elevating graders, self-propelled; Hoist, 2 drums or more; Locomotive; Mixermobiles; Paving mixers, all types; Piledrivers; Scrapers; Bulldozers; Side boom; Cherry pickers - 12-1/2 tons & over; Shovels; Heavy duty mechanic; All welders; All tractors with power attachments; Ditching machines - crawler type; Farm-type tractor (loader, 1 yd. & over) with backhoe

GROUP 2 - Air compressors, pumps, welding machines, throttle valves, light plants (3 to 6 machines); Cherry pickers - under 12-1/2 tons; Ditch witch - J30 & under; Farm-type tractor (loader under 1 yd.) with backhoe; Go-devil; Mixers, 14 cu. ft. or over; Rollers over 10 tons; Air compressor and one tugger; Boilers, 2 or more; Winch trucks; Front end scoopmobile, loader, payloader; Blade grader, towed; Elevators, building; Fork lifts; Hoist, single drum or 1 line hoisting (1 tugger); Mixers less than 15 cu ft.; Rollers; Screening plants; Crushing plants; Tractors - wheel type except when hauling material

GROUP 3 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A)).

[FR Doc. 84-13861 Filed 5-24-84; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
May 25, 1984

Part III

Environmental Protection Agency

Assessment of Toluene as a Potentially Toxic Air Pollutant; Notice

ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL 2409-8]

Assessment of Toluene as a Potentially Toxic Air Pollutant

AGENCY: Environmental Protection Agency.

ACTION: Notice regarding toluene.

SUMMARY: The Environmental Protection Agency has determined, after review of all current information including an extensive health effects study favorably reviewed by the Science Advisory Board, that ambient air concentrations of toluene have not been found to pose a significant risk to public health and that it is not necessary at this time to regulate toluene under the Clean Air Act on the basis of its direct health effects. These determinations have no effect on the regulation of toluene as a volatile organic compound in order to attain the National Ambient Air Quality Standards (NAAQS) for ozone.

FOR FURTHER INFORMATION CONTACT: Mr. David Patrick, Strategies and Air Standards Division, MD-12, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5645.

SUPPLEMENTARY INFORMATION: Toluene is a high-volume organic chemical with many uses. It evaporates readily, creating the potential for widespread public exposure to concentrations in the ambient air. The largest source of toluene emissions is automobiles, followed by solvent usage, and evaporative loss from gasoline at service stations. At concentrations much higher than those found in ambient air, toluene has been shown to produce deleterious effects on human health, such as depression of the central nervous system. In view of the potential public exposure and possible health effects, EPA considered it prudent to undertake an assessment of the potential impacts of toluene on public health at ambient concentrations.

This assessment, begun in 1980, resulted in a report, "Health Assessment Document for Toluene." This report was made available for public review and was reviewed at public meetings held by EPA's Science Advisory Board (SAB) in August and September 1982. The SAB is an independent group of nationally recognized non-government scientists formed to review the scientific basis for certain regulatory actions under the Clean Air Act. The findings of the study were: (1) That public exposure to toluene is far below any level associated with non-carcinogenic deleterious health effects, and (2) that the evidence at hand does not indicate that toluene is carcinogenic, mutagenic, or teratogenic. The SAB concurred, stating that "[t]he Committee concludes that at current ambient exposure levels there is no evidence that toluene presents any significant health hazard to the public."

As noted in the Health Assessment Document for Toluene, the National Toxicology Program (NTP) is currently conducting a lifetime bioassay on toluene. Its results are tentatively scheduled for publication in 1986. In addition, EPA has received preliminary information on a recently completed study in Italy that raises concerns about the possible carcinogenicity of toluene. This study, involving oral ingestion at a single dose level in one rat species, appeared to show a greater incidence of tumors involving a number of organ sites (although no statistical analysis had yet been performed). The results of the Italian study are scheduled for publication later this year. EPA's evaluation of the preliminary data from this study would not lead EPA to consider toluene an established animal carcinogen without at least one additional lifetime bioassay with clearly positive results.

EPA considered delaying the issuance of this determination until after the Italian data were published and peer reviewed and/or the NTP study is complete. However, if the Agency delayed decisions in all cases where unpublished data arise after the scientific review is completed or where new studies that could affect regulatory decisions are ongoing, few decisions on chemicals currently under assessment would be issued. In view of the interest expressed by the States, Congress, and the public in EPA issuing decisions on the need to regulate the various chemicals presently under assessment, the Agency is proceeding with this determination at this time. Based on currently available data, EPA has determined that no regulation directed specifically at toluene is necessary at this time under the Clean Air Act to protect the public health. Current information does not indicate that toluene endangers public health at ambient concentrations. Consequently, the efect of this notice is to remove toluene from EPA's list of potential air toxics currently under assessment. Further assessment and review of toluene will be initiated upon completion and peer-review of the ongoing studies.

Anyone wishing to obtain a copy of the document reviewed by the SAB should contact: ORD Publications, CERI-FR, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, telephone 513-684-7562. The transcripts of the SAB reviews are available for inspection and copying at the U.S. Environmental Protection Agency, Vicki Bailey, Committee Management Staff, A-101, 401 M Street, SE., Washington, D.C. 20460, telephone 202-382-5036.

EPA's decision not to regulate toluene under the Clean Air Act on the basis of its direct health effects has no effect on the regulation of toluene as a volatile organic compound (VOC). The emissions of VOC are controlled by regulations because VOC's act as precursors to the formation of ozone in the ambient air. EPA has established national ambient air quality standards for ozone under section 109 of the Clean Air Act to protect the public health.

Dated: May 18, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-14058 Filed 5-24-84; 8:45 am]

BILLING CODE 6560-50-M

federal register

Friday
May 25, 1984

Part IV

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 405 and 417

Medicare Program; Payment to Health Maintenance Organizations and Competitive Medical Plans; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 417

Medicare Program; Payment to Health Maintenance Organizations and Competitive Medical Plans

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

ACTION: Proposed rule.

SUMMARY: These proposed regulations would implement section 114 of the Tax Equity and Fiscal Responsibility Act of 1982. This provision of the law amended section 1876 of the Social Security Act, which authorizes Medicare reimbursement to eligible organizations on a prospective basis for those organizations that have a risk contract or on a reasonable cost basis for those that have a cost contract. The definition of an eligible organization includes both health maintenance organizations (HMOs) that meet the definition of a qualified HMO under the Public Health Service Act and competitive medical plans (CMPs).

The purpose of this proposal is to set forth the requirements that an entity must meet in order to be (1) eligible to enter into a Medicare contract (either risk or reasonable cost) as an eligible organization and (2) reimbursed by Medicare on a capitation basis (either prospectively or retrospectively) for items and services furnished to Medicare enrollees.

DATE: To assure consideration, comments must be mailed by July 9, 1984.

ADDRESS: Address comments in writing to:

Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-247-P, P.O. Box 26676, Baltimore, Maryland 21207

In commenting, please refer to file code BERC-247-P.

Please also address a copy of comments on information collection requirements to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503, Attention: Desk Officer for HCFA

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT:

Frank Emerson, 301-597-1807 (Reimbursement),

Rita McGrath, 301-594-8558 (Qualifying Conditions, Enrollment, Contract Procedures, Change of Ownership and Leasing of Facilities, and Hearings and Appeals)

SUPPLEMENTARY INFORMATION:

I. Background

A health maintenance organization (HMO) may be generally defined as an entity that provides health care in a geographic area to a group of persons who are enrolled as members. The HMO agrees to provide or otherwise assure delivery of an agreed upon set of health services and to be reimbursed through a predetermined, fixed periodic payment made by or on behalf of the enrollees, without regard to the amounts of actual services provided. Because the HMO receives a fixed payment from enrollees, regardless of the volume of service provided, there is a financial incentive to the HMO to control control costs and to provide the least expensive service appropriate to the member's needs.

Section 226 of the Social Security Amendments of 1972 (Pub. L. 92-603, enacted October 30, 1972) added section 1876 to the Social Security Act (Act) to authorize Medicare payment to HMOs on a capitation basis.

Under this law, an HMO is defined as an organization that meets the definition of an HMO in section 1301 of the Public Health Service (PHS) Act and provides services that meet the quality of care standards in section 1876 of the Act. Two types of HMO contracts were specified in the law; one that permits reimbursement on a reasonable cost basis and one that allows reimbursement on a risk-sharing basis.

Prior to this legislation, Medicare reimbursement to HMOs for Parts A and B services was not available on a capitation basis. Reimbursement was made on the basis of the costs to the organization of providing the specific services to the beneficiaries. Because of this, the financial incentives that HMOs might have had in their regular non-Medicare business to keep costs low and to control utilization of services were not fully incorporated directly into their relationship with Medicare.

Adding section 1876 to the Act was an attempt by Congress to reimburse HMOs in a way that would conform more closely to their usual way of operation. Currently, under section 1876 of the Act, HMOs that enter into Medicare contracts can receive interim per capita payments, subject to retrospective adjustments, in return for providing to their Medicare enrollees services covered under Medicare Part A and Part B (or Part B only for certain enrollees).

Under the reasonable cost reimbursement method, payment is made to the HMO on an interim basis using a monthly capitation. At the end of the HMO's contract year, payments are adjusted to equal the reasonable costs of the covered services the HMO furnished to its Medicare enrollees, using the Medicare reimbursement principles that are commonly used to calculate reasonable costs for providers of services (such as hospitals) under section 1861(v) of the Act as a model.

An alternative form of reimbursement, reimbursement on a risk-sharing basis, is available to HMOs that have demonstrated a capacity to provide health care of acceptable quality in an organized and effective manner. Under risk reimbursement, HMOs receive monthly payments based on an interim per capita reimbursement rate, similar to reasonable cost HMOs. This rate reflects the estimated costs of enrollees of the HMO for its enrolled population. However, it cannot exceed 100 percent of the estimated "adjusted average per capita costs" (AAPCC). The AAPCC is an actuarial measure of the cost that would have been incurred by Medicare on behalf of enrollees of the HMO if they had received their covered services from providers and suppliers of services, other than the HMO, in the same geographic area (or a similar area) served by the HMO.

At the end of its contract year, the HMO's reasonable costs of furnishing services to its Medicare enrollees are compared to the retrospectively determined AAPCC incurred for that year. If the HMO's costs are less than the AAPCC, the amount of the difference is called "savings". Currently, the HMO receives 50 percent of the savings, up to a maximum of 10 percent of the AAPCC, as a bonus. Conversely, if the HMO's costs are higher than the AAPCC, the HMO must absorb that difference ("losses"). However, these losses can be carried forward into subsequent years and offset from saving realized in future years.

Both of these Medicare reimbursement mechanisms present

problems for HMOs because, although they are an improvement over the payment methods available before the enactment of Pub. L. 92–603, they are essentially cost basis methods. Consequently, they are inconsistent with the HMOs' usual method of receiving payment on a prepaid capitation basis with no retroactive adjustments. In the non-Medicare portion of an HMO's business, the fixed, prospectively determined payment per enrollee acts as a limit on HMO revenues, creating financial incentives for the organization to control costs and provide appropriate services in the most cost efficient manner. In addition, HMOs report relatively little financial data to any outside organizations.

However, since both Medicare risk and reasonable cost reimbursement entail retrospective determination of cost, HMOs do not know their actual Medicare revenues until sometime after the contract year has ended. This retrospective reimbursement is an awkward arrangement for HMOs since these organizations are designed to operate under a prospective budget without extensive reporting requirements to other third-party payors. Moreover, cost-based reimbursement provides HMOs with a mixed set of incentives. HMOs under Medicare cost contracts are not rewarded for cost-conscious behavior, and, in fact, revenue is reduced as the cost per Medicare enrollee decreases.

Even the risk reimbursement provisions are considered inadequate by HMOs, because in addition to the problems described above, the HMO may receive, at a maximum, only half of the savings it achieves (up to a maximum of 10 percent of the AAPCC), while absorbing all the losses. This lack of a strong incentive to contract under risk reimbursement has resulted in only two HMOs entering into this type of contract. Also the current definition of an HMO is a disincentive to contracting with Medicare under section 1876 of the Act because it requires all organizations to meet the fairly prescriptive requirements of section 1301 of the PHS Act.

II. New Legislation

In an effort to improve Medicare reimbursement methods for HMOs, Congress enacted section 114 of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 (Pub. L. 97–248). Section 114 of TEFRA amend section 1876 of the Act in two major areas.

First, the new legislation expands the definition of organizations that are eligible to contract for Medicare reimbursement under section 1876 of the Act. In addition to HMOs that meet the PHS definition, other medical plans, referred to as competitive medical plans (CMPs) are eligible to contract with HCFA for Medicare reimbursement. Also, the amended statute permits payment to be made on a prepaid capitation basis without retroactive adjustments of the rate to organizations with a risk contract. The reasonable cost contract option remains in the law while the old risk-sharing contract option is eliminated by this amendment.

HMOs and CMPs are referred to collectively as eligible organizations. Any entity that meets the "eligible organization" definition is eligible to enter into a risk contract to receive payment under this provision of the law if it meets certain requirements. Any eligible organization may contract on a reasonable cost basis if it chooses to do so, or if HCFA decides that it does not meet the requirements of the law specified for risk reimbursement.

Amended section 1876(a)(1)(C) of the Act provides that eligible organizations that elect reimbursement under a risk contract receive prospective payment at a per capita rate based on 95 percent of the AAPCC for each class of Medicare enrollee of the organization. The AAPCC is defined in section 1876(a)(4) of the amended statute similarly to the way it is defined in the current section 1876 of the Act, except it is now prospectively determined.

Amended section 1876(g)(2) of the Act provides that if the Medicare payment received by an organization under a risk contract exceeds the organization's adjusted community rate (ACR), the organization must use the savings to provide its Medicare enrollees with additional health benefits (selected by the organization and approved by the Secretary) or reduced cost sharing. The ACR is defined in section 1876(e)(3) of the amended statute as the organization's premium for furnishing covered services to its Medicare enrollees.

Section 114(c)(2)(A) of TEFRA limits Medicare payment to entities that are being reimbursed on a reasonable cost basis on the initial effective date of this statutory provision and elect to enter into a risk contract under the amended section 1876 of the Act. These organizations may only receive payment under the risk contract formula for their current nonrisk Medicare enrollees to the extent that they enroll two new Medicare beneficiaries for each nonrisk Medicare enrollee.

Section 114(c)(4) of TEFRA specifies the initial effective date of these provisions as the later of (1) the first day of the thirteenth month after the date of enactment (that is, October 1, 1983); or (2) the first day of the month after the month in which the Secretary notifies Congress that the Secretary is reasonably certain that the methodology for determining the prospective rate based on 95 percent of the AAPCC is developed and can be implemented.

As mentioned above, the current reasonable cost reimbursement option is continued by this amendment in basically the same form as in the previous section 1876 of the Act. In addition, section 114 of TEFRA makes a number of changes in the enrollment and contracting requirements. These requirements, as well as other provisions of this proposed rule, are discussed below.

III. Major Provisions of Proposed Regulations

A. Codification of Regulations

The current Medicare regulations on HMOs are located in 42 CFR Part 405, Subpart T. Because of the effective date and various other provisions of section 114 of TEFRA (see section III, Effective Dates), these proposed regulations cannot replace the current regulations at this time. Rather, upon publication of a final regulation, there will be two sets of regulations that may be applicable to an organization: one set that implements section 1876 of the Act as it existed before the enactment of TEFRA and one set implementing the amended section 1876 of the Act. Therefore, all the proposals discussed in this section are in addition to the current regulations, not a replacement of them.

We are proposing to codify the regulations implementing the amended section 1876 of the Act as Subpart C in a new 42 CFR Part 417. We are reserving Subparts A and B of that part. When these regulations are published as a final rule, we intend to publish a companion document that moves the current Subpart T regulations to Subpart B of Part 417. Subpart A will contain general instructions pertaining to the provisions of the two effective dates for which the provisions of each of the two subparts are applicable and will be included in the final regulations.

B. Organization Eligibility Requirements

1. *Definition of Eligible Organization.* Currently, an organization is eligible to contract for reimbursement as an HMO under Medicare if it meets the organizational and operational requirements for an HMO as defined in sections 1301(b) and (c) of the PHS Act. Section 114 of TEFRA revised section

1876(b) of the Social Security Act to define an "eligible organization" as one that is organized under State law and either is a qualified HMO as defined in section 1310 of the PHS Act or is an entity that meets the following requirements:

a. It provides its enrolled members at least the following services:

- Physicians' services performed by physicians;
- Inpatient hospital services;
- Laboratory, X-ray, emergency, and preventive services; and
- Out-of-area coverage.

b. It receives compensation, except for deductibles and coinsurance, for the health care services it provides enrolled members on a periodic, prepaid capitation basis regardless of the frequency, extent, or kind of services provided.

c. It provides physicians' services through physicians or groups of physicians that are either employees or partners of the organization or through contracts with physicians.

d. It assumes full financial risk on a prospective basis for the provision of the health care services listed above in item a, except the organization may:

- Obtain insurance or make other arrangements for the cost of providing to any enrolled member health care services listed in item a, if the aggregate value of the services exceeds $5,000 in any year;
- Obtain insurance or make other arrangements for the cost of providing health care services listed in item a to enrolled members other than through the organization because medical necessity required that the services be provided before they could be secured through the organization;
- Obtain insurance or make other arrangements for not more than 90 percent to the amount by which the organization's cost for any of its fiscal years exceed 115 percent of its income for that fiscal year; and
- Make arrangements with physicians or other health professionals, health care institutions, or any combination of these to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

e. It provides against the risk of insolvency to the Secretary's satisfaction.

The amended section 1876(b)(2) of the Act, following (E), also provides and exception to the requirement that an entity that qualifies as an eligible organization by meeting the requirements set forth in amended section 1876(b)(2) of the Act must provide inpatient hospital service. An organization that had a Medicaid prepayment risk contract before 1970 that did not include provision of inpatient hospital services is not required to provide those services in order to be an eligible organization for purposes of this law.

We have included this definition of an eligible organization in the proposed regulations.

The Assistant Secretary for Health of the Department has been delegated the authority to determine whether an entity is an eligible organization within the meaning of amended section 1876(d) of the Act. This delegation was published in the **Federal Register** on April 22, 1983 (48 FR 17395). Therefore, this proposed rule specifies that the Assistant Secretary for Health would have the responsibility for determining if an entity meets the definition of an organization eligible to contract with HCFA. Where the statutory requirement for determining whether a CMP is an eligible organization is the same requirement as that for an HMO, the Assistant Secretary for Health would apply the same regulatory requirements to the CMP as it would for an HMO. The application and evaluation procedures for entities seeking eligibility are included in this proposal.

The proposed regulations would also require that the Assistant Secretary for Health would submit a written certification to HCFA for each entity that it determines meets the eligible organization definition. HCFA would not act on any entity's request for a contract under the amended section 1876 of the Act until it receives the written certification of the entity's eligibility.

2. *Procedures for Contract Approval.* An eligible organization that wishes to contract with HCFA under Medicare on either a reasonable cost basis or a risk basis would have to submit an application and supporting information to us in the form and detail required. This information would be needed to ascertain whether an eligible organization meets the necessary contract requirements described in section III.F. of this preamble. Whenever feasible, we would not require an organization to resubmit information that it has already submitted to the Assistant Secretary for Health in connection with the determination of whether an entity is an eligible organization.

If HCFA determines that the organization meets the contract eligibility requirements, it would notify the organization in writing that:

- It is eligible to enter into a contract under section 1876 of the Act as either a risk or reasonable cost based eligible organization;
- If the organization wishes to receive reimbursement under Medicare, it must sign and submit a written contract that meets the contract requirements described below; and
- If the organization is dissatisfied with our determination that it may contract only on a reasonable cost basis, it may request a review of the determination by following the procedures for reconsiderations as prescribed in the regulations (see section III.I. for a discussion of these procedures).

If HCFA determines that an organization does not meet the contract requirements, the regulations would require HCFA to notify the entity in writing:

- That it does not meet the requirements to enter into a contract under section 1876 of the Act;
- Of the reasons why the organization does not meet the requirements; and
- That if it is dissatisfied with the notice of denial, it may request a review of the determination by following the procedures for reconsiderations of initial determinations as described below in section III. I.

C. Qualifying Conditions

1. *General.* In order to receive Medicare reimbursement as an eligible organization, an entity would have to enter into a contract with HCFA. If an organization meets the applicable requirements of the statute and regulations and HCFA is satisfied that the organization can bear the risk of potential losses, then the organization may contract on a risk basis. If HCFA is not satisfied that the organization is capable of bearing potential losses or if the organization cannot meet the requirements in the statute and regulations for contracting on a risk basis, the organization must contract with HCFA on a reasonable cost basis. Also, if the entity has voluntarily terminated or failed to renew a risk contract under section 1876 of the Act in the preceding 5 years, then that entity would not be eligible for a risk contract unless HCFA determines that circumstances warrant special consideration. However, organizations that are qualified to contract on a risk basis would nevertheless be permitted to elect reimbursement on a reasonable cost basis.

We are proposing a series of qualifying conditions for eligible organizations that are designed to

assure the organization's ability to fulfill the requirements as provided in the statute. Generally, each qualifying condition is interpreted through a series of standards. To qualify as an eligible organization under Medicare, an organization would have to meet the applicable qualifying conditions and standards as described below.

2. *Qualifying Condition: Basic Conditions.* As required by amended section 1876(c)(1) of the Act, an entity is not eligible to enter into a contract with the Secretary unless it meets the requirements of that section and amended section 1876(e) of the Act. Generally, the requirements of those sections are detailed in the proposed regulations as qualifying conditions. Therefore, in order to be eligible for a contract, an entity would have to meet all of the qualifying conditions, unless they are waived as provided for in the proposed regulations.

To implement the requirements of amended section 1876(i)(1) of the Act, we would approve contracts only if they are consistent with the effective and efficient administration of amended section 1876 of the Act. Specifically, we would not contract with an entity if we find that it does not meet the following minimum requirements:

- It has sufficient administrative capability to carry out the requirements of the contract.
- It has no persons with ownership or control interest, or agents or managing employees, who have been convicted of criminal offenses related to their involvement in Medicaid, Medicare, or the social services programs under title XX of the Act.

3. *Qualifying Condition: Membership.* An eligible organization would have to demonstrate that it has operating experience and an enrolled population sufficient to provide a reasonable basis for establishing a prospective per capita reimbursement rate, or a reasonable cost reimbursement rate, as appropriate. The following standards set forth the enrollment and operating experience requirements for eligible organizations receiving reimbursement under risk or reasonable cost contracts.

Standard: Enrollment and operating experience for eligible organizations with risk contracts. Amended section 1987(g)(1) of the Act specifies that an eligible organization with a risk contract must have at least 5,000 enrollees, unless the organization primarily services members residing outside of urban areas. In addition to this requirement, the proposed regulations require that an eligible organization must have at least 75 Medicare enrollees or have an acceptable plan for achieving a Medicare enrollment of 75 within 2 years of the initial contract date. We have added this minimum Medicare enrollment requirement because we believe it is necessary to assure an adequate base for calculating the organization's ACR and to assure that our additional administrative effort (e.g., calculating an AAPCC and cost report settlement) is warranted.

As mentioned above, eligible organizations that serve a primarily rural population (that is, an organization with at least 50 percent of its enrollees residing in nonmetropolitan areas) are not required to meet the 5,000 member rule. Since the statute did not give any direction on determining how many members are necessary in an organization of this type, we believe that the enrollment must be sufficient to permit calculation of an ACR and AAPCC. Therefore, the proposed regulations require that a rural eligible organization have no less than 1,500 enrollees, at least 75 of whom are Medicare enrollees.

A nonmetropolitan area would be defined as an area no part of which is within a metropolitan statistical area (MSA) as designated by the Executive Office of Management and Budget and that does not contain a city whose population exceeds 50,000 individuals. We have adopted this definition from the current PHS regulations on HMOs (42 CFR 110.101).

Under these proposed regulations, an entity that is a subdivision or subsidiary of an eligible organization that meets the requirements of this standard need not demonstrate that it meets those requirements as an independent unit if the eligible organization assumes responsibility for the financial risk and adequate management and supervision of health care services provided by the subdivision or subsidiary.

Standard: Enrollment and operating experience for eligible organizations with a reasonable cost contract. The statute does not specify any enrollment population for eligible organizations contracting for reimbursement on a reasonable cost basis. However, we believe that there must be an enrolled population sufficient to provide a reasonable basis for entering into a contract. For eligible organizations with a reasonable cost contract, we are proposing that the organization have at least 1,500 members, and, in the first contract year, 75 of those members must be Medicare enrollees. By the beginning of the fourth contract year, 250 of the members would have to be Medicare enrollees.

Standard: Composition of enrollment. The statute requires that at least 50 percent of an eligible organization's enrollees must not be entitled to benefits under Medicaid or Medicare (amended section 1876(f)(1) of the Act). However, the Secretary has the authority to waive this requirement under special circumstances if the organization is making reasonable efforts to enroll individuals who are not entitled to Medicare or Medicaid benefits (amended section 1876(f)(2) of the Act). These regulations would provide for a waiver of this requirement if Medicare and Medicaid beneficiaries constitute more than 50 percent of the population in the organization's geographic area. The waiver would permit the membership of those beneficiaries to constitute up to 75 percent of the eligible organization's total enrollment; however, in no case may the percentage exceed the percentage of the Medicare and Medicaid population in the organization's geographic area.

Standard: Open enrollment. The statute requires that each eligible organization must have an annual open enrollment period for Medicare beneficiaries of at least 30 days duration (amended section 1876(c)(3)(A) of the Act). That section of the Act also specifies that enrollment applications must be accepted from these beneficiaries on a first-come, first-served basis without restrictions. The proposed regulations includes these requirements. The statute also provides for an exemption to open enrollment if it would result in failure to meet the enrollment composition standard mentioned above, or if it would result in an enrollment that is substantially nonrepresentative of the population in the area served by the organization, as determined in regulations by the Secretary. These regulations propose that a subgroup of enrollees would not be considered substantially nonrepresentative unless its proportion among total enrollees of the organization exceeds by at least 10 percent the proportion of that subgroup in the general population served by the organization. We would limit the definition of subgroup to include only those categories that are used in determining the AAPCC; that is, age, sex, welfare status, institutional status, and disability (see section III.G.2.d., below for a discussion of the AAPCC and these categories).

We have adopted these criteria for the proposed regulations because they are used in the current regulations and have worked well in the past.

4. *Qualifying Condition: Range of Services.*

Standard: Range of services furnished by eligible organizations. These regulations propose that all organizations must furnish to their Medicare beneficiaries a comprehensive range of services as follows:

- The organization must furnish to beneficiaries entitled to both Medicare Parts A and B all of the services covered under Parts A and B available to individuals not enrolled in the organization who reside in the geographic area served by the organization.
- The organization must furnish to beneficiaries entitled only to Medicare Part B all of the services covered under Part B available to individuals not enrolled in the organization who reside in the geographic area served by the organization.

We are proposing that if a Medicare covered service is not available in the area, an eligible organization is responsible for arranging for its provision if nonenrollees in the area are commonly referred to out-of-area sources when they require that service.

Standard: Financial responsibility for services furnished outside the organization. As specified in amended section 1876(c)(4)(B) of the Act, an eligible organization would have to assume financial responsibility and provide reasonable reimbursement for all medically necessary covered items and services obtained by its Medicare enrollees from physicians, suppliers, or providers of services outside the organization, in the absence of prior approval, when:

- Those services were immediately required because of an unforeseen illness, injury, or condition; and
- It was not reasonable, given the circumstances, to obtain the services through the organization.

These regulations propose that services provided under these conditions would be called "emergency services" and "urgently needed services", respectively, as follows:

Emergency services would be defined as those covered items and services that are:

- Furnished by an appropriate source;
- Needed immediately because of an injury or sudden illness and the time required to reach the organization's facilities, or the facilities of a provider or supplier with which the organization has arrangements, would have meant risk of permanent damage to the patient's health; and
- Considered to be emergency services as long as the transfer of the enrollee to the appropriate provider or supplier of services of the organization or an alternative designated by the organization is precluded because of the risk to the enrollee's health or because the nature of the illness would make transfer unreasonable.

Urgently needed services would be defined as those covered items and services that enrollees required in order to prevent a deterioration in their health while they are temporarily absent from their organization's geographic area. While the immediacy of the need for these services is not as great as it is for emergency services, the medical need is such that the services cannot be delayed until the enrollee returns to a place where he can receive the organization's services. In this context, "temporarily absent" refers to circumstances, such as a vacation, where the enrollee has left the organization's geographic area, but intends to return in a reasonable period of time.

The urgently needed services definition is included in the current regulations and, since it has worked well in practice, we are retaining it in the proposed regulations. We believe this policy is appropriate because many Medicare beneficiaries are very mobile and find it difficult to understand restrictions on out-of-area coverage when they are considering enrollment in an eligible organization. The emergency services definition does not differ significantly from the one used in current regulations; however, we have clarified it to define more clearly what types of services we believe constitute an emergency.

In summary, an organization would not be financially liable for services furnished out-of-plan that are not emergency or urgently needed services.

5. *Qualifying Condition: Furnishing of Services.* Amended section 1876(c)(2) of the Act specifies that an eligible organization must furnish required Medicare services through providers and other suppliers that meet the applicable requirements of title XVIII of the Act.

Standard: Conformance with Medicare conditions of participation and conditions for coverage. If the eligible organization furnishes covered items and services to Medicare enrollees through a hospital, skilled nursing facility, home health agency, provider of outpatient physical therapy or speech pathology services, or comprehensive outpatient rehabilitation facility; or if services are furnished by independent laboratories of portable X-ray suppliers, physical therapists in independent practice, rural health clinics, or ambulatory surgical centers, then those providers or suppliers would have to meet the applicable conditions of participation, conditions for coverage, or conditions of certification as described in various subparts of 42 CFR Parts 405, 416, and 481.

Standard: Physician supervision. In general, the eligible organization would have to provide for supervision by a physician of other health care professionals who are directly involved in the provision of health care as prescribed in section 1861 of the Act. However, section 1861(s)(2)(H) of the Act was added by section 114(b) of TEFRA so that organizations could permit the services of physician assistants and nurse practitioners, and the services and supplies incident to their services (as defined in 42 CFR 405.2414 and 405.2415 for rural health clinics) to be furnished without the direct personal supervision of a physician. Physician assistants and nurse practitioners are defined in section 1861(aa) of the Act and in regulations at 42 CFR 481.2. We are proposing to use the same definitions in these regulations.

6. *Qualifying Condition: Quality Assurance (QA) Program.* Amended section 1876(c)(8) of the Act requires an eligible organization to have arrangements for on ongoing quality assurance program for health care services it furnishes to its enrollees. The statute specifies that this program should stress health outcomes and provide for review by physicians and other health care professionals of the manner in which these health care services are furnished.

