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Vol. 49 No. 29
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Test Report Federal Register

Friday
February 10, 1984

Selected Subjects

Air Carriers

Civil Aeronautics Board

Air Pollution Control

Environmental Protection Administration

Animal Diseases

Animal and Plant Health Inspection Service

Animal Drugs

Food and Drug Administration

Antibiotics

Food and Drug Administration

Authority Delegations (Government Agencies)

Food and Drug Administration

Aviation Safety

Federal Aviation Administration

Color Additives

Food and Drug Administration

Consumer Protection

Civil Aeronautics Board

Education

Veterans Administration

Fisheries

National Oceanic and Atmospheric Administration

Flood Insurance

Federal Emergency Management Agency

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

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Housing and Urban Development Department

Hazardous Waste

Environmental Protection Agency

Loan Programs—Education

Education Department

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Natural Gas

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Federal Register

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 450]

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 225,000 cartons during the period February 12-18, 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: February 12, 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 February 7, 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 the demand for lemons is slightly easier.

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.

Section 910.750 is added as follows:

§ 910.750 Lemon Regulation 450.

The quantity of lemons grown in California and Arizona which may be handled during the period February 12, 1984, through February 18, 1984, is established at 225,000 cartons.

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

Dated: February 8, 1984.

Charles R. Brader,

Director, Fruit and Vegetable Division,
Agricultural Marketing Service.

[FR Doc. 84-3874 Filed 2-9-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of American Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the listing of carriers which have entered into agreements with the Service for the preinspection of their passenger and crews at locations outside the United States by adding the name of American Airlines, Inc.

EFFECTIVE DATE: January 26, 1984.

FOR FURTHER INFORMATION CONTACT:

Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with American Airlines, Inc. on January 26, 1984 to provide for the preinspection of its passengers and crews as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds an air carrier's name to the present listing and is editorial in nature.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Government contracts, Inspections.

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

PART 238—CONTRACTS WITH TRANSPORTATION LINES**§ 238.4 [Amended]**

Section 238.4 is amended by adding the name "American Airlines, Inc." under "At Calgary".

(Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228))

Dated: February 7, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84-3704 Filed 2-9-84; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 238**Contracts With Transportation Lines; Addition of Hawaiian Airlines**

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Hawaiian Airlines to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: January 30, 1984.

FOR FURTHER INFORMATION CONTACT:

Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization Service entered into an agreement with Hawaiian Airlines on January 30, 1984 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

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

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

Accordingly, 8 CFR Part 238 is amended as follows:

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "Hawaiian Airlines".

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: February 7, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84-3705 Filed 2-9-84; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Part 92**

[Docket No. 84-006]

Specifically Approved States Authorized To Receive Mares and Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added Louisiana to the list of approved States authorized to receive certain mares and stallions imported into the United States from countries affected with contagious equine metritis (CEM). This action is needed because the Deputy Administrator for Veterinary Services has determined that Louisiana has laws or regulations in effect to require the additional inspection, treatment, and testing of such horses to further ensure their freedom from CEM as required by the regulations. This action is necessary in order to avoid the imposition of unnecessary restrictions on importers of mares and stallions from countries affected with CEM.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT:

Dr. Mark Dulin, VS, APHIS, USDA, Federal Building, Room 844-AAA, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:**Background**

Section 92.2(i) of the regulations in 9 CFR Part 92, among other things, authorities the importation of certain horses (mares and stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment, and testing.

A document published in the *Federal Register* on November 25, 1983 (48 FR 53088-53089), set forth an interim rule amending § 92.4 of the regulations in 9 CFR Part 92 by adding Louisiana to the lists of States approved to receive these mares and stallions. The addition of Louisiana to the lists was based on the finding that it meets certain minimum standards concerning treatment, testing, and handling procedures for these mares and stallions.

The interim rule was made effective upon publication. Comments were solicited for 60 days after publication of the amendments. No comments were received. The factual situation which was set forth in the document of November 25, 1983, still provides a basis for the amendments.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have 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.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512-1.

This action affirms an interim rule which provides a means by which mares and stallions over 731 days of age from countries affected with CEM and bound for Louisiana can be imported directly into Louisiana. Otherwise, the mares and stallions would be allowed to be imported only to other States which have been approved to receive these mares and stallions from countries affected with CEM. The nearest State to Louisiana approved to receive mares and stallions from countries affected with CEM is Kentucky. This action should result in a decrease of transportation costs for such horses.

It is anticipated that fewer than 12 mares and stallions from countries affected with CEM will be imported into the State of Louisiana annually. This compares with 320 such animals imported into the entire United States during Fiscal Year 1983 and with approximately 40,000 horses of all classes imported into the United States during that same period.

Based on the circumstances explained above, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have significant economic effect on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, the interim rule published at 48 FR 53088, November 25, 1983, is adopted as a final rule.

AUTHORITY: Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 7th day of February 1984.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-3730 Filed 2-9-84; 6:45 am]

BILLING CODE 3410-34-M

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Airbus Industrie Model A300 series B2 and B4 airplanes which requires inspections, modifications, and replacements, if necessary, of certain main landing gear hinge arm components. Corrosion has been found in areas of the main landing gear hinge arm which, if left uncorrected, could lead to collapse of the main landing gear.

EFFECTIVE DATE: March 19, 1984.

ADDRESSES: The service bulletins specified in this AD may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Direction Generale de l'Aviation Civile (DGAC), which is the French Civil Aviation Authority, issued two AD's mandating compliance with four Airbus Industrie and four Messier-Hispano-Bugatti service bulletins. During routine maintenance inspections of several reinforced hinge arms on the main landing gear, corrosion was found at the hinge arm-trunnion blend radii on both the actuating cylinder and universal joint sides. The corrosion on the actuating cylinder side is on areas subjected to high stress levels which could lead to the formation of cracks, possible failure of the hinge arm, and eventual collapse of the main landing gear. The service bulletins prescribe inspections, and if corrosion is found, overhaul or replacement of the hinge arms. To prevent the corrosion from recurring, modifications are also prescribed.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspections of the main landing gear hinge arms, incorporation of modifications, and if needed, replacement of components, was published in the Federal Register on September 14, 1983, (48 FR 41167). The comment period closed on October 31, 1983, and interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments were received. These

comments stated no objection to the proposal. The final rule has some editorial changes.

It is estimated that 22 U.S. registered airplanes will be affected by this AD, that it will take approximately 105 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per manhour. Repair parts are estimated at \$2,200 per airplane. Based on these figures, the total cost impact of this AD to the sole U.S. operator is estimated to be \$140,800. For these reasons, the rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule with minor editorial changes.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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:

Airbus Industrie: Applies to Model A300 airplanes, certificated in all categories and whose serial numbers are listed in paragraph 1, Planning Information, of Airbus Industrie (AI) Service Bulletin A300-32-356, Revision 1, dated December 1, 1982. To prevent failure of main landing gear hinge arms, accomplish the following, unless previously accomplished:

A. Within 120 days from the effective date of this AD, measure the displacement of the bronze bushing fitted in the stirrup on the actuating cylinder side of all affected hinge arms in accordance with paragraph 2.B of Messier-Hispano-Bugatti (MHB) Service Bulletin 470-32-422, Revision 1, dated December 3, 1982. Depending on the results of the above measurements and within the number of landings specified in the service bulletin, repeat the measurement of the displacement or visually inspect for corrosion, as appropriate, the blending radii of attachment between the trunnions and the hinge arm body in accordance with the instructions of the service bulletin.

1. If no trace of corrosion is found, incorporate the modifications AI 4544/S53521 and AI 4544/S5548, described in AI Service Bulletins A300-32-348, Revision 2 and A300-32-355, Revision 2, both dated May 16, 1983, and in accordance with the instructions of MHB Service Bulletins 470-32-421, Revision 2 and 470-32-407, Revision 2, both dated March 31, 1983.

2. If corrosion is detected, replace the affected hinge arms prior to further flight

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-68-AD; Amdt. 39-4806]

Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

either with new arms or with arms modified in accordance with the instructions of MHB Service Bulletin 470-32-431, dated December 24, 1982, related to AI Service Bulletin A300-32-362, dated June 15, 1983, after incorporating the modifications required by paragraph A.1. of this AD.

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

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

This amendment becomes effective March 19, 1984.

(Secs. 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.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since no small entities operate the Model A300 airplanes. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT**.

Issued in Seattle, Washington on February 1, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-3625 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-64-AD; Amdt. 39-4803]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds an airworthiness directive (AD) that requires a periodic check of Boeing Model 737 fuel lines contained within the wing fuel tanks for air leakage. These checks are necessary to detect fuel line deterioration which, in conjunction with loss of fuel boost pumps, can result in simultaneous unrecoverable loss of power on both engines.

DATE: Effective March 12, 1984.