Standard: QA programs for HMOs. HCFA and PHS have identical statutory requirements for HMO QA programs. Under the current regulations, PHS has taken the responsibility for assuring that HMOs furnishing services to Medicare beneficiaries have met this requirement. We are proposing to make no changes in QA requirements or our arrangement with PHS.

Standard: QA program for CMPs. Although the Assistant Secretary for Health of the Department has been delegated the authority to determine whether a CMP is an eligible organization within the meaning of amended section 1876(b) of the Act, this authority does not include ongoing evaluation of the CMP's success in meeting the QA requirements. Therefore, these proposed regulations tentatively include QA requirements that are the same as those in the PHS regulations (42 CFR 110.108(h)), which are the requirements that HMOs would also have to meet.

HCFA would make arrangements for the review and approval of a CMP's QA program during the contracting process,

as well as quality of care reviews that would be similar to those already in place for HMOs.

D. Enrollment

1. *Beneficiary Enrollment—General.* Under amended section 1876 of the Act, Medicare beneficiaries generally may enroll in eligible organizations for covered services that they are entitled to under both Part A (hospital insurance) and Part B (supplementary medical insurance) of the Medicare program, or only Part B if their Medicare entitlement is limited to Part B services. A beneficiary may choose to enroll in any organization that services the geographic area in which he or she resides and that has qualified under the law by contracting with HCFA to be reimbursed under amended section 1876 of the Act for covered Medicare services. An exception to the general rule of open enrollment for Medicare beneficiaries is contained in the amended section 1876(d) of the Act, which prohibits enrollment of individuals "medically determined to have end-stage renal disease."

Payments to organizations on behalf of Medicare enrollees are made out of the Federal Hospital Insurance trust fund or the Federal Supplementary Medical Insurance trust fund, or both, as appropriate. The payments discharge the liability of Medicare enrollees to pay for the covered services furnished to them by the organization. The organization may require payment from Medicare enrollees, in the form of premiums or otherwise, for services not covered under Parts A and B of Medicare, as well as deductibles and coinsurance amounts attributable to services furnished under Parts A and B. In addition, as discussed in greater detail below, organizations may seek payment for services from Medicare enrollees to the extent that the enrollees have been reimbursed for the services by a liable third party such as a workers' compensation plan or an insurance policy.

Under amended section 1876(a)(6) of the Act, in the case of organizations with risk contracts, only the organization is entitled to receive Medicare payments for services furnished to Medicare enrollees of the risk organization, except for emergency or urgently needed services as discussed above.

We would place the proposed regulations dealing with enrollment, entitlement and disenrollment requirements in §§ 417.420–417.460. These sections deal with basic rules about—

- Eligibility of Medicare beneficiaries.
- Open enrollment requirements.
- Denial of enrollment and reenrollment procedures.
- Organization marketing, application, and membership procedures.
- Conversion of Medicare enrollees involved in various cost and risk reimbursement circumstances.

With certain exceptions, these proposed rules parallel the current regulations contained in 42 CFR Part 405, Subpart T (§§ 405.2020–405.2025). Generally, in this preamble, we will discuss only those provisions of the proposed rules that differ significantly from the current regulations.

2. *Definitions.* Section 114(c) TEFRA provides that the new risk reimbursement provisions of amended section 1876 of the Act take effect at various times for different organizations and Medicare beneficiaries. These provisions take effect depending in large part on the organization's status with respect to the reimbursement methodology applicable to it on the effective date of amended section 1876 of the Act as discussed elsewhere in this preamble. In order to distinguish between these organizations and between categories of Medicare enrollees and to make clear the effect on them of various provisions of the amended section 1876 of the Act, we are proposing to include certain definitions in § 417.401. We will not repeat those definitions here as they are set out in their entirety in the proposed regulations text.

3. *Eligibility to Enroll in an Organization.* Eligibility requirements for Medicare beneficiaries would be placed in § 417.422 and would generally be the same as is currently provided in § 405.2020(b) of Subpart T (the current regulations for beneficiaries enrolled in HMOs under section 1876 of the Act prior to TEFRA).

The major new provision is that under amended section 1876(d) of the Act, membership as a new Medicare enrollee would be precluded for end-stage renal disease (ESRD) beneficiaries.

4. *Open Enrollment, Marketing Activities, Applications Procedures, and Membership Rules.* The amended section 1876(c)(3)(A) of the Act provides that an organization must:

- Conduct an open enrollment period annually of at least 30 days duration; and
- Accept eligible Medicare beneficiaries without restriction (except as authorized in regulations) up to the limits of its capacity in the order in which eligible beneficiaries apply unless the enrollment would result in its Medicare-Medicaid entitled membership exceeding one-half of the total.

In addition, under the amended section 1876(c)(3)(C) of the Act, the procedures and conditions may be prescribed under which an organization under contract with HCFA may advertise and enroll eligible Medicare beneficiaries. Therefore, we would place in the proposed regulations open enrollment requirements (§ 417.426), rules concerning permitted and prohibited marketing and advertising activities (§ 417.428), required applications procedures (§ 417.430), and membership rules (§ 417.436).

In substance, these proposed sections reflect no change from the current regulations that deal with the same subjects. However, we would add the requirement in the marketing activities section that risk organizations must provide potential Medicare enrollees with a description, in writing, of the additional benefits that may be available to the enrollees under risk reimbursement.

In addition, we are providing additional flexibility to the enrollment capacity section of the regulations to permit organizations to determine the number of vacancies that the organization will set aside to accommodate group contracts. Under normal circumstances, an organization projects a maximum annual enrollment and adjusts that number, if necessary, based on the expansion or contraction of the organization's facilities or staff. These factors unavoidably affect the ability of the organization to provide quality health care services.

In areas where there are two or more organizations under contract with HCFA, we are interested in having public comment on the idea of requiring that these organizations have a coordinated open enrollment period. This would give Medicare beneficiaries living in these areas the opportunity to compare, and select from, the available options within their area. Such a requirement would be consistent with our efforts to promote competition within the health care industry. On the other hand, it might be considered overly intrusive on the part of HCFA. Therefore, we are not proposing this requirement at this time, but would like to have comments on the need for, and terms of, such a rule.

We would specify the type of marketing techniques that organizations would be prohibited from using as a means of encouraging Medicare beneficiaries to enroll. These would include:

• Practices that are discriminatory or unethical;

• Misleading advertising practices (such as claims that the organization has been endorsed or recommended by HCFA or another government agency); or

• Promises or offers of gifts in return for enrollment.

The proposed regulations concerning application procedures are intended to establish a uniform standard of acceptance of applications in chronological order. We would require that applications be dated as they are received and forthrightly acted upon so as to inform the applicant timely of the organization's decision to accept or reject the application, or to place the applicant on a waiting list. These specific notice and time requirements are included to ensure that Medicare beneficiaries are enrolled in the organization on the required first-come, first-served basis and that applications are acted upon in a reasonable period of time. We are particularly interested in receiving comments concerning additional methods and procedures that would assure an equitable and random enrollment process.

We would adopt without change the substance of the provisions of Subpart T (§ 405.2024) dealing with membership rules.

5. *Denial of Enrollment.* As authorized under the amended section 1876(c)(3) of the Act, we would provide in § 417.424 the grounds on which an organization may deny enrollment to an otherwise qualified Medicare beneficiary. The grounds relate generally to administrative and practical considerations that would affect the organization's compliance with certain enrollment and qualifying conditions. We will not repeat here the bases for denial included in this proposal, as they are clearly set forth in the regulations.

6. *Conversion of Regular Enrollee to New Medicare Enrollee.* Generally, individuals eligible to receive Social Security retirement, survivors', or disability benefits under title II of the Act may become entitled to Medicare as a result of attaining age 65, receiving disability benefits for 25 consecutive months, or as a result of having ESRD. An individual who already is an enrollee of an organization at the time he or she becomes entitled to Medicare must be covered by the organization to the status of a new Medicare enrollee. Thus, for example, under the proposed regulations (§ 417.432(a)), the membership of an individual who has been enrolled in an organization prior to his or her 65th birthday must be converted by the organization to a new Medicare membership.

As noted above, Congress provided in amended section 1876(d) of the Act that ESRD patients are not eligible to enroll in organizations as new Medicare enrollees. However, amended section 1876(c)(3)(D) of the Act prohibits disenrollment of an individual because of health status or requirements for health services. Thus, individuals who are already enrolled and who either are ESRD patients at the time the organization enters it contract or are already enrolled at that point and later develop ESRD may not be disenrolled by the organization.

7. *Reenrollment.* We would provide in the proposed § 417.434 that if the administrative procedures of an organization call for periodic reenrollment of the membership, Medicare enrollees must be retained unless disenrollment is authorized under § 17.460. The intent of this provision is to prevent Medicare beneficiaries, including ESRD beneficiaries, from being expelled or refused reenrollment because of their health care status or requirements for health care services.

8. *Disenrollment.* We would adopt the proposed regulations (§ 417.460) the conditions under which an organization may disenroll a beneficiary as the conditions are described in § 405.2025 of Subpart T.

In addition, we believe that risk organizations should be permitted to disenroll current, nonrisk Medicare enrollees who refuse to abide by conversion requirements such as those described below in section E.2. but who have no other options available to them but to convert because the Secretary determined that the amendment should apply to all members of the organization in accordance with section 114(c)(1)(A) of TEFRA.

Amended section 1876(c)(3)(B) of the Act specifically provides that enrollees of organizations may terminate their enrollment "as of the beginning of the first calendar month following a full calendar month after the request is made for such termination. . . ." In other words, if an enrollee requests in January that his or her membership in an organization be ended, the disenrollment is effective on the first day of March.

The proposed regulations also describe procedures for disenrollment in cases of termination or default of a contract between the organization and HCFA.

The disenrollment rules are modeled on the current regulations. However, we are concerned about the length of time that a beneficiary who fails to pay the required cost-sharing amounts (for example, premiums or co-payments) for the Medicare deductibles and coinsurance may remain an enrollee of an organization. Therefore, we are reviewing the disenrollment regulations to assure that the time periods involved in the disenrollment process are as short as practicable in this situation.

E. Entitlement to Services

1. *Scope of Services.* We state in the proposed regulations (§ 417.440) that Medicare enrollees of organizations are entitled to receive health care services and supplies directly from the organization, or through arrangements made by it. Medicare enrollees are also entitled to receive services outside of the organization if the services were emergency or urgently needed services that, because of the circumstances, could not have reasonably been obtained through the organization. The entitlement is effective for any month for which a per capita payment is made by HCFA to the organization on behalf of the enrollee. Entitlement extends to the Medicare services to which the enrollee is entitled (that is, covered Part A and Part B services, or only Part B).

In addition, a Medicare enrollee is entitled to receive any supplemental services offered by the organization for which the enrollee elects to pay. Furthermore, a risk organization may require, under the amended section 1876(c)(2)(ii), that its enrollees receiving benefits under the risk reimbursement portions of its contract accept and pay for supplemental services as a condition of enrollment.

The risk organization must obtain HCFA's approval of these supplemental benefits as required in amended section 1876(c)(2)(ii) of the Act. Approval will depend on a determination by HCFA as to whether inclusion of the supplemental benefits will substantially discourage enrollment by Medicare beneficiaries in the risk organization. For example, HCFA might not approve a supplemental package that consists of several noncovered services offered at a prohibitively high charge to the beneficiary.

New Medicare enrollees and current, nonrisk Medicare enrollees who convert to risk reimbursement may also be eligible, depending on the conditions described below, for benefits in addition to covered Part A and Part B services. The benefits may consist of one or both of the following:

• A reduction in the premium rate or in other charges for services furnished to the enrollee.

• Health benefits or services and supplies beyond the required Part A and Part B services.

Special supplemental benefits may be available to current nonrisk Medicare enrollees who receive benefits under the reasonable cost reimbursement portion of an organization's contract. The benefits may consist of some or all of the additional benefits that the risk organization furnishes to beneficiaries receiving benefits under the risk portions of the contract.

2. *Special rules for current, nonrisk Medicare enrollees of risk organizations.* Current, nonrisk Medicare enrollees of an organization that enters into a risk contract would not be covered under the risk portion of the contract automatically (section 114(c)(1)(A) of TEFRA). They would not be entitled to the additional benefits the organization may offer under the contract until one of the following happens:

• HCFA determines that, for administrative reasons (i.e., an insufficient number of Medicare enrollees to warrant the administrative effort of cost report determination), all current, nonrisk Medicare enrollees must be covered under the risk portion of the new contract, and:

—HCFA notifies each affected enrollee 90 days before the effective date of the decision; and

—The organization has enrolled two new Medicare enrollees for each current, nonrisk Medicare enrollee that is brought into the risk portion of the contract; and

—The selection of the current nonrisk Medicare enrollees to be brought under the risk portion of the contract is made in a nonbiased manner as described below; and

—The current, nonrisk Medicare enrollee completes and signs a form stating that the enrollee understands the new rules and benefits applicable to him or her; and

—The organization notifies the enrollee, in writing, at least 30 days before the date on which his or her coverage under the risk portion of the contract takes effect; or

• The current, nonrisk Medicare enrollee requests that he or she be covered under the risk portions of the contract, and:

—The organization enrolls two new Medicare enrollees for each such current, nonrisk Medicare enrollee; and

—In cases where there are more Medicare enrollees than can be accommodated due to the two-for-one rule, selection of the current, nonrisk Medicare enrollees to be covered under the risk portion of the contract is made in a nonbiased manner, as described below

Unless HCFA determines otherwise, a current, nonrisk Medicare enrollee may remain under the reasonable cost provision of a contract (that is, receive reasonable cost reimbursement for all covered Part A and Part B services) for as long as he or she wishes. We would provide that during the time these enrollees are covered under the cost provisions, the organization may offer special supplemental benefits, discussed below.

The proposed regulations (§ 417.444(c)) state that a plan for the special supplemental benefits must:

a. Be offered to all current, nonrisk Medicare enrollees of the organization;

b. Be offered at no cost to the enrollees or to the Medicare program;

c. Be voluntary for these enrollees;

d. Offer a uniform package of benefits to all these enrollees;

e. Not affect the selection of Medicare enrollees converted to coverage under the risk portion of the contract;

f. Restrict Medicare enrollees who enroll from receiving payment directly or on their behalf for Medicare services received outside the organization's sources (except for emergency, urgently needed, etc, services);

g. Provide that reimbursement for such services for these enrollees be made from the savings the organization achieves; and

h. Are offered with full disclosure of all provisions, especially the restriction noted in f, above.

Current, nonrisk Medicare enrollees must be informed of any such special supplemental plan at least 90 days before the beginning of his or her enrollment period, or other opportunity to enroll.

3. *Operation of the Two-for-One Provision.* As noted above, an organization must enroll two new Medicare enrollees for each current, nonrisk Medicare enrollee it wishes (or is required) to cover under the risk portions of its contract. As defined in the law (section 114(c)(2)(D) of TEFRA), a new Medicare enrollee is an individual entitled to Medicare who was not enrolled in the organization in which he or she subsequently enrolls at the time the organization entered into a risk contract under those regulations, or at any previous time he or she was entitled to Medicare. However, it does not follow that any individuals entitled to Medicare and enrolled in eligible organizations (or 1833(a)(1)(A) organizations) on the initial effective date of a risk contract are automatically subject to the two-for-one provision in order to be covered under the risk provisions of an organization contract. An exception is made for current demonstration project enrollees whose organization enters into a risk contract under these regulations upon completion of the demonstration project. Also, an exception is made for current risk Medicare enrollees as well as Medicare enrollees of organizations permitted to enter into risk-sharing contracts under the existing Subpart T regulations prior to the initial effective date of these regulations. In other words, the two-for-one restriction is applied only to current nonrisk Medicare enrollees, as defined above.

The procedures that organizations must follow in administering the two-for-one provision are clearly set forth in the proposed regulations and are not repeated here. We are specifically soliciting comments and suggestions on how we may assure equitable management of the two-for-one conversion.

4. *Beneficiary Liability.* The proposed rules include provisions for beneficiary liability. An item or service not covered under Part A or Part B is the financial responsibility of the beneficiary entitled to both Parts, while the beneficiary enrolled under Part B only is liable for services covered under Part A as well as those items and services not covered under Part B. The beneficiary (or someone on his or her behalf) is also financially responsible for services for which Medicare is not the primary payor. An organization may offer an optional supplemental benefit plan which pays for services not covered under Parts A and B for enrollees entitled to both Parts, or Part A services and items and services not covered under Part B for enrollees entitled to Part B only. Payment of premiums or other charges for such a plan is the responsibility of the Medicare enrollee.

Deductibles and coinsurance and the responsibility of the Medicare enrollees, or someone on their behalf. These deductibles and coinsurance amounts are detailed in other Parts of the Medicare regulations. Deductibles and coinsurance amounts may be satisfied by payment to the organization by the enrollee or someone on his or her behalf, such as under State buy-in agreement, or equivalent amounts that do not exceed the actuarial value of those amounts. These payments may be made by a premium, membership fee, charge per unit, or similar charge.

If the organization offers a supplemental plan that covers additional services as well as deductibles and coinsurance, the amounts attributable to each Medicare enrollees must be computed separately and disclosed to enrollees prior to their selection of such plans. Coverage of additional services must be optional for the Medicare enrollees of reasonable cost organizations.

F. Contract Requirements

This section of the proposed regulations would implement those provisions of amended section 1876 of the Act that pertain to the contract between the Secretary and an eligible organization under the Medicare program. These provisions include:

- Content of contract, and
- Procedure for contract termination, renewals, and changes in ownership.

1. *Content of Contract.* In order to be reimbursed for Medicare services under amended section 1876 of the Act, an eligible organization must sign and submit a written contract that meets the requirements of these proposed regulations (see section III.B.2, above).

All contracts (both risk and reasonable cost) between HCFA and an eligible organization would have to provide the following:

a. The organization agrees to comply with all the applicable requirements and conditions set forth in these proposed regulations and any general instructions issued by HCFA.

b. The organization agrees to comply with section 504 of the Rehabilitation Act of 1973 and the requirements of Part B (Peer Review of the Utilization and Quality Health Core Services) of title XI of the Social Security Act with respect to review of the services furnished its Medicare enrollees. As specified in these laws, all entities receiving Federal payments are required to comply with their provisions.

c. All qualifying conditions that are waived must be specified in the contract, as well as the specific terms and expiration date of the waiver, and any other information determined to be relevant.

d. The organization agrees that the Secretary, or his or her designee, has the right to inspect, or otherwise evaluate, the quality, appropriateness, and timeliness of services furnished under the contract to Medicare enrollees, as well the facilities of the organization when there is reasonable evidence of the need for inspection (amended section 1876(i)(3)(A)(i) of the Act).

e. The organization with a reasonable cost contract agrees that the Secretary, or his or her designee, may audit or inspect any of its books and records that pertain to the services performed or determination of amounts payable under the contract or to the ability of the organization to bear the risk of potential financial loss (amended section 1876(i)(3)(A)(ii) of the Act).

f. The organization must comply with sections 1318 (a) and (c) of the PHS Act pertaining to disclosure of certain financial information, and section 1301(c)(8) of that Act relating to liability arrangements to protect members.

g. The effective date and terms of the contract must be specified. The initial term of the contract and any subsequent term must be at least 12 months.

In addition to these requirements, the statute (amended section 1876(i)(3)(D) of the Act) allows us to include in the contract other items and conditions that we find necessary and appropriate, as long as they are not in conflict with other requirements of the amended section 1876 of the Act.

We have not included in these proposed rules a specific contractual requirement that an organization must agree to comply with title VI of the Civil Rights Act because, since all entities that furnish Part A services to Medicare beneficiaries are subject to the civil rights statute and regulations (including those at 45 CFR 80.4(a) and 84.5(a)), inclusion of a specific requirement in the contract is not necessary.

As specified in amended section 1876(i)(5) of the Act, these proposed regulations exempt contracts between eligible organizations and HCFA from the Federal and HHS procurement regulations contained in Title 41 of the Code of Federal Regulations.

In addition to the requirements mentioned above, risk contracts would have to require that an eligible organization must provide and pay for advance written notice to its Medicare enrollees of the contract's termination, as specified in the amended section 1876(i)(3)(B) of the Act. The organization must also describe to the Medicare enrollees alternative methods of obtaining Medicare benefits.

2. *Contract Termination, Renewals, and Changes in Ownership.* A contract between an eligible organization and HCFA would be renewed automatically unless the organization of HCFA gives notice of its intent not to renew the contract as discussed below.

The proposed regulations permit an eligible organization and HCFA to modify or terminate the contract at any time by written mutual consent. In the case of termination, the organization would have to notify its Medicare enrollees, and HCFA would notify the public, at least 30 days in advance of the termination. If the contract is modified, the organization would have to notify its Medicare enrollees of any modification that we determine is appropriate.

Termination of a contract during its term would be an available option to an organization only when HCFA consents to it. Authority to terminate a contract unilaterally during its term is available only to HCFA, under the conditions set forth in amended section 1876(i)(1) of the Act. (See discussion below).

If an eligible organization does not intend to renew its contract, it would have to give us written notice at least 90 days before the end of the current contract period. In addition, the organization would have to give its Medicare enrollees and the general public advance notice of at least 60 and 30 days, respectively. If an organization submits a nonrenewal notice to us less than 90 days before the end of the contract period, HCFA has the option of accepting the nonrenewal if the acceptance would not otherwise jeopardize the effective and efficient administration of the Medicare program.

If HCFA decides not to renew an organization's contract, the organization must receive advance notice of 90 days and HCFA would also have to provide the appropriate notice to the Medicare enrollees and general public. If the organization disagrees with the nonrenewal, then it may request a review of the decision by following the procedures for reconsideration of initial determinations as described below in section III. I.

Amended section 1876(i)(1) of the Act permits HCFA to terminate an organization's contract at any time, if HCFA determines that the organization:

- Has failed substantially to carry out the terms of the contract;
- Is carrying out the contract in a manner that is inconsistent with the efficient and effective administration of section 1876 of the Act; or
- No longer meets the applicable conditions necessary to be qualified as an eligible organization under section 1876 of the Act.

For example, HCFA may terminate a contract under the efficient and effective administration clause if an organization has a repeated pattern of questionable marketing activities, no one of which is by itself a cause for termination, but which, taken as a whole, demand an excessive amount of HCFA resources in overseeing the contract.

The proposed regulations (§ 417.494(b)) include these provisions.

In addition, HCFA would have to notify the Medicare enrollees and the general public of the termination at least

30 days before it is effective. As mentioned above, an organization with a risk contract would have to provide advance written notice to its Medicare enrollees of the contract termination and describe alternative methods of obtaining Medicare benefits. Any organization that is dissatisfied with HCFA's notice of termination is entitled to a hearing as described below in section III. I.

In general, a transfer or change of ownership or operation of an eligible organization would invalidate the organization's contract, unless we have approved a third party as the successor in interest to the contract through a novation agreement, as provided in the proposed regulations. These provisions of the proposed regulations are the same as the current regulations.

G. Reimbursement

Eligible organizations that contract under the provisions of amended section 1876 of the Act must choose to be reimbursed on either a risk or a reasonable cost basis. Described below are the provisions of the proposed regulations that are applicable to all eligible organizations and the provisions that are unique to either risk or reasonable cost organizations.

1. *Provisions Applicable to All Eligible Organizations.* Payment made to an organization under amended section 1876 of the Act for the provision of covered Medicare services would be in lieu of payment that would otherwise be made to the organization for covered services under sections 1814(b) and 1833(a) of the Act (amended section 1876(a)(3) of the Act).

Each Medicare enrollee of an eligible organization, or someone representing the enrollee, would be responsible for satisfying the deductible and coinsurance amounts applicable to items and services covered under the Medicare program. This payment would be the same for each Medicare enrollee and would be made directly to the organization by the beneficiary in equal periodic amounts. The payment may be described as a premium, membership fee, copayment, charge per unit, or similar charge, or a combination of these, but in no case may the payment exceed, on the average, the actuarial value of the deductible and coinsurance for which Medicare enrollees would otherwise be liable had they not enrolled in the organization. This is required by amended section 1876(e)(1) of the Act. HCFA actuaries would be responsible for this calculation, and it would be based on Medicare experience.

As specified in amended section 1876(e)(4) of the Act, if a Medicare enrollee receives covered services from the organization for which the enrollee is entitled to benefits under a workmen's compensation law or plan, an automobile or liability insurance policy or plan, or no-fault insurance, the organization may charge the insurance carrier, employer, or other entity that is responsible to pay for the provision of those services. The organization may also charge the Medicare enrollee to the extent that the enrollee has been paid by the law, plan, or policy for those services. In addition, an organization may charge an employer group health plan for services for which Medicare is a secondary payor.

If an organization furnishes supplemental services to its Medicare enrollees, as described above in Section E.4. (Entitlement to Services), each enrollee, or his or her representative, would be liable for payment of the service. This does not apply to certain supplemental services furnished without charge by an organization in accordance with the provisions of its risk contract (see item 2.f., below, for an explanation of this provision). A Medicare enrollee who is entitled to benefits only under Part B would be liable for payment for all Part A covered items and services received, as well as supplemental services.

These regulations would permit the organization to determine the form of payment for supplemental services. For example, it could be a premium, membership fee, copayment, or charge per unit, or a combination of the above. Regardless of the form of payment, in no case may the sum of the amounts the organization charges its Medicare enrollees for supplemental services exceed the adjusted community rate (ACR) for these services (see item 2.g., below, for a definition of ACR).

2. *Provisions Applicable Only to Risk Organizations.* This section describes the per capita method of Medicare reimbursement to eligible organizations that have entered into contracts with us on a risk basis. Specifically, we discuss how we determine an organization's payment rate and how payment is made, as well as how we determine the value of additional benefits an organization is required to make in certain situations. Except as described below in item c., all payments for covered services furnished the Medicare enrollees of an eligible organization would be made to the organization.

a. Per capita payments

As prescribed in amended section 1876(a)(1)(D) of the Act, we would pay an organization, in advance, its monthly per capita rate of payment for each Medicare enrollee. This amount is equal to 95 percent of the organization's adjusted average per capita cost (AAPCC) for the class of that enrollee (see item d. below for a description of the AAPCC). The regulations propose that HCFA will furnish to an organization its per capita rate of payment for each class of enrollee no later than 90 days before the start of the organization's contract period. We would require that the organization furnish to us its anticipated enrollment for a given month in sufficient time for us to include this information in our records and to determine the organization's monthly per capita payment.

As provided in amended section 1876(a)(1)(E) of the Act, the amount of payment made under this section of the regulations would be retroactively adjusted when necessary to take into account any differences between the organization's actual number of Medicare enrollees in each class and the number of individuals estimated to be enrolled in each class in determining the amount of advance payment. We could also reduce the amount of payment to an organization at its request when its AAPCC is larger than its ACR and the organization wishes a reduction in payment rather than providing additional services (see discussion below in item f.).

We are considering the possible applicability of the prompt payment provisions in 31 U.S.C. 3901–3906 to the monthly payments made to eligible organizations. Comments are invited on this issue.

b. Annual reconciliation

The per capita rate of payment discussed in the preceding section is prospectively determined and, therefore, not subject to adjustment by HCFA during the contract period. However, as a result of the contract's operation, there may be amounts of money due either to the organization from HCFA or to HCFA from the organization at the end of the contract period. For example, an underpayment or overpayment to the organization can occur when HCFA makes incorrect payments to the organization based on inaccurate enrollment information or when HCFA withholds insufficient or excessive funds from the organization's monthly payments to pay hospital bills when the organization elects the HCFA payments to hospitals option explained in the following section.

Therefore, these regulations would provide that, when necessary, HCFA may conduct an annual reconciliation for a contract period to assure that the organization has received the proper payment amount from HCFA for the contract period. We do not anticipate that this reconciliation would be necessary for every contract period since adjustments of the monthly payment may be made during the contract period. Also, we expect this process would involve minimum reporting by organization. However, we believe the proposed regulations should provide for this contingency since there will be times when adjustments during the contract period would not have fully accounted for all payment amounts.

c. HCFA payment to hospitals option

These regulations would allow a risk organization to elect direct reimbursement by HCFA to hospitals that furnish covered inpatient hospital services to the organization's Medicare enrollees. This payment option is authorized by section 602(g) of Social Security Amendments of 1983 (Pub. L. 98–21 enacted on April 20, 1983) which added section 1876(g)(4) to the Act.

An organization that wishes to elect direct HCFA payment to hospitals would have to submit a written request to us before the organization's contract period begins. This election would be binding for the entire contract period. If we approved the organization's request, we would pay the hospital directly for the covered inpatient hospital services provided to the organization's Medicare enrollees. The payment made would be equal to the amount HCFA would pay the hospital for Medicare beneficiaries not enrolled in the organization (that is, reasonable cost for those hospitals excluded from the prospective payment system or prospective rates to all other hospitals).

Each month we would deduct from the organization's per capita payment an amount we estimate we will be paying to hospitals on behalf of the organization's Medicare enrollees and administrative costs we expect to incur in making those payments to hospitals. This amount would be adjusted as necessary to allow us to retain sufficient funds with which to pay the hospital bills. If the contract between HCFA and the organization is terminated or not renewed, we would retain the balance of the amounts withheld from the organization's payment for one year after the expiration of the contract. However, we are considering the idea of using the same deadline as is used for submitting Part A claims as the period HCFA will use to retain any balances in the hospital payment fund. In that case, we would revise this section of the regulations.

The organization would have to agree to accept liability for and to provide to us the additional necessary funds if:

- During the contract period or the subsequent year, we do not have sufficient funds on hand from the withheld amounts to pay the hospital bills of the organization's Medicare enrollees; or
- After we return any balance of amounts withheld to the organization, we receive additional hospital bills that cover services furnished during the organization's contract period.

d. Adjusted average per capita cost

The adjusted average per capita cost (AAPCC) is an actuarial estimate made by HCFA before an eligible organization's contract period begins. The AAPCC is an estimate of the average per capita cost that would have been incurred by Medicare on behalf of each class of Medicare enrollee of the organization if that class of enrollee had received its covered services from providers and suppliers other than an eligible organization in the same or similar geographic area served by the organization (amended section 1876(a)(4) of the Act). These regulations propose that an organization would receive notification at least 90 days before the beginning of the organization's contract period of the AAPCC for each class of Medicare enrollee the organization anticipates having enrolled for that contract period.

The geographic area used in determining the AAPCC would normally be the area of areas of residence of the organization's Medicare enrollees. In some cases, as a result of an actuarial analysis, the geographic area may not be an appropriate basis of comparison because it would result in an organization receiving reimbursement that is significantly more or less than is reasonable for the covered services provided. If there is substantial evidence of special characteristics in the eligible organization's geographic area that may result in inequitable reimbursement, we may determine, on an individual basis, that the organization's geographic area should not be used in computing the AAPCC.

For instance, in an area where a significant portion of the Medicare population belongs to the organization, the remaining population, because it may be atypical, would distort the AAPCC calculation if we use the organization's geographic area. Another example is an organization whose geographic area is significantly medically underserved by the fee-for-service sector. The organization, although it provides adequate services, would be penalized in its reimbursement (if it were not for the "similar area" concept) because of AAPCC is based on Medicare reimbursement to fee-for-service providers and suppliers.