Compliance scheduled as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT:

Mr. Stewart R. Miller, Aerospace Engineer, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office, Federal Aviation Administration, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2969. Mailing Address: Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 (14 CFR Part 39) of the Federal Aviation Regulations to include an AD requiring periodic checks for air leakage into Boeing Model 737 fuel lines contained within the wing fuel tanks was published in the **Federal Register** on August 22, 1983 (48 FR 38005).

Interested persons have been afforded the opportunity to participate in the making of this amendment and due consideration has been given to all relevant data and comments received. Nine comments concerning the proposed rule were received from the type certificate holder, domestic airlines, and other interested parties. Several substantive changes and changes of an editorial and clarifying nature have been made to the proposed rule based upon the comments received and upon further review within the FAA.

Discussion of Comments

Two commenters felt that no AD is needed because a Service Bulletin would provide adequate operator incentive to perform the required check. The FAA does not accept this rationale. Service Bulletin compliance is optional, therefore, there is no assurance that necessary inspections will be performed on all aircraft in a timely manner unless an AD is adopted to make compliance mandatory.

One commenter objected to the AD because the MSG-2 maintenance analysis used by the industry for the Boeing Model 737 considers only single failure modes. This commenter contends that fuel line leaks plus four other conditions are necessary to cause simultaneous loss of power of both engines. The FAA agrees that conditions other than fuel line leaks must be present to cause loss of power of engines. However, the subject leaks are

not detectable without the proposed inspections and could, therefore, be expected to gradually develop and remain for the life of the airplane. Loss of all electrical power, an event that has happened with significant frequency on the Model 737, would then be sufficient to result in loss of both engines. In the view of the FAA this is unacceptable.

One commenter proposed a pressure check as an alternative to the Boeing Service Bulletin procedure. A pressure check procedure failed to detect the original problems, so must be considered inadequate.

One commenter objected to the AD because it was discriminatory in that it only addressed the Boeing Model 737. The FAA is presently reviewing other transport aircraft fuel systems and will take additional action on other aircraft if required.

Several commenters felt that the compliance times proposed were unduly restrictive. Upon further review, the FAA determined that the compliance times given in Boeing Service Bulletin 737-28-1047, dated July 22, 1983, may be accepted without compromising safety.

Four commenters had no objection to the AD as proposed and indicated no compliance problems. Two other commenters had no objection to the intent of the AD, but recommended that additional repair and inspection options offered in Boeing Service Bulletin 737-28-1047 be included in the AD. The FAA agrees with this assessment and the final rule reflects this change.

Cost Estimate

It is estimated that a total of 300 airplanes will be affected by this AD, it will take less than 1 manhour per airplane to accomplish the proposed inspection, and the average labor cost will be \$35 per manhour. Based on these estimates, the total cost impact of this AD will be \$10,500 to operators of U.S. registered airplanes. Fuel line repair costs have not been included in this estimate since the potential extent of such is unknown. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected because few, if any, small entities operate Boeing Model 737 aircraft.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

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:

Boeing: Applies to Boeing Model 737 series airplanes certificated in all categories. Prior to the accumulation of either 20,000 flight hours or 7 years of age, or within 500 flight hours, whichever occurs later after the effective date of this AD:

A. Institute an inspection program in accordance with Boeing Service Bulletin 737-28-1047, dated July 22, 1983, or later FAA approved revision.

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

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

This amendment becomes effective March 12, 1984.

Note.—For the reasons discussed in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since few small entities operate the model 737. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

(Secs. 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)

Issued in Seattle, Washington on January 26, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-3627 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-NM-07-AD; Amdt. 39-4808]

Airworthiness Directives; Lockheed-California Company Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires an inspection of certain wire bundles in the aft compartment of Lockheed Model L-1011-385 series airplanes and corrective action, if necessary. This AD is prompted by reports of improper harness retention and wire bundles that have been severed by an adjacent mechanism. This action is necessary to minimize the likelihood of a fire hazard caused by chafed or severed wires.

DATES: Effective February 21, 1984.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

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

FOR FURTHER INFORMATION CONTACT: Mr. Harry Wasinger, Aerospace Engineer, Systems & Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: During pitch control system testing of a production aircraft at Palmdale, California, a wiring harness in the vicinity of the righthand stabilizer power servo was severed by the stabilizer servo feedback arm and arcing was observed. Inspection of the wiring harness and attachments determined that three of its clamps and an associated clip were not installed on the power servo. Other L-1011's at Palmdale were subsequently inspected and the absence of these clamps and clips on both righthand and lefthand servos was verified on these aircraft. A review of inspection records on delivered airplanes cannot conclusively determine if the subject clamps and clips were installed in all the fleet. Severance of the harness could occur on either the lefthand or righthand servos if the harness is not properly secured. A severed wire harness does not cause degradation of the pitch control authority under normal conditions, but it can cause arcing which could ignite combustible vapors in the aft compartment. A severed harness can be detected on an aircraft shut-down or on a preflight check by flight crew

observations, but would not be detected in flight.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires an inspection for correct harness retention, damaged or severed wires, and corrective action, if necessary.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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:

Lockheed-California Company: Applies to Lockheed Model L-1011-385 series airplanes, certificated in all categories. Compliance required as indicated unless previously accomplished.

To prevent the possibility of a fire hazard due to electrical arcing in two aft body compartments, accomplish the following:

A. Prior to 300 flight hours after the effective date of this AD, perform the aircraft wiring inspection and corrective action, if necessary, in accordance with Part 2, Accomplishment Instructions, in Lockheed-California Company L-1011 Service Bulletin 093-27-285, dated July 12, 1983, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

Note.—Airplanes previously inspected in accordance with Lockheed L-1011 Service Bulletin 093-27-285, dated July 12, 1983, or in accordance with alternate inspection procedures since June 24, 1983, approved by an FAA Principal Maintenance Inspector (PMI), are considered to comply with the inspection requirements of this AD.

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

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

Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective February 21, 1984.

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

Issued in Seattle, Washington on February 1, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-3623 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-76-AD; Amdt. 39-4807]

Airworthiness Directives; McDonnell Douglas Model DC-10 and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires installation of a positive antirotational stop on the horizontal stabilizer single chain differential drive assembly on McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes. Installation of this unit will provide an automatic means of locking the horizontal stabilizer in position following the failure of a differential drive shear pin. This AD is required because a failure of the shear pin could allow uncommanded movement of the horizontal stabilizer and result in potentially hazardous airplane handling characteristics.

DATES: Effective March 19, 1984.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to adopt a new airworthiness directive (AD) to require the installation of a positive antirotational stop on the horizontal stabilizer single chain differential drive assembly on McDonnell Douglas DC-10 and KC-10A (Military) series airplanes was published in the Federal Register on August 18, 1983 (48 FR 37427). This action is necessary to require modification of the horizontal stabilizer drive assembly to minimize the possibility of uncommanded horizontal stabilizer movement during flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all relevant data and comments provided. Four comments were received in response to the notice of proposed rulemaking. None of the parties who made comments objected to the intent of the proposed rule.

Discussion of Comments

All parties commented that they feel the compliance time for the final rule should be extended beyond the six months called for in the NPRM, with one commenter requesting 18 months. After consideration of all comments received, the FAA considers a six-month compliance period appropriate because: (1) Based on the anticipated effective date of the rule, this will have allowed operators approximately 18 months from the original issuance of the service bulletin; and (2) this will be consistent with manufacturer's recommended compliance date for the applicable service bulletin. Subsequent to publication of the NPRM, the manufacturer released Revision 1 to DC-10 Service Bulletin 27-192. Revision 1 revises the bulletin effectivity and

resequences some of the accomplishment instructions. The changes made do not significantly affect the accomplishment of the proposed rule. For this reason the final rule is modified to incorporate McDonnell Douglas DC-10 Service Bulletin 27-192, Revision 1, dated August 1, 1983.

Cost Estimate

The estimated costs associated with this AD are as follows: 141 domestic airplanes will be affected, and it will require approximately 16 manhours per airplane to accomplish the required modification, at an average labor charge of \$35.00 per hour. The modification kit can be obtained at a cost of approximately \$4,000. Based upon these figures, the total economic impact is estimated to be \$643,000. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

After careful review of available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the change previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes, incorporating a horizontal stabilizer single chain differential drive system, certificated in all categories. Compliance required within 6 months after the effective date of this AD, unless previously accomplished.

To prevent uncommanded movement of the horizontal stabilizer following fused drive system shear pin failure, accomplish the following:

A. Modify the horizontal stabilizer drive assembly in accordance with Section 2, Accomplishment Instructions, of McDonnell Douglas DC-10 Service Bulletin 27-192, Revision 1, dated August 1, 1983, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—No additional work is required for those operators who accomplished the original issue of McDonnell Douglas DC-10 Service Bulletin 27-192, dated March 17, 1983.

B. 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 the modification required by this AD.

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

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective March 19, 1984.

(Secs. 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.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model DC-10 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT**.

Issued in Seattle, Washington on February 1, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region

[FR Doc. 84-3624 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-65-AD; Amdt. 39-4805]

Airworthiness Directives; Boeing Model 747 and McDonnell Douglas Model DC-9 and DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Boeing Model 747 series and McDonnell Douglas Model DC-9 series and DC-10 series airplanes which requires a one-time inspection and subsequent removal of certain nonconforming landing gear components

manufactured by Precision Tube Draw and Machine, Inc., 401 East Alondra Blvd., Gardena, California 90427. This AD is prompted by discovery of three landing gear components at a repair station which were to have been scrapped during manufacture. Subsequent checks confirmed one of the components to be out of drawing tolerance. Additional landing gear components for which conformity could not be established are unaccounted for, and are assumed to have entered the market place through unauthorized channels. Use of unapproved parts could result in landing gear failure.

DATES: Effective March 19, 1984.

ADDRESSES: Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-65-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, telephone (206) 431-2923. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Mr. Michael N. Asahara, Sr., Airframe Branch, ANM-120L, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD to require inspection for and subsequent removal of certain nonconforming landing gear components was published in the *Federal Register* on September 6, 1983 (48 FR 40266). The comment period for the proposal closed on October 24, 1983.

Interested persons have been afforded an opportunity to participate in the making of this AD. Due consideration has been given to all comments received. Comments were received from eleven operators, the Air Transport Association of America, and two manufacturers.

Several commenters requested that the AD provide that components delivered with production airplanes or purchased from Boeing, Douglas, or Cleveland Pneumatic, as spares, not be affected by the AD. The FAA has determined that none of the affected components originated from these sources; therefore, paragraph A. has been changed accordingly.

Three commenters requested that additional time be granted after discovery of any nonconforming parts to allow for orderly scheduling of the airplane into a maintenance facility. The FAA does not concur. The 180-day time period allows ample time to schedule an airplane into a maintenance facility.

Two commenters requested that a specific time period be established as to when these components may have entered the market. The FAA concurs and has changed paragraph A. accordingly.

The manufacturer identified two parts by serial number that were found to be in conformity and requested that they be removed from the listing of affected parts. The FAA concurs and Table I has been revised by removing these two items.

Another commenter requested that conformity could be shown by records search. This was the original intent of the FAA and paragraph A. has been clarified in this regard.

Another commenter requested that the fourth column in Table I be deleted as the numbers shown are only used by the manufacturer and its subcontractors and do not appear on the parts. The FAA concurs that these numbers may cause confusion and therefore Table I has been revised by removing these numbers.

Another commenter requested that the serial numbers should have the prefix CPT, with the exception of serial number M495. All parts should also have the suffix PTM. This is necessary because the serial number without the prefix and suffix may be a duplicate of the serial number of another part. The FAA concurs and Table I has been revised.

One commenter noted a reference in Table I to the DC-9-80 for a group of parts which may be used on all DC-9 aircraft. This was an editorial error, and has been corrected in the final rule. The AD affects all DC-9 series airplanes.

Another commenter desired to delete the requirement to "render the parts unserviceable" if conformity cannot be shown. The FAA concurs and paragraph B. has been revised accordingly.

Another commenter stated that not all serial numbers are legible on these parts, which could cause unnecessary disruption of service and scrapping of legitimate parts. If the records, place of origin, date of purchase, or visible serial number of a specific part cannot confirm the state of conformity, then the part must be removed. The AD was not altered because of this comment.

Another commenter requested that the AD be specific as to who shall

determine conformity and to what specific criteria. The FAA believes this request has merit, and paragraph C. has been revised accordingly.

Since the installation of these nonconforming components is likely to have already occurred and their design conformity is unknown, an airworthiness directive is being issued, which requires a one-time inspection and subsequent removal of certain landing gear components listed in the body of the AD unless conformity can be shown to exist. If used, these parts could result in landing gear failure.

It is estimated that 800 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$35 per manhour. Based on these figures, the total cost impact of the AD is estimated to be \$250,000. Replacement cost is not considered. For these reasons the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the

meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

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:

Boeing Model 747 and McDonnell Douglas Model DC-9 and DC-10 series airplanes certificated in all categories:

A. Within 180 days from the effective date of this AD, unless already accomplished, determine if any components listed by serial number in Table I, below, are installed on or in the landing gear assembly. This determination may be made by review of records or by inspection of parts to determine serial numbers. Components delivered with

production airplanes or purchased from Boeing, Douglas, or Cleveland Pneumatics, as spares, are not affected by this AD. Components purchased prior to January 1, 1979, are not affected by this AD.

B. If any components listed in Table I are found replace them with approved parts before further flight.

C. Future use of any components listed by serial number in Table I is prohibited, unless it is determined by the manufacturer or demonstrated to the FAA that the component is in conformity to type design.

D. Upon request of the operator, an FAA Principal Maintenance Inspector may adjust the compliance times if the request contains substantiating data to justify the change, and subject to prior approval by the Manager, Seattle Aircraft Certification Office, for the Boeing Model 747, or the Manager, Los Angeles Aircraft Certification Office, for the McDonnell Douglas Models DC-9 and DC-10.

E. Alternate means of compliance with the AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, for the Boeing Model 747, or the Manager, Los Angeles Aircraft Certification Office, for the McDonnell Douglas Models DC-9 and DC-10.

F. Aircraft may be ferried to a base for maintenance in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations.

TABLE I

Aircraft	Part nomenclature	Aircraft Manufacturers part No.	Serial Nos.
Boeing 747-100/200	Brace Assembly Side Body Landing Gear	65805280	CPT 1163 PTM CPT 1257 PTM CPT 2474 PTM CPT 2714 PTM CPT 2828 PTM CPT 2836 PTM CPT 2838 PTM CPT 2839 PTM CPT 2886 PTM CPT 2908 PTM CPT 2959 PTM CPT 2981 PTM CPT 2982 PTM CPT 2991 PTM CPT 3048 PTM CPT 3056 PTM CPT 3063 PTM CPT 3090 PTM CPT 3091 PTM CPT 3101 PTM CPT 3149 PTM CPT 3691 PTM CPT 3733 PTM CPT 3398 PTM
	Wing & Body Gear	65805133	CPT 1134 PTM CPT 1160 PTM CPT 1201 PTM PTM1210 PTM CPT 1129 PTM CPT 1395 PTM CPT 1310 PTM CPT 1308 PTM CPT 1417 PTM CPT 1422 PTM CPT 1440 PTM CPT 1301 PTM CPT 1306 PTM CPT 1160 PTM CPT 1161 PTM CPT 1178 PTM CPT 1208 PTM CPT 1209 PTM CPT 1246 PTM CPT 402 PTM CPT 421 PTM CPT 4361 PTM CPT 0886 PTM M 495 PTM
Boeing 747-SP McDonnell Douglas DC-9	Axle Wing & Body Gear	65B19917	
	Nose Gear Cylinder	5920602-5 or 5920602-501	
McDonnell Douglas DC-10	Nose Gear Piston	5950603-501 or 5920603-5	
	Main Gear Link Assy Lower Down Lock	ARG7009-501 or ARG7009-7	
	Axle MLG	ARG7313-3 or ARG7313-1	
	Link	ARG7107-5 or ARG7107-1	
	Bolt-Torque, Link—Upper MLG	ARG7323-1	

TABLE I—Continued

Aircraft	Part nomenclature	Aircraft Manufacturers part No.	Serial Nos.
	Arm—Downlock MLG	ARG7147-1 or ARG7147-3	CPT 1328 PTM
	Link Assembly Forward Brake	ARG7019-1 or ARG7019-5	CPT 019 PTM
			CPT 941 PTM
	Link Assembly Forward Brake MLG	ARG7378-1 or ARG7378-3	CPT 672 PTM
			CPT 758 PTM
	Bolt—Torque Link—Lower MLG	ARG7337-1	CPT 063 PTM
			CPT 039 PTM
			CPT 073 PTM
			CPT 040 PTM
			CPT 041 PTM

This amendment becomes effective March 19, 1984.

(Secs. 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.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures [44 FR 11034; February 26, 1979]; and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since few, if any, small entities operate the Model 747, DC-9, or DC-10 airplanes. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on February 1, 1984.

Wayne J. Barlow,

Acting Director Northwest Mountain Region.

[FR Doc. 84-3628 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-CE-1-AD; Amendment 39-4804]

Airworthiness Directives; Cessna Models 414A, 421C and 425 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Models 414A, 421C and 425 airplanes which requires a one-time inspection of windshield attachment fastener holes for cracks, and repair or replacement of cracked windshields as necessary. A limit on pressurization differential is also imposed until these inspections are accomplished. An instance of an inflight windshield failure has occurred on a Model 414A airplane. The pressurization limitation and inspection will assure the continued structural integrity and prevent failure or loss of the windshield.

EFFECTIVE DATE: February 16, 1984.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Multi-engine Customer Care Service Information Letter ME83-33 dated September 30, 1983, and Revision 1 dated December 2, 1983, pertaining to this subject on Models 414A and 421C airplanes and applicable to this AD may be obtained from Cessna Aircraft Company, Piston Aircraft Marketing Division, Wichita, Kansas 67201; Telephone (316) 685-9111.