In these cases, we would select an area similar in its major actuarial features to the organization's geographic area, except for the special characteristics, to use in the AAPCC calculation. The provisions on the similar area concept of the proposal are identical to those in the current regulations.

Although by definition the AAPCC is an estimate, the statute (amended section 1876(a)(4) of the Act) requires that the method of calculation of the AAPCC ensure "actuarial equivalence" in comparing the health care needs of Medicare beneficiaries enrolled in an eligible organization and those beneficiaries who receive care outside an eligible organization (e.g., in a fee-for-service setting). The law (section 114(c)(4) of TEFRA) also requires that we notify Congress that we are reasonably certain the methodology we have developed for calculating the AAPCC will assure actuarial equivalence.

We are reasonably satisfied with our current method of calculating the AAPCC because we believe our methods are "state of the art" for the industry in general. Therefore, the proposed regulations describe the method of calculating the AAPCC in general terms based on the method that HCFAA has used in the past to calculate a retrospective AAPCC, except that the new calculation would be made prospectively. This method contains an adjustment for age, sex, welfare, and institutional status. However, we plan to review, on a continuing basis, the methodology we have developed in an effort to improve it. For example, we expect to further refine this methodology by adding a disability status adjuster for the final regulations. In addition, if future research indicates the feasibility of a health status adjustment, we plan to incorporate it, along with other refinements, in our continuing effort to improve the predictive power of the AAPCC. Concern has also been expressed about the possibility of HMOs and CMPs being able to bias their selection of medicare enrollees; that is, selecting healthier patients. During our review of the AAPCC methodology, we may also consider administrative requirements that would mitigate this behavior.

We are especially interested in receiving comments on our current method of calculating the AAPCC and suggestions of improvements. It would be particularly helpful to receive comments that address how an established prepayment organization takes into account the risk of unfavorable selection occurring because of factors that are difficult to identify and measure in the rate methodology it employs. Specifically, we would appreciate information on how, to the extent that these factors cannot be objectively accounted for, an organization allocates risk among its enrollees to minimize the chance of high cost individuals placing the organization in financial peril.

e. Computation of the average of the per capita rates of payment

HCFA would furnish to an eligible organization a per capita rate of payment for each class of Medicare enrollee in the organization at least 90 days before the organization's contract period begins. The organization would have to compute a weighted average of these per capita payment rates based on the organization's anticipated enrollment distribution among the various classes of enrollees. This computation would be submitted to HCFA for approval along with the ACR calculation (see item f, below).

If the organization claims to have insufficient enrollment experience to determine an average of the per capita rates of payment to be made and HCFA agrees, HCFA would compute an average based on the enrollment experience of other organizations that have contracted with HCFA on a risk basis.

f. Required additional benefits

These proposed regulations require that an organization that contracts on a risk basis must determine its per capita financial requirements (reduced by Medicare deductibles and coinsurance) for furnishing Medicare covered services to its Medicare enrollees. This provision implements amended section 1876(e)[3] of the Act. The statute, as well as these proposed regulations, uses the term "adjusted community rate" (ACR) to describe these financial requirements. (The method of computing an organization's ACR is described below in item g.) At least 45 days before the beginning of a contract period, an organization would have to submit to HCFA its proposed ACR for that period and its weighted average of its per capita rates of payment (see item e., above).

As required by amended section 1876(g) (2) and (3) of the Act, if an organization's proposed ACR is less than the average of the per capita rates of payment to be made to the organization (described above in item e), the organization must either provide its Medicare enrollees with additional benefits or accept a reduced monthly payment from HCFA. The additional benefits may be either health benefits beyond the required Parts A and B services or a reduction in the premium rate or in other charges for services furnished to the enrollee, of a combination of these benefits. Therefore, these proposed regulations would require an organization that submits to HCFA a proposed ACR that is less than its average per capita rates of payment to also submit either:

- A description of the additional benefits that the organization elects to provide its Medicare enrollees and supporting evidence that the additional benefits are at least equal to the value of the difference between the ACR and the average of the per capita rates of payment; or
- A notification that the organization will accept a reduction in its monthly payment from HCFA that is equal in value to the difference between the ACR and the average of the per capita rates of payment.

In summary, the purpose of calculating an ACR is to introduce a market-based element into the process of attracting Medicare beneficiaries to an HMO or CMP and thus to assure that those who do enroll will participate in the savings the organization generates through its pricing decisions.

g. Computation of the ACR

The ACR computation consists of two parts. The first part, referred to here as the organization's premium, is a calculation of the rate the organization would charge if it furnished the Medicare covered services package to its general membership. The second part of the computation consists of adjustments made to the premium to reflect the higher costs of furnishing these services to Medicare beneficiaries.

The organization's premium would be calculated, at the organization's election, using either:

- A community rating system (as defined in the law at section 1302(8) of the PHS Act and in regulations at 42 CFR 110.105(b)) reduced by Medicare deductibles and coinsurance; or
- A system, approved by HCFA, under which the organization develops an aggregate premium for all its enrollees that is weighted by the size of the various enrolled groups that compose the organization's population.

The enrolled groups mentioned in the second method are defined as employee groups or other bodies of subscribers that purchase membership in the eligible organization under contracts with the organization on a premium basis. The organization's Medicare premium must be equal to the premium the organization charges these groups adjusted for Medicare covered services and reduced by the Medicare deductibles and coinsurance. The weighted aggregate premium is an average of the group premiums that have been weighted by the number of individuals in each group.

Regardless of the method chosen, in order that proper utilization adjustments may be made, the organization must include in its calculation the following rate components:

- Hospital services (services covered under Parts A and B shown separately).
- Physicians' services.
- Other medical services (for example, X-ray and laboratory services).
- Home health services.
- Out-of-plan claims for emergency services.
- Skilled nursing care services.
- Ambulance services.
- Other covered Medicare services.
- Overhead.
- Noncovered services.
- Services for which Medicare is the secondary payor.
- Enrollee liabilities (for example, deductibles and coinsurance) for covered services.

An organization that does not usually separate its premium components in this manner may calculate its ACR using the methods it uses for other enrolled groups as long as sufficient documentation is submitted to compute utilization and Medicare benefit adjustments.

The calculation made by the organization must result in a premium that reflects the organization's revenue requirements for the provision of services covered by Medicare (excluding services for which Medicare is not a primary payor) and the amount of deductibles and coinsurance for which the organization's Medicare enrollees are liable.

Since Medicare beneficiaries on the average require more frequent and more complex medical services than the general population, the second element of the ACR computation consists of adjustments to the organization's premium to reflect the utilization characteristics of the organization Medicare enrollees. Our objective is that

these adjustments will result in a figure that as accurately as possible reflects the revenue requirements of the organization's Medicare enrollees. These adjustments are prescribed in amended section 1876(e)(3) of the Act.

The proposed regulations permit two types of adjustments as long as they are not duplicative: a unit of service adjustment and a complexity or intensity of service adjustment. All adjustments must be accompanied by adequate supporting data. If an organization does not have sufficient enrollment experience to develop supporting data, it may, during its initial contract period with HCFA, use documented statistics from a nationally recognized statistical source.

If an organization purchases or identifies services on a unit of service basis (for example, inpatient hospital services on a per day or per admission basis), and the unit of service is defined the same for all enrollees, the organization may make an adjustment, subject to HCFA approval, to reflect the higher number of units of service its Medicare enrollees are expected to use in comparison to those used by the rest of its enrolled members.

The second type of adjustment an organization may make is one that shows a difference in the complexity or intensity of services furnished to Medicare beneficiaries (complexity-intensity factor). An organization may adjust its premium by a complexity-intensity factor if it furnishes supporting data that demonstrate to HCFA's satisfaction that these differences in complexity exist and the adjustment is made equally to all enrollees of the organization. If the organization has already adjusted a service using the first type of adjustment, it may not adjust this service further with a complexity-intensity factor unless the complexity-intensity factor does not duplicate the utilization factors in the first type of adjustment.

An example of a complexity-intensity factor is a recognized relative value scale of physicians' services for such elements as time and skill. If an organization shows the number of relative value units its Medicare enrollees are expected to use for a given service, the Medicare utilization would, by definition, be included in these figures.

Another example of a complexity-intensity factor that the regulations permit on a temporary basis is a time factor. If the organization does not have data to support a complexity-intensity factor adjustment, it may, for its initial contract period, adjust the direct professional services of physicians and other health care personnel by a time factor. The statistics used in the adjustment must be approved by HCFA and the adjustment must be made on the same basis to all enrollees of the organization.

The organization's calculation of its ACR would be subject to review and approval by HCFA. When the organization submits its ACR calculation, it must include adequate supporting data, including copies of any annual premium reports submitted to other government agencies (for example, Office of Personnel Management, Office of Health Maintenance Organizations in the Public Health Service, and State Medicaid agencies).

3. *Provisions Applicable Only to Resonable Cost Organizations.* Section 114 of TEFRA made very few changes in the provisions relating to reimbursement of organizations with a reasonable cost contract. Therefore, these proposed regulations would be similar to the principles of reimbursement of cost-basis HMOs found in the current regulations at 42 CFR 405.2040 through 405.2047. However, in several areas, we are reviewing our approach to applying the reasonable cost payment basis that the law provides for these contracts. First, we are interested in the possibility of applying an organization's AAPCC as an overall limit to the payments made to the organization during a contract period and we are interested in receiving comments on the issue. In addition, the proposed regulations permit a number of exceptions to the usual Medicare principles of reimbursement (for example, reasonable cost and resonable charge rules) that were originally included in the current Subpart T regulations to account for both the different payment basis these organizations usually operate under (that is, prepayment instead of fee-for-service), and their different purpose and organization (that is, they are integrated comprehensive health delivery systems). We are reviewing those exceptions that allow a higher program payment (at least in the short run) to see if these exceptions are justifiable. Finally, we are reviewing, with a view to reducing Medicare's costs, the provision permitting an organization to claim as allowable bad debts amounts attributable to uncollected deductibles and coinsurance. We would be especially interested in receiving comments on all these issues.

We have not included in this proposal the following two exceptions that are currently included in the Subpart T regulations:

- The exception to the Medicare rule set forth in § 405.455 on payments at the lower of costs or charges.
- The exception to payment of reasonable charges, as defined in Subpart E of Part 405, in the case of emergency services, urgently needed services, and other services for which the organization assumes financial responsibility. We have not included these exceptions because we believe that they are unjustifiable departures from Medicare payment principles and are not cost effective.

The basic difference in the two laws concerns the reporting requirements. Amended section 1876 of the Act, unlike the preamendment section 1876 of the Act, does not specify an organization's reporting requirements except for the requirement that the organization must submit an independently certified financial statement (hereafter known as a cost report) at the end of its contract period (amended section 1876(h)(4) of the Act).

However, we believe it is necessary for an organization with a reasonable cost contract to submit a budget and enrollment forecast for each contract period. This information allows us to determine the organization's interim per capita rate of payment. Therefore, as required under amended section 1876(i)(3)(D) of the Act, we are proposing to retain the provision that appeared in the preamendment statute and regulations requiring an organization to submit a budget and enrollment forecast to us not later than 90 days before the beginning of its contract period.

In addition, we find it is useful to receive reports from the organization during its contract period that demonstrate the extent to which the interim per capita rate accurately reflects the organization's actual cost and enrollment. Under the preamendment law and regulations, an organization is required to submit quarterly interim cost reports. Although amended section 1876 of the Act has no such requirement, we are proposing that an organization continue to submit quarterly interim cost reports. However, we would reduce this number of reports for organizations that have an adequate ongoing record and data system for furnishing the records needed to verify the interim per capita rate.

Therefore, under the proposed regulations, we are requiring that an organization reimbursed on a reasonable cost basis submit to us the following reports for each contract period:

a. A budget and enrollment forecast submitted at least 90 days before the start of the contract period.

b. Quarterly interim cost reports (less frequently for experienced organizations).

c. A final cost report submitted to us not later than 180 days after the end of the contract period.

The proposed regulations provide that if an organization fails to submit the final cost report within 180 days of the end of the contract period, this failure would be deemed to constitute evidence of a likely overpayment and appropriate collection action may be taken.

If the organization is related to another entity by common ownership or control, a consolidated cost report must be filed. The allowable costs for that other entity cannot include costs otherwise reimbursable under Medicare that exceed reasonable cost in accordance with the reimbursement regulations at 42 CFR Part 405, Subpart D.

Another change made in the reasonable cost reimbursement provisions by the enactment of TEFRA was the deletion from section 1876 of the Act of the provision under which reinsurance costs for out-of-plan services are allowable. This change was made in recognition of the fact that under a reasonable cost contract an organization is not at risk for the costs of covered services (both in and out of plan) furnished to Medicare enrollees. Therefore, these proposed regulations specify that reinsurance costs are not allowable.

H. Beneficiary Appeals

As noted above, eligible organizations are required to include in their membership rules procedures under which disputes between an organization and a Medicare enrollee can be resolved. The amended section 1876(c)(5)(A) of the Act provides that the grievance procedure must be "meaningful". By using this word, we believe Congress intended that organizations at least be required to provide Medicare enrollees with:

- An explanation of steps to be followed to complete a grievence process; and
- Time limits for completion of the process.

The provisions of the proposed regulations on this subject have been adopted from the PHS regulations (42 CFR 110.108(i)) that deal with HMO grievance procedures. These procedures apply to all complaints that do not involve initial determinations as discussed below.

The amended section 1876(c)(5)(B) of the Act provides that a Medicare enrollee may seek a hearing to the same extent as is provided in section 205(b) of the Act if the organization fails to furnish a service to which the enrollee believes he or she is entitled or if the organization's charge for a service is greater than the enrollee believes is appropriate. The enrollee has a right to a hearing if the amount in controversy is $100 or more. Under the law, the organization must be made a party to the hearing. In addition, both the organization and the enrollee are entitled to seek judicial review of a final decision resulting from the hearing process if the amount in controversy is at least $1,000. Either party seeking judicial review must notify the other party of the request, and both the organization and the Medicare enrollee are entitled under the law to be made a party to the review.

We have determined that the current regulations (§§ 405.2056 through 405.2063) for beneficiary appeals may be adopted in substance for these proposed regulations. Generally, the current beneficiary appeals regulations provide for several independent reviews of an allegation by a Medicare enrollee concerning such matters as inadequate presentation of service or reimbursement for services. Each review step in the administrative appeals process must be requested within specified time limits. Otherwise, the last determination or decision in the process become final and is binding on the parties involved.

I. Eligible Organization Contract Appeals

1. *Contract termination or nonrenewal.* Amended section 1876(i)(1) of the Act specifies that the Secretary may prescribe in regulations an eligible organization's right to a hearing when its contract has been terminated or not renewed based on a determination that the organization:

- Has failed substantially to carry out the contract;
- Is carrying out the contract in a manner inconsistent with the efficient and effective administration of section 1876 of the Act; or
- No longer meets the applicable conditions necessary to qualify as an eligible orgnization under section 1876 of the Act.

We have determined that the provisions of the preamendment regulations concerning appeal of contract termination or nonrenewal by HCFA are equally applicable under the amended section 1876 of the Act. Therefore, we have adopted those regulations in substance.

Basically, the preamendment regulations provide that an organization whose contract has been terminated or not renewed for the reasons described above has a right to request a hearing before a hearing officer. The organization has a right to present evidence and examine witnesses at the hearing. The decision of the hearing officer is final and binding unless the decision is reopened and revised by the same or another hearing officer.

2. *Refusal by HCFA to enter into a contract.* The statute does not specifically give an eligible organization the right of appeal when HCFA determines either that it is not eligible to enter into a contract under section 1876 of the Act or that it is eligible to enter into only a reasonable cost contract. However, we propose to continue the policy we instituted for HMOs under the preamendment section 1876 of the Act that allows HMOs the right to a reconsideration and hearing if HCFA denies their application. We decided some years ago that offering these appeal rights was consistent with similar appeal opportunities offered to providers and suppliers that are reimbursed under Medicare.

The proposed regulations adopt the provisions of the preamendment regulations with regard to these appeals. In general, the entity has the right to a reconsideration of the adverse determination and a further right to a hearing if it receives an adverse reconsidered determination. The regulations would specify the procedures an entity must follow when pursuing these appeals.

It should be noted that appeals concerning a refusal by HCFA to enter into a contract are to be distinguished from appeals of a PHS determination that an entity does not qualify as an eligible organization. PHS bears responsibility for the latter and provides for these appeals at 42 CFR 110.605(a) through (d).

J. Eligible Organization Reimbursement Appeals

Although the law does not specifically state that organizations are entitled to a hearing on determinations concerning the amount of program reimbursement that the organizations should receive, since 1974 we have permitted organizations to have access to administratives appeal procedures available to all organizations reimbursed by Medicare on a reasonable cost basis. We are proposing to continue this policy and extend it to

organizations that enter into risk contracts under the amended section 1876 if the Act.

Regulations at 42 CFR 405.1801(b) provide that entities that do not meet the statutory definition of providers of service (section 1861(u) of the Act) but that provide covered services on a reasonable cost basis and are, therefore, required to file periodic cost reports in order to be reimbursed for the services may seek hearings to the maximum extent possible. However, the amount at issue must be at least $1,000 and the entities are not entitled to review of intermediary decisions by the Provider Reimbursement Review Board.

For risk organizations, we intend to extend the right to a hearing only to situations in which the organization is dissatisfied with HCFA's determination that the organization's ACR computation is not acceptable.

IV. Effective Dates

As specified in section 114(c)(1) of TEFRA, the provisions of amended section 1876 of the Act must apply with respect to services furnished on or after the initial effective date of the statute, except in certain circumstances as explained below. Section 114(c)(4) of TEFRA defines the initial effective date as the later of:

—October 1, 1983, or

—The first day of the month after the month in which the Secretary notifies Congress that the Secretary is reasonably certain that the methodology for determining the prospective rate based on 95 percent of the AAPCC is developed and can be implemented.

If a Medicare beneficiary is enrolled in an eligible organization receiving reasonable cost reimbursement under either the preamendment section 1887 of the Act or section 1833(a)(1)(A) of the Act and that organization enters into a new risk contract, the services furnished to that beneficiary will not be subject to the amended section 1876 of the Act as set forth in regulations unless:

• HCFA determines at any time that the amended section 1876 of the Act must apply to all Medicare enrollees of the organization because it is not cost effective or administratively feasible not to include these enrollees under the new risk contract and HCFA informs, in advance, each affected member of the organization.

Also, unless the organization requests an earlier application, the amended section 1876 of the Act will not apply for 5 years after the initial effective date if the organization has an existing risk-basis contract under current 1876 of the Act on the initial effective date. This exception also applies to organizations that were furnishing services under a demonstration project under section 402 of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972 as of the date of enactment of the statute (September 3, 1982), concluded that project before the initial effective date, and entered into an existing risk-basis contract before the initial effective date.

The provisions of amended section 1876 of the Act will also not apply to services furnished by an organization during the period of an existing demonstration project if the organization was furnishing services under that project on the initial effective date and the project concludes after that date. We believe that once these regulations are in place, there will no longer be a need to conduct HMO risk demonstration projects on an ongoing basis. HCFA conducted several demonstration projects that tested the HMO risk model before section 114 of TEFRA was enacted. Now that the statute has been amended to include some of these tested concepts, we no longer need to continue these types of demonstrations. Therefore, after these regulations are published in final, we do not plan to accept any new risk demonstration projects nor extend any projects that are currently in effect. However, there may be exceptions to this policy if we receive any innovative or unusual proposals.

Finally, an eligible organization that is receiving reimbursement on a reasonable cost basis under current section 1876 of the act or section 1833(a)(1)(A) of the Act on the initial effective date and then enters into a new risk contract may receive payment under the new contract for current, nonrisk Medicare enrollees only to the extent that the organization enrolls two new Medicare enrollees for each nonrisk enrollee.

Therefore, when the proposed regulations implementing amended section 1876 of the Act (Part 417, Subpart C) are made final, they will not be applicable to any organization or enrollee described above.

V. Impact Analyses

A. General Requirements

1. *Executive Order 12291.* Section 3(a) of E.O. 12291 requires us to prepare and make available to the public a regulatory impact analysis for any regulations that meet the criteria for a "major rule" set forth in section 1(b) of the Order. Under those criteria, regulations are "major" if they are likely to result in:

• An annual effect on the economy of $100 million or more;

• A major increase in costs or prices; or

• Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The purpose of a regulatory impact anlysis is to show that proposed regulations are based on adequate information, could result in benefits outweighting the costs to society, and are designed to maximize the net benefits to society using the alternative producing the least net cost to society.

For reasons discussed below, we have determined that these proposed rules do not meet any of the above criteria. Therefore, a regulatory impact analysis is not required.

We expect that these proposed rules would result in a negligible increase in program expenditures in fiscal year (FY) 1984 and some increase in net costs to the Medicare program in FYs 1985 and 1986. The primary reason we expect implementation of section 114 of TEFRA to result in increased program costs is that we believe that, in the absence of these proposed regulations, the Medicare program would have saved more from beneficiaries' enrollment in HMOs under cost contracts. Further, we have made certain key assumptions, concerning the number of HMOs and CMPs expected to participate, and the rate of growth of Medicare enrollees. We have assumed that—

• Under existing contract provisions, the Medicare HMO enrollees under risk contracts would increase 10 percent, half of which would be due to age-ins (that is, due to persons already enrolled in HMOs becoming eligible for Medicare).

• Under these proposed regulations, Medicare HMO enrollees under risk contracts would increase 15 percent; that is, 5 percent more than otherwise.

• HMOs representing half of the present Medicare HMO enrollees would elect risk contracts.

• On the basis of covered services only, risk-basis HMOs would operate, on the average, at 80 percent of the fee-for-service cost of a given individual.

• HMOs enroll, age-in, and convert relatively young people, compared to the total Medicare beneficiary population, who are seldom institutionalized or on welfare.

• Selective enrollment, discriminating against higher-risk, higher-cost beneficiaries, will be largely avoided through administrative protections under these regulations.

We used the United States Per Capita Costs (USPCC) taken from the 1983 Trustees' Reports. However, HMOs are assumed to concentrate in urban areas with higher than average costs. Average costs in areas where HMOs will concentrate are assumed to be 15 percent above USPCC for Part A and 30 percent above UPSCC for Part B. However, the effects of these higher rates are somewhat mitigated by the incorporation of demographic factors to reflect the assumption that HMO enrollees will tend to be young and seldom in institutions or on welfare.

Based on these assumptions, we estimate that net Medicare program costs would increase by $30 million in FY 1985 and $65 million in FY 1986 as a result of these proposals. We wish to point out that we believe these cost estimates could be somewhat lower if HMOs were assumed on the average to be operating at 85 percent rather than 80 percent of the AAPCC, if there were antiselection and the TEFRA-induced HMO population growth rate were 20 percent rather than 15 percent, and if half of the new HMO growth occurs in new HMOs and other than existing HMOs where the conversion option can be exercised. Of course, the actual resulting costs could be higher than the estimates if persistent adverse selection were to occur.

Despite the expected increase in Medicare program costs, we believe it is important to implement this new program. There are several reasons. First, Congress intended, and we agree, that Medicare beneficiaries should be afforded a choice of alternative health plans. Second, we believe that HMOs are more efficient than more traditional forms of health care delivery. This is reflected in our assumption that HMOs, on the average, will be operating at 80 percent of AAPCC. Finally, the opportunity for a beneficiary to receive enhanced benefits if the HMO he or she is enrolled in can operate below 95 percent of AAPCC represents a significant benefit.

Many potentially eligible HMOs and competitive medical plans have indicated their interest in participating under this provision. The attraction of a prospective rate, an opportunity to share risk, and significantly fewer paperwork requirements are the stated reasons for such interest. Generally increased participation of HMOs and CMPs, and increased Medicare enrollment in participating entities, can be viewed as benefiting both those entities and the beneficiaries. Further, though Medicare program expenditures are projected to increase, we believe that the overall costs and prices of services furnished to participating beneficiaries will be less than would be paid for those same services on a fee-for services basis. Thus, these proposed rules would not meet the second criterion for identifying major rules.

We also believe that these rules would, to some extent, correct perverse incentives currently affecting competition and productivity in the health care sector of the economy. In our view, the anticipated effects of these proposals would have a beneficial, rather than an adverse, impact on competition and productivity by increasing both. The proposals should also have a beneficial effect by encouraging innovative means of delivering health care services. Although these effects could, if large, alter patterns of employment by health care providers (increasing employment by HMOs, and, to some extent, substituting physician extender for physician services), we do not expect the overall impact on employment to be adverse. Therefore, these proposed rules do not meet the third criterion for identifying major rules.

2. *Regulatory Flexibility Act.* In accordance with the Regulatory Flexibility Act (Pub. L. 96–354), we must prepare and make available to the public, under 5 U.S.C. 603(a), an initial regulatory flexibility analysis for any proposed regulations, unless the Secretary certifies, under 5 U.S.C. 605(b), that the proposals would not have a significant impact an a substantial number of small entities. The purpose of the analysis is to explain the expected impact of the proposed regulations and to analyze alternatives that might reduce negative effects of regulations on small entities.

A small entity is defined as a small business, a nonprofit enterprise, or a governmental jurisdiction with a population of less than 50,000. For purposes of regulatory flexibility analyses, we consider all entities and physicians participating in Medicare to be small entities. These proposals would affect all the HMOs participating in the program, plus those that subsequently choose to participate, potentially affecting nearly all HMOs. We believe that there will be an impact on some fee-for-service physicians. Therefore, these proposals would certainly affect a substantial number of small entities. Further, we expect the effect of these proposals may be significant for some individually affected HMOs and physicians, and for the program as a whole for the reasons noted below. We have chosen to prepare a regulatory flexibility analysis, since some physicians may experience a larger than average patient loss, and some HMOs will experience a larger than average increase in enrollment. This preamble, taken as a whole, including the discussion below, constitutes a regulatory flexibility analysis.

Currently, there are approximately 12 million people enrolled in HMOs. This is roughly 5 percent of the population. It is unlikely that in the short run this proportion of the Medicare population will enroll in HMOs. Currently, there are less than 775,000 Medicare beneficiaries enrolled in HMOs and HCPPs that may participate under these proposed regulations. The elderly, for the most part, have long-established physician relationships, and are less likely to change the ways in which they secure medical treatment than are younger people. Therefore, we project that in the next 3 to 4 years (the time we expect it to take for this new program to become fully implemented) only about 250,000 to 600,000 additional Medicare beneficiaries will enroll in HMOs. Further, we estimate that in the next few years, approximately half to two-thirds—perhaps 150—HMOs will choose to participate in the program. (The projected 3 to 4 year increase is not an actuarial estimate. Our actuaries have assumed that Medicare beneficiary enrollment under risk-basis contracts would increase at a 15 percent annual rate, as discussed above. However, estimation of the total rate of growth under both risk and cost contracts is technically difficult, requiring us to make assumptions concerning conversion of existing enrollees from cost to risk. We are uncertain as to the extent to which the rate of growth of risk enrollees will be at the expense of the growth of cost enrollees. Therefore, for purposes of this regulatory flexibility analysis, we have only made a very rough projection stated in terms of a wide range.)

We do believe that this change in policy will have a major effect on the creation of new HMOs. However, the establishment of new organizations, OMPs, may result in higher enrollments. Given these estimates, a series of additional calculations can be made.

Specifically, 250,000 to 600,000 new enrollees spread throughout 150 participating HMOs means that on average, each HMO would attract, on the average, 2,000 to 4,000 new Medicare

enrollees. However, we believe that an HMO's ability to attract new enrollees is primarily dependent on the size of the HMO as size appears strongly correlated to recruitment capabilities. This point is clearly demonstrated by the fact that although over one-half of all HMOs have 15,000 or fewer enrollees, only 7 percent of all HMOs (each one with 10,000 or more enrollees) have 62 percent of the total enrolled population. Thus, though HMOs could on average attract 2,000 to 4,000 enrollees, actual enrollment activity would probably be skewed in a manner proportional to the existing enrollment of the HMO. However, as average HMO enrollment is approximately 41,000, an assumed increase of 2,000 to 4,000 new enrollees represents roughly a 5 to 10 percent increase in enrollment and a somewhat larger revenue impact (because the elderly have traditionally had higher medical expenses). Of course, the increase is largely offset by increased costs to the HMO, resulting in a minimal net impact.

Some free-for-service physicians may lose patients to eligible HMOs. As shown above, we project they will lose, in the aggregate, about 250,000 to 600,000 Medicare patients over the first 3 to 4 years under these proposals. On the average, this represents 1 to 2 percent of their Medicare patients (and a much smaller fraction of total patients). Further, the impact on most of these physicians will be even less than a fractional decrease in caseload, due to various marketplace adjustments that will occur (e.g., some solo-practice physicians will be newly hired by HMOs, and most physicians losing patients will be able to replace these patients with others). Also, these proposed regulations would permit the continuation of reasonable cost contracts that might prove attractive to fee-for-service physician groups organized as CMPs.

Overall, the main effect of the new program will be on those particular Medicare beneficiaries who make a conscious decision to enroll in HMOs. The program, by removing a barrier to such choices, is pro-competitive in its effects, and is expected to increase consumer satisfaction. As a result of increased competition we expect that other Medicare beneficiaries will also benefit from increased responsiveness of the fee-for-service sector to their needs.

C. Paperwork Burden

Sections 417.428(a), 417.430(b), 417.432(b), 417.480(b), 417.488, 417.492(a), 417.494(a) (2) and (3), and 417.592(d) of this proposed rule contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should follow the instructions in the "ADDRESS" section of this preamble.

VI. Response To Comments

Because of the large number of comments we receive on proposed regulations, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and respond to them in the preamble to that rule.

VII. List of Subjects

42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (agreements), End-stage renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Part 417

Competitive medical plan (CMP), Contracts, Eligible organization, Health maintenance organization (HMO).

We are proposing to amend 42 CFR Chapter IV as set forth below:

A. The table of contents for Chapter IV is amended by adding a new Part 417 to Subchapter B to read as follows:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION—DEPARTMENT OF HEALTH AND HUMAN SERVICES

* * * * *

SUBCHAPTER B—MEDICARE PROGRAMS

* * * * *

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

* * * * *

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

B. Part 405, Subpart B is amended as follows:

1. The authority citation for Subpart B is revised to read as follows:

Authority: Secs. 1102, 1831–1843, 1861, 1862, 1866, 1871, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395j–1395v, 1395x, 1395y, 1395cc, 1395hh and 1395rr).

2. Section 405.241 is revised to read as follows:

§ 405.241 Payment of supplementary medical insurance benefits to prepayment organizations.

A prepayment organization that has not qualified as a health care prepayment plan (HCPP), health maintenance organization (HMO), or competitive medical plan (CMP) will be paid through its Medicare carrier, for Part B services furnished to its Medicare enrollees, on the basis of reasonable charges in accordance with § 405.240 and § 405.251. These organizations will be paid 80 percent of reasonable charges after subtracting their enrollees' deductible amounts and taking the other limitations under Part B into consideration. (See 42 CFR Part 405, Subpart T for definition and reimbursement of HCPPs and 42 CFR Part 417 for definition and reimbursement of HMOs and CMPs.)

C. A new Part 417 is added to read as follows:

PART 417—HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Health Maintenance Organizations and Competitive Medical Plans

Sec.

417.400 Basis and scope.
417.401 Definitions.

Eligibility and Contracting Requirements and Conditions

417.404 Introduction.
417.406 Eligible organization determinations.
417.407 Definition of an eligible organization.
417.408 Contract application process.
417.410 Qualifying conditions: General.
417.412 Qualifying condition: Basic conditions.
417.413 Qualifying condition: Operating experience and enrollment.
417.414 Qualifying condition: Range of services.
417.416 Qualifying condition: Furnishing of services.
417.418 Qualifying condition: Quality assurance program.

Enrollment, Entitlement, and Disenrollment

417.420 Basic rules on enrollment and entitlement.

Sec
417.422 Eligibility to enroll in an organization.
417.424 Denial of enrollment.
417.426 Open enrollment requirements.
417.428 Market activities.
417.430 Application procedures.
417.432 Conversion of enrollment.
417.434 Reenrollment.
417.436 Membership rules for enrollees.
417.440 Entitlement to health care services from an organization.
417.442 Risk organizations: Conditions for provision of additional benefits.
417.444 Special rules for current, nonrisk Medicare enrollees of an organization under a risk contract.
417.446 Two-for-one enrollment criteria.
417.448 Restrictions on obtaining services for Medicare enrollees of risk organizations.
417.450 Effective date of coverage.
417.452 Liability of Medicare enrollees.
417.454 Charges to Medicare enrollees.
417.456 Refunds to Medicare enrollees.
417.458 Recoupment of uncollected deductible and coinsurance amounts.
417.460 Disenrollment of beneficiaries and termination of payments to an organization.

Contract Requirements

417.470 Basis and scope.
417.472 Basic contract requirements.
417.474 Effective date and term of contract.
417.476 Waived conditions.
417.478 Requirements for other laws and regulations.
417.480 Maintenance of records.
417.482 Access to facilities and records.
417.484 Requirement applicable to related entities.
417.486 Disclosure of information and confidentiality.
417.488 Written notice of termination.
417.490 Renewal of contract.
417.492 Nonrenewal of contract.
417.494 Modification or termination of contract.

Change of Ownership and Leasing of Facilities

417.520 General provisions.
417.521 What constitutes change of ownership.
417.522 Novation agreement requirements.
417.523 Effect of leasing of an organization's facilities.

General Reimbursement Rules

417.524 Payment to eligible organizations: General.
417.526 Payment for covered services.
417.528 Payment for covered services—Medicare not primary payor.

Reasonable Cost Reimbursement

417.530 Basis and scope.
417.532 General considerations.
417.533 Part B carrier responsibilities.
417.534 Allowable costs.
417.536 Provider cost reimbursement principles applicable to the organizations.
417.538 Enrollment and marketing costs.
417.540 Membership costs.
417.542 Reinsurance costs.

Sec.
417.544 Physicians' services furnished directly by the organization.
417.546 Physicians' services and other Part B supplier services furnished under arrangements.
417.548 Provider services through arrangements.
417.550 Special Medicare program requirements.
417.552 Cost apportionment: General provisions.
417.554 Apportionment: Provider services furnished directly by the organization through arrangements with others.
417.556 Apportionment: Provider services furnished by the organization through arrangements with others.
417.558 Emergency and urgently needed services, and out-of-area services for which the organization assumes financial responsibility: Sources of payment.
417.560 Apportionment: Part B supplier services.
417.562 Weighting of direct services furnished by physicians and other practitioners.
417.564 Method of apportionment for administrative and general costs.
417.566 Other methods of allocation and apportionment.
417.568 Adequate financial records, statistical data, and cost finding.
417.570 Interim per capita payments.
417.572 Budget and enrollment forecast, and interim reports.
417.574 Interim settlement.
417.576 Final settlement.

Risk Reimbursement

417.580 Basis and scope.
417.582 Definitions.
417.584 Payment to organizations with risk contracts.
417.586 Organization option: Payment to hospitals.
417.588 Computation of adjusted average per capita cost (AAPCC).
417.590 Computation of the average of the per capita rates of payment.
417.592 Determination of required additional benefits.
417.594 Computation of ACR.
417.596 Annual reconciliation.

Beneficiary Appeals

417.600 Scope.
417.602 Definitions.
417.604 General provisions.
417.606 Initial determinations.
417.608 Notice of adverse initial determination.
417.610 Parties to the initial determination.
417.612 Effect of initial determination.
417.614 Right to reconsideration.
417.616 Request for reconsideration.
417.618 Opportunity to submit evidence.
417.620 Responsibility for reconsideration.
417.622 Reconsidered determination.
417.624 Notice of reconsidered determination.
417.626 Effect of reconsidered determination.
417.628 Hearings: General.
417.630 Right to hearing.
417.632 Request for hearing.
417.634 Appeals Council review.

Sec.
417.636 Court review.
417.638 Reopening determinations and decisions.

Contract Appeals

417.640 Determinations subject to appeal.
417.642 Administrative actions that are not initial determinations.
417.644 Notice of initial determination.
417.646 Effect of initial determination.
417.648 Right to request reconsideration.
417.650 Request for reconsideration.
417.652 Opportunity to submit evidence.
417.654 Reconsidered determination.
417.656 Notice of reconsidered determination.
417.658 Effect of reconsidered determination.
417.660 Right to a hearing.
417.662 Request for hearing.
417.664 Postponement of effective date of initial determination.
417.666 Designation of hearing officer.
417.668 Disqualification of hearing officer.
417.670 Time and place of hearing.
417.672 Appointment of representatives.
417.674 Authority of representatives.
417.676 Conduct of hearing.
417.678 Evidence.
417.680 Witnesses.
417.682 Discovery.
417.684 Prehearing.
417.686 Record of hearing.
417.690 Notice and effect of hearing decision.
417.692 Reopening of initial or reconsidered determination or decision of a hearing officer.
417.694 Effect of revised determination.

Authority: Sec. 1102, 1871, 1874, and 1876 of the Social Security Act as amended (42 U.S.C. 1302, 1395hh, 1395kk, and 1395mm) and sec. 114(c) of Pub. L. 97-248 (42 U.S.C. 1395mm note).

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Health Maintenance Organizations and Competitive Medical Plans

§ 417.400 Basis and scope.

(a) *Statutory basis.* The regulations in this subpart implement section 1876 of the Act as amended by section 114 of Pub. L. 97-248. Section 1876 of the Act authorizes Medicare payments to health maintenance organizations (HMOs) and competitive medical plans (CMPs) through contracts under which the HMOs and CMPs are reimbursed for furnishing covered services to Medicare beneficiaries.

(b) *Scope.* This subpart sets forth the requirements an entity must meet in order to enter into a contract with HCFA as an HMO or CMP to be reimbursed, through capitation payments, for services furnished to Medicare beneficiaries that are enrolled with the HMO or CMP. It also specifies the

principles that apply for each of the two methods for reimbursing HMOs and CMPs: reimbursement on a risk basis and reimbursement on a reasonable cost basis.

§ 417.401 Definitions.

As used in this subpart, unless the context indicates otherwise—

Adjusted average per capita cost (AAPCC) means an actuarial estimate made by HCFA in advance of an organization's contract period that represents what the average per capital cost to the Medicare program would be for each class of the organization's Medicare enrollees if they had received covered services other than through the organization in the same geographic area or in a similar area.

Arrangement means a written document executed between an eligible organization and another entity in which the other entity agrees to furnish specified services to Medicare enrollees of the organization, but the organization retains responsibility for those services and for obtaining reimbursement for them.

Current demonstration project Medicare enrollee means an individual who, on the effective date of these regulations, is—

(a) Enrolled with an HMO or CMP that is furnishing services pursuant to an existing demonstration project; and

(b) Entitled to benefits under part A and B of Medicare or enrolled for Part B only.

Current, nonrisk Medicare enrollee means—

(a) An individual who, with respect to an eligible organization that has an existing cost contract, is enrolled with that organization on the effective date of these regulations, and is entitled to benefits under Parts A and B of Medicare or is enrolled in Part B only; and

(b) Includes Medicare enrollees who disenroll and later reenroll in the same eligible organization.

Current, risk Medicare enrollee means an individual who, on the effective date of these regulations, is—

(a) Enrolled with an HMO having an existing risk-sharing contract; and

(b) Entitled to benefits under Parts A and B of Medicare or enrolled in Part B only.

Effective date of these regulations means the first day of the first month after the month in which the Secretary certifies to the appropriate Congressional committees that the AAPCC methodology has been developed and can be implemented.

Eligible organization or *organization* means a public or private entity that is either an HMO or a CMP and meets all the applicable requirements of section 1876(b) of the Act.

Emergency services means covered inpatient or outpatient services that are furnished by an appropriate source other than the organization and—

(a) Are needed immediately because of an injury or sudden illness, and

(b) The time required to reach the organization's providers or suppliers (or alternatives authorized by the organization) would have meant risk of permanent damage to the patient's health.

Such services are considerd to be emergency services as long as transfer of the enrollee to the organization's source of health care or designated alternative is precluded because of risk to the enrollee's health or because transfer would be unreasonable, given the distance and the nature of the medical condition.

Enrollee means an individual who is enrolled in an HMO or a CMP to receive health care services on a prepaid capitation basis.

Entity with an existing cost contract means an entity that, on the effective date of these regulations, does not have in effect an existing risk contract or an existing demonstration project and—

(a) Has in effect a contract that is entered into under section 1876 of the Act that was in effect prior to the effective date of these regulations (that is, a cost contract under Subpart T of Part 405 of this chapter); or

(b) Is reimbursed on a reasonable cost basis under section 1833(a)(1)(A) of the Act.

Entity with an existing risk-sharing contract means an entity that, on the effective date of these regulations, has in effect a contract entered into under section 1876(i)(2)(A) of the Act as in effect prior to the effective date of these regulations (that is, a risk-sharing contract under Subpart T of Part 405 of this chapter).

Existing demonstration project means a demonstration project under section 402 of the Social Security Amendments of 1967 (42 U.S.C. 1395b-1) or section 222(a) of the Social Security Amendments of 1972 (42 U.S.C. 1395b-1 (note)), relating to the provision of services for which payment may be made under Medicare.

Geographic area means the area found by HCFA to be the area within which the organization furnishes, or arranges for furnishing, the full range of services that it offers to its Medicare enrollees.

Medicare enrollee means an individual who is entitled to Medicare benefits (Part A and Part B or Part B only) and who has been identified on HCFA records as an enrollee of an eligible organization that has a contract under section 1876 of the Act.

New Medicare enrollee means an individual who—

(a) Enrolls with an organization after the date on which the organization first enters into a risk contract under these regulations;

(b) Is entitled to both Part A and Part B benefits under Medicare or Part B benefits only at the time of the enrollment; and

(c) Was not enrolled with the organization at the time the individual became entitled to benefits under Part A, or eligible to enroll in Part B of Medicare.

New risk contract means a contract entered into under section 1876(g) of the Act (that is, a risk contract under this subpart).

Reasonable cost reimbursement contract means a contract entered into under—

(a) Section 1833(a)(1)(A) of the Act; or

(b) Section 1876(h) of the Act (that is, a cost contract under this subpart).

Urgently needed services means covered services required in order to prevent serious deterioration of an enrollee's health when he or she—

(a) Is temporarily absent from the organization's geographic area;

(b) Expects to return within a reasonable period of time (e.g., at the end of a vacation trip or after a stay in a temporary residence, if the organization approves that stay); and

(c) Cannot delay receipt of the health care service until return to the organization's geographic area.

Eligibility and Contracting Requirements and Conditions

§ 417.404 Introduction.

(a) *General.* In order to participate as an eligible organization under Medicare, an entity must—

(1) Establish that it is an eligible organization; and

(2) Satisfy the contract requirements for an eligible organization to enter into a contract with HCFA.

(b) *Scope.* (1) Sections 417.406 and 417.407 set forth the requirements an entity must meet to be determined to be an eligible organization. These determinations are made by the Assistant Secretary for Health of the Department.

(2) Sections 417.408 through 417.418 set forth the requirements and conditions that an eligible organization must meet in order to enter into a contract with HCFA. Provisions dealing

with the contents of the contract are specified in §§ 417.470 through 417.494.

§ 417.406 Eligible organization determinations.

(a) *General.* In order to contract with HCFA for reimbursement under section 1876 of the Act, an entity must be determined to be an eligible organization.

(b) *Responsibility for the determination.* (1) The Assistant Secretary for Health of the Department has the responsigility for determining if an entity is an eligible organization.

(2) The Assistant Secretary for Health will use the procedures set forth in § 110.605(a) through (d) of this title in determining whether an entity meets the definition of a competitive medical plan as set forth in § 417.407(b). For purposes of this paragraph, references in those sections to "qualified HMO" are deemed references to "competitive medical plan" and references to requirements for qualification are deemed references to the requirements contained in the definition of "competitive medical plan", except that the third sentence of § 110.605(a) applies only to HMOs and not to CMPs.

(3) The Assistant Secretary for Health will, upon completion of the determination, certify in writing to HCFA whether the entity meets the definition of an eligible organization as set forth in § 417.407.

(4) HCFA will not act on any request made by an entity to contract under section 1876 of the Act until HCFA receives the Assistant Secretary for Health's certification.

§ 417.407 Defintion of an eligible organization.

To qualify as an eligible organization, an entity must be organized under the laws of any State and meet one of the following definitions:

(a) *Health maintenance organization (HMO).* An HMO is a legal entity that is a qualified HMO as defined in section 1310 (d) of the Public Health Service (PHS) Act. The PHS regulations for qualified HMOs are set forth in Subpart A of Part 110 of this title.

(b) *Competitive medical plan (CMP).* A CMP is an entity that meets the following requirements:

(1) Except as specified in paragraph (b)(2) of this section, the entity provides to its enrolled members at least the following services:

(i) Physicians' services performed by physicians.

(ii) Laboratory, X-ray, emergency, and preventive services.

(iii) Out-of-area coverage.

(iv) Inpatient hospital services.

(2) An entity that had a Medicaid prepayment risk contract before 1970 that did not include provision of inpatient hospital services does not have to meet the requirement of paragraph (b)(1)(iv) of this section.

(3) The entity receives compensation (except for deductibles, coinsurance, and copayments) for the health care services it provides to enrolled members on a periodic, prepaid capitation basis regardless of the frequency, extent, or kind of services provided to any member.

(4) The entity provides physicians' servics primarily through—

(i) Physicians who are employees or partners of the entity; or

(ii) Physicians or groups of physicians (organized on a group or individual practice basis) under contract with the entity to provide physicians' services.

(5) The entity assumes full financial risk on a prospective basis for the provision of the health care services listed in paragraph (b)(1) of this section, except the entity may—

(i) Obtain insurance or make other arrangements for the cost of providing to any enrolled member the health care services listed in paragraph (b)(1) of this seciton, if the aggregate value of the services exceeds $5,000 in any year;

(ii) Obtain insurance or make other arrangements for the cost of providing health care services listed in paragraph (b)(1) of this section to enrolled members other than through the entity because medical necessity required that the services be provided before they could be secured through the entity;

(iii) Obtain insurance or make other arrangements for not more than 90 percent of the amount by which the entity's costs for any of its fiscal years exceed 115 percent of its income for that fiscal year; and

(iv) Make arrangements with physicians and other health professionals, health care institutions, or any combination of these to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

(6) The entity provides adequately against the risk of insolvency by meeting the requirements of § 110.108(a)(1)(i) through (iv) and (a)(3) of this title.

(7) Paragraph (b)(5) of this section will be implemented in accordance with § 110.108(b) of this title.

§ 417.408 Contract application process.

(a) *Contents of application.* (1) The application for a contract must include supporting information in the form and detail required by HCFA.

(2) Whenever feasible, HCFA will exempt the applicant from resubmittal of information it has already submitted to the Assistant Secretary for Health of the Department in connection with a determination made under the provisions of § 417.406.

(b) *Approval of application.* (1) If HCFA approves the application, it will give written notice to the organization, indicating that it meets the requirements for either a risk or reasonable cost contract or only for a reasonable cost contract.

(2) If the organization is dissatisified with a determination that it meets the requirements only for a reasonable cost contract, it may request reconsideration in accordance with the procedures specified in §§ 417.640 through 417.658.

(c) *Denial of application.* If HCFA denies the application, it will give written notice to the organization indicating—

(1) That it does not meet the contract requirements under section 1876 of the Act;

(2) The reasons why the organization does not meet the contract requirements; and

(3) The organization's right to request reconsideration in accordance with the procedures specified in §§ 417.640 through 417.658.

§ 417.410 Qualifying conditions: General.

(a) In order to qualify for a contract with HCFA under this subpart, an eligible organization must demonstrate its ability to enroll members and to deliver a specified comprehensive range of high quality services efficiently, effectively, and economically to its Medicare enrollees.

(b) An eligible organization must meet qualifying conditions that pertain to operating experience, enrollment, range of services, furnishing of services, and a quality assurance program.

(c) Generally, each qualifying condition is interpreted by a series of standards that are used in surveying an eligible organization to determine its qualifications for a Medicare contract.

(d) Application of the standards enables the surveyor to determine—

(1) The organization's activities;

(2) The extent to which the organization complies with each condition;

(3) The nature and extent of any deficiencies; and

(4) The need for improvement if HCFA should enter into a contract with the organization.

(e) An eligible organization may enter into a risk contract with HCFA if it—

(1) Meets all the applicable requirements in the statute and regulations;

(2) Has at least 5,000 enrollees or 1,500 enrollees if it serves a primarily rural area as defined in § 417.413(b)(3);

(3) Has at least 75 Medicare enrollees or has an acceptable plan to achieve this Medicare membership within 2 years;

(4) Satisfies HCFA that it can bear the potential losses of a risk contract; and

(5) Has not previously terminated or failed to renew a risk contract within the preceding 5 years, unless HCFA determines that circumstances warrant special consideration.

(f) An eligible organization may enter into a reasonable cost contract if it meets one of the following:

(1) The organization qualifies for a risk contract, but chooses a reasonable cost contract.

(2) The organization meets the conditions for entering into a risk contract specified in paragraph (e) of this section except that HCFA does not judge the organization capable of bearing the potential losses of a risk contract.

(3) The eligible organization is a CMP that offers less than all covered Medicare services available in the geographic area it serves, but meets the other applicable conditions.

(g) Policies on reasonable cost and risk reimbursement are set forth in §§ 417.530 through 417.596.

§417.412 Qualifying condition: Basic conditions.

(a) HCFA will enter into or renew a contract only if it determines that that action would be consistent with the effective and efficient implementation of section 1876 of the Act.

(b) The eligible organization must demonstrate that it—

(1) Has sufficient administrative capability to carry out the requirements of the contract; and

(2) Does not have any agents or management staff or persons with ownership or control interests who have been convicted of criminal offenses related to their involvement in Medicaid, Medicare, or title XX social services programs.

§ 417.413 Qualifying condition: Operating experience and enrollment.

(a) *Condition.* The organization must demonstrate that it has operating experience and an enrolled population sufficient to provide a reasonable basis for establishing a prospective per capita reimbursement rate or a reasonable cost reimbursement rate, as appropriate.

(b) *Standard: Enrollment and operating experience for organizations to contract on a risk basis.* (1) To be eligible to contract for Medicare reimbursement on a risk basis, a nonrural organization must currently have—

(i) At least 5,000 enrollees; and

(ii) At least 75 Medicare enrollees or a plan acceptable for HCFA for achieving a Medicare enrollment of 75 within 2 years of the beginning of its initial contract period.

(2) To be eligible to contract for Medicare reimbursement on a risk basis, a rural organization must currently have—

(i) At least 1,500 enrollees; and

(ii) At least 75 Medicare enrollees or a plan acceptable to HCFA for achieving a Medicare enrollment of 75 within 2 years of the beginning of its initial contract period.

(3) For purposes of this paragraph, an organization is considered rural if at least 50 percent of its enrollees reside in nonmetropolitan areas. A nonmetropolitan area is an area—

(i) No part of which is within a metropolitan statistical area (MSA) as designated by the Executive Office of Management and Budget; and

(ii) That does not contain a city whose population exceeds 50,000 individuals.

(4) A subdivision or subsidiary of an organization that meets the requirements of paragraphs (b)(1) or (b)(2) of this section need not demonstrate that it meets these requirements as an independent unit if the organization assumes responsibility for the financial risk and adequate management and supervision of health care services furnished by its subdivision or subsidiary.

(c) *Standard: Enrollment and operating experience for organizations to contract on a reasonable cost basis.* To be eligible to contract for Medicare reimbursement on a reasonable cost basis, an organization must currently have an enrolled population sufficient to provide a reasonable basis for entering into a contract. This population must be—

(1) At least 1,500 enrollees, and

(2) At least 75 Medicare enrollees. In addition, the organization must have at least 250 Medicare enrollees by the begining of its fourth contract period.

(d) *Standard: Composition of enrollment*—(1) *Requirement.* Except as specified in paragraph (d)(2) of this section, not more than 50 percent of an organization's enrollment may be Medicare and Medicaid beneficiaries.

(2) *Waiver.* HCFA may waive compliance with the requirement of paragraph (d)(1) of this section if—

(i) The organization is making reasonable efforts to enroll individuals who are not Medicare or Medicaid beneficiaries; and

(ii) Medicare and Medicaid beneficiaries constitute more than 50 percent of the population of the organization's geographic area.

(A) HCFA will not grant a waiver that would permit the percentage of Medicare and Medicaid enrollees to exceed the percentage of Medicare and Medicaid beneficiaries in the organization's geographic area.

(B) HCFA will not grant a waiver that would permit Medicare and Medicaid enrollees to constitute more than 75 percent of the organization's membership.

(e) *Standard: Open enrollment.* (1) Except as specified in paragraph (e)(2) of this section, an organization must enroll Medicare beneficiaries on a first-come, first-served basis to the limit of its capacity and provide annual open enrollment periods of at least 30 days duration for Medicare beneficiaries.

(2) HCFA may waive the requirement of paragraph (e)(1) of this section if compliance would prevent compliance with the limitation on enrollment of Medicare and Medicaid beneficiaries (paragraph (d)(1) of this section) or result in an enrollment substantially nonrepresentative of the population of the organization's geographic area. The enrollment would be "substantially nonrepresentative" if the proportion of a subgroup to the total enrollment exceeded, by 10 percent or more, its proportion of the population in the organization's geographic area, as shown by census data or other data acceptable to HCFA. For purposes of this paragraph, a subgroup means a class of Medicare enrollees as defined in § 417.582.

§ 417.414 Qualifying condition: Range of services.

(a) *Condition.* The organization must demonstrate that it is capable of delivering to Medicare enrollees the range of services required in accordance with this section.

(b) *Standard: Range of services furnished by eligible organizations*—(1) *Basic requirement.* An organization must furnish to its Medicare enrollees (directly or through arrangements with others) all the Medicare services to which those enrollees are entitled that are available to Medicare beneficiaries who reside in the organization's

geographic area but are not enrolled in the organization.

(2) *Criteria for availability.* The services are considered available if—

(i) The sources are located within the organization's geographic area; or

(ii) It is common practice to refer patients to sources outside that geographic area.

(3) *Choice of practitioners.* If more than one type of practitioner is qualified to furnish a particular item or service, the organization may select the type of practitioner to be used.

(c) *Standard: Financial responsibility for services furnished outside the organization.* (1) An organization must assume financial responsibility and provide reasonable reimbursement for emergency services and urgently needed services (as defined in § 417.401) that are obtained by its Medicare enrollees from providers and suppliers outside the organization even in the absence of the organization's prior approval.

(2) An organization must assume financial responsibility for services that are found upon appeal by the Medicare enrollee under the provisions of section 1876(e) of the Act to be services that the Medicare enrollee was entitled to have furnished to him or her by that organization.

§ 417.416 Qualifying condition: Furnishing of services.

(a) *Condition.* The organzation must furnish the required services to its Medicare enrollees through providers and suppliers that meet the Medicare statutory definitions and implementing regulations.

(b) *Standard: Conformance with conditions of participation, conditions for coverage, and conditions for certification.* (1) Hospital, skilled nursing facilities, home health agencies, comprehensive outpatient rehabilitation facilities, and providers of outpatient physical therapy and speech pathology services must meet the applicable conditions of participation in Medicare, as set forth elsewhere in this chapter.

(2) Suppliers must meet the conditions for coverage or conditions for certification of their services, as set forth elsewhere in this chapter.

(c) *Standard: Physician supervision*—(1) *Requirement.* The organization must provide for supervision by a physican of other health care professionals who are directly involved in the provision of health care as precribed in section 1861 of the Act. Except as specified in paragraph (c)(2) of this section, with respect to services furnished in an organization's clinic or the office of a physician with whom the organization has a service agreement, the organization must ensure that—

(i) Services furnished by paramedical, ancillary, and other nonphysician personnel are furnished under the direct supervision of a physician;

(ii) A physician is present at all times the clinics or offices are open to perform medical (as opposed to administrative) services; and

(iii) Each patient is under the care of a physician.

(2) *Exception.* The organization may permit the services of physician assistants and nurse practitioners (as defined in § 481.2 of this chapter), and the services and supplies incident to their services, to be furnished without the direct personal supervision of a physician. For purposes of this section, the definitions of physician assistants' and nurse practitioners' services and the services and supplies incident to their services for rural health clinics as specified in §§ 405.2414 and 405.2415 of this chapter are applicable.

§ 417.418 Qualifying condition: Quality assurance program.

(a) *Condition.* The organization must make arrangements for a quality assurance program that meets the Medicare statutory rquirements.

(b) *Standard: Quality assurance program for HMOs.* An HMO must have an ongoing quality assurance program that meets the requirements set forth in § 110.108(h) of this title.

(c) *Standard: Quality assurance program for CMPs.* A CMP must have an ongoing quality assurance program for the health services it furnishes that—

(1) Stresses health outcomes to the extent consistent with the state of the art;

(2) Provides review by physicians and other health professionals of the process followed in the provision of health services;

(3) Uses systematic data collection of performance and patient results, provides interpretation of these data to its practitioners, and institutes needed change; and

(4) Includes written procedures for taking appropriate remedial action whenever, as determined under the quality assurance program, inappropriate or substandard services have been furnished or services that should have been furnished have not been furnished.

Enrollment entitlement, and disenrollment

§ 417.420 Basic rules on enrollment and entitlement.

(a) Individuals who are entitled to benefits under both Part A and Part B of Medicare or only Part B may elect to receive those benefits through an organization that has in effect a contract with HCFA under §§ 417.470 through 417.494.

(b) If an individual enrolls with an organization, Medicare will make payments to the organization on his or her behalf for the services to which he or she is entitled.

(c) The organization may generally require payment, in the form of premiums or otherwise, from individuals for services not covered under Medicare, as well as deductible and coinsurance amounts attributable to Medicare covered services.

(d) Medicare enrollees of an organization that has contracted on a risk basis are also liable for any of the organzation's basic services that they obtain from sources other than the organization unless those services are emergency services or urgently needed services as defined in § 417.401 or are services that are found on appeal under §§ 417.600 through 417.638 to be services that should have been furnished by the organization.

§ 417.422 Eligibility to enroll in an organization.

(a) Except as specified in § 417.424 and paragraph (b) of this section, an organization must enroll, either for an indefinite period or for a specified period of at least 12 months, any individual who—

(1) Is entitled to Medicare benefits under Parts A and B or under Part B only;

(2) Lives within the geographic area served by the organization;

(3) Is not enrolled in any other organization that has entered into a contract under this subpart;

(4) During an enrollment period of the organization, completes and signs the organization's application form and gives whatever information is required for enrollment;

(5) Agrees to abide by the organization's rules after they are disclosed to him or her in connection with the enrollment process;

(6) Is not denied enrollment by the organization under a selection policy, if any, that has been approved by HCFA under § 417.424(b); and

(7) Is not denied enrollment by the organization on the basis of any of the conditions in § 417.424(a).

(b) Individuals who have been medically determined to have end-stage renal disease are not eligible to enroll in eligible organizations execpt as specified in § 417.434 concerning reenrollment.

§ 417.424 Denial of enrollment.

(a) *Basis for denial.* An organization may deny enrollment to an individual who meets the conditions of § 417.422 if acceptance would—

(1) Cause the number of enrollees who are Medicare or Medicaid beneficiaries to exceed 50 percent of the organization's total enrollment;

(2) Prevent the organization from complying with any of the other qualifying conditions set forth in §§ 417.412–417.416 of this part;

(3) Require the organization to exceed its enrollment capacity; or

(4) Cause the enrollment to become substantially nonrepresentative of the general population in the organization's enrollment area unless paragraph (c)(2) of this section applies.

(b) *Selection policies.* Denial under paragraph (a)(4) of this section must be in accordance with written selection policies approved by HCFA. Enrollment of individuals will not be considered to make the enrollment of the organization substantially nonrepresentative of the general population in the organization's geographic area unless, as a result of the enrollment, the proportion of the subgroup (as defined in § 417.413(e)(2)) of enrollees to which the enrollee belongs as compared to the organization's total enrollment exceeds by at least ten percentage points its proportion to the general population in the geographic area of the organization.

§ 417.426 Open enrollment requirements.

(a) *Basic requirements.* (1) Eligible organizations must provide open enrollment for at least 30 consecutive days during each contract year.

(2) During open enrollment, the organization must enroll eligible Medicare beneficiaries in the order in which their applications are received and until its enrollment capacity is reached.

(3) The organization may accept applications after it has reached capacity if it places those individuals on a waiting list and enrolls them in chronological order as vacancies occur.

(b) *Capacity to accept new enrollees.* (1) If an organization chooses to limit enrollments because of its capacity, it must notify HCFA at least 90 days before the beginning of its open enrollment period and, at the time, provide HCFA with its reasons for limiting enrollment.

(2) HCFA will evaluate the organization's submittal under paragraph (b)(1) of this section.

(3) The organization must promptly notify HCFA if there is any change in its enrollment capacity.

(c) *Reserved vacancies.* An organization may set aside a reasonable number of vacancies for an anticipated new group contract that will have its enrollment period after the Medicare open enrollment period during the contract year—

(1) Subject to HCFA's approval; and

(2) On condition that any vacancies set aside that are not filled within a reasaonable period of time after the beginning of the group contract enrollment period be made available to Medicare beneficiaries and other nongroup applicants under the requirements of this subpart.

§ 417.428 Marketing activities.