Cessna Prop-Jet Customer Care Service Information Letter PJ83-18 dated September 30, 1983, and Revision 1 dated November 23, 1983, pertaining to this subject on the Model 425 airplanes and applicable to this AD may be obtained from Cessna Aircraft Company, Conquest Marketing Division, Wichita, Kansas 67277; Telephone (316) 946-6600. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Lawrence S. Abbott, Aerospace Engineer, Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION:

Windshields on Cessna Models 414A, 421C and 425 are secured to the fuselage by fasteners around the periphery of the windshield. Contact between the windshield and fastener is prevented by grommets in oversize fastener holes. There have been reports that cracks have developed at the fastener location in the acrylic windshield when improperly installed. Typically the fastener contacts an attachment hole in the windshield and initiates a crack at the contact point. The manufacturer believes that some windshields installed at the factory may have been improperly installed. Accordingly, Cessna issued Service Information Letters ME83-33, dated September 30, 1983, and Revision 1 dated December 2, 1983, and PJ83-18,

dated September 30, 1983, and Revision 1 dated November 23, 1983, which recommend a one-time inspection of the windshield attach hole for cracks on airplanes with the original factory windshield installation. If one or more cracks are found, the Service Letters recommend the windshield be replaced or repaired and properly installed. This inspection, and windshield repair or replacement, if necessary, will eliminate the cracking problem described above and assure the continued structural integrity of the windshield.

Since the FAA has determined that the unsafe conditions described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring a one-time inspection of the windshields per Cessna Service Information Letters ME83-33 and Revision 1 or PJ83-18 and Revision 1 as applicable on certain Cessna Models 414A, 421C, and 425 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation

Regulations (14 CFR Section 39.13) is amended by adding the following new AD.

Cessna: Applies to Model 414A (Serial Numbers 414A0001 through 414A0833; 414A0835 through 414A0851; 414A0853 through 414A0856; and 414A0858), Model 421C (Serial Numbers 421C0273 through 421C1257), and Model 425 (Serial Number 425-0002 through 425-0177), airplanes with the original factory windshield installation certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent cracking and possible loss of the windshield, accomplish the following:

(a) Within 25 hours time-in-service after the effective date of this AD fabricate and install, adjacent to the cabin pressurization switch, a temporary placard having white letters of $\frac{3}{16}$ " minimum height on red background which reads:

"LIMIT PRESSURIZATION TO 3.0 PSI MAXIMUM";

and operate the airplane in accordance with this placard.

(b) Within 100 hours time-in-service after the effective date of this AD.

(1) Visually inspect the attach holes in the pilots and co-pilots windshield in accordance with applicable Cessna Service Information Letters ME83-33 dated September 30, 1983, and ME83-33 Revision 1 dated December 2, 1983, or PJ83-18 dated September 30, 1983, and PJ83-18 Revision 1 dated November 23, 1983.

(2) Replace or repair unacceptable windshields in accordance with the criteria and instruction in the applicable Cessna Service Information Letters and Revisions.

(3) Remove the temporary placard installed per paragraph a).

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

(d) The placard required by paragraph a) of this AD may be installed by the holder of at least an FAA private pilot certificate on any airplane he or she owns or operates. This person must make the prescribed entry in the aircraft maintenance records indicating compliance with paragraph a) of this AD.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Office, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas, 67209; Telephone (316) 269-7000.

This amendment becomes effective on February 16, 1984.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be

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

Issued in Kansas City, Missouri, on February 1, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-3026 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 23897; Amdt. No. 1261]

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) 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 § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

* * * Effective April 12, 1984

Bowie, TX—Bowie Muni, VOR/DME RWY 17, Amdt. 2, Cancelled

* * * Effective March 15, 1984

Washington, D.C.—Washington National, VOR/DME RWY 18, Amdt. 7

Jefferson, GA—Jackson County, VOR/DME RWY 34, Orig.

Marshalltown, IA—Marshalltown Muni, VOR RWY 12, Amdt. 5

Marshalltown, IA—Marshalltown Muni, VOR RWY 30, Amdt. 5

Olathe, KS—Johnson County Executive, VOR RWY 35, Amdt. 8

Presque Isle, ME—Northern Maine Regional Arpt at Presque Isle, VOR/DME RWY 1, Amdt. 10

Baldwin, MI—Baldwin Muni, VOR/DME-A, Orig.

Holland, MI—Tulip City, VOR-A, Amdt. 7

Glenwood, MN—Glenwood Muni, VOR RWY 33, Amdt. 1

Morris, MN—Morris-Stevens County, VOR RWY 32, Amdt. 2

Okolona, MS—Okolona Muni-Richard Stovall Field, VOR/DME RWY 18, Orig.

Laurel, MT—Laurel Muni, VOR RWY 21, Orig.

Clovis, NM—Clovis Muni, VOR RWY 22, Amdt. 2

Pembina, ND—Pembina Muni, VOR RWY 33, Amdt. 2

Lake Geneva, WI—Americana, VOR RWY 23, Amdt. 5

West Bend, WI—West Bend Muni, VOR RWY 13, Amdt. 4

West Bend, WI—West Bend Muni, VOR RWY 24, Amdt. 1

West Bend, WI—West Bend Muni, VOR RWY 31, Amdt. 7

* * * Effective January 26, 1984

Sanford, ME—Sanford Muni, VOR RWY 7, Amdt. 1

* * * Effective January 19, 1984

Rapid City, SD—Rapid City Regional, VOR/DME or TACAN RWY 14, Amdt. 13

* * * Effective January 12, 1984

Statesville, NC—Statesville Muni, VOR/DME RWY 10, Amdt. 4

* * * Effective January 11, 1984

Huntsville, AL—Huntsville-Madison Co Arpt—Carl T Jones Field, VOR-A, Amdt. 10

The FAA published an Amendment in Docket No. 23856, Amdt. No. 1257 to Part 97 of the Federal Aviation Regulations (VOL 48 FR No. 238 Page 55114; dated December 9, 1983) under Section 97.23 effective March 15, 1984, which is hereby amended as follows:

Alexandria, LA—Esler Regional, VOR RWY 14, Amdt. 12;

Alexandria, LA—Esler Regional, VOR RWY 32, Amdt. 13;

Bunkie, LA—Bunkie Muni, VOR/DME-A, Amdt. 1, Cancellation;

Marksville, LA—Marksville Muni, VOR/DME-A, Amdt. 1, Cancellation;

Marksville, LA—Marksville Muni, VOR/DME-B, Orig.; and

Pineville, LA—Pineville Muni, VOR-A, Amdt. 3 are rescinded.

The following will remain in effect:

Alexandria, LA—Esler Regional, VOR RWY 14, Amdt. 11;

Alexandria, LA—Esler Regional, VOR RWY 32, Amdt. 12;

Bunkie, LA—Bunkie Muni, VOR/DME-A, Amdt. 1;

Marksville, LA—Marksville Muni, VOR/DME-A, Amdt. 1; and

Pineville, LA—Pineville Muni, VOR-A, Amdt. 2.

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

* * * Effective March 15, 1984

Olathe, KS—Johnson County Executive, LOC RWY 17, Amdt. 4

* * * Effective February 16, 1984

Springdale, AR—Springdale Muni, LOC RWY 18, Orig.

* * * Effective January 13, 1984

Reno, NV—Reno Cannon Intl, LOC-1 RWY 16R, Amdt. 2

Reno, NV—Reno Cannon Intl, LOC-2 RWY 16R, Amdt. 1

The FAA published an Amendment in Docket No. 23856, Amdt. No. 1257 to Part 97 of the Federal Aviation Regulations (VOL 48 FR No. 238 Page 55114; dated December 9, 1983) under Section 97.25 effective March 15, 1984, which is hereby amended as follows:

Alexandria, LA—Esler Regional, LOC BC RWY 8, Amdt. 8 is rescinded.

Alexandria, LA—Esler Regional, LOC BC RWY 8, Amdt. 7 remains in effect.

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

* * * Effective May 10, 1984

Covington/Cincinnati, KY—Greater Cincinnati Intl, NDB RWY 9R, Amdt. 8

Covington/Cincinnati, KY—Greater Cincinnati Intl, NDB RWY 18, Amdt. 13

Covington/Cincinnati, KY—Greater Cincinnati Intl, NDB RWY 36, Amdt. 26, Cancelled

* * * Effective March 15, 1984

Show Low, AZ—Show Low Muni, NDB-A, Orig.

Hugoton, KS—Hugoton Muni, NDB RWY 2, Orig.

Frenchville, ME—Northern Aroostook Regional, NDB RWY 32, Amdt. 2

Medford, OK—Medford Muni, NDB RWY 17, Amdt. 1

Marysville, OH—Union County, NDB RWY 27, Amdt. 4, Cancelled

Marysville, OH—Union County, NDB RWY 27, Orig.