(a) *Required marketing activities.* The organization must—

(1) In offering its plan to Medicare beneficiaries, provide, to those interested in enrolling, adequate written descriptions of the organization's rules, procedures, benefits, fees and other charges, services, and other information necessary for beneficiaries to make an informed decision about enrollment;

(2) Submit all brochures, application forms, and promotional and informational material to HCFA for approval before issuance (if HCFA does not respond within 60 days of receipt of the materials the organization can assume approval); and

(3) Notify the general public of its enrollment period (whether time limited or continuous) in an appropriate manner through appropriate media, thorughout its enrollment area.

(b) *Prohibited marketing activities-general.* In offering its plan to Medicare beneficiaries, an organization may not engage in any of the following practices or activities:

(1) Practices that are discriminatory or unethical. For example, the organization may not engage in any activity intended to recruit Medicare beneficiaries from higher income areas (usually an indicator of better health) without making a comparable effort to enroll Medicare beneficiaries from the organization's lower income areas.

(2) Activities that could mislead or confuse Medicare beneficiaries, or misrepresent the organization, its marketing representatives, or HCFA. For example, the organization may not claim that it is recommended or endorsed by HCFA or that HCFA recommends that the beneficiary enroll in the organization. It may, however, explain that the entity is approved as an organization for purposes of participation in Medicare.

(3) Offers of gifts or payment as an inducement to enroll in the organization. This does not prohibit the explanation of any legitimate benefits the beneficiary might obtain as an organization enrollee, such as eligibility to enroll in a supplemental benefit plan that covers deductibles and coinsurance or preventive services.

(4) Use of written or oral statements that conflict with, materially alter, or erroneously expand upon, the information contained in the marketing materials approved by HCFA.

(c) *Marketing activities of risk organizations.* In addition to the generally permitted or prohibited marketing activities described in paragraphs (a) and (b) of this section, an organization that enters into a risk contract must provide potential Medicare enrollees with adequate written descriptions of the additional benefits or services, or reductions in premiums, deductible or copayments that may pertain under risk reimbursement.

§ 417.430 Application procedures.

(a) *Application forms.* (1) The application form must comply with HCFA instrutions regarding format and content and must include the beneficiary's signature and authorization for disclosure and exchange of necessary information between HCFA and the organization.

(2) The organization must file and retain application forms for the period specified in HCFA instructions.

(b) *Handling of applications.* An organization must have an effective system for receiving, controlling, and processing applications from Medicare beneficiaries. The system must meet the following conditions and requirements:

(1) Each application is dated as of the day it is received.

(2) Applications are processed in chronological order by date of receipt.

(3) The organization notifies the beneficiary in writing of acceptance or denial of the application promptly.

(4) The notice of acceptance—

(i) Specifies the date on which the organization will request HCFA to make the enrollment effective; or

(ii) If the organization is currently enrolled to capacity, explains the procedures that will be followed when vacancies occur.

(5) The notice of denial explains the reason for denial.

(6) The organization transmits the information necessary for HCFA to add the beneficiary to its records of the organization's Medicare enrollees—

(i) Within 30 days from the date of application or from the date a vacancy occurs for an applicant who was

accepted while the organization was enrolled to capacity; or

(ii) Within an additional period of time approved by HCFA on a showing by the organization that it needs more time.

(7) The organization promptly notifies the beneficiary of the effective month of his or her enrollment as a Medicare enrollee, when it receives that information from HCFA.

(8) If the organization accepts applications while it is enrolled to capacity, its procedures ensure that vacancies are filled in chronological order by date of application of beneficiaries who are still eligible to enroll, unless that would result in failure to comply with any of the qualifying conditions set forth in § 417.413.

§ 417.432 Conversion of enrollment.

(a) *Basic rule.* An organization must accept as a Medicare enrollee any individual who was enrolled in the organization for the month immediately before the month in which he or she—

(1) Attained age 65;

(2) Became entitled to Medicare on the basis of end-stage renal disease; or

(3) Became entitled to a 25th month of social security or railroad retirement disability benefits.

(b) *Expedite submittal of information to HCFA.* The organization must notify HCFA, within the following time frames, of the enrollee's authorization for disclosure and exchange of information and the information necessary for HCFA to include the enrollee in its records as a Medicare enrollee of the organization:

(1) At least 90 days before the enrollee—

(i) Attains age 65; or

(ii) Reaches his or her 25th month of entitlement to social security disability benefits under title II of the Act or railroad retirement disability benefits under section 7(d) of the Railroad Retirement Act of 1974.

(2) Within 30 days after the enrollee initiates a course of renal dialysis or on or before the day he or she enters a hospital in anticipation of a kidney transplant.

(c) *Two-for-one rule concerning conversion of current, nonrisk Medicare enrollees.* A risk organization that is receiving reimbursement for current nonrisk Medicare enrollees on a reasonable cost basis may, as provided in § 417.444, convert those enrollees to its risk reimbursement membership if it enrolls two new Medicare enrollees for each current nonrisk enrollee it converts under § 417.446. Selection of the current nonrisk Medicare enrollees to be converted must be unbiased as described in § 417.446(c).

§ 417.434 Reenrollment.

If an organization requires periodic reenrollment, it must reenroll Medicare enrollees unless there is a basis for disenrollment as set forth in § 417.460.

§ 417.436 Membership rules for enrollees.

(a) *Maintaining rules.* An organization must maintain written rules that deal with, but need not be limited to—

(1) Procedures for paying premiums and other charges for which Medicare enrollees may be liable;

(2) Grievance and appeal procedures;

(3) Disenrollment rights;

(4) How and where to obtain services from or through the organization; and

(5) Any other matters that HCFA may prescribe.

(b) *Availability of rules.* The organization must furnish a copy of the rules to each Medicare enrollee.

§ 417.440 Entitlement to health care services from an organization.

(a) *Basic rules.* (1) Subject to the conditions and limitations set forth in this subpart, a Medicare enrollee of an organization is entitled to receive health care services and supplies directly from, or through arrangements made by, the organization as specified in this section and §§ 417.442–417.446.

(2) A Medicare enrollee is also entitled to receive timely and reasonable payment directly (or have payment made on his or her behalf) for services he or she obtained from a provider or supplier outside the organization if those services are—

(i) Emergency services or urgently needed services as defined § 417.401;

(ii) Services denied by the organization and found (upon appeal under §§ 417.600 through 417.638) to be services the enrollee was entitled to have furnished by organization.

(b) *Scope of services.* (1) *Part A and Part B services.* Generally, a Medicare enrollee is entitled to receive all the services and supplies that are covered by Part A and Part B of Medicare (if he or she is entitled to benefits under both programs) or by Medicare Part B (if he or she is entitled only under that program) that are available to individuals residing in the geographical area served by the organization.

(2) *Supplemental services elected by enrollee.* A Medicare enrollee of a reasonable cost organization may elect to pay for optional services that are offered by the organization in addition to the covered Part A and Part B services. These services must be offered without regard to the health status of the enrollee.

(3) *Supplemental services imposed by risk reimbursement orgonizations.* Subject to the approval of HCFA, an organization receiving risk reimbursement may require Medicare enrollees to accept and pay for services in addition to the covered Part A and Part B services. These services must be imposed on all applicable enrollees without regard to health status. HCFA will approve the additional services if it determines that the requirement will not discourage enrollment in the organization by other Medicare beneficiaries.

(4) *Additional benefits from risk reimbursement organizations required by statute.* Subject to the conditions stated in § 417.442, a new Medicare enrollee or a current nonrisk Medicare enrollee who converts to risk reimbursement under § 417.444 is eligible to receive, in addition to the covered Part A and Part B benefits for which he or she is eligible, benefits consisting of one or both of the following:

(i) A reduction in the premium rate or in other charges for services furnished to Medicare enrollees.

(ii) Provision of health benefits or services and supplies beyond the required Part A and Part B coverage.

(5) *Special supplemental benefits.* Under conditions described in § 417.444(c), current, nonrisk Medicare enrollees who are not converted to the risk portion of the contract, may enroll in a special supplemental plan, if offered by the organization, for some or all of the additional benefits described in paragraph (b)(4) of this section.

§ 417.442 Risk organizations: Conditions for provision of additional benefits.

(a) *General rule.* Except as provided in paragraph (b), an organization with a risk contract must provide its Medicare enrollees with the additional benefits described in § 417.440(b)(4) during a contract period if, prior to the contract period, the organization's adjusted community rate (ACR) is less than the average of the per capita rates of payment that HCFA will be making to the organization. The computation of the value of the additional benefits, the ACR, and the average of the per capita payment rates are described in §§ 417.592 and 417.594.

(b) *Exception.* An organization is not obligated to furnish the additional services under paragraph (a) of this section if it elects to receive reduced reimbursement so that there is no difference between the AAPCC and the ACR. In this case, the organization must notify HCFA as required under § 417.592(e).

§ 417.444 Special rules for current, nonrisk Medicare enrollees of an organization under a risk contract.

(a) Current, nonrisk Medicare enrollees of an organization that has entered into a risk contract are not covered under the risk portion of the contract automatically. They are, therefore, not entitled to the additional benefits described in § 417.442 until one of the following occurs:

(1) HCFA determines that, for administrative reasons, or because of administrative costs involved, all current nonrisk Medicare enrollees of an organization must be covered under the risk provisions of the contract; and

(i) HCFA notifies each affected enrollee of the decision at least 90 days prior to the effective date;

(ii) The organization has enrolled two new Medicare enrollees for each current, nonrisk Medicare enrollee who will be brought into the risk portion of the contract;

(iii) The selection of the current, nonrisk Medicare enrollees to be brought under the risk portion of the contract is made in an unbiased manner, as provided in § 417.446(c);

(iv) The current, nonrisk Medicare enrollees complete and sign forms stating that they understand and accept the new rules and benefits that will be applicable to them; and

(v) The organization notifies each affected enrollee, in writing, at least 30 days in advance, of the date upon which his or her coverage under the risk portion of the contract takes effect.

(2) A current, nonrisk Medicare enrollee requests, using the same or a similar form to the described in paragraph (a)(1)(v) of this section, that he or she be covered under the risk portion of the contract, and—

(i) The organization has enrolled two new Medicare enrollees for each of these current, nonrisk Medicare enrollees; and

(ii) In cases where there are more current, nonrisk Medicare enrollees than can be accommodated due to the two-for-one rule, the selection of those to be covered under the risk portion of the contract is made in an unbiased manner, as provided in § 417.446(c).

(b) A current, nonrisk Medicare enrollee may, if he or she chooses, remain so indefinitely, unless HCFA acts under the provisions of paragraph (a)(1) of this section.

(c) A current, nonrisk Medicare enrollee of an organization with a risk contract who is precluded from enrollment under the risk portion of the contract because of the provisions of § 417.446(a) may enroll in a plan for special supplemental benefits, if one is offered by the organization. The plan may cover some or all of the additional benefits described in § 417.440(b)(4). The plans must—

(1) Be offered to all current, nonrisk Medicare enrollees of the organization who meet the requirements of this paragraph;

(2) Be offered at no cost to those enrollees;

(3) Offer a uniform package of benefits to all those enrollees;

(4) Be voluntary for those enrollees;

(5) Not affect the selection of the enrollees who will be converted to coverage under the risk portion of the contract;

(6) Restrict the enrollees who accept the plan from receiving payment directly or on their behalf for covered items and services received from sources outside the organization, in the same manner and subject to the conditions described in § 417.420(d);

(7) Provide that reimbursement for the special supplemental services for such enrollees be made from the savings the organization achieves, in the manner described in § 417.442; and

(8) Be offered with full disclosure of all provisions, especially the restriction described in paragraph (c)(6) of this section.

(d) Current, nonrisk Medicare enrollees must be informed of the availability of any special supplemental benefits at least 90 days prior to the beginning of the organization's enrollment period, or other opportunity to enroll.

§ 417.446 Two-for-one enrollment criteria.

(a) *Basic rule.* In order to receive reimbursement on a risk basis for a current, nonrisk Medicare enrollee, an organization with a risk contract must enroll two new Medicare enrollees for each current, nonrisk Medicare enrollee who is converting. Selection of those enrollees to be converted must be made in an unbiased manner as prescribed in paragraphs (b) and (c) of this section.

(b) *Procedure for conversion.* (1) The organization must keep an accurate count of new Medicare enrollees and, on request by HCFA, be able to demonstrate that it has done so.

(2) Unused slots created by the enrollment of new Medicare enrollees may be carried forward indefinitely from one contract period to another regardless of the death or subsequent disenrollment of a new Medicare enrollee.

(3) The organization may convert current, nonrisk Medicare enrollees continuously as vacancies occur under the two-for-one criteria or during a special period designated for this purpose at least annually.

(i) The organization need not have a special period if no conversions are possible.

(ii) If special periods are held, current, nonrisk Medicare enrollees must be informed about the period 60 days before it begins.

(iii) If waiting lists are used, the organization may convert the current, nonrisk Medicare enrollees as vacancies occur, or on a group basis (for example, 10 or 20 and a time) for administrative ease. In either case, the enrollees must be converted in the order in which they appear on the waiting list. Placement on a waiting list must be on an equitable basis such as first-come, first-served.

(iv) The organization may allow continuous application for conversion with applicants being placed on a waiting list and converted as vacancies occur.

(c) *Requirements for unbiased conversion.* The organization, whether it uses a waiting list, a special period or another approach such as selection by lottery, must convert current, nonrisk Medicare enrollees to the risk provisions of the contract in an unbiased manner. This means that the organization must—

(1) Inform in a timely, open, and complete manner all current, nonrisk Medicare enrollees of their right to convert to the risk portion of the contract and the procedures for doing so;

(2) Not discriminate among the current, nonrisk Medicare enrollees on the basis of geographic location, health status, or whether or not they have enrolled in the organization's plan for special supplemental benefits, if one is offered;

(3) Not discriminate among current, nonrisk Medicare enrollees who are in similar circumstances, such as age or length of previous enrollment; and

(4) If it uses a waiting list, place the current, nonrisk Medicare enrollees on the list in an equitable manner, such as first-come, first-served during a special period, a lottery, or greatest length of time enrolled in the organization.

§ 417.448 Restrictions on obtaining services for Medicare enrollees of risk organizations.

(a) *Basic rule.* Except for emergency and urgently needed services (defined in § 417.401), certain Medicare enrollees of risk orgainzations may not have Medicare payments made to them or on their behalf for any services received that are not provided directly or through arrangements made by the organization. This restriction applies to—

(1) New Medicare enrollees;
(2) Current, nonrisk Medicare enrollees who convert to risk reimbursement; and
(3) Current, nonrisk Medicare enrollees who elect special supplemental coverage plans.
(b) *End of restriction.* The restriction on obtaining services imposed by paragraph (a) of this section does not apply to—
(1) Disenrolled Medicare enrollees as of the first day of the month in which termination of enrollment is effective as provided under § 417.460(b)(3); or
(2) Medicare enrollees who permanently leave the geographic area served by the risk organization as of the first day of the first month following the month in which he or she leaves.

§ 417.450 Effective date of coverage.

(a) *Basic rules.* Except as specified in paragraph (b) of this section—
(1) Medicare's liability for payments to an organization on behalf of an individual begins on the first day of the month in which the individual is—
(i) Entitled to Medicare benefits; and
(ii) A Medicare enrollee of an organization; and
(2) The effective month of coverage may not be earlier than the first month after, nor later than the third month after, the month in which HCFA receives the information necessary to include the beneficiary as a Medicare enrollee of the organization in HCFA records.
(b) *Exceptions.* (1) HCFA may approve a later month if it is requested by the organization and the beneficiary.
(2) If an individual becomes an organization enrollee before becoming entitled to Medicare Part B benefits, the effective month of coverage is the first month for which he or she becomes entitled to Medicare Part B benefits.
(c) *Notice of effective date of coverage.* HCFA will promptly advise the organization of the month for which its liability for payment begins for each beneficiary added to its records as an enrollee of the organization.

§ 417.452 Liability of Medicare enrollees.

(a) *Deductibles and coinsurance.* (1) A Medicare enrollee of an organization is responsible for applicable deductible and coinsurance amounts, unless the organization's charges for these amounts are reduced under § 417.442.
(2) The deductible and coinsurance amounts may be paid by the enrollee or on his or her behalf by another individual, organization, or entity. The payments may be made in the form of a premium, membership fee, charge per unit or similar charge.
(3) The sum of the amounts the organization charges its Medicare enrollees for deductibles and coinsurance may not exceed, on the average, the actuarial value of the deductible and coinsurance the Medicare enrollees otherwise would have been liable for had they not enrolled in the organization or in another organization.
(b) *Services not covered under Medicare.* Unless the services are provided under § 417.442 or § 417.444(c), a Medicare enrollee of an organization is liable for payment for—
(1) All services that are not covered under Medicare Part A or Part B; and
(2) If entitled only to Medicare Part B benefits, all services that are not covered under Medicare Part B.
(c) *Optional supplemental benefits plan.* (1) The organization may offer its Medicare enrollees a supplemental benefit plan to cover deductible and coinsurance amounts, or services not covered under Medicare, or both.
(2) If a supplemental benefit plan premium includes charges for both noncovered services and the deductible and coinsurance amounts applicable to covered services, the portion of the premium that is for deductibles and coinsurance must be computed separately and must be disclosed to the beneficiary during the enrollment process and before he or she elects coverage options.
(3) The sum of the amounts an organization charges its Medicare enrollees for services that are not covered under Part A or Part B may not exceed the ACR for these services.

§ 417.454 Charges to Medicare enrollees.

(a) The organization agrees to charge its Medicare enrollees only the deductible and coinsurance amounts applicable to furnished covered services and the charges for noncovered services or services for which Medicare is not the primary insurer, as provided in § 417.452.
(b) A risk organization must report, within 90 days after the end of the contract period, all premiums, enrollment fees, and other charges collected from its Medicare enrollees during that period.

§ 417.456 Refunds to Medicare enrollees.

(a) *Definitions.* As used in this section—
Amounts incorrectly collected means amounts collected that are in excess of those specified in § 417.452. It includes amounts collected when the enrollee was believed not entitled to Medicare benefits if the enrollee is later determined to have been entitled to Medicare benefits during the time the contract was in effect.
Other amounts due means amounts due a Medicare enrollee for services obtained outside the organization if they were—
(1) Emergency services;
(2) Urgently needed services for which the organization has assumed financial responsibility; or
(3) On appeal under §§ 417.600 through 417.638, found to be services the enrollee was entitled to have furnished by the organization.
(b) *Basic commitment.* An organization with a reasonable cost contract agrees to refund all amounts incorrectly collected from its Medicare enrollees, or from others on behalf of the enrollees, and any other amounts due the enrollees or others on their behalf.
(c) *Refund by lump sum payment.* An organization with a reasonable cost contract must make refunds to its current and former Medicare enrollees by lump sum payment for the following:
(1) Incorrectly collected amounts that were not collected as premiums.
(2) Other amounts due.
(3) All amounts due, if the organization is going out of business.
(d) *Refund by premium adjustment or lump sum payment or both.* An organization with a reasonable cost contract may make refund by adjustment of future premiums, by lump sum payment, or by a combination of both methods, for amounts that were incorrectly collected in the form of premiums or through a combination of premium payments and other charges.
(e) *Refund when enrollee had died or cannot be located.* If an enrollee has died or cannot be located after reasonable effort by the organization, the risk organization must make the refund in accordance with State law.
(f) *Reduction by HCFA.* If the organization does not make refund in accordance with paragraphs (b) through (d) of this section by the end of the contract period following the contract period during which an amount was determined to be due an enrollee, HCFA will reduce its payment to the organization by the amounts incorrectly collected or otherwise due, and arrange for those amounts to be paid to the Medicare enrollees.

§ 417.458 Recoupment of uncollected deductible and coinsurance amounts.

An organization with a reasonable cost contract agrees to recoup deductible and coinsurance amounts for which Medicare enrollees were liable in a previous contract period only in the following circumstances:

(a) The organization failed to collect the deductible and coinsurance amounts during the contract period in which they were due because of—

(1) Underestimation of the actuarial value of the deductible and coinsurance amounts; or

(2) A billing error.

(b) The organization has identified the amounts and obtained advance HCFA approval of the recoupment and the method and timing of recoupment.

(c) The organization collects these amounts no later than 24 months after the end of the contract period in which they were due.

§ 417.460 Disenrollment of beneficiaries and termination of payments to an organization.

(a) *Disenrollment of health insurance program beneficiaries.* An organization may not, orally or in writing, or by any action or inaction, request or encourage a Medicare enrollee to disenroll, except in the following circumstances:

(1) *Failure to pay premiums*—(i) *Basic rules.* Except as specified in paragraph (a)(1)(iii) of this section, an organization may disenroll a Medicare enrollee who fails to pay premiums or other charges imposed by the organization for deductible and coinsurance amounts for which the enrollee is liable, if the organization—

(A) Can demonstrate to HCFA that it made reasonable efforts to collect the unpaid amount;

(B) Gives the enrollee written notice of termination of enrollment, including an explanation of the enrollee's right to a hearing under the organization's grievance procedures; and

(C) Sends the notice of termination to the enrollee before it sends the disenrollment notice to HCFA.

(ii) *When HCFA's liability ends.* (A) HCFA's liability to make monthly capitation payments to the organization on behalf of the enrollee ends as of the first day of the month following the month in which termination of enrollment as a Medicare enrollee is effective, as shown on HCFA records.

(B) Termination will be effective no earlier than the month immediately after, and no later than the third month after, the month in which the disenrollment notice is received in acceptable form by HCFA.

(iii) *Exception.* If a Medicare enrollee of a cost organization fails to pay the separate premium (or the corresponding portion of a single premium) for supplemental benefits (that is, benefits not covered by Medicare), but pays the premium for the deductible and coinsurance amounts, the organization may discontinue the supplemental benefits but may not disenroll the enrollee.

(2) *Enrollee moves out of the organization's geographic area*—(i) *Basic rule.* An organization must disenroll a Medicare enrollee who moves out of its geographic area and does not voluntarily disenroll under paragraph (b) of this section if the organization—

(A) Establishes, on the basis of a written statement from the enrollee or other evidence acceptable to HCFA, that the enrollee has permanently moved out of its geographic area; and

(B) Complies with the notice requirements set forth is paragraph (a)(1)(i) of this section.

(ii) *Failure to disenroll does not expand geographic area.* If the organization does not disenroll an enrollee who has moved out of its geographic area, that area is not automatically expanded to encompass the location of the enrollee's new residence.

(iii) *When HCFA's liability ends.* The provisions of paragraph (a)(1)(ii) of this section apply.

(3) *Failure to convert to risk provisions of contract*—(i) *Disenrollment and notice.* A risk organization must disenroll a current, nonrisk Medicare enrollee if the enrollee refuses to convert to the risk provisions of the organization's contract after HCFA has determined under § 417.444(a)(1) that all of the organization's current, nonrisk Medicare enrollees must be converted. The organization must notify the enrollee that failure to convert will result in disenrollment. The notice must be sent at least 30 days before the organization notifies HCFA of the disenrollment.

(ii) *When HCFA's liability ends.* The provisions of paragraph (a)(1)(ii) of this section apply.

(4) *Enrollee commits fraud or permits abuse of organization membership card.* A Medicare beneficiary may be disenrolled by the organization if such beneficiary knowingly provides, on the application form, fraudulent information upon which an organization relies and which materially affects his or her eligibility to enroll in the organization, or if the beneficiary intentionally permits others to use his or her membership card to receive services from the organization. In either case, the organization must give the beneficiary a written notice of termination of enrollment. The notice must be mailed to the enrollee prior to the submission of the disenrollment notice to HCFA. The notice must include an explanation of the enrollee's right to have the disenrollment heard under the grievance procedures established under § 417.436. The liability of HCFA to make monthly capitation payments to the organization on behalf of the beneficiary terminates as of the first day of the month in which the termination of the membership in the organization is made effective, as shown on HCFA records. In no event must that month be earlier than the month immediately following, or later than the third month following, the month in which the disenrollment notice is received in acceptable form by HCFA.

(5) *Enrollee's entitlement to benefits under the supplementary medical insurance program ends.* (i) The liability of HCFA to make monthly capitation payments to the organization on behalf of the beneficiary ends with the month immediately following the last month of entitlement to benefits under Part B of Medicare. The beneficiary may be continued as an enrollee other than as a Medicare enrollee by the organization under its regular plan if the organization and the enrollee so choose.

(ii) If an enrollee loses entitlement to benefits under Part A of Medicare but remains entitled to benefits under Part B, the enrollee automatically continues as a Medicare enrollee of the organization and is entitled to receive and have payment made for services, as provided for in § 417.414, beginning with the month immediately following the last month of his or her entitlement of Part A benefits.

(6) *Death of the enrollee.* The liability of HCFA for payments to the organization on behalf of a Medicare enrollee who dies ends as of the first day of the month following the month of death.

(b) *Disenrollment by the enrollee.* (1) A Medicare enrollee may disenroll at any time by giving the organization a signed, dated request in the form and manner prescribed by the organization. The enrollee may request a certain disenrollment date but it may be no earlier than the first day of the second month following the month in which the organization receives the request.

(2) The organization must submit a disenrollment notice to HCFA within 30 days of receipt of the enrollee's request.

(3) HCFA's responsibility for payments to the organization ends with the close of the month of termination requested by the enrollee and approved by the organization.

(c) *effect of termination or default of contract*— (1) *Termination of contract.* If the contract between HCFA and the organization is terminated by mutual consent or by unilateral action of either party, HCFA's liability for payments ends as of the first day of the month

after the last month for which the contract is in effect.

(2) *Default of contract.* If the organization defaults on the contract before the end of the contract year because of bankruptcy or other reasons, HCFA will—

(i) Determine the month in which its liability for payments ends; and

(ii) Notify the organization and all affected Medicare enrollees as soon as practicable.

Contract Requirements

§ 417.470 Basis and scope.

(a) *Basis.* Sections 417.472 through 417.494 implement those portions of section 1876(c), (g), (h), and (i) of the Act that pertain to the contract between HCFA and an organization for participation in the Medicare program.

(b) *Scope.* Sections 417.472 through 417.494 set forth—

(1) Specific contract requirements; and

(2) Procedures for renewal, nonrenewal, or termination of a contract.

§ 417.472 Basic contract requirements.

(a) *Submittal of contract.* In order for an eligible organization to participate in the Medicare program, it must sign and submit a contract that meets the requirements of this subpart and any other provisions required by HCFA.

(b) *Contract provisions for all eligible organizations.* The contract must provide that the organization agrees to comply with all the applicable requirements and conditions set forth in this subpart and general instructions of HCFA.

(c) *Other contract provisions.* In addition to the requirements set forth in §§ 417.474 through 417.488, the contract must contain any other terms and conditions that HCFA requires to implement section 1876 of the Act.

(d) *Exemption from Federal procurement regulations.* The Federal Procurement Regulations and HHS Procurement Regulations contained in Title 41 of the Code of Federal Regulations do not apply to Medicare contracts under section 1876 of the Act.

§ 417.474 Effective date and term of contract.

(a) The contract must specify its effective date and term.

(b) The effective date may not be earlier than the date it is signed by both HCFA and the organization.

(c) The initial term of the contract and any subsequent term must be at least 12 months.

§ 417.476 Waived conditions.

The contract must specify for each qualifying condition that is waived—

(a) The specific terms of the waiver;

(b) The expiration date of the waiver; and

(c) Any other information required by HCFA.

§ 417.478 Requirements of other laws and regulations.

The contract must provide that the organization agrees to comply with—

(a) The requirements for PRO review of services furnished to Medicare enrollees as set forth in Subchapter D of this chapter;

(b) Section 1318(a) and (c) of the PHS Act which pertains to disclosure of certain financial information; and

(c) Section 1301(c)(8) of the PHS Act which relates to liability arrangements to protect members of the organization.

§ 417.480 Maintenance of records.

The contract must provide that an organization with a reasonable cost contract agrees to maintain books, records, documents, and other evidence of acounting procedures and practices that—

(a) Are sufficient to—

(1) Ensure an audit trail; and

(2) Properly reflect all direct and indirect costs claimed to have been incurred under the contract; and

(b) Include at least records of the following:

(1) Ownership, organization, and operation of the organization's financial, medical, and other recordkeeping systems.

(2) Financial statements for the current contract period and three prior periods.

(3) Federal income tax or information returns for the current contract period and three prior periods.

(4) Asset acquisition, lease, sale, or other action.

(5) Agreements, contracts, and subcontracts.

(6) Franchise, marketing, and management agreements.

(7) Schedules of charges for the organization's fee-for-service patients.

(8) Matters pertaining to costs of operations;

(9) Amounts of income received by source and payment.

(10) Cash flow statements.

(11) Any financial reports filed with other Federal programs or State authorities.

§ 417.482 Access to facilities and records.

The contract must provide that the organization agrees to the following:

(a) HHS may evaluate, through inspection or other means, the quality, appropriateness, and timeliness of services furnished under the contract to its Medicare enrollees.

(b) HHS may evaluate, through inspection or other means, the facilities of the organization when there is reasonable evidence of some need for that inspection.

(c) HHS, the Comptroller General, or their designees may audit or inspect any books and records of the organization or its transferee that pertain to services performed and determination of amounts payable under the contract.

(d) In the case of and organization with a reasonable cost contract, to make available for the purposes specified in paragraphs (a), (b), and (c) of this section, its premises, physical facilities, and equipment, its records relating to its Medicare enrollees, the records specified in § 417.480 and any additional relevant information that HCFA may require.

(e) That the right to inspect, evaluate, and audit, will extend through 3 years from the date of the final settlement for any contract period unless—

(1) HCFA determines there is a special need to retain a particular record or group of records for a longer period and notifies the organization at least 30 days before the normal disposition date;

(2) HCFA finds that Federal or State laws require a longer retention period;

(3) There has been a termination, dispute, fraud, or similar fault by the organization, in which case the retention may be extended to 3 years from the date of any resulting final settlement; or

(4) HCFA determines that there is a reasonable possibility of fraud, in which case it may reopen a final settlement at any time.

§ 417.484 Requirement applicable to related entities.

(a) *Definition.* As used in this section, "related entity" means any entity that is related to the organization by common ownership or control and—

(1) Performs some of the organization's management functions under contract or delegation;

(2) Furnishes services to Medicare enrollees under an oral or written agreement; or

(3) Leases real property or sells materials to the organization at a cost of more than $2,500 during a contract period.

(b) *Requirement.* The contract must provide that the organization agrees to require all related entities to agree that—

(1) HHS, the Comptroller General, or their designees have the right to inspect, evaluate, and audit any pertinent books, documents, papers, and records of the subcontractor involving transactions related to the subcontract; and

(2) The right under paragraph (b)(2) of this section to information for any particular contract period will exist for a period equivalent to that specified in § 417.482(e).

§ 417.486 Disclosure of information and confidentiality.

The contract must provide that the organization agrees—

(a) To submit to HCFA—

(1) All financial information required under §§ 417.530 through 417.576 and for final settlement; and

(2) Any other information necessary for the administration or evaluation of the Medicare program.

(b) To comply with the requirements set forth in Part 420, Subpart C, of this chapter pertaining to the disclosure of ownership and control information;

(c) To comply with the requirements of the Privacy Act, as implemented by 45 CFR Part 5b, with respect to any system of records developed in performing carrier or intermediary functions under §§ 417.532 and 417.533; and

(d) To meet the confidentiality requirements of § 405.1026(a) of this chapter for medical records and for all other information on enrollees, not covered under paragraph (c) of this section, that is contained in its records or obtained from HCFA or others.

§ 417.488 Written notice of termination.

A risk contract must provide that if the contract is terminated, the organization agrees to give to its Medicare enrollees, and to be responsible for the cost of, the following notices:

(a) A written notice of the termination at least 60 days before the termination date.

(b) A written description of alternatives available for obtaining Medicare services after termination.

§ 417.490 Renewal of contract.

A contract with an organization is renewed automatically for the next 12-month period unless HCFA or the organization decides not to renew, in accordance with § 417.492.

§ 417.492 Nonrenewal of contract.

(a) *Nonrenewal by the organization.* (1) If an organization does not intend to renew its contract, it must—

(i) Give written notice to HCFA at least 90 days before the end of the current contract period;

(ii) Notify each Medicare enrollee by mail at least 60 days before the end of the contract period; and

(iii) Notify the general public at least 30 days before the end of the contract period, by publishing a notice in one or more newspapers of general circulation in each community or county located in the organization's enrollment area.

(2) HCFA may accept a nonrenewal notice submitted less than 90 days before the end of a contract period if—

(i) The organization notifies its Medicare enrollees and the public in accordance with paragraph (a)(1) of this section; and

(ii) Acceptance would not otherwise jeopardize the effective and efficient administration of the Medicare program.

(b) *Nonrenewal by HCFA.* If HCFA decides not to renew a contract, it will notify—

(1) The organization at least 90 days before the end of the contract period;

(2) The organization's Medicare enrollees at least 60 days before the end of the contract period;

(3) The general public at least 30 days before the end of the contract period; and

(4) The organization that if it is dissatisfied with the decision, it may appeal that decision in accordance with procedures specified in §§ 417.640 through 417.682.

§ 417.494 Modification or termination of contract.

(a) *Modification or termination by mutual consent.* (1) HCFA and an organization may modify or terminate a contract at any time by written mutual consent.

(2) If the contract is modified, the organization must notify its Medicare enrollees of any changes that HCFA determines are appropriate for notification.

(3) If the contract is terminated, the organization must notify its Medicare enrollees, and HCFA will notify the general public, at least 30 days before the termination date.

(b) *Termination by HCFA.* (1) HCFA may terminate a contract for any of the following reasons:

(i) The organization has failed substantially to carry out the terms of the contract.

(ii) The organization is carrying out the contract in a manner that is inconsistent with the effective and efficient implementation of section 1876 of the Act.

(iii) PHS determines that the organization no longer meets the applicable conditions necessary to qualify as an eligible organization under section 1876 of the Act and the implementing regulations.

(2) If HCFA determines that a contract should be terminated, it will send written notice to the organization and indicate the organization's right to appeal that determination in accordance with the procedures specified in §§ 417.640 through 417.682.

(3) An organization with a risk contract must notify its Medicare enrollees of the termination as described in § 417.488.

(4) HCFA must notify the organization's Medicare enrollees and the general public of the termination at least 30 days before the termination date.

Change of Ownership and Leasing of Facilities

§ 417.520 General provisions.

(a) *Definitions.* As used in this subpart—

Lessee means the entity to which an organization leases all or part of its facilities.

Lessor means the organization that leases all or part of its facilities to another entity.

Novation agreement means a document executed and signed by the current owner of the organization, the proposed new owner, and HCFA, under which HCFA recognizes the new owner as the successor in interest to the current owner's Medicare contract.

(b) *Basic rules*—(1) *Change of ownership.* Except as provided in paragraph (b)(3)(ii) of this section, a change of ownership of an organization makes its Medicare contract invalid with respect to the period following the change of ownership, unless there is a novation agreement.

(2) *Effect of change without novation agreement.* If the new owner wishes to participate in the Medicare program, it must notify HCFA of the change of ownership and apply for and enter into a contract in accordance with §§ 417.472 through 417.488.

(3) *Advance notice of HCFA.* (i) A contracting organization that is considering or negotiating a change of ownership must notify HCFA at least 60 days before the anticipated change.

(ii) If it does not, that organization will continue to be liable for capitation payments HCFA makes to it on behalf of Medicare enrollees after the date of change of ownership.

§ 417.521 What constitutes change of ownership.

(a) *Partnership.* The removal, addition, or substitution of a partner, unless the partners expressly agree

otherwise as permitted by applicable State law, constitute change of ownership.

(b) *Unincorporated sole proprietorship.* Transfer of title and property to another party constitutes change of ownership.

(c) *Corporation.* (1) The merger of the organization's corporation into another corporation or the consolidation of the organization with one or more other corporations, resulting in a new corporate body, constitutes a change of ownership.

(2) Transfer of corporate stock or the merger of another corporation into the organization corporation, with the organization surviving, does not ordinarily constitute change of ownership.

§ 417.522 Novation agreement requirements.

(a) *Conditions for HCFA approval of a novation agreement.* HCFA will approve a novation agreement if the following conditions are met:

(1) *Advance notification.* The contracting organization notifies HCFA at least 60 days before the date of the proposed change of ownership.

(2) *Advance submittal of agreement.* The contracting organization submits to HCFA, at least 30 days before the proposed change of ownership date, three signed copies of a proposed novation agreement containing the provisions specified in paragraph (b) of this section, and one copy of any other documents required by HCFA.

(3) *HCFA's determination.* HCFA determines that—

(i) The proposed new owner is in fact a successor in interest to the contract;

(ii) Recognition of the new owner as a successor in interest to the contract is in the best interest of the Medicare program; and

(iii) The successor organization meets the PHS requirements to qualify as an eligible organization.

(b) *Provisions of a novation agreement*—(1) *Assumption of contract obligations.* The new owner must assume all obligations under the contract.

(2) *Waiver of right to reimbursement.* The previous owner must waive its rights to reimbursement for covered services furnished during the rest of the current contract period.

(3) *Guarantee of performance.*

(i) The previous owner must guarantee performance of the contract by the new owner during the contract period; or

(ii) The new owner must post a performance bond that is satisfactory to HCFA.

(4) *Records Access.* The previous owner must agree to make its books and records and other necessary information available to the new owner and to HCFA to permit an accurate determination of costs for the final settlement of the contract period.

§ 417.523 Effect of leasing of an organization's facilities.

(a) *Effect of lessee status.* If an organization leases all or part of its facilities to another entity, the lessee does not acquire eligible organization status under section 1876 of the Act.

(b) *Effect of lease of all facilities.* (1) If an organization leases all of its facilities to another entity, the contract terminates.

(2) If the lessee wishes to participate in Medicare as an eligible organization, it must apply for and enter into a contract in accordance with this subpart.

(c) *Effect of partial lease of facilities.* If the organization leases part of its facilities to another entity, the contract remains in effect while HCFA surveys the organization to determine whether it continues to be in compliance with the requirements and qualifying conditions specified in §§ 417.410 through 417.416.

General Reimbursement Rules

§ 417.524 Payment to eligible organizations: General.

(a) *Basic rule.* The payments made to an eligible organization in accordance with the provisions of this subpart for furnishing covered Medicare services are in lieu of any payment that would otherwise be made to the organization under sections 1814(b) and 1833(a) of the Act.

(b) *Basis of payment.* Reimbursement to eligible organizations will be made on either a reasonable cost basis or a risk basis depending on the type of contract the organization has with HCFA. In certain cases, organizations that have contracted on a risk basis will also receive reimbursement on a reasonable cost basis for certain Medicare enrollees. (See § 417.444 for a discussion of this provision.)

§ 417.526 Payment for covered services.

Sections 417.530 through 417.576 set forth the principles that HCFA will follow in determining Medicare reimbursement to an eligible organization that has a reasonable cost contract. Sections 417.580 through 417.596 describe the per capita method of Medicare reimbursement to eligible organizations that contract on a risk basis.

§ 417.528 Payment for covered services—Medicare not primary payor.

(a) Under the provisions of section 1862(b) of the Act, the Medicare program is not the primary payer under certain circumstances. The circumstances under which an organizaton may charge, or authorize a provider to charge for covered Medicare services where Medicare is not the primary payer are stated in paragraphs (b) and (c) of this section.

(b) If a Medicare enrollee receives covered services from an eligible organization for which the enrollee is entitled to benefits under a State or Federal worker's compensation law or plan, an automobile medical, or no-fault insurance, or any liability insurance policy or plan, including a self-insured plan, the organization may charge, or authorize a provider that furnished the service to charge—

(1) An insurance carrier, employer, or other entity that is liable to pay for these services; or

(2) The Medicare enrollee, to the extent that he or she has been compensated under the law or policy.

(c) An eligible organization may charge the appropriate group health plan for covered services furnished by the organization to a Medicare enrollee if—

(1) The Medicare enrollee is a member of that group health plan; and

(2) Medicare may not make payment for the services furnished under the provisions of sections 1862(b)(2) or 1862(b)(3)(A)(i)) of the Act.

Reasonable Cost Reimbursement

§ 417.530 Basis and scope.

Sections 417.530 through 417.576 set forth the principles that HCFA follows in determining the amount it will pay to an organization for services furnished by the organization to its Medicare enrollees for whom HCFA reimburses the organization on a reasonable cost basis (or under section 1886 of the Act, as applicable). These principles are based on sections 1861(v) and 1876 of the Act and are, for the most part, the same as those set forth in Subpart D of Part 405 of this chapter for reimbursement of provider costs on a reasonable cost basis.

§ 417.532 General considerations.

(a) *Conditions and criteria for reimbursement.* (1) The costs incurred by the organization to furnish services covered by Medicare are reimbursable if they are—

(i) Proper and necessary;

(ii) Reasonable in amount; and

(iii) Except as provided in § 417.550, appropriately apportioned among the

organization's Medicare enrollees, other enrollees, and nonenrolled patients.

(2) In determining fair and equitable reimbursement for the organizations, HCFA will generally apply the cost reimbursement principles set forth in § 405.402 (a) and (b) of this chapter.

(3) In judging whether costs are reasonable, HCFA may consider the per capita costs incurred by the organization for its Medicare enrollees in relation to the adjusted average per capita cost for the organization's geographic area or a similar area. In those cases, HCFA will use the adjusted average per capita cost as a general guideline for reimbursement to a reasonable cost organization rather than as a reimbursement limitation.

(b) *Method and amount of reimbursement to the organization.* (1) HCFA will make interim per capita payments each month for each Medicare enrollee, equivalent to the interim per capita cost rate determined in accordance with § 417.570.

(2) HCFA will adjust the interim per capita rate as necessary during the contract period and make final adjustments at the end of the contract period.

(3) In determining the amount due the organization, HCFA will deduct from the reasonable cost actually incurred by the organization for covered services furnished to its Medicare enrollees, an amount equal to the actuarial value of the applicable Medicare Part A and Part B deductible and coinsurance amounts that would have applied to these enrollees if they had not enrolled in the organization or another eligible organization.

(c) *Election by organization.* An organization must elect one of the following methods for reimbursing providers for services they furnish to Medicare enrollees:

(1) Direct payment by HCFA.

(2) Direct payment by the organization.

(3) A combination of the methods specified in paragraphs (c)(1) and (c)(2) of this section.

(d) *Notice of election.* The election must be made in writing before the beginning of the contract period and is binding for that period.

(e) *Reimbursement by organization.* If the organization elects to assume responsibility for paying providers, it must—

(1) Determine the eligibility of its Medicare enrollees to receive covered services through the organization;

(2) Make proper coverage decisions and appropriate payments, in accordance with §§ 421.100 and 421.200 of this chapter, for the services furnished to its Medicare enrollees;

(3) Ensure that providers maintain and furnish appropriate documentation of physician certification and recertification, to the extent required under Subpart P of Part 405 of this chapter; and

(4) Carry out any other procedures required by HCFA.

(f) *Review of organization's bill processing capabilities.* If the organization elects to pay providers directly, HCFA will determine whether the organization has the experience and capability to carry out the responsibilities specified in paragraph (e) of this section in an efficient and effective manner.

(g) *Direct reimbursement by HCFA.* Under the option specified in paragraph (c)(1) of this section, HCFA pays a provider for the covered services it furnishes to the organization's Medicare enrollees on a reasonable cost basis or on the basis of prospectively determined rates, whichever is applicable to that provider as described in Subpart D of Part 405 of this chapter. HCFA will deduct these payments and any other payments made by intermediaries or carriers on behalf of the organization (e.g., payments made under § 417.558(a)) in computing the payments to the organization under paragraph (b) of this section.

(h) *Reimbursement for services furnished to Medicare beneficiaries not enrolled in the organization.* HCFA reimburses the organization for services it furnishes to Medicare beneficiaries who are not its enrollees through the organization's Medicare itermediary or carrier, as appropriate.

§ 417.533 Part B carrier responsibilities.

In paying for Part B services furnished to its enrollees by suppliers, the organization is responsible for—

(a) Determining the eligibility of individuals to receive those services through the organization;

(b) Making proper coverage decisions and appropriate payment for the services for which its Medicare enrollees are eligible under the applicable policies set forth in § 421.200 of this chapter; and

(c) Carrying out any other procedures that HCFA may require.

§ 417.534 Allowable costs.

(a) *Definition—Allowable costs* means the direct and indirect costs including normal standby costs incurred by the organization, that are proper and necessary for efficient delivery of needed health care services. They include the costs of furnishing services to enrollees and nonenrolled patients, which are typical "provider" costs, and costs (such as marketing, enrollment, membership, and operation of the organization) that are peculiar to prepayment health care organizations.

(b) *Basic rules.* (1) The allowability of an organization's costs for furnishing services is generally determined in accordance with principles applicable to provider costs, as set forth in § 417.536.

(2) The allowability of other costs is determined in accordance with principles set forth in §§ 417.538 through 417.550.

§ 417.536 Provider cost reimbursement principles applicable to the organizations.

(a) *Applicability.* Unless otherwise specified in this subpart, the principles of reasonable cost reimbursement set forth in Subpart D of Part 405 of this chapter are applicable to the organization's costs when incurred by an organization or by providers of services and other facilities owned or operated by the organization. The most common examples of these costs are set forth in this section.

(b) *Depreciation.* An appropriate allowance for depreciation on buildings and equipment is an allowable cost, in accordance with §§ 405.415, 405.417, and 405.418 or this chapter.

(c) *Interest expense.* Necessary and proper interest on both current and capital indebtedness is an allowable cost, in accordance with § 405.419 of this chapter.

(d) *Cost of educational activities.* An appropriate part of the net cost of approved educational activities of a provider or other health care facility owned or operated by an organization is an allowable cost in accordance with § 405.421 of this chapter.

(e) *Compensation of owners.* An appropiate amount of compensation for services of owners is an allowable cost, if the services are actually performed and are necessary, as specified in § 405.426 of this chapter.

(f) *Bad debts.* (1) In accordance with § 405.420 of this chapter, bad debts are deductions from revenue and may be included as allowable costs only if—

(i) They are attributable to Medicare deductible and coinsurance amounts for which the Medicare enrollee is liable, and

(ii) The organization has made a reasonable, but unsuccessful, effort to collect those amounts.

(2) If all or part of the deductible and coinsurance amounts is payable through a monthly permium or other periodic payment, the amount allowed as a bad debt may not exceed 3 times the monthly rate for the actuarial value of the deductible and coinsurance

amounts, or its equivalent, if the periodic payment is on other than a monthly basis.

(3) Any bad debt related to a service furnished to a Medicare enrollee or the organization, and claimed on a cost report submitted for reimbursement by a provider or other facility reimbursed on a cost basis, may not be claimed as a bad debt by the organization.

(g) *Charity and courtesy allowances.* As specified in § 405.420 of this chapter, charity and courtesy allowances are deductions from revenue and may not be included as allowable costs.

(h) *Research costs.* As specified in § 405.422 of this chapter, costs incurred for research purposes, over and above patient care, are not allowable costs.

(i) *Grants, gifts, and income from endowments.* As specified in § 405.423 of this chapter, grants, gifts, and income from endowments that are designated by the donors for paying specific operating costs must be deducted from those costs. Unrestricted donations or income from endowments may not be deducted from operating costs.

(j) *Value of services of nonpaid workers.* The value of services of nonpaid workers of an organization is not an allowable cost, except as provided in § 405.424 of this chapter.

(k) *Purchase discounts and allowances and refund of expenses.* Discounts and allowances that an organization receives on purchases of goods and services and refunds of previous expense payments must be deducted from the costs to which they relate, in accordance with § 405.425 of this chapter.

(l) *Cost to related organizations.* (1) The costs of services, facilities, or supplies furnished to an organization by a related entity are allowable at the cost to the related entity in accordance with § 405.427 of this chapter.

(2) An entity is not considered related to the organization merely because—

(i) It has a risk or incentive agreement under which the organization reimburses or compensates the entity for services it furnishes to the organization's enrollees; or

(ii) Substantially all the services the entity furnishes are furnished to the organization's enrollees.

(3) However, an entity described in paragraph (b)(2) of this section and an organization are considered related if either of them is in a position to exercise significant management or ownership influence or control over the other.

(m) *Return on equity capital of proprietary providers owned by the organization.* An allowance for a reasonable return on equity capital invested and used in providing services is allowable in addition to the reasonable cost of services furnished by a proprietary provider owned by the organization. The amount of the allowance is determined in accordance with § 405.429 of this chapter.

(n) *Limitations on reimbursement.* Medicare payment for covered services furnished by entities owned by or operated by, or related to, an organization reimbursed on a reasonable cost basis is subject to certain provisions of Subparts D and E of Part 405 of this chapter that pertain to reasonable cost and reasonable charge. Those provisions include, but are not necessarily limited to, the following:

(1) For ESRD treatment, the limitations authorized under §§ 405.439, 405.542, and 405.544 of this chapter.

(2) For services of physical, occupational, and speech therapists and other therapists and nonphysician health specialists, the limitations set forth in § 405.432 of this chapter.

(3) For drugs, the allowable cost as determined under § 405.433 of this chapter.

(4) The overall cost limits established in accordance with § 405.460 of this chapter.

(o) *Exemption.* If an organization furnishes services to a patient on a fee-for-service basis, the limitation to the lesser of reasonable cost or customary charges, as set forth in § 405.455 of this chapter, applies to services furnished to Medicare enrollees by the organization or by entities that are owned or operated by, or related to, the organization. In all other cases, the limitation does not apply.

§ 417.538 Enrollment and marketing costs.

(a) *Principle.* Enrollment and marketing costs incurred by an organization in the course of performing the activities described in §§ 417.426 through 417.436 are allowable as provided in this section.

(b) *Definition.* Allowable enrollment and marketing costs are those necessary and proper costs incurred in offering the organization's plan to potential enrollees in accordance with this part. Those costs include selling, advertising, promotional, and other marketing costs and may not exceed an amount that would be incurred by a prudent and cost-conscious management.

(c) *Application.* Enrollment and marketing costs are allowable, whether incurred directly by organization staff or under contract with marketing specialists or other outside consultants.

(d) *Reimbursement limitation.* The relatively higher costs that an organization is likely to incur in initially offering its plan to Medicare beneficiaries are taken into account in determining whether enrollment and marketing costs are reasonable in amount. However, if such costs exceed amounts which would be paid by prudent management, the excess is not allowable.

§ 417.540 Membership costs.

(a) *Principle.* Membership costs are allowable if incurred in maintaining and servicing subscriber contracts for prepayment enrollees.

(b) *Definition.* Membership costs include, but are not limited to, reasonable costs incurred in connection with maintaining statistical, financial, and other data on enrollees.

§ 417.542 Reinsurance costs.

Reinsurance costs are not allowable.

§ 417.544 Physicians' services furnished directly by the organization.

(a) *Principles.* Compensation paid by an organization to physicians is an allowable cost to the extent that it is commensurate with the compensation paid for similar services performed by similar physicians practicing in the same or a similar locality. Physician compensation may take various forms, but the aggregate compensation allowable must be reasonable in relation to the services personally furnished. If aggregate physician compensation costs exceed what is normally incurred, the excess is not a reasonable cost.

(b) *Application.* In determining the allowability of the costs of physicians' services, the cost of personal services (i.e., expenses attributable to salaries, wages, incentive payments, fringe benefits, etc.) must be distinguished from the cost of nonpersonal services (i.e., expenses attributable to facilities, equipment, support personnel, supplies, etc.). To be allowable, compensation must be reasonable in relation to the personal services furnished.

§ 417.546 Physicians' services and other Part B supplier services furnished under arrangements.

(a) *Principle.* The amount paid by an organization for physicians' services and other Part B supplier services furnished under arrangements in an allowable cost to the extent it is reasonable.

(b) *Application: Payment on other than a fee-for-service basis.* If the organization pays for physicians' services and other Part B supplier services on other than a fee-for-services basis—

(1) Except as specified in paragraph (b)(2) of this section, the costs incurred

by the organization may be considered reasonable if they—

(i) Do not exceed those that a prudent and cost-conscious buyer would incur to purchase those services; and

(ii) Are comparable to costs incurred for similar services furnished by similar physicians of other suppliers in the same or a similar locality.

(2) *Exceptions.* (i) If a physician group to whom the organization makes payment compensates its physicians on a fee-for-service basis, the organization's payment to the group may not exceed the reasonable charges for those services, as defined in Subpart E or Part 405 of this chapter.

(ii) Payment in excess of the limits specified in paragraph (b)(2)(i) of this section is allowable if the group has procedures under which members of the group accept effective incentives, such as risk-sharing, designed to avoid unnecessary or unduly costly utilization or health services. In such cases, the amount paid by the organization is considered reasonable if it meets the conditions specified in paragraph (b)(1) of this section.

(c) *Application: Payment on a fee-for-service basis.* If the organization pays for physicians' services and other Part B supplier services on a fee-for-services basis—

(1) Except as specified in paragraph (c)(2) of this section the costs incurred by the organization are considered reasonable if they do not exceed—

(i) The reasonable charges for those services, as defined in Subpart E of Part 405 of this chapter; and

(ii) The amount that HCFA would pay for those services, if they were furnished to beneficiaries who are not enrolled in the organization and who receive the services from sources other than providers of services or other entities that are reimbursed on a reasonable cost basis.

(2) *Exception.* Payment to a physician group organized on an individual-practice basis is not subject to the limitations specified in paragraph (c)(1) of this section it the group pays its physicians on a fee-for-service basis and has procedures under which the members of the group accept effective incentives, such as risk-sharing, designed to avoid unnecessary or unduly costly utilization of health services. In such cases, the amount paid by the organization is considered reasonable if it meets the conditions specified in paragraph (b)(1) of this section.

§ 417.548 Provider services through arrangements.

(a) *Principle.* The cost incurred by an organization for covered services furnished under arrangement by a provider is allowable to the extent that it would be allowable and reimbursable under Subpart D of Part 405 of this chapter, unless, upon the organization's petition to HCFA, the organization can demonstrate to HFCA's satisfaction that payment in excess of the amount authorized under Subpart D of Part 405 of this chapter is justified on the basis of advantages gained by the organization.

(b) *Application.* An advantage gained must represent a real and tangible benefit received by the organization for the excess cost incurred, and any excess payment is subject to other applicable requirements of Part 405 of this chapter, including tests of reasonableness. For example, in the case of an arrangement an organization has with a provider located outside the organization's geographic areas that is not related to the organization by common ownership or control, payment of the provider's charges to the organization (rather than the provider's reasonable cost as determined under Subpart D of Part 405 of this chapter), may be justified in exchange for the advantages of not having to incur the administrative costs of determining the provider's reasonable cost and of making a more timely final settlement with the organization. However, payment of the provider's charges would be acceptable only if—

(1) The provider furnishes services to the organization's enrollees infrequently;

(2) The changes represent an insignificant portion of total Medicare reimbursement to the organization; and

(3) The charges do not exceed the customary charges by the provider to its other patients for similar services.

§ 417.550 Special Medicare program requirements.

(a) *Principle.* Except as specified in paragraph (d) of this section, Medicare will reimburse the total reasonable cost incurred by an organization for activities specified in this section that are solely for Medicare purposes and unique to Medicare contracts under section 1876 of the Act.

(b) *Application.* The following costs will be reimbursed in full for cost-reimbursed Medicare enrollees:

(1) The reasonable cost of reporting individual Medicare enrollment accretion and deletion data.

(2) The reasonable cost incurred solely for Medicare purposes for the independent certification of the organization's cost report required under § 417.576.

(3) The total reasonable cost of special data that HCFA requires from organizations solely for program planning and evaluation purposes.

(c) *Prior approval.* Costs that are reimbursed in full under this section must be separately budgeted and approved by HCFA before the contract period begins.

(d) *Exception: Apportioned costs.* (1) Payment in full is limited to the costs specified in paragraph (b) of this section.

(2) The normal administrative costs incurred by the organization in obtaining Medicare reimbursement (such as the cost of maintaining and reporting membership, statisical, and actuarial data needed to determine the amount of reimbursement to the organization, and the cost of preparing costs reports) must be apportioned in accordance with § 417.552.

§ 417.552 Cost apportionment: General provisions.

(a) *Basic rule.* Except as provided in § 417.556(c), the organization must apportion its total allowable direct and indirect costs among its Medicare enrollees, its other enrollees, and its nonenrolled patients—

(1) In accordance with §§ 417.530 through 417.576; and

(2) Using methods approved by HCFA.

(b) *Purpose of apportionment.* The purpose of apportionment is to ensure that—

(1) The cost of services furnished to Medicare enrollees is not borne by other enrollees and nonenrolled patients; and

(2) The cost of the services furnished to other enrollees and nonenrolled patients is not borne by Medicare.

§ 417.554 Apportionment: Provider services furnished directly by the organization.

The Medicare share of the cost of covered services furnished to Medicare enrollees by providers that are owned or operated by the organization or are related to the organization by common ownership or control must be determined in accordance with the apportionment methods set forth in §§ 405.452, 405.453, and 405.480 of this chapter.

§ 417.556 Apportionment: Provider services furnished by the organization through arrangements with others.

The Medicare share of the cost of covered services furnished to Medicare enrollees through arrangements with providers other than those specified in § 417.554 must be determined as follows:

(a) The Medicare share must be based on the cost the organization pays the provider under their arrangement, to the extent that cost is reasonable and within the limits established by §§ 417.534 through 417.548.

(b) Except as specified in paragraph (c) of this section, apportionment must be on the same approved basis that is used by the provider for Medicare beneficiaries who are not Medicare enrollees of the organization, subject to the conditions and limitations set forth in § 417.548.

(c) If, because of the special nature or terms of the organization's arrangement with the provider, apportionment on the basis specified in paragraph (b) of this section would result in Medicare's bearing the costs of furnishing services to individuals other than the organization's Medicare enrollees, apportionment must be on another basis that is approved by HCFA and that will ensure that Medicare does not pay any of the cost of furnishing services to individuals who are not Medicare enrollees of the organization.

(d) If the organization elects to have providers reimbursed by its Medicare intermediary, the Medicare share is the amount the intermediary paid the provider.

§ 417.558 Emergency and urgently needed services, and out-of-area services for which the organization assumes financial responsibility: Sources of payment.

(a) *Payment by intermediary.* An intermediary may reimburse its providers for the reasonable cost of covered emergency or urgently needed services as defined in § 417.401, and other covered out-of-area services for which the organization assumes financial responsibility.

(b) *Payment by organization*—(1) *Basic rule.* Except as specified in paragraph (b)(2) of this section, a payment by the organization to a provider for emergency or urgently needed services as defined in § 417.401 or other out-of-area services is allowable only to the extent it would be allowable under Subpart D of Part 405 of this chapter.

(2) *Exception.* Payment in excess of the reasonable cost allowed under Subpart D of Part 405 of this chapter is allowable only if the organization demonstrates to HCFA's satisfaction that it is justified on the basis of advantages gained by the organization, as set forth in § 417.548

§ 417.560 Apportionment: Part B supplier services.

(a) *Medical services furnished directly by the organization.* The total allowable cost of Part B supplier services furnished by employees or partners of the organization or by a related entity of the organization must be apportioned on the basis of the ratio of covered Part B services furnished to Medicare enrollees to total services furnished to all the organization's enrollees and nonenrolled patients. The organization must use a method for reporting costs that is approved by HCFA. HCFA will base its approval on a finding that the method—

(1) Results in an accurate and equitable allocation of allowable costs; and

(2) Is justifiable from an administrative and cost efficiency standpoint.

(b) *Medical services furnished under arrangements made by the organization.* When the organization pays for Part B supplier services on some basis other than fee-for-service, the reasonable cost the organization pays under its financial arrangement with the supplier must be apportioned between Medicare enrollees and others based on the ratio of covered services furnished to Medicare enrollees to the total services furnished to all enrollees and nonenrolled patients. If apportionment on this basis would result in Medicare bearing the cost of furnishing services to individuals who are not Medicare enrollees, the Medicare share must be determined on another basis (approved by HCFA) to ensure that Medicare pays only for services furnished to Medicare enrollees.

(c) *Medical services furnished under an arrangement that provides for the organization to pay on a fee-for-service basis*—(1) *Basic rule.* Except as specified in paragraph (c)(2) of this section, the Medicare share of the cost of Part B supplier services furnished to Medicare enrollees under arrangements, and paid for by the organization on a fee-for-service-basis, is the charge paid by the organization if those charges do not exceed the reasonable charge for the service as defined in Subpart E of Part 405 of this chapter.

(2) *Exception.* If a physician group that compensates its physicians on a fee-for-services basis has an arrangement under which the members of the group accept effective incentives, such as risk sharing, designed to avoid unnecessary or unduly costly utilization of health services, its allowable costs may be apportioned in accordance with paragraph (b) of this section.

(d) *Emergency services, urgently needed services, and other covered medical services for which the organization assumes financial responsibility.* The Medicare share of the cost of Part B emergency or urgently needed services or other Part B services that are not furnished by a provider and for which the organization accepts financial responsibility is determined in accordance with paragraphs (b) and (c) of this section.

§ 417.562 Weighting of direct services furnished by physicians and other practitioners.

(a) *Basic Rule.* An organization may adjust ("weight") the statistics it uses to compute the apportionment of the costs of the direct professional covered Part B services of physicians and other health care personnel furnished to different patient groups to reflect variations in complexity and time required to furnish the services. HCFA must approve the weighting in advance as set forth in paragraph (b) of this section.

(b) *Basis for HCFA approval.* HCFA will approve weighting if—

(1) The weighting is based on data acceptable to HCFA;

(2) All services (covered and noncovered) used in the apportionment ratio (that is, those furnished to Medicare enrollees, to other enrollees, and to nonenrolled patients) are weighted on the same basis;

(3) The organization uses only one weighting method at a time;

(4) The weighting is applied only to services furnished to Medicare enrollees—

(i) In which there is face-to-face contact between the enrollee and the health care personnel; and

(ii) In an ambulatory health care setting (e.g., a medical center or clinic);

(5) The payment limitations set forth in § 417.560(c) are applied to the services, if applicable; and

(6) In the case of covered Part B services furnished under arrangements, apportionment is on the basis of services as specified in § 417.560(b).