Presidio, TX—Presidio Lely Intl, NDB-A, Orig., Cancelled

Barre-Montpelier, VT—Edward F Knapp State, NDB RWY 35, Amdt. 2

West Dover, VT—Mount Snow, NDB RWY 1, Orig.

West Bend, WI—West Bend Muni, NDB RWY 31, Amdt. 8

* * * Effective January 13, 1984

Reno, NV—Reno Canon Intl, NDB RWY 16R, Amdt. 2

* * * Effective January 12, 1984

Statesville, NC—Statesville Muni, NDB RWY 20, Amdt. 6

* * * Effective January 11, 1984

Huntsville, AL—Huntsville-Madison Co Arpt—Carl T Jones Field, NDB RWY 18R, Amdt. 10

The FAA published an Amendment in Docket No. 23856, Amdt. No. 1257 to Part 97 of the Federal Aviation Regulations (VOL 48 FR No. 238 Page 55114; dated December 9, 1983) under Section 97.27 effective March 15, 1984, which is hereby amended as follows:

Alexandria, LA—Esler Regional, NDB RWY 26, Amdt. 7;

DeRidder, LA—Beauregard Parish, NDB RWY 36, Amdt. 1;

New Roads, LA—False River Airpark, NDB RWY 36, Amdt. 1;

Marksville, LA—Marksville Muni, NDB RWY 4, Orig.; Cancellation;
 Marksville, LA—Marksville Muni, NDB RWY 22, Orig.; and
 Natchitoches, LA—Natchitoches Muni, NDB RWY 34, Amdt. 3 are rescinded.
 The following will remain in effect:

Alexandria, LA—Esler Regional, NDB RWY 26, Amdt. 6;
 DeRidder, LA—Beauregard Parish, NDB RWY 36, Orig.;
 New Roads, LA—False River Airpark, NDB RWY 36, Orig.;
 Marksville, LA—Marksville Muni, NDB RWY 4, Orig.; and
 Natchitoches, LA—Natchitoches Muni, NDB RWY 34, Amdt. 2.

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

* * * Effective May 10, 1984

Covington/Cincinnati, KY—Greater Cincinnati Intl, ILS RWY 9R, Amdt. 10
 Covington/Cincinnati, KY—Greater Cincinnati Intl, ILS RWY 18, Amdt. 14
 Covington/Cincinnati, KY—Greater Cincinnati Intl, ILS RWY 27L, Amdt. 7
 Covington/Cincinnati, KY—Greater Cincinnati Intl, ILS RWY 36, Amdt. 30

* * * Effective April 12, 1984

Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS RWY 35L, Amdt. 10, Cancelled
 Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS RWY 36R, Amdt. 10, Cancelled

* * * Effective March 15, 1984

Groton (New London), CT—Groton-New London, ILS RWY 5, Amdt. 7
 Miami, FL—Miami Intl, ILS RWY 9L, Amdt. 26
 Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/, ILS RWY 4, Amdt. 21
 Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/, ILS RWY 11R, Amdt. 2

Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/, ILS RWY 22, Amdt. 1
 Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/, ILS RWY 29L, Amdt. 38

Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/, ILS RWY 29R, Amdt. 5

Salt Lake City, UT—Salt Lake City Intl, ILS/DME RWY 16R, Amdt. 2

* * * Effective January 25, 1984

Greenville, SC—Greenville Downtown, ILS RWY 36, Amdt. 25

* * * Effective January 20, 1984

Syracuse, NY—Syracuse Hancock Intl, ILS RWY 10, Amdt. 3

* * * Effective January 13, 1984

Reno, NV—Reno Cannon Intl, ILS RWY 16R, Amdt. 4

* * * Effective January 11, 1984

Huntsville, AL—Huntsville-Madison Co Arpt—Carl T Jones Field, ILS RWY 18R, Amdt. 15

Huntsville, AL—Huntsville-Madison Co Arpt—Carl T Jones Field, ILS RWY 36L, Amdt. 2

The FAA published an Amendment in Docket No. 23856, Amdt. No. 1257 to Part 97 of the Federal Aviation Regulations (VOL 48 FR No. 238 Page 55114; dated December 9, 1983) under Section 97.27 effective March 15, 1984, which is hereby amended as follows:

Alexandria, LA—Esler Regional, ILS RWY 26, Amdt. 11 is rescinded.

Alexandria, LA—Esler Regional, ILS RWY 26, Amdt. 10 remains in effective.

5. By amending Part 97.31 RADAR SIAPs identified as follows:

* * * Effective May 10, 1984

Covington/Cincinnati, KY—Greater Cincinnati Intl, RADAR-1, Amdt. 20

* * * Effective March 15, 1984

Anchorage, AK—Anchorage Intl, RADAR-1, Amdt. 9

Galena, AK—Galena, RADAR-1, Amdt. 7

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

* * * Effective March 15, 1984

Holland, MI—Tulip City, RNAV RWY 26, Amdt. 2

West Bend, WI—West Bend Muni, RNAV RWY 13, Amdt. 4

* * * Effective January 12, 1984

Statesville, NC—Statesville Muni, RNAV RWY 2, Amdt. 4

{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.

Issued in Washington, D.C. on February 3, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

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.

[FR Doc. 84-3618 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 253

[Economic Reg; Amdt. No. 4; Docket 41443; ER-1375]

Terms of Contract of Carriage

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is conforming its rules to allow air carriers to incorporate their domestic baggage liability rules by reference. These terms may include limits on the air carrier's liability for loss, damage, or delay of goods and baggage, including fragile and perishable goods. This rule is consistent with the final domestic baggage rule, ER-1374, that was adopted today. This action is taken in response to a petition by the Air Transport Association.

DATES: Adopted: December 23, 1983.
 Effective: April 10, 1984.

FOR FURTHER INFORMATION CONTACT:

Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: This rule is adopted for the reasons discussed in ER-1374, which was adopted today.

List of Subjects in 14 CFR Part 253

Advertising, Air carriers, Air transportation, Claims, Consumer protection, Freight, Law, and Travel.

PART 253—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 253, *Notice of Terms of Contracts of Carriage*, as follows:

1. The authority for Part 253 is:

Authority: Secs. 204, 403, 404, and 411, Pub. L. 85-726, as amended, 72 Stat. 743, 758, 760, 769; 49 U.S.C. 1324, 1373, 1374, 1381.

2. Paragraph (b)(1) of § 253.5 is amended by adding a reference to baggage terms so that it reads:

§ 253.5 Notice of incorporated terms.

* * * * *

(b) * * *

(1) Limits on the air carrier's liability for personal injury or death of passengers, and for loss, damage, or delay of goods and baggage, including fragile or perishable goods.

* * * * *

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[ER Doc. 84-3798 Filed 2-9-84; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 254

[Economic Reg.; Docket 41443; ER-1374]

Domestic Baggage Liability

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is adopting final rules on domestic baggage liability for airlines. The rules apply to all flights on large aircraft (over 60 seats) and to small aircraft flights that are on the same ticket. These airlines may not limit their liability for lost, damaged or delayed baggage to less than \$1250 per passenger. Airlines may notify passengers by a written notice on or with the airline ticket of their limitations on liability either by specific notice or by providing a Board-mandated notice. This rule is adopted partly on the Board's initiative, and partly in response to a petition by the Air Transport Association.

DATES: Adopted: December 23, 1983.

Effective: April 10, 1984.

FOR FURTHER INFORMATION CONTACT:

Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

In September 1982, the Board adopted a final rule (ER-1305, 47 FR 52987, November 24, 1982) on baggage liability rules for air carriers in interstate and overseas air transportation. That rule, which was codified as 14 CFR Part 254, provided that airlines in interstate and overseas air transportation could not limit their liability for direct or consequential damages resulting from the disappearance of, damage to, or delay in delivery of, a passenger's personal property, including baggage, in its custody to less than \$1000 per passenger.

The rule did not apply to flights on aircraft with less than 60 passenger seats. In addition, Part 254 required a carrier to provide written notice to passengers on or with its tickets concerning any limitation on its baggage liability, including its rules for fragile and perishable goods, and the availability, if the carrier provided it, of excess valuation insurance coverage. This rule was the result of a reexamination of the need for continued

regulation in this area during and after sunset of the Board.

On December 17, 1982, the Air Transport Association (ATA) petitioned the Board to amend the new Part 254 prior to its effective date of February 22, 1983. ATA argued that requiring each carrier to give specific ticket notice of its baggage liability rules would undermine the usefulness of standard ticket stock used by travel agents. In addition, it argued that the Board failed to give adequate notice and opportunity to comment on its proposal to raise the minimum liability limit from \$750 to \$1000, and that the Board did not fulfill the requirements of the Administrative Procedure Act in adopting the notice provisions in Part 254.

In response to ATA's petition, the Board stayed the February 22, 1983, effective date of the rule by ER-1305A, 48 FR 6961, February 17, 1983. After some further deliberation, it adopted a notice of proposed rulemaking (EDR-458, 48 FR 52987, May 18, 1983) to address ATA's concerns and to request further comments on the applicability of the rule, the notice requirements and the minimum liability limitations.

EDR-458 proposed to:

1. Require carriers to provide specific notice of liability limitations to passengers on or with their tickets by either providing a statement of their actual monetary baggage liability limitation, or including a Board-prescribed statement;
2. Require any carrier, regardless of aircraft size, to observe the Board's minimum baggage liability limits for all flight segments included on the same ticket with a large-aircraft segment;
3. Increase the minimum liability limitation to either \$1,000 or \$1,250; and
4. Require carriers to provide excess valuation insurance coverage.

Comments were filed by airlines, consumer groups, governments, businesses and private individuals. The commenters included the Air Transport Association (representing Air Cal, Air Florida, Alaska, American, Capitol, Continental, Delta, Frontier, Midway, Northwest, Pan Am, PSA, TWA, United, USAir and Western), the Regional Airline Association (RAA), Global International Airways, People Express, Southwest, Transamerica, the Aviation Consumer Action Project (ACAP), the International Airline Passengers Association (IAPA), the State of Hawaii, Jewel Companies, the Natrona County International Airport, the law offices of Thomas A. Dickerson, and five individuals. Each issue will be discussed separately.

Notice to Passengers

ER-1305 required each carrier to provide written notice to passengers, on or with its tickets, concerning (1) any limitation on baggage liability, including rules for fragile or perishable goods, and (2) the availability, if the carrier provided it, of excess valuation insurance coverage.

The Board subsequently expressed concern that carrier-specific notice might levy unjustified costs on airlines and travel agents because each carrier would have to print and distribute its own ticket or stuffer to its entire sales network. The Board acknowledged that such carrier-specific notice might undermine the uniform ticket stock system, which provides many benefits for consumers, travel agents, and air carriers.

In EDR-458, the Board proposed to amend its requirement that each carrier provide specific notice of its liability limitation, to allow carriers to give notice of their liability limitation by using one of two options. The first option was to permit a carrier to include a statement of its actual monetary liability on or with its ticket. The second proposed option was to permit an airline to use the following statement:

Federal rules require any limit on an airline's baggage liability to be at least \$1000 per passenger, except for flights on small aircraft where lower limits may apply. Airlines may have higher limits.

EDR-458 proposed that this notice be printed on or with the uniform ticket stock. The Board included the reference to liability on small aircraft to alert connecting passengers that the small-aircraft operator may have lower baggage liability than airlines using large aircraft. In the alternative, the Board proposed to apply its minimum baggage liability limitation to all carriers on any flight segment that is included on the same ticket as a large aircraft segment. This issue is discussed below.

Most of the commenters that addressed the issue of notice supported the proposal, with some qualifications. ATA said that the proposal met its concerns and that the prescribed ticket notice would alert passengers to the minimum liability limits. In addition, it noted that the industry has already included a baggage liability limitation notice on uniform ticket stock.

RAA, Hawaii and Mr. Jones endorsed the proposal. Transamerica further asked that the requirement apply only to tickets printed after the effective date of the rule, since it keeps a full year's supply on hand.

Ms. Ann Stevens stated that passengers should be given oral and written notice of the carrier's liability policy, and asked to sign a "statement of understanding" at check-in. She suggested that the airline be required to keep the statement on file until the time for making claims has passed, and that if the carrier fails to do so, it should not be able to limit its liability. Additionally, she would not apply the limits in cases of gross negligence, such as failure to provide adequate security for the baggage. Finally, she advocated requiring an airline to demonstrate when items are lost that it has made an effort to locate the baggage.

Opposing the Board's proposal were Mr. Dickerson and ACAP. Dickerson stated that other businesses that provide bailments, such as railroads and inns, are not permitted to limit their liability through incorporation by reference. He argued that incorporation by reference "provides no effective notice and has been used in consumer litigation to justify the enforcement of contractual terms which consumers may never see". He concluded that liability limitations should be permitted only where there has been effective notice of the limitations.

ACAP disputed the Board's finding that the cost of using individual ticket stuffers is unjustified by the benefits consumers derive from them. It stated that baggage rules are of exceptional importance to all passengers because this is the area where they incur the greatest financial losses. According to ACAP, incorporation by reference will not give passengers adequate notice of the rules, because only well-educated passengers will know what incorporation by reference means, and most passengers have neither the time nor the incentive to look up the rules.

In recognition of the Board's intent to permit carriers to incorporate by reference, ACAP urged the Board to consider requiring carriers to notify passengers of their baggage rules through other, less burdensome means. Specifically, it suggested that ticket locations have counter signs explaining the baggage liability rules, and have explanations printed on a one-page document that would be available on a free, take-one basis. ACAP argued that this approach would not involve the Board in dictating the content of the rules and would not impose a burden on travel agents.

The Board considers that use of a notice similar to that specified in the rule will allow carriers to continue to use uniform ticket stock while giving passengers adequate notice of the minimum liability limitation. Uniform

ticket stock is important to the functioning of the airline system, with the majority of tickets now sold by travel agents that act for almost all of the carriers. Standard ticket stock benefits all the parties involved by facilitating ticketing of passengers, settlements, and refunds and exchanges. In light of the number of carriers that are handled by a typical travel agent today—a number that is steadily increasing—the Board finds it impractical to require each agent to have different ticket stock or stuffers for each carrier. The benefits to the public from such a cumbersome system would be negligible.

The suggestion that the Board initiate a new form of passenger notice, through giveaway documents or counter signs, is outside the scope of the proposal in this rulemaking. Absent a further substantial demonstration of need, however, the Board remains of the opinion that the elaborate system of notice established by this Part 254 and by Part 253—ticket notice, summary of terms available through travel agents, and full contract terms available on request—is adequate for the purpose.

To some extent, the arguments raised by Dickerson and ACAP against incorporation by reference were considered and disposed of in the rulemaking on Part 253, ER-1302, 47 FR 52128, November 19, 1982. The Board concluded there that short-form ticketing was important to the efficiency of the air transportation system, and that there was no cost justification for replacing the tariff system with one of bulky individual contracts to be given out to each airline passenger. Baggage liability is just one of the many terms of the contract of carriage that are comprehended by that basic policy decision. The Board has recognized, however, the importance of baggage liability to passengers, and its special concern for that subject is the reason for the individual rules that are the subject of this proceeding. The intent of the rules is to alert every passenger directly, in simple terms, of the carrier's limitation of liability, while making the details available through less costly means under the provisions of Part 253. This type and level of notice is at least as detailed and "direct" as that provided by the tariff system that existed before 1983.

The Board has decided to adopt the proposed notice requirements, with some modifications. A carrier may provide conspicuous notice, on or with its tickets, of its liability limit by including either (1) the Board-mandated notice, or (2) a specific statement of its actual liability limitation. The Board

finds that either of these types of notice, which states the amount of the limit, is more likely to be understood by passengers than a general notice that liability may be limited.

The Board has decided, however, to modify the Board-mandated notice for clarity and to conform to the changes made in this final rule. The revised text states:

Federal rules require any limit on an airline's baggage liability to be at least \$1250 per passenger.

The notice has been changed to reflect the minimum baggage liability limitation and to notify passengers as simply as possible of the applicability of the rule. The Board has omitted the sentence stating that the limit might be lower on small aircraft. Such a notice would have been irrelevant and potentially confusing, since as will be discussed below, the Board has decided to apply the rule to small aircraft operations that are included on the same ticket as a large-aircraft segment. Finally, the Board has omitted the sentence stating that liability limits may be higher because it was redundant.

The Board does not find Ms. Stevens' suggestions, for detailed written agreements and notices to be exchanged and retained as each passenger checks in, to be justified in light of the costs that would be involved. Her suggestions with respect to the effect of gross negligence and actions by the airline in response to a loss of baggage are outside the scope of this rulemaking. This proceeding does not concern the basic rules of tort law—degree of fault, mitigating action—that have always underlain the legal rights and duties between passengers and carriers.

In an accompanying final rule, the Board is amending paragraph (b)(1) of § 253.5, *Notice of incorporated terms*, to add the following item to the list of subjects on which passengers may obtain contract information from their ticket sellers: "Limits on the air carriers liability * * * for loss, damage, or delay of goods and baggage, including fragile and perishable items." This change will make each carrier's main provisions on baggage liability available to the public for inspection at every ticket-selling location, including travel agents.

Small Aircraft Operations

The Board has not in the past imposed any minimum baggage liability limitations directly on air taxis. Such carriers are, however, required to provide a notice under § 298.30 at all ticketing locations stating their policy on baggage liability. In addition, prior to

the sunset of domestic tariffs, air taxis that filed tariffs for their interline operations with certificated carriers were required to conform to the \$750 minimum liability limitation.

In EDR-458, the Board expressed its concern that any prescribed form of ticket notice alert passengers to the fact that the rule only applied to flights on large aircraft. The Board was concerned that passengers, especially on connecting flights with large and small aircraft, would not know that different rules applied depending on the size of the aircraft. In addition, the Board recognized that when a bag is lost during interline travel involving both large and small aircraft, it is often difficult for the passenger to establish which airline is at fault and which liability limit applies.