(c) *Weighting procedure.* Weighting is accomplished by adjusting the statistics in which weighting is permissible. These weighted statistics are used to compute the weighted apportionment ratio that is applied to the salaries, wages, incentive payments, fringe benefits, and other forms of compensation of those health care personnel who furnish services that involve face-to-face contact with patients. The organization may not weight—

(1) Cost related to equipment, medical records, supplies, and other costs not related to the direct professional services of physicians and other health care personnel; or

(2) Costs already apportioned by relative value units or some other

apportionment method in which time or complexity is reflected in the apportionment statistic.

(d) *Limitations on payment for services furnished under arrangement.* If payment is on a fee-for-service basis, time and complexity will be recognized, subject to the payment limitation in § 417.560(c)(1), but only to the extent that they are specific and reasonable elements of the amount that the organization has agreed to pay for the services.

§ 417.564 Method of apportionment for administrative and general costs.

(a) Enrollment, marketing, and other administrative and general costs of the organization that benefit the total enrolled population of the organization and are not directly associated with providing medical care must be apportioned on the basis of a ratio of Medicare enrollees to the total enrollment of the organization.

(b) The costs of a separate entity or department that performs administrative services (such as centralized purchasing, accounting, data processing, etc.) that benefit the organization and its major functional components, must be allocated or distributed to each component in reasonable proportion to the benefits received by that component. Other allowable administrative service costs that cannot otherwise be distributed must be allocated on the basis of cost already distributed or allocated to the component.

§ 417.566 Other methods of allocation and apportionment.

(a) *Justification.* A method of apportionment or allocation of costs, other than the methods prescribed in this subpart may be used if it results in a more accurate and equitable apportionment of allowable costs and is justifiable from an administrative and cost standpoint.

(b) *Required approval.* (1) An organization that desires to use an alternative method must submit a written request for HCFA approval as least 90 days before the beginning of the period for which the different method is to be used.

(2) If HCFA approves use of a different method, the organizattion may not revert to another method without first obtaining HCFA's approval.

§ 417.568 Adequate financial records, statistical data, and cost finding.

(a) *Maintenance of records.* (1) An organization must maintain sufficient financial records and statistical data for proper determination of costs payable by Medicare for covered services the organization furnished to its Medicare enrollees, either directly or under arrangements with others. These include accurate and sufficient detail of incurred costs and enrollment data.

(2) Unless otherwise provided for in this part, standardized definitions, accounting, statistics, and reporting practices that are widely accepted in the health care industry must be followed.

(b) *Provision of data.* (1) The organization must provide adequate cost and statistical data, based on its financial and statistical records, that can be verified by qualified auditors.

(2) The cost data must be based on an approved method of cost finding and, except as described in this paragraph, on the accrual method of accounting.

(3) For governmental institutions that use a cash basis of accounting, cost data based on this basis will be acceptable. However, only depreciation on capital assets, rather than the expenditure for the capital asset, is allowable.

(c) *Provider services furnished directly by the organization.* If provider services are furnished directly by the organization, the provider is subject to the cost-finding and cost-reporting requirements set forth in Subpart D of Part 405 of this chapter. An approved cost-finding method described in § 405.453 of this chapter must be used to determine the actual cost of covered services furnished directly by the organization during its contract period.

(d) *Supplier services furnished directly by the organization.* If the organization furnishes Part B supplier services directly, the statistical and financial data for those services must be reported by departments (e.g., primary care, laboratory, X-ray). The organization must furnish statistics that indicate the frequency and type of service provided, in the form and detail prescribed by HCFA. Costs allocable to more than one department, such as medical records, must be distributed to each department in proportion to the benefits received by that department. Other general and administrative costs of the organization's health services delivery components that cannot be assigned to a specific department must be allocated on the basis of cost already distributed or allocated to the department.

(e) *Part B supplier services furnished through arrangement.* If the organization furnishes Part B supplier services under arrangements with others, it must furnish statistical, financial, and other information with respect to those services in the form and detail prescribed by HCFA.

§ 417.570 Interim per capita payments.

(a) *Principle of payment.* (1) HCFA will make monthly advance payments equivalent to the organization's interim per capita rate for each beneficiary who is registered in HCFA records as a Medicare enrollee of the organization.

(2) Additional lump-sum payments may be made at other times during the contract period, at HCFA's discretion, to adjust the total amounts paid during the contract period to the level of incurred costs.

(b) *Determination of rate.* The interim per capita rate of payment is equal to the estimated per capita cost of providing covered services to the organization's Medicare enrollees, based upon the types and components of costs that are reimbursable under this part. The interim per capita will be determined annually by HCFA on the basis of the organization's annual operating and enrollment forecast (as set forth in § 417.572) and may be revised during the contract period as explained in paragraphs (c) and (d) of this section.

(c) *Adjustments of payments.* In order to maintain the interim payments at the level of current reasonable costs, HCFA will adjust the interim per capita rate, to the extent necessary, on the basis of adequate data supplied by the organization in its interim estimated cost and enrollment reports or on other evidence showing that the rate based on actual costs is more or less than the current rate. Adjustments may also be made if there is—

(1) A change in the number of Medicare enrollees that affects the per capita rate;

(2) A material variation from the costs estimated when the annual operating budget was prepared; or

(3) A significant change in the use of covered services by the organization's Medicare enrollees.

(d) *Reduction of interim payments.* If the organzation does not submit, on time, the reports and other data required to determine the proper amount of payment, HCFA may reduce interim payments to the extent appropriate, or may take any other action authorized under this part. An interim payment reduction remains in effect until HCFA can make a reasonable estimate of per capita costs.

§ 417.572 Budget and enrollment forecast and interim reports.

(a) *Annual submittal.* The organization must submit an annual operating budget and enrollment forecast, in the form and detail required by HCFA, at least, 90 days before the

beginning of each contract period. The forecast must be based on financial and statistical data and records that can be verified if HCFA requires a detailed review of supporting records. The data and records include, but are not limited to, all ledgers, books, records, and original evidence of costs, and statistical data used in the determination of reasonable cost.

(b) *Effect of failure to submit on time.* If the organization does not submit the budget and enrollment forecast on time, HCFA may—

(1) Establsh an interim per capita rate of payment on the basis of the best available data and adjust payments on the basis of that rate until the required reports are submitted and a new interim per capita rate can be established; or

(2) If there is not enough data on which to base an interim per capita rate, inform the organization that interim payments will not be made until the required reports are submitted.

(c) *Interim cost reports.* (1) An organization must submit interim cost reports on a quarterly basis in the form and detail presecribed by HCFA. These interim cost reports must be submitted no later then 60 days after the close of each quarter of the contract period.

(2) HCFA may reduce the frequency of the reports required under paragraph (c)(1) of this section if HCFA determines that, on the basis of the organization's reporting experience, there is good cause to do so.

§ 417.574 Interim settlement.

(a) *Determination.* Within 30 days following the receipt of the organization's final interim cost and enrollment reports, HCFA will make an interim determination of the estimated amount payable to the organization for the reasonable cost of covered services furnised to its Medicare enrollees during the contract period. HFCA will base the determination on the interim cost report and enrollment data submitted by the organization, and any other relevant data HCFA finds appropriate. For this purpose, HCFA will accept costs as reported, subject to later reivew or audit, unless there are obvious errors or inconsistencies.

(b) *Payment.* Any difference between the total amount of interim payments and the amount found payable on the basis of the interim determination under paragraph (a) of this section, must be paid by the organization or will be paid by HCFA, whichever is appropriate, no later than 30 days after HCFA's determination.

§ 417.576 Final settlement.

(a) *General rule.* Final settlement and payment of amounts due the organization or the appropriate Medicare trust funds are made following the organization's submission and HCFA's review of an independently certified cost report and supporting documents as described in paragraph (b) of this section.

(b) *Certified cost report as basis for final settlement*—(1) *Timing of cost report.* The organization must submit to HCFA an independently certified cost report and supporting documents, in the form and detail required by HCFA, no later than 180 days after the end of each contract period, unless HCFA extends the period for good cause shown by the organization.

(2) *Content of cost report.* The cost report and supporting documents must include—

(i) The per capita costs incurred by the organization, including its related entities, in furnishing covered services to its Medicare enrollees, determined in accordance with §§ 417.532 through 417.568.

(ii) The organization's methods of apportioning cost among Medicare enrollees, other enrollees, and nonenrolled patients, in accordance with the reimbursement procedures specified in this sulpart (and, as applicable, in Subpart D of Part 405 of this chapter); and

(iii) Any other information required by HCFA.

(3) *Failure to report required financial information.* If the organization fails to submit the required cost report and supporting documents within 180 days after the end of the contract period, without having requested and received an extension of time for good cause shown, HCFA may—

(i) Consider the failure to reports as evidence of likely overpayment; and

(ii) Initiate recovery of amounts previously paid, or reduce interim payments, or both.

(c) *Final determination and adjustment.* (1) After receipt of acceptable reports as specified in paragraph (b) of this section, HCFA will determine the total reimbursement due the organization for providing covered services to its Medicare enrollees (which is subject to the audit provisions of this subpart) and make a retroactive adjustment to bring interim payments into agreement with the reimbursable amount due the organization.

(2) A final settlement may be made with the organization even though a provider that is not owned or operated by the organization or related to the organization by common ownership or control and which provides services to the organization's Medicare enrollees, has not had a final settlement with HCFA under Subpart D of Part 405 of this chapter for the services furnished to Medicare beneficiaries who are not enrolled in the organization. In this situation—

(i) HCFA must be satisfied that the costs of covered services furnished to the organization's Medicare enrollees, as shown in the reports specified in paragraph (b) of this section, are reasonable and that the interest of the Medicare program would best be served by not delaying final settlement with the organization until there is a final settlement with the provider for services furnished to Medicare beneficiaries not enrolled in the organization; and

(ii) Prompt settlement with the organization would be in the best interest of the Medicare program if, for instance, the provider's costs represent an insignificant amount of total reimbursement due to the organization; or if HCFA is satisfied that the provider's costs, as shown in the reports specified in paragraph (b) of this section, will not be modified, to any significant extent, by the final settlement with the provider under Subpart D of Part 405 of this chapter.

(d) *Notice of amount of reimbursement.* The notice of amount of Medicare reimbursement—

(1) Explains HCFA's determination regarding total Medicare reimbursement due the organization for the contract period covered by the financial information specified in paragraph (b) of this section;

(2) Relates this determination to the organization's claimed total reimbursable cost for that period;

(3) Explains the amounts and reasons, by appropriate reference to law, regulations, and Medicare program policy and procedures, if the determined amounts differ from the organization's claim; and

(4) Informs the organization of its right to a hearing in accordance with Subpart R of part 405 of this chapter.

(e) *Basis for retroactive adjustment.* (1) HCFA's determination (as contained in the notice of amount of Medicare reimbursement) constitutes the basis for making retroactive adjustments to any Medicare payment made to the organization during the period to which the determination applies.

(2) Further payments to the organization may be withheld or offset in order to recover, or to aid in the recovery of, any overpayment identified in the determination as having been

made to the organization, even if the organization requests a hearing under Subpart R of Part 405 of this chapter.

(3) Any withholding will continue until—

(i) The overpayment is liquidated;

(ii) The organization enters into an agreement with HCFA to refund the overpaid amount; or

(iii) HCFA, on the basis of subsequently acquired evidence, determines that there was no overpayment.

Risk Reimbursement

§ 417.580 Basis and scope.

(a) *Basis.* Sections 417.582 through 417.596 implement those portions of section 1876 (a), (e), and (g) of the Act that pertain to the amount HCFA reimburses an organization for its Medicare enrollees who are enrolled on a risk basis.

(b) *Scope.* Sections 417.582 through 417.596 set forth—

(1) Method of payment;

(2) Procedures for determining the organization's payment rate; and

(3) Procedures for determining the additional benefits (and their value) the organization must provide to its Medicare enrollees.

§ 417.582 Definitions.

As used in §§ 417.584 through 417.596—

Actuarial factors means factors such as the age, sex, and disability level distribution of the population and any other relevant factors that HCFA determines have a significant effect on the level of utilization and cost of health services.

Class of Medicare enrollees means a group of Medicare enrollees of an organization that HCFA constructs on the basis of actuarial factors.

Similar area means an area similar to the organization's geographic area but free from special characteristics that would distort the determination of the AAPCC.

U.S. per capita incurred cost means the average per capita cost, including intermediary or carrier administrative costs, incurred by Medicare, as determined on an accrual basis, for covered services furnished to Medicare beneficiaries nationwide during the most recent period for which HCFA has complete data.

§ 417.584 Payment to organizations with risk contracts.

Except as provided in § 417.586, HCFA will make payments for covered services furnished to the organization's Medicare enrollees only to the organization.

(a) *Principle of payment.* HCFA will make monthly advance payments equivalent to the organization's per capita rate of payment for each beneficiary who is registered in HCFA records as a Medicare enrollee of the organization.

(b) *Determination of rate.* (1) The annual per capita rate of payment for each class of Medicare enrollee is equal to 95 percent of the AAPCC (as determined under the provisions of § 417.588) for that class of Medicare enrollees.

(2) HCFA will furnish each organzation with its per capita rate of payment for each class of Medicare enrollee not later than 90 days before the beginning of the organization's contract period.

(c) *Adjustments to payments.* If the organization's actual number of Medicare enrollees in each class differs from the number of individuals estimated to be enrolled for purposes of determining the amount of advance payment, HCFA will adjust the amount of payment made in subsequent months to take these enrollment changes into amount.

(d) *Reduction of payments.* If an organization requests a reduction in its monthly payment in accordance with § 417.592(e), HCFA will reduce the amount of payment by the appropriate amount. Reductions in the monthly payment to an organization will also be made if the organization elects the hospital payment option described in § 417.586.

§ 417.586 Organization option: Payment to hospitals.

(a) *Election by organization.* (1) An organization may elect to have hospitals that furnish inpatient hospital services to its Medicare enrollees obtained reimbursement directly from the hospital's Medicare intermediary.

(2) If an organization wishes to elect this option, it must submit a written request to HCFA before the organization's contract period begins.

(3) The election of this payment option by the organization is binding for the entire contract period.

(b) *Payment by intermediary to the hospital.* (1) If HCFA approves the organization's request, it will, through its intermediary, reimburse hospitals directly for the covered inpatient hospital services furnished to the organization's Medicare enrollees.

(2) The payment made under paragraph (b)(1) of this section is equal to the payment made in accordance with the principles of reimbursement specified in Subpart D of Part 405 of this chapter.

(c) *Reduction in organization's per capita payment.* (1) Each month HCFA will deduct from the organization's per capita payment described in § 417.584 an amount HCFA estimates it will be paying to hospitals on behalf of the organization's Medicare enrollees and administrative costs HCFA incurs in making the payments to hospitals.

(2) The amount of deduction will be adjusted as necessary to allow HCFA to retain sufficient funds with which to pay the hospital bills.

(d) *Retention of withheld funds.* If the contract between the organization and HCFA is terminated or not renewed, HCFA will retain the balance of the amounts withheld from the organization's per capita payment for one year after the expiration or termination of the contract.

(e) *Organization's liability.* In making an election under this section, the organization agrees to accept liability and to provide the additional necessary funds to HCFA if—

(1) During the contract period or the subsequent year, HCFA does not have sufficient funds to pay the hospital bills of the organization's Medicare enrollees; or

(2) After HCFA returns any balance of amounts withheld to the organization, HCFA receives additional hospital bills that cover services furnished to Medicare enrollees of the organization during its contract period.

§ 417.588 Computation of adjusted average per capita cost (AAPOC).

(a) *Basic data.* In computing the AAPOC, HCFA uses the U.S. per capita incurred cost and adjusts it by the factors specified in paragraph (c) of this section resulting in an AAPOC for each class of Medicare enrollee.

(b) *Advance notice to the organization.* Before the beginning of a contract period, HCFA informs the organization of the specific adjustment factors it will use in computing the AAPOC.

(c) *Adjustment factors*—(1) *Geographic.* HCFA makes an adjustment to reflect the relative level of Medicare expenditures for beneficiaries who reside in the organization's geographic area (or a similar area). This adjustment is based on reimbursement for Medicare covered services and uses the most accurate and timely data available to HCFA pertaining to the organization's geographic area.

(2) *Enrollment.* A further adjustment is made by HCFA to remove the cost effect of all area Medicare beneficiaries who are enrolled in the organization or another eligible organization.

(3) *Age, sex, and disability status.* HCFA makes adjustments to reflect the age and sex distribution and the disability status of the organization's enrollees as Medicare program experience and available data indicate cost differences that result from age, sex, and disability status.

(4) *Other relevant factors.* If accurate data are available and appropriate, HCFA makes adjustments to reflect welfare and institutional status and other relevant factors.

§ 417.590 Computation of the average of the per capita rates of payment.

(a) *Computation by the organization.* As indicated in § 417.584(b), prior to the start of an organization's contract period, HCFA determines an organization's per capita rate of payment for each class of Medicare enrollee. For purposes of determing an organization's required additional benefits (see § 417.592), an organization must compute a weighted average of these per capita rates of payment based on the organization's anticipated enrollment distribution. This computation is subject to HCFA's review and approval.

(b) *Computation by HCFA.* If the organization claims to have insufficient enrollment experience to make the computation in paragraph (a) of this section, and HCFA agrees with this claim, then HCFA will compute the average of the per capita rates of payment based on the enrollment experience of other organizations that have contracted with HCFA to receive reimbursement on a risk basis.

§ 417.592 Determination of required additional benefits.

(a) *General consideration.* Except as provided in paragraph (e) of this section, if the organization's average of its per capita rates of payment as determined under § 417.590 is more than the organization's adjusted community rate (ACR) as determined under § 417.594, then the organization must provide its Medicare enrollees with additional benefits as described in paragraphs (b) and (c) of this section.

(b) *Form of additional benefits.* The additional benefits are selected by the organization and may be—

(1) A reduction in the organization's premium or other charges made by the organization in the form of deductibles and coinsurance; or

(2) Health benefits beyond the required Part A and B services; or

(3) A combination of the benefits specified in paragraphs (b)(1) and (b)(2).

(c) *Value of additional benefits.* The additional benefits must be at least equal in value to the difference between the ACR and the average of the per capita rates of payment.

(d) *Notification to HCFA.* (1) The organization must notify HCFA not later than 45 days before the beginning of the contract period of its ACR and its weighted average of its per capita rates of payment (as computed under § 417.590) for the contract period.

(2) If the proposed ACR is less than the average of the per capita rates of payment to be made at the beginning of the contract period, the organization must provide HCFA with—

(i) A description of the additional benefits (as described in paragraph (b) of this section) the organization has elected to provide its Medicare enrollees; and

(ii) Supporting evidence to demonstrate that the selected additional benefits are at least equal in value to the difference between the organization's proposed ACR and the average of the per capita rates of payment.

(e) *Exception.* (1) If the organization's ACR is less than the average of the per capita rates of payment, the organization may request a reduction in its monthly payment from HCFA instead of offering its Medicare enrollees additional benefits.

(2) The reduction in the monthly payment must, over the course of the contract period, be equal in value to the difference between the proposed ACR and the average of the per capita rates of payment.

§ 417.594 Computation of ACR.

(a) *Basic data.* Each organization must compute its own ACR. In computing the ACR, the organization calculates an initial rate (using the methods described in paragraph (b) of this section) that represents the organization's premium if it provided the Medicare covered services package to its general membership, and either adjusts that rate by the factors specified in paragraph (c) of this section or requests that HCFA adjusts the rate in accordance with the procedures specified in paragraph (d) of this section.

(b) *Initial rate calculation.* (1) The organization's initial rate is calculated, at the organization's election, using either—

(i) A community rating system as defined in § 110.105(b) of this title, reduced by Medicare deductibles and coinsurance; or

(ii) A system, approved by HCFA, under which the organization develops an aggregate premium for all its enrollees that is weighted by the size of the various enrolled groups that compose the organization's enrollment. (Enrolled groups are defined as employee groups or other bodies of subscribers that purchase membership in the organization on a premium basis.)

(2) If the organization chooses the method described in paragraph (b)(ii) of this section, the initial rate that is calculated must be equal to the premium the organization charges these enrolled groups adjusted for Medicare covered services and reduced by Medicare deductibles and coinsurance.

(3) Except as provided in paragraph (b)(4) of this section, the organization must include in its initial rate calculation, the following components:

(i) Hospital services (services covered under Medicare Part A and Part B shown separately).

(ii) Physicians' services.

(iii) Other medical services (e.g., X-ray and laboratory services).

(iv) Home health services.

(v) Out-of-plan claims for emergency services.

(vi) Skilled nursing care services.

(vii) Ambulance services

(viii) Other Medicare covered services.

(ix) Overhead.

(x) Noncovered Medicare services (e.g., eyeglasses).

(xi) Services for which Medicare is the secondary payor.

(xii) Enrollee liabilities (e.g., deductibles, coinsurance, or copayments) for covered services.

(4) An organization that does not usually separate its premium components as described in paragraph (b)(3) of this section may calculate its initial rate with the methods it uses for its other enrolled groups if the organization provides HCFA with the documentation necessary to support any adjustments the organization makes to the initial rate in accordance with paragraph (e) of this section.

(c) *Adjustment factors.* These factors are designed to adjust the initial rate calculated under paragraph (b) of this section to reflect the utilization characteristics of the organization's Medicare enrollees. The organization may adjust the same service using more than one factor if the factors do not duplicate each other. The factors are as follows:

(1) *Unit of service.* If the organization purchases or identifies services on a unit of service basis and the unit of service is defined the same for all enrollees, the organization may make an adjustment in its initial rate to reflect the number of units of services furnished to its Medicare enrollees in comparison to those furnished to other enrollees.

(2) *Complexity or intensity of services.* (i) The organization may make an adjustment to reflect the differences in the complexity or intensity of services furnished to its Medicare enrollees if the adjustment is made equally to all enrollees.

(ii) If an organization cannot support an adjustment such as that described in paragraph (c)(2)(i), it may, for its initial contract period, make an adjustment to the direct professional services of physicians and other health care personnel. This adjustment will reflect the difference in time of service furnished to the organization's Medicare enrollee if the adjustment is made equally to all enrollees and nonenrolled patients of the organization.

(3) *Supporting documentation.* All adjustments made by the organization must be accompanied by adequate supporting data. If an organization does not have sufficient enrollment experience to develop this data, it may, during its initial contract period, use documented statistics from a national recognized statistical source.

(d) *Adjustment by HCFA.* If the organization does not have adequate data to adjust the initial rate calculated under paragraph (b) of this section to reflect the utilization characteristics of its Medicare enrollees, HCFA will, at the organization's request, adjust the initial rate. HCFA will adjust the rate on the basis of differences in the utilization characteristics of—

(1) Medicare and non-Medicare enrollees in other eligible organizations; or

(2) Medicare beneficiaries in the organization's area, State, or the United States who are eligible to enroll in an eligible organization and other individuals in that same area, State, or the United States.

(e) *HCFA review.* (1) The organizations methodology and computation of its ACR is subject to review and approval by HCFA. When the organization submits the ACR computation, it must include adequate supporting data.

(2) If the organization is dissatisfied with a HCFA determination that the organization's ARC computation is not acceptable, the organization may request a hearing in accordance with the procedures of Subpart R of Part 405 of this chapter.

§ 417.596 Annual reconciliation.

Following the end of an organization's contract period, HCFA's payment to the organization may be subject to an annual reconciliation. HCFA will conduct this reconciliation as necessary to assure that the payments made do not exceed or fall short of the appropriate per capita rate of payment for each Medicare enrollee of the organization during the contract period. The organization must submit any information or reports required by HCFA to conduct the reconciliation.

Beneficiary Appeals

§ 417.600 Scope.

Sections 417.600 through 417.638 establish procedures for the presentation and resolution of initial determinations, reconsiderations, hearings, Appeals Council reviews, court reviews, and finality of decisions that are applicable in matters arising under section 1876 of the Act. The grievance procedures established by organizations under §417.436(a)(2) apply to all complaints that do not involve initial determinations. These grievance procedures must provide to Medicare enrollees a thorough explanation of—

(a) The steps to follow in completing the procedure; and

(b) The time limits imposed on each step of the procedure.

§ 417.602 Definitions.

As used in §§417.604 through 417.638, unless the context indicates otherwise—

ALJ stands for administrative law judge.

Enrollee means a Medicare enrollee.

RRB stands for Railroad Retirement Board.

§ 417.604 General provisions.

(a) *Applicability.* (1) The appeals procedure described in §417.604 through 417.638 pertain to disputes involving—

(i) Initial determinations with which the enrollee is dissatisfied;

(ii) Requests for Medicare covered services that the organization has refused to provide or arrange for and that have not been provided elsewhere.

(2) Any determinations regarding items or services that were furnished by the organization, either directly or under arrangement, for which the enrollee has no further liability for payment are not subject to appeal.

(3) Services excluded from Medicare coverage and recognized as such in the contract between the organization and the enrollee by their inclusion in a supplemental plan (see §417.440(b)(2)) or otherwise are subject only to a grievance procedure under §417.436(a)(2).

(4) Physicians and other individuals who furnish items or services under arrangements with an organization have no right of appeal under this subpart.

(5) The provisions of Subpart R of 20 CFR Part 404 dealing with representation of parties under Title II of the Act are, unless otherwise provided in this subpart, also applicable to matters arising under section 1876 of the Act.

(b) *Responsibility for establishing appeals procedures.* (1) Except as provided in paragraph (b)(2) of this section, the provisions of §§417.604 through 417.638 apply equally to all enrollees regardless of the method of claims processing adopted by the organization. The organization is responsible for establishing and maintaining the appeals procedures that are specified in these sections.

(2) If a carrier or intermediary processes the claims for an organization's enrollees, the carrier or intermediary—

(i) Is acting in the place of the organization, except with regard to initial determinations as specified in §417.606(a)(3), and

(ii) Conducts the appeals procedures specified in §§417.604 through 417.638, except that §417.620(b)(2) does not apply to a carrier or intermediary.

(c) *Written description of appeals procedure.* Each organization is responsible for ensuring that all enrollees are informed in writing of the appeals procedures that are available to them.

§ 417.606 Initial determinations.

(a) *Actions that are initial determinations.* An initial determination is a determination made by an organization, or carrier or intermediary acting for the organization, concerning the rights of an enrollee with regard to services payable by Medicare that are furnished by the organization. In addition, an initial determination is also any determination made with respect to—

(1) Reimbursement for emergency or urgently needed services;

(2) Any other health services furnished by a provider or supplier other than the organization that the enrollee believes—

(i) Are covered under Medicare; and

(ii) Should have been furnished, arranged for, or reimbursed by the organization.

(3) The organization's refusal to provide services that the enrollee believes should be furnished or arranged for by the organization and the enrollee has not received the services outside the organization.

§ 417.608 Notice of adverse initial determination.

(a) If an organization, carrier, or intermediary makes an initial determination that is partially or fully

adverse to the enrollee, it must notify the enrollee of the determination within 60 days of receiving the enrollee's request for payment of services.

(b) The notice must—

(1) State the specific reasons for the determination; and

(2) Inform the enrollee of his or her right to reconsideration.

(c) The failure to provide the enrollee with timely notification of an adverse initial determination constitutes an adverse initial determination and may be appealed.

§ 417.610 Parties to the initial determination.

The parties to the initial determination are—

(a) The enrollee;

(b) An assignee of the enrollee (i.e., a physician or other supplier who accepts assignment for services furnished to an enrollee that are not covered by the organization's plan); .

(c) The legal representative of a deceased enrollee's estate; or

(d) Any other entity determined to have an appealable interest in the proceeding.

§ 417.612 Effect of initial determinations.

The initial determination is final and binding on all parties unless it is reconsidered in accordance with § 417.614 through 417.626, or revised in accordance with § 417.638.

§ 417.614 Right to reconsideration.

Any party to an initial determination who is dissatisfied with that determination may request a reconsideration of the determination in accordance with the procedures of § 417.616.

§ 417.616 Request for reconsideration.

(a) *Method and place for filing a request.* A request for reconsideration must be made in writing and filed with—

(1) The organization, carrier, or intermediary that made the initial determination;

(2) An SSA office; or

(3) In the case of a qualified railroad retirement beneficiary, an RRB office.

(b) *Time for filing a request.* Except as provided in paragraph (c) of this section, the request for reconsideration must be filed within 65 days from the date of the notice of the initial determination.

(c) *Extension of time to file a request.* (1) *Rule.* If good cause is shown, the organization, carrier, or intermediary may extend the time for filing the request for reconsideration.

(2) *Method of requesting an extension.* If the time limit in paragraph (a) of this section has expired, a party to the initial determination may file a request to extend the time to file a request for reconsideration with the organization, carrier, intermediary, HCFA, SSA, or, in the case of a qualified railroad retirement beneficiary, an RRB office. The request to extend the time limit must—

(i) Be in writing; and

(ii) State why the request for reconsideration was not filed timely.

(d) *Parties to the reconsideration.* The parties to the reconsideration must be the parties to the initial determination as described in § 417.610, and any other person or entity whose rights with respect to the initial determination may be affected by the reconsideration.

(e) *Withdrawal of request.* A request for reconsideration may be withdrawn by the party who filed the request. The request for withdrawal must be filed at one of the places specified in paragraph (c)(2) of this section.

§ 417.618 Opportunity to submit evidence.

The organization, carrier, or intermediary will provide the parties to the reconsideration reasonable opportunity to present evidence or allegations of fact or law related to the issue in dispute in person as well as in writing.

§ 417.620 Responsibility for reconsideration.

(a) *Basic rule.* Except as specified in paragraph (b) of this section, the carrier or intermediary that processes the claims for the organization provides reconsideration of initial determinations.

(b) *Exception.* If the organization made the initial determination or the issue is the organization's refusal to furnish or arrange for requested services, the organization or HCFA makes the reconsidered determination.

(1) *Favorable determination by the organization.* If the organization can make a reconsidered determination completely favorable to the enrollee, it changes the initial determination accordingly.

(2) *Unfavorable recommendation by the organization.* If the organization recommends partial or complete affirmance of the initial adverse determination, the organization must prepare a written explanation and forward the entire case file to HCFA for a final reconsidered determination.

§ 417.622 Reconsidered determination.

A reconsidered determination is a new determination that—

(a) Is based on a review of the initial determination, the evidence and findings upon which that was based, and any other evidence submitted by the parties, or obtained by HCFA, the organization, or the carrier or intermediary;

(b) Is made by a person or persons who were not involved in making the initial determination; and

(c) Affirms the initial determination or modifies it in whole or in part.

§ 417.624 Notice of reconsidered determination.

(a) *Responsibility for notice.* The entity that makes the reconsidered determination is responsible for mailing notice to the parties as follows:

(1) The carrier or intermediary mails the notice (and sends a copy to HFCA), if it provides reconsideration.

(2) The organization mails the notice (and sends a copy to HCFA), when it completely reverses an initial determination.

(3) HCFA mails the notice (and sends a copy to the organization) when it makes the reconsidered determination after the organization recommends partial or complete affirmance of the initial adverse determination.

(b) *Content of notice.* The notice.—

(1) States the specific reasons for the reconsidered determination;

(2) Informs the parties of their right to a hearing if the amount in controversy is $100 or more and the manner in which they may file for a hearing.

§ 417.626 Effect of reconsidered determination.

A reconsidered determination is final and binding on all parties unless a request for a hearing is filed in accordance with the provisions of § 417.632, or it is revised after reopening.

§ 417.628 Hearings: General.

Unless otherwise provided in this subpart, regulations at 20 CFR 404.929 through 404.961 dealing with the conduct of hearings are also applicable to hearings arising under this subpart.

§ 417.630 Right to hearing.

Any party to the reconsideration who is dissatisfied with the reconsidered determination has a right to a hearing if the amount in controversy is $100 or more. The amount in controversy is computed in accordance with § 405.740 of this chapter for Part A services and § 405.820(b) of this chapter for Part B services. When the basis for the appeal is the refusal of services, the projected value of those services must be used in computing the amount in controversy.

§ 417.632 Request for hearing.

(a) *Method and place for filing a request.* A request for a hearing must be

made in writing and filed at one of the places specified in § 417.616(c)(2).

(b) *Time for filing a request.* Except when the time is extended by a presiding officer as provided in 20 CFR 404.933(c), a request for a hearing must be filed within 65 days of the date of the notice of reconsidered determination.

(c) *Parties to a hearing.* The parties to a hearing must be the parties to the reconsideration as described in § 417.616(d), and any other person or entity whose rights with respect to the reconsidered determination may be affected by the hearing. The organization must be made a party to the hearing; however, the organization does not have a right to request a hearing. Fees for any services provided by a representative appointed on behalf of the organization are not subject to the provisions of section 206 of the Act.

(d) *Dismissal of request for hearing when amount in controversy is less than $100.* The ALJ makes the determination as to whether the amount in controversy is $100 or more. The ALJ will dismiss the request for a hearing if the request plainly shows that less than $100 is in controversy. If a hearing is held and the ALJ finds that the amount in controversy is less than $100, he or she will dismiss the request for hearing and will not rule on the substantive issues involved in the appeal.

§ 417.634 Appeals Council review.

Any party to the hearing, including the organization, who is dissatisfied with the hearing decision, may request an Appeals Council review of the ALJ's decision or dismissal. Provisions regarding Appeal Council review are contained in 20 CFR 404.967 through 404.981.

§ 417.636 Court review.

(a) *Review of ALJ's decision.* An enrollee or the organization may request judicial review of an ALJ's decision if—

(1) The Appeals Council denied the enrollee's or organization's request for review; and

(2) The amount in controversy is $1,000 or more.

(b) *Review of Appeals Council decision.* An enrollee or the organization may request judicial review of the Appeals Council decision if—

(1) It is the final decision of the Secretary; and

(2) The amount in controversy is $1,000 or more.

(c) *Request for review.* The civil action must be filed in a district court of the United States in accordance with section 205(g) of the Act (see 20 CFR 422.210 for a description of the procedures to follow in requesting judicial review).

§ 417.638 Reopening determinations and decisions.

An initial, reconsidered, or revised determination made by an organization, carrier, intermediary, or HCFA, or a decision or revised decision of an ALJ or the Appeals Council, may be reopened in accordance with the provisions of § 405.750 of this chapter.

Contract Appeals

§ 417.640 Determinations subject to appeal.

Sections 417.640 through 417.694 establish the procedures for making and reviewing the following initial determinations:

(a) A determination that an eligible organization is not qualified to enter into a contract with HCFA under section 1876 of the Act.

(b) A determination that an eligible organization is qualified only for a reasonable cost contract.

(c) A determination to terminate, or to refuse to renew, a contract with an organization because—

(1) The organization has failed substantially to carry out the terms of the contract;

(2) The organization is carrying out the contract in a manner that is inconsistent with the efficient and effective administration of section 1876 of the Act; or

(3) The organization no longer meets the applicable conditions necessary to qualify as an eligible organization under section 1876 of the Act.

§ 417.642 Administrative actions that are not initial determinations.

Administrative actions that are not initial determinations under §§ 417.640 through 417.694 include, but are not limited to, HCFA's refusal to renew a contract with an organization when the refusal is not based on the causes specified in § 417.640(c).

§ 417.644 Notice of initial determination.

(a) When HCFA makes an initial determination, it will notify the organization in writing.

(b) The notice specifies—

(1) The reasons for the determination; and

(2) The organization's right to request reconsideration.

(c) Notice of an initial determination specified in § 417.640 is mailed to the organization at least 90 days before the end of the contract period, or in the case of termination, at least 90 days before the effective date of the termination.

§ 417.646 Effect of initial determination.

The initial determination is final and binding on all parties unless it is reconsidered in accordance with §§ 417.648 through 417.658 or, in the case of an initial determination described in § 417.640(c), a request for a hearing is filed, or it is revised in accordance with § 417.692.

§ 417.648 Right to request reconsideration.

Any entity that is dissatisfied with an initial determination as described in § 417.640 (a) and (b) may request a reconsideration of the determination in accordance with the procedures specified in § 417.650.

§ 417.650 Request for reconsideration.

(a) *Method and place for filing a request.* A request for reconsideration must be made in writing and filed with any HCFA office.

(b) *Time for filing a request.* Except as provided in paragraph (c) of this section, the request for reconsideration must be filed within 65 days from the date of the notice of the initial determination.

(c) *Extension of time to file a request.* HCFA may, in response to a party's written petition showing good cause, accept a request for reconsideration after the expiration of the 65-day period.

(d) *Proper party to file a request.* Only an authorized official of the entity that was a party to an initial determination may file the request for reconsideration.

(e) *Withdrawal of a request.* A request for reconsideration may be withdrawn by the party who filed the request at any time before the notice of the reconsidered determination is mailed. The request for withdrawal must be in writing and filed with HCFA. If HCFA approves, the request for reconsideration is withdrawn.

§ 417.652 Opportunity to submit evidence.

HCFA will provide the parties to the reconsideration reasonable opportunity to present as evidence any documents or written statements that are relevant and material to the matters at issue.

§ 417.654 Reconsidered determination.

A reconsidered determination is a new determination that—

(a) Is based on a review of the initial determination, the evidence and findings upon which that was based, and any other written evidence submitted before the time of the reconsidered determination, including facts relating to the status of the entity subsequent to the initial determination; and

(b) Affirms, reverses, or modifies the initial determination.

§ 417.656 Notice of reconsidered determination.

Written notice of the reconsidered determination is mailed by HCFA to the party concerned and—

(a) Contains findings with respect to the eligible organization's qualifications to enter into a contract with HCFA under section 1876 of the Act;

(b) States the specific reasons for the reconsidered determination; and

(c) Informs the party of its right to a hearing if it is dissatisfied with the determination.

§ 417.658 Effect of reconsidered determination.

A reconsidered determination is final and binding on all parties unless a request for a hearing is filed in accordance with § 417.662 or it is revised after reopening (see § 417.692).

§ 417.660 Right to a hearing.

The following parties are entitled to a hearing:

(a) An eligible organization that has been determined in a reconsidered determination to be unqualified to enter into a contract with HCFA under section 1876 of the Act.

(b) An eligible organization that has been determined in a reconsidered determination to be qualified only for a reasonable cost contract.

(c) An organization whose contract with HCFA has been terminated or has not been renewed as a result of an initial determination as provided in § 417.640(c).

§ 417.662 Request for hearing.

(a) *Method and place for filing a request.* A request for a hearing must be made in writing and filed by an authorized official of the entity or organization that was the party to the determination under appeal. The request for a hearing must be filed with any HCFA office.

(b) *Time for filing a request.* Except as provided in paragraph (c) of this section, a request for a hearing must be filed within 60 days after the date of receipt of the notice of initial or reconsidered determination.

(c) *Extension of time to file a request.* If good cause is shown, the 60-day period to request a hearing may be extended by HCFA.

(d) *Parties to a hearing.* The parties to a hearing must be—

(1) The parties described in § 417.660;

(2) At the discretion of the hearing officer, any interested parties who make a showing that their rights may be prejudiced by the decision to be rendered at the hearing; and

(3) HCFA.

§ 417.664 Postponement of effective date of initial determination.

When a request for a hearing with respect to an initial determination is filed timely—

(a) The effective date of the initial determination to terminate a contract with an organization will be postponed until a hearing decision is reached; and

(b) The current contract will be extended at the end of a contract period (in the case of a determination not to renew) only—

(1) If HCFA finds that an extension of the contract will be consistent with the purpose of section 1876 of the Act; and

(2) For such period as HCFA and the organization agree.

§ 417.666 Designation of hearing officer.

HCFA will designate a hearing officer to conduct the hearing. The hearing officer need not be an ALJ.

§ 417.668 Disqualification of hearing officer.

(a) A hearing officer may not conduct a hearing in a case in which he or she is prejudiced or partial to any party or has any interest in the matter pending for decision.

(b) A party to the hearing who objects to the designated hearing officer must notify that office in writing at the earliest opportunity.

(c) The hearing officer must consider the objections and, may, at his or her discretion, either proceed with the hearing or withdraw.

(1) If the hearing officer withdraws, HCFA will designate another hearing officer to conduct the hearing.

(2) If the hearing officer does not withdraw, the objecting party may, after the hearing, present objections and request the the officer's decision be revised or a new hearing be held before another hearing officer. The objections must be submitted to HCFA.

§ 417.670 Time and place of hearing.

(a) The hearing officer must fix a time and place for the hearing and send written notice to the parties. The notice must also inform the parties of the general and specific issues to be resolved and information about the hearing procedure.

(b) The hearing officer may, on his or her own motion, or at the request of a party, change the time and place for the hearing. The hearing officer may adjourn or postpone the hearing.

(c) The hearing officer must give the parties reasonable notice of any change in time or place of adjournment.

§ 417.672 Appointment of representatives.

A party may appoint as its representative at the hearing anyone not disqualified or suspended from acting as a representative before the Secretary or otherwise prohibited by law.

§ 471.674 Authority of representatives.

(a) A representative appointed and qualified in accordance with § 417.672 may, on behalf of the represented party—

(1) Give or accept any notice or request pertinent to the proceedings set forth in this subpart;

(2) Present evidence and allegations as to facts and law in any proceedings affecting that party; and

(3) Obtain information to the same extent as the party.

(b) A notice or request sent to the representative has the same force and effect as if it had been sent to the party.

§ 417.676 Conduct of hearing.

(a) The hearing must be open to the parties and to the public.

(b) The hearing officer must inquire fully into all the matters at issue and must receive in evidence the testimony of witnesses and any documents that are relevant and material.

(c) The parties must be provided an opportunity to enter any objection to the inclusion of any document.

(d) The hearing officer must decide the order in which the evidence and the arguments of the parties are presented and the conduct of the hearing.

§ 417.678 Evidence.

The hearing officer must rule on the admissibility of evidence and may admit evidence that would be inadmissible under rules applicable to court procedures.

§ 417.680 Witnesses.

(a) The hearing officer may examine the witnesses.

(b) The parties or their representatives must be permitted to examine their witnesses and cross-examine witnesses of other parties.

§ 417.682 Discovery.

(a) Prehearing discovery must be permitted upon timely request of a party.

(b) A request is timely if it is made before the beginning of the hearing.

(c) A reasonable time for inspection and reproduction of documents must be provided by order of the hearing officer.

(d) The hearing officer's order on all discovery matters is final.

§ 417.684 Prehearing.

The hearing officer may schedule a prehearing conference if he or she believes that a conference would more clearly define the issues.

§ 417.686 Record of hearing.

(a) A complete record of the proceedings at the hearing must be made and transcribed and made availalble to all parties upon request.

(b) The record may not be closed until a hearing decision has been issued.

§ 417.688 Authority of hearing officer.

In exercising his or her authority, the hearing officer must comply with the provisions of title XVIII and related provisions of the Act, the regulations issued by the Secretary, and general instructions issued by HCFA in implementing that Act.

§ 417.690 Notice and effect of hearing decision.

(a) As soon as practical after the close of the hearing, the hearing officer must issue a written decision that—

(1) Is based upon the evidence of record; and

(2) Contains separately numbered findings of fact and conclusions of law.

(b) The hearing officer must provide a copy of the hearing decision to each party.

(c) The hearing decision must be final and binding unless it is reopened and revised in accordance with § 417.692.

§ 417.692 Reopening of initial or reconsidered determination and decision of a hearing officer.

(a) *Initial or reconsidered determination.* An initial or reconsidered determination that is unfavorable to one or more parties to it and is otherwise final may be reopened and revised by HCFA upon its own motion within one year of the date of the notice of determination.

(b) *Decision of hearing officer.* A decision of a hearing officer that is unfavorable to any party and is otherwise final may be reopened and revised by the hearing officer upon the officer's own motion within one year of the notice of the hearing decision. It may be reopened and revised by another hearing officer designated by HCFA if the hearing officer who issued the decision. It may be reopened and revised by another hearing officer designated by HCFA if the hearing officer who issued the decision is unavailable.

(c) *Notices.* (1) The notice of reopening and of any revisions following the reopening must be mailed to the parties.

(2) The notice of revision must specify the reasons for revisions.

§ 417.694 Effect of revised determination.

The revisions of an initial or reconsidered determination is final and binding unless a party files a written request for hearing of the revised determination in accordance with § 417.662.

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance Program, and No. 13.774, Medicare-Supplementary Medical Insurance Program)

Dated: January 31, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: March 27, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-14134 Filed 5-24-84; 8:45 am]

BILLING CODE 4120-03-M

Reader Aids

Federal Register

Vol. 49, No. 103

Friday, May 25, 1984

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MAY

18453-18720.....1
18721-18812.....2
18813-18982.....3
18983-19284.....4
19285-19440.....7
19441-19612.....8
19613-19794.....9
19795-19954.....10
19955-20264.....11
20265-20470.....14
20471-20630.....15
20631-20804.....16
20805-21038.....17
21039-21292.....18
21293-21504.....21
21505-21692.....22
21693-21916.....23
21917-22038.....24
22039-22240.....25

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....19027

3 CFR

Executive Orders:
8102 (Amended by PLO 6534).....20815
11651 (See EO 12475).....19955
12456 (Amended by EO 12477).....22041
12475.....19955
12476.....20473
12477.....22041
12478.....22043

Proclamations:
5186.....19285
5187.....19613
5188.....19615
5189.....19617
5190.....19619
5191.....19795
5192.....20265
5193.....20471
5194.....21039
5195.....21693
5196.....21695
5197.....21917
5198.....22039

5 CFR

300.....21503
335.....21503
351.....21503
430.....21503
431.....21503
451.....21503
531.....21503
532.....21503
540.....21503
551.....21503
771.....21503
831.....20631
870.....19287
871.....19287
872.....19287
873.....19287
1320.....20792

7 CFR

1.....21293
68.....18721
75.....18721
210.....18453, 18983
215.....18983
220.....18453, 18983
225.....18453
226.....18453, 18983
235.....18983
250.....19797
271.....22055
272.....18458
273.....18458
278.....22055
279.....22055
301.....18463, 18989, 19957
354.....19441
371.....19621
432.....20632
718.....20475
810.....20636, 22059
907.....19797
908.....18995, 19797, 20641, 21505
910.....18813, 18995, 20267, 20805, 21041, 22062
915.....21697
923.....20641
944.....21697
981.....19798
989.....18727
991.....18813
1040.....18815
1207.....20805
1430.....20642
1497.....21919
1955.....20806
1980.....19252

Proposed Rules:
1.....19307
28.....20507, 21744, 22098
29.....20711
61.....20507, 21744
319.....20293
322.....20299
725.....18672
726.....18678
907.....22100
908.....22100
953.....20713
991.....18862
1004.....19502, 21060
1006.....21537
1012.....21537
1030.....20303
1036.....21060
1049.....21060
1062.....21060
1064.....21060
1065.....21060
1126.....20825
1942.....21542
1944.....21744
1951.....21744
1980.....21547

8 CFR

100.....18816
223.....22063
223a.....18996
238.....21505

9 CFR

51.....20267, 21041

72.....19798
78.....20643
81.....19288, 19500
92.....20644
94.....18997, 21041
102.....21042
104.....21042
112.....21042
145.....19799
147.....19799
317.....18997
318.....18997, 19621
381.....18997, 19621

Proposed Rules:
113.....21339

10 CFR

Ch. II.....22063
0.....19623
4.....19623
9.....19623
11.....19623
19.....19623
20.....19623
21.....19623, 21699
25.....19623
30.....19623, 19630, 21699
31.....19623, 21699
32.....19623
33.....19623
34.....19623
35.....19623
40.....19623, 19630, 21699
50.....19623
51.....19623
55.....19623
70.....19623, 19630, 21699
71.....19623
73.....19623
75.....19623
95.....19623
100.....19623
110.....19623
140.....19623
150.....19623
170.....21293
430.....22069
840.....21472
1035.....18732

Proposed Rules:
Ch. I.....19029
1046.....20436

11 CFR

9034.....19807

Proposed Rules:
114.....20831

12 CFR

217.....19289
226.....18816
303.....21044
309.....22069
336.....20269
563b.....19000, 19003
565.....19000

Proposed Rules:
8.....19828
330.....20714
336.....20269
337.....18497
346.....20714
543.....19029
563.....19029, 19307, 20719
571.....19307

13 CFR

125.....20807

Proposed Rules:
103.....19503
104.....19503
105.....19503
108.....19503
109.....19503
110.....19503
112.....19503
113.....19503
115.....19503
120.....19503
122.....19503
124.....19503
132.....19503
134.....19503

14 CFR

21.....21506
23.....20278
39.....18468, 18816, 18817, 19290, 19291, 19807, 20807, 21046, 21309, 21310, 21507, 21919–21921, 22069
71.....18818, 18819, 19292, 19293, 19807, 19808, 21047, 21311, 21312, 21508, 21509
73.....19808
75.....18469, 19809, 21510
95.....19965
97.....19809, 22070
1262.....19441

Proposed Rules:
27.....19309
29.....19309
39.....21071, 21345–21349, 21937
71.....18508, 19311, 19312, 19829, 20022, 20023, 20511, 21072, 22100–22103
121.....21010
241.....18509
1214.....19313

15 CFR

371.....19811
376.....19811
379.....18470
399.....18470

Proposed Rules:
7.....20723
7a.....20723
7b.....20723
7c.....20723

16 CFR

4.....20278, 21048
13.....19632–19635, 19812, 22072
453.....19812
1404.....21699

Proposed Rules:
Ch. II.....21764
13...18529, 19679, 21073, 21762
300.....20304
301.....20304
303.....20304
460.....22104
1700.....21765

17 CFR

1.....19969, 21048
3.....20476
12.....19445
31.....20644
210.....18470
230.....20279

Proposed Rules:
210.....20833
229.....19516, 20833
230.....18532, 20833, 20852
239.....18532, 20833
240.....18746, 19314, 20512, 20833, 20852
249.....20833
270.....19320, 19519, 21938
275.....19524

18 CFR

2.....21910
3.....21701
45.....20477
154.....19293
271.....18474, 19299, 19814, 21511, 21707, 21910
274.....20280
294.....20808
375.....21048, 21701
385.....21312, 21701
1302.....20480

Proposed Rules:
2.....21914
4.....19681
12.....19681
154.....18539
271.....21914

19 CFR

6.....19447
10.....19447
103.....19952

Proposed Rules:
12.....20305
141.....18543
210.....19830

20 CFR

10.....18976
404.....21512
416.....19637
676.....19639

21 CFR

5.....19972, 21708
14.....20809
109.....21514
122.....20484
155.....20810
178.....18734, 18735
184.....19640, 19815
193.....18736
201.....21708
310.....21708
510.....19299, 19640, 19641, 21317, 21922
520.....18820, 19642, 19973, 20484, 20810, 22072, 22073
524.....21922
540.....19642
555.....19640, 19641
561.....18736
610.....21317
1308.....22074

Proposed Rules:
107.....21766
301.....18741
331.....21350
332.....21350
436.....18545
440.....18545
442.....18545
444.....18545
446.....18545
448.....18545
450.....18545
452.....18545
455.....18545
510.....21767

22 CFR

210.....22024

23 CFR

635.....18820
660.....21923

Proposed Rules:
628.....22105
660.....20517, 21350

24 CFR

16.....20485
200.....18690, 19451
201.....19454, 21520
203.....19451, 19454, 21520
204.....19454
205.....19454
207.....19454
213.....19454, 21317
220.....19454, 21317
221.....19454, 21048, 21317
232.....19454, 21317
234.....19451, 19454, 21317, 21520
235.....19451, 19454, 21317
240.....21476
241.....19454
242.....19454
244.....19454
250.....19454
255.....19454
511.....20486
570.....21050
571.....19300
800.....19926
813.....19926
880.....19926
881.....19926
882.....19926
883.....19926
884.....19926
885.....20486
886.....19926
889.....19926
904.....21476
905.....21476
913.....21476
960.....21476
965.....21476
968.....20487

Proposed Rules:
35.....19210
200.....21938, 22106
203.....21079, 21938
213.....21079
222.....21079
234.....21079
1710.....20306, 22107

25 CFR

Proposed Rules:
700.....19847

26 CFR

1.....19460, 19643, 19973, 21051
7.....19460
11.....19973
20.....19973, 20283, 20811
25.....19973, 20811
31.....19643
36.....19643
46.....19643
48.....19643
49.....19643
51.....19643
52.....19643
154.....19643
301.....18741, 19460
305.....19302
601.....19643, 19648

Proposed Rules:

1.....18866, 19321, 19329
20.....21350
25.....21350
301.....19329

27 CFR

9.....19466
19.....20800
178.....19004
250.....20800

Proposed Rules:

4.....19330, 21083
5.....19333
9.....20730
19.....19333

28 CFR

16.....20812

Proposed Rules:

540.....20432

29 CFR

220.....21053, 21499
530.....22036
1952.....19182

Proposed Rules:

1907.....19336
1910.....19336, 20024
1935.....19336
1936.....19336

30 CFR

902.....20284
904.....21925
906.....18475
914.....20285
917.....21926
925.....19468
926.....20286
931.....20287
935.....18481
936.....19476
938.....20488
942.....21146
946.....19476

Proposed Rules:

55.....21494
56.....21494
57.....21494
58.....21494
75.....19601
700.....19336
901.....21549
916.....21943
917.....21944
926.....19340
935.....19031, 19525, 22108
936.....20308, 21550
948.....19525, 20732

31 CFR

390.....22075
535.....21321

32 CFR

198.....18737
221.....18546
374.....18737
811.....20646
812.....21527
825a.....19478
842.....21531
880.....20647
881.....21531
902.....19005
1699.....18550
2001.....20788

33 CFR

Ch. I.....22075
100.....19816
117.....19817, 19818
157.....20813
162.....19304
165.....18821, 18822, 19818, 20813, 21927, 21929
175.....20815

Proposed Rules:

89.....18870
100.....18872, 19847, 21550, 21946, 21947
117.....19848, 19849, 20865–20869
165.....19032, 19035, 19850, 20813, 21948
325.....19036

34 CFR

Proposed Rules:

76.....21018, 21949
369.....21018, 21949
370.....21018, 21949
614.....19039
690.....19780

35 CFR

Proposed Rules:

111.....18873

36 CFR

2.....19304
7.....19651

Proposed Rules:

13.....20732
61.....20309
251.....21083

37 CFR

1.....19305
5.....19305

Proposed Rules:

1.....19853

38 CFR

3.....19653, 19998, 21708
21.....20492
36.....20288, 22080

Proposed Rules:

21.....21949

39 CFR

265.....21322
912.....19478

40 CFR

52.....18482, 18484, 18737, 00000
180.....18822, 18833, 20493–20495, 20647–20650
60.....19819
61.....19819
81.....18833–18836, 19478, 20651
124.....20138
144.....20138
146.....20138
147.....20138
160.....18738, 21534
180.....19653, 19654, 19820, 21710–21712, 22082, 22083
228.....19005, 19012
261.....19922
271.....19820, 20496, 21678
300.....19480
403.....21024
420.....21024
610.....18486, 18837

Proposed Rules:

50.....22021, 22109
52.....18558, 19039, 19681, 20518, 20521, 22110
53.....18744, 22109
58.....22109
60.....21864
81.....18744
124.....20238
144.....20238
145.....21370, 22110
146.....20238
147.....20238
152.....20027
180.....19683, 19684, 20733, 21768, 21769
191.....19604
228.....19042, 19854, 21770
261.....19690
271.....19341
434.....19240
756.....20524
765.....21371, 21870

41 CFR

Ch. 101.....22085
101–6.....20289
201–1.....20994, 22087
201–4.....20994, 22087
201–35.....20994, 22087
201–36.....20994, 22087
201–37.....20994, 22087

42 CFR

57.....19999
58.....21534

Proposed Rules:

60.....19048
405.....20616, 21375, 22198
417.....22198

43 CFR

3110.....20653
4700.....20654

Public Land Orders:

2345 (Revoked in part by PLO 6533).....20001
2676 (Amended by PLO 6534).....20815
5150 (Revoked in part by PLO 6533).....20001
6425 (Corrected by by PLO 6538)...20001, 21712
6531.....19654
6532.....19655
6533.....20001
6534.....20815
6535.....20002
6536.....20497
6537.....20498
6538.....21712
6539.....22087

Proposed Rules:

2800.....19049
2880.....19049
3111.....20871
3120.....20871

44 CFR

15.....20498, 21712
64.....20003, 20500
65.....21929
67.....19343, 20005, 21930

Proposed Rules:

67.....21084

45 CFR

1600.....21327
1609.....19656
1614.....21328
1620.....19657
1628.....21331

Proposed Rules:

74.....18567
98.....18567
205.....19856

46 CFR

310.....18489
505.....20816
510.....18839
515.....18848
520.....18849
522.....20816
525.....18847
526.....18846
530.....18849
533.....18846
536.....18849, 20817, 21713
538.....20817
540.....18846
550.....18846
551.....18846
580.....21713
585.....20816
587.....20654, 21931

Proposed Rules:

31.....19050
61.....19050
67.....20872
71.....19050
91.....19050
107.....19050
167.....19050
176.....19050
189.....19050
505.....18874

47 CFR

0.....20291, 20502, 21717
1.....20291
2.....20505

13.....20658
21.....20658
22.....19659
61.....19821
63.....21333
67.....21335, 22087
68.....19666, 21719, 22088
69.....19669
73.....19019, 19305, 19482, 19670, 20502, 20658, 21336, 21337, 21931-21933, 22088, 22089
74.....20502, 20658
76.....19482, 20502
78.....20658
81.....19677, 21735
83.....19677, 21735
87.....19677, 20291, 20658, 21737
90.....20291, 20505, 20658, 22093
94.....20658
95.....20658

Proposed Rules:
Ch. I.....19053, 19528, 19684
2.....22110
15.....21951, 22112
22.....22114
31.....21375-21377
33.....21377
42.....21377
43.....21377
67.....18746, 20734
73.....18567, 19070, 19866, 20311-20317, 21959-21969
81.....21771
83.....21771, 22110
90.....18570, 18571, 19074, 21951
97.....18573

48 CFR

Ch. 5.....22094
1801.....20673
1803.....20673
1804.....20673
1807.....20673
1812.....20673
1814.....20673
1815.....20673
1816.....20673
1817.....20673
1819.....20673
1822.....20673
1823.....20673
1825.....20673
1827.....20673
1830.....20673
1832.....20673
1835.....20673
1842.....20673
1845.....20673
1849.....20673
1851.....20673
1852.....20673
1853.....20673

49 CFR

172.....21933
173.....19025, 21933
191.....18956
192.....19823
217.....20015
571.....20818, 20822
575.....20016
1002.....18490
1011.....18490
1032.....19025
1039.....19025, 22095
1152.....18490
1177.....18490
1180.....18490
1182.....18490
1309.....22095
1310.....22095

Proposed Rules:
Ch. X.....19686
171.....20873
172.....20873
173.....20873
174.....20873
175.....20873
176.....20873
177.....20873
195.....19875
217.....20028
229.....20029
232.....19359
391.....21084
393.....21551
571.....18574, 20460, 20879, 21551
574.....20880
1139.....21553

50 CFR

17.....21055
91.....20019
250.....19678
301.....21738
650.....21058
658.....18494, 20710
661.....18853, 20020, 22096
663.....19825
674.....20710

Proposed Rules:
17.....19360, 19534, 20031, 20735, 20739, 20882, 21089, 21383, 21664
26.....19363
285.....18474
560.....18578
649.....19363
654.....20883
651.....21386
658.....20883
672.....21773
674.....18581

LIST OF PUBLIC LAWS

Last List May 24, 1984

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

H.J. Res. 537 / Pub. L. 98-293

Designating the Brigantine and Barnegat units of the National Wildlife Refuge System as the Edwin B. Forsythe National Wildlife Refuge. (May 22, 1984; 98 Stat. 207) Price: $1.50

S.J. Res. 198 / Pub. L. 98-294

Designating April 26, 1985, as "National Nursing Home Residents Day". (May 22, 1984; 98 Stat. 208) Price: $1.50

S.J. Res. 228 / Pub. L. 98-295

To designate the week of May 20, 1984, through May 26, 1984, as "National Digestive Diseases Awareness Week". (May 22, 1984; 98 Stat. 209) Price: $1.50

Slip Laws

Subscriptions Now Being Accepted

98th Congress, 2nd Session, 1984

Separate prints of Public Laws, published immediately after enactment, with marginal annotations, legislative history references, and future Statutes volume page numbers.

Subscription Price: **$150.00 per session**

(Individual laws also may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Prices vary. See Reminder Section of the Federal Register for announcements of newly enacted laws and prices).

SUBSCRIPTION ORDER FORM
ENTER MY SUBSCRIPTION TO: PUBLIC LAWS. [P9801-File Code 1L]

☐ $150.00 Domestic, ☐ $187.50 Foreign.

MAIL ORDER FORM TO:
Superintendent of Documents
Government Printing Office
Washington, D.C. 20402

COMPANY OR PERSONAL NAME

ADDITIONAL ADDRESS/ATTENTION LINE

☐ REMITTANCE ENCLOSED (MAKE CHECKS PAYABLE TO SUPERINTENDENT OF DOCUMENTS.)

STREET ADDRESS

☐ CHARGE TO BY DEPOSIT ACCOUNT NO.

CITY STATE ZIP CODE

(OR) COUNTRY

PLEASE PRINT OR TYPE

Customer's Telephone No.'s
Area Code Home Area Code Office

MasterCard and VISA accepted.

Credit Cards Orders Only
Total charges $_____
Fill in the boxes below.

Credit Card No.

Expiration Date Month/Year

Charge orders may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).