To remedy this problem, the proposed Board-mandated notice included a warning that lower limits may apply to flights on small aircraft. In the alternative, the Board proposed to require operators of small aircraft to observe the minimum baggage liability limits for all flight segments included on the same ticket with a large-aircraft segment. The Board requested comments on both alternatives.

Most of the comments that addressed the problem supported extension of the minimum liability rules to air taxis. The supporters included ATA, IAPA, the State of Hawaii, Natrona County, and one individual. ATA stated that extension to these small aircraft operations is a good idea because passengers are unaware that travel on aircraft of different sizes might involve differing liability limits. Additionally, it maintained that a distinction in liability limits between operators of small and large aircraft was unjustified, because a small aircraft operator is just as likely to be at fault as a large aircraft operator. ATA and IAPA both noted that the size of the aircraft is irrelevant to the value of articles contained in a bag.

The State of Hawaii urged the Board to extend its rules to all carriers in scheduled service, without regard to interlining, and to on-demand carriers that interline. It argued that a two-tier baggage liability limitation would confuse passengers, especially foreign visitors.

IAPA contended that when a commuter and a certificated carrier interline, the large carrier often accepts liability only for the lower of the two maximum liability limits. Since there has been increased interlining between commuter and certificated carriers, it believed that all commuter carriers should be required to offer the same baggage protection as certificated

carriers. One individual stated that some commuters have become "nearly small regional carriers" and as a result should be treated as other airlines.

The Regional Airline Association argued that since deregulation, consumer complaints concerning baggage have decreased. As a result, it stated, "the low level of complaints shows no compelling need for drastic reform of the practices of regional air carriers in this area, which are presently largely unregulated. RAA argued that the Board has not shown any change in the regulatory atmosphere since the adoption of ER-1305, where it rejected extension of the rule to commuter air carriers participating in joint tariffs. RAA's board of directors, however, voted not to object to the proposal if the \$750 liability limit were retained and the rules were extended to all carriers.

RAA pointed out that extension to small-aircraft operations covered on the same ticket as another flight segment involving large aircraft will, as a practical matter, extend the Board's liability limits to all commuters. It stated that almost all regionals interline to a substantial extent, and it is not feasible for them to maintain two levels of baggage liability.

RAA stated that the proposed notice will adequately warn the public about possible lower liability limits on small-aircraft segments of multi-segment trips. It said that the Board historically has not regulated the baggage liability practices of uncertificated regional/commuter carriers, even though a standardized notice on uniform ticket stock has been used without any serious problems. It argued that the prescribed notice would not be the only warning that passengers will receive. In addition to that required under Part 253, 14 CFR 298.30 requires air taxis to post counter signs at ticket sales locations. RAA noted that under the common law, carriers avoid unlimited liability only by giving effective notice of their liability limits. Thus, carriers have a strong incentive to give notice of their baggage liability limits.

RAA also pointed out that extension of the baggage rules to small-aircraft operators will require some amendments to § 298.30 of the Board's rules, which requires noncertificated operators of small aircraft to post counter signs regarding their baggage rules. If commuters are required to maintain the same levels as certificated carriers, they argued that there is no reason to subject them to requirements more extensive than other carriers. Similarly, RAA noted that some amendment of the rules may be necessary insofar as § 221.176 requires

certificated small-aircraft operators, but not noncertificated carriers, to post counter signs and ticket notices for international travel. The Board will consider these comments regarding special notice requirements in a separate proceeding. The RAA contentions concerning the level of liability limitation are discussed below under that heading.

The Board has decided to adopt the alternative proposal of applying the rule to all small-aircraft flight segments that are included on the same ticket as a large-aircraft segment. Most of the comments favored this course over a notice warning passengers of possible lower limits. The changes in domestic air transportation since the Deregulation Act of 1978 have prominently included a major increase in the extent of public travel by carriers using small aircraft, and in the importance of such aircraft to the transportation system. The shift to market-based allocation of resources has caused trunk airlines to drop many smaller routes that previously were subsidized by profits from long-haul routes, turning them over to commuter lines using small aircraft that are more efficient for such service. Many of the under-60-seat aircraft that are coming into use have amenities similar to those of larger craft, and passengers have reason to expect that, as integral parts of the air transportation system, their operators will be governed by similar Federal rules. Requiring all operations ticketed together with large aircraft to have the same liability limits will eliminate the possibility of passengers being misled by the liability figure printed on standard ticket stock.

As discussed below, the cost per passenger of baggage liability, evidently on the order of 10 cents, is not such as to raise the possibility of an unreasonable burden on small operators. The cost per passenger of this rule change will probably be far less than that, in actuality, since commuter airlines incur such liability now, albeit with lower limits in some cases. Furthermore, small airlines, with less necessity for highly mechanized baggage handling, should have even more ability than major carriers to minimize their baggage losses by careful handling operations.

Finally, this rule will prevent large aircraft operators from limiting their liability to the lower level set by carriers operating the small aircraft segment of an interline or connecting journey. IAPA stated that carriers often deny knowledge of whether the large or small aircraft operator was responsible for the loss, and therefore refuse to pay more than the lower limit of the two carriers.

Under this rule, all such segments included on the same ticket will be subject to a liability limitation not less than \$1250.

Excess Valuation Coverage

EDR-458 proposed to require carriers to offer passengers the opportunity to purchase excess valuation coverage, and to provide conspicuous notice that it is available.

ATA supported the proposal on grounds that the requirement would not be burdensome, and that it is generally offered by ATA's member carriers. ATA recommended, however, that the requirement not apply to curbside check-in, because it would undermine quick baggage handling. ATA argued that current curbside facilities are not equipped to sell excess valuation coverage, and introduction of money drawers could pose security problems. In addition, the personnel at curbside facilities frequently are contract personnel, not regular airline employees, so that the requirement might cause additional security problems. Finally, it stated that any passenger wishing to purchase excess valuation coverage could use the regular check-in procedures.

ACAP stated that there is no historic evidence that requiring carriers to provide excess valuation insurance coverage is or would be burdensome. In addition, it stated that the existence of expedited methods of boarding should not be used to justify abolishing the requirement, because any particular burden could be handled by granting an exemption. Finally, it argued that if the Board decides not to explicitly require excess valuation insurance, the Board should leave the question of whether airlines have an obligation to provide excess coverage to State law.

Mr. Dickerson noted that the availability of excess insurance coverage and knowledge of its existence are important not only to passengers but to carriers seeking to enforce liability limitations under the common law. He concluded that the proposed requirement would benefit both passengers and airlines.

People Express opposed the requirement on the grounds that most carriers offer the coverage voluntarily and that in any event, most passengers can easily obtain it. It warned that by requiring carriers to offer excess valuation coverage, the Board would soon find itself progressively more involved in insurance transactions.

RAA argued that the Board lacks statutory authority to regulate this subject area. RAA stated that charges for excess coverage constitute an

integral part of what the passenger pays for the transportation and that under the Airline Deregulation Act, the Board no longer has authority over domestic fares, rates and tariffs.

Transamerica opposed any requirement that carriers provide excess coverage on the grounds that carriers are not in the insurance business, and that they should be considered to be a source of such coverage only as a last resort. It stated that selling excess coverage would increase a carrier's costs and inconvenience other passengers.

The Board has decided not to specifically require airlines to provide excess valuation insurance. As noted by ATA, all or almost all carriers offer this insurance today without a detailed Board requirement. The Board has decided not to impose such a requirement without a more persuasive showing that regulatory intervention is needed.

It appears to be in the carrier's own interest to offer excess valuation insurance coverage, or at least to make sure that it is readily available. As noted in the *Baggage Liability Rules Case*, 45 CAB 182, 195, "it has long been held that a carrier may demand extra compensation for value in excess of what the passengers may reasonably ask to have transported as baggage. By providing a choice of rates with varying degrees of liability based on declared value, the basic limitation of liability is rendered legal, and is not considered an attempt by a carrier to free itself of responsibility for its own negligence. It is on this basis, therefore, that at common law, the carriers are enabled to limit their liability." Our rule is not intended to preempt state courts on the issue of excess valuation coverage.

The Level of Liability Limitation

EDR-458 requested detailed comment on whether to increase the minimum liability limitation from \$750 to \$1000 or to \$1250.

ACAP, IAPA, Dickerson, Natrona County, and two individuals argued that the limit should be raised to \$1250 because of the increases in the cost of consumer goods since the \$750 limit was set in 1976. They stated that the limit should be set high enough to encourage carriers to improve their baggage handling systems. One commenter noted that with the current \$750 limit, it is cheaper to simply pay the claims rather than institute anti-pilferage or security measures. Jewel Companies supported an increase that would reflect changes in the Consumer Price Index (CPI) since 1976 and suggested that the Board consider relating the limit to fluctuations

in the CPI on an annual or semi-annual basis.

ATA, RAA, People Express, Southwest, and Transamerica opposed any increase in the limit. ATA and Transamerica questioned the propriety of relying on the general CPI because much of the increase since 1977 was due to inflation in housing costs and fuel prices. They suggested that the Board rely on the CPI for apparel and commodities, which has risen considerably less. People Express, on the other hand, argued that the Board has failed to establish any correlation between the CPI and the value of articles in passengers' baggage.

ATA, People Express and RAA noted that their average settlement is well below the current \$750 limit. People Express stated that the bulk of its claims are below \$250, whereas RAA contended that the average settlement its members made in 1982 was \$295. ATA warned that raising the limit may encourage "irregular" claims, including overstated values.

ATA claimed that the problem of lost, damaged or delayed baggage is not severe. Industry-wide, its comment indicated that the ratio of lost to carried baggage in 1981 was only .00016. In addition, ATA stated that of the bags not delivered, 40% are not actually lost, but improperly identified so that they cannot be returned to their owners.

ATA and Transamerica stated that the Board's selection of a baggage liability level should reflect a reasonable level of protection and not one that will cover every passenger against every potential loss. In their view, passengers should be expected to protect themselves against major losses. Transamerica stated that it is unlikely that many passengers tender belongings having a value of more than \$1000, especially on domestic flights. Finally, Transamerica noted that passengers who fail to adequately protect themselves against loss or delay are passing on the costs of insuring their goods to all passengers.

RAA opposed any increase in the limit if Part 254 were extended to small-aircraft operators. It argued that fares in short-haul markets are already high and that the costs of providing a higher limit would have to be passed onto consumers. RAA argued that there is no need to increase the limit if passengers are given adequate notice of the limit and if the Board requires carriers to offer excess valuation coverage.

Southwest argued that the limit should be decreased to \$250, if excess valuation coverage is offered. Such a decrease would allow carriers to unbundle fares

so that passengers would only have to pay for whatever services they want or need. It noted that it offers such excess coverage up to \$2500.

The State of Hawaii asked the Board to clarify whether it intends to refer to replacement or depreciated value in establishing the minimum value. If the Board intended to require carriers to pay passengers the cost of replacing lost articles, it believed that the limit should be \$1250. However, if the Board intended only to require carriers to pay passengers the depreciated value of their lost belongings, it believed that \$1000 would be adequate.

Global asked the Board to permit charter carriers to establish their own minimum liability rates, provided that they are clearly stated and acknowledged by the passenger in writing. According to Global, it is often impossible for charter carriers to protect passengers' baggage because they must rely on outside baggage handling services. It argued that having the same liability limit as scheduled carriers would impose an unfair burden on charter carriers. It further noted that passengers that choose charter service pay a substantially lower fare, so that it is reasonable to expect a different quality of service.

Mr. Benjamin Ginsberg, a wholesale tour operator, suggested that charter passengers should be provided with a written explanation of their rights to relief for delayed or lost baggage. The Board notes in response that this rule will in fact apply to charter passengers, so that they must receive notice of the limit. Any contractual terms, such as times or methods of making claims for lost or damaged luggage, must appear in the written contract required to be furnished to charter passengers under 14 CFR Part 380. To the extent that Mr. Ginsberg would require any further explanations, the Board does not find justification for more regulatory protection for charter passengers than that provided to scheduled passengers.

The Board has decided to increase the limit to \$1250. In May 1977, when the \$750 level was adopted, the Consumer Price Index for all Urban Consumers (U.S. City Average: all items) (CPI) was 180.6. In September 1983, the index was 301.8. A proportionate increase in the baggage liability limit would be to \$1253.

The Board is aware that other price indices have risen less than the widely-used CPI. The Apparel-Commodities Index, for example, has risen 25 percent from May 1977 to September 1983. In contrast, ACAP in its comment devised a hypothetical packing list for a woman taking a 2-week vacation in Miami, and

set forth the list price from a major catalog retailer for those items in 1966, 1978, and 1983. It concluded from this study that a proper limit would be \$1280. In evaluating the ACAP study, however, the Board has not been made aware of any statistically verified data on the actual composition of checked baggage. In light of all the arguments presented, it concludes, therefore, that the \$1250 level is the most appropriate amount.

The Board is of the opinion, moreover, that the \$1250 level is in the public interest even if some specialized inflation indices point to a somewhat lower figure. The Board does not consider it feasible, as Jewel Companies suggested, to adjust the limit on an annual or semi-annual basis. Not only would this require a continuing regulatory effort, with possibly considerable controversy over the proper adjustment factors, but it would require airlines to change their liability notices frequently, imposing further costs. Granting that with imprecise data the level set by rule must contain an element of arbitrariness, the Board is of the opinion that a \$1250 baggage liability limitation is reasonable, especially in light of the possibility of future price movements.

In addition, while carriers have some market incentive to reduce the incidence of baggage mishandling, a greater potential liability for that mishandling will in turn increase their incentive. The Board has decided at an earlier stage of this proceeding that it would not be desirable to remove all restrictions on carrier liability limitations, with any limitation subject to common law and market pressures. The Board must thus provide a substitute for those market forces. In so doing, it must determine what is reasonable in the public interest. It must balance the need for economic incentives to be placed on the carrier with the need for protection for the traveler. Based on the experience in this matter, the Board believes that a Federal limitation of \$1250 combined with notice to the passenger provides that balance.

The Board does not find persuasive the arguments that average claims are below the current \$750 limit, or that baggage losses are relatively infrequent. Since claims would normally be not more than the maximum allowable, it is to be expected that the average would be below it. Furthermore, to the extent that a carrier is able to limit damage and loss to baggage, so that its claims frequency and level are low, the change in liability limit will have less effect on it. The liability should not be a measure of the "average amount of baggage" or the "average claim," but rather a figure set high enough to cover all but unusual

cases, while protecting carriers against extraordinary claims.

The offering of excess valuation insurance is not, as Southwest suggested, a sufficient justification for lowering the liability limit from its present figure. For one thing, excess valuation insurance has been offered by almost all airlines continuously. The vast majority of passengers do not purchase excess valuation insurance, and evidently assume that they will be covered by the airline's liability. Baggage liability is indeed a cost spread over all passengers, but it is an arrangement that the public has become very much accustomed to, and one that most probably could not be grossly altered without substantial misunderstanding, inconvenience, and hardship.

Southwest's suggestion that lower limits would allow carriers to "unbundle" fares is rendered less persuasive by the low order of magnitude of costs involved. Using ATA's figures (a loss rate of 0.00016), the overall cost to carriers of baggage liability is on the order of 10 cents per passenger. Unbundling has no meaning with costs at that level; they are lost in the rounding of fares to the nearest dollar that is common throughout the industry.

The same answer applies to RAA's point that small carriers should not have their costs raised by applying the higher limit. Actually, as discussed above, the effect on carrier costs of raising the liability limit is bound to be far smaller than the actual total cost of baggage liability—that is, far smaller than 10 cents per passenger. Furthermore, the Board considers it especially important that interline passengers not experience different limits when moving from one airline to another. Passengers often cannot prove which airline is responsible for a loss, when their baggage is to be transferred directly from one aircraft to another.

The Board finds a logical gap between Global's premise, that charter carriers must often use outside baggage handling services, and its conclusion, that the Board should relieve charter carriers of any required baggage liability limit. If the use of outside contractors by charter carriers means that charter passenger baggage is more likely to be lost, then those passengers are even more in need of adequate liability limits. If it does not mean that, then the burden for charter carriers is no greater than for scheduled carriers. The Board notes that charter passengers typically embark for relatively long and extended trips. Accordingly, they probably have a

larger amount of baggage, on the average, than the overall average of scheduled passengers, which includes a large number of short-haul passengers with no checked baggage at all. Granting that charter service is frequently a low-cost, "no-frills" type of transportation, the Board is not persuaded that compensation for loss of their baggage is one of the "frills" that charter passengers are willing to forgo.

With respect to the State of Hawaii's question as to replacement or depreciated value: the Board rule has no bearing on the method of valuation. How the carrier's liability is measured is a matter of law ultimately to be resolved by the courts. The rule only sets a lower limit on the dollar figure that the carrier may insert in the contract of carriage as the limit of its liability, however computed.

Miscellaneous

Although not within the scope of this proceeding, People Express, RAA, and Southwest urged the Board to consider deregulating the area of baggage liability. ATA noted in a footnote that Delta, American and USAir had favored this option in earlier proceedings and still maintained this position.

People Express argued that the proposed baggage rules are inconsistent with the Airline Deregulation Act, Executive Order 12291 and OMB's stated position that this area should be deregulated. The Board, People Express argued, has failed to justify its conclusion that domestic baggage liability limitations are a proper subject for regulation. People Express contended that market forces will operate to protect passengers sufficiently.

The basic question of whether there should be any Federal baggage liability rule at all was considered and discussed in ER-1305, 47 FR 52987, November 24, 1982. The Board finds that the conclusions drawn at that time continue to be valid.

This rule will be effective 60 days after publication in the **Federal Register**, to provide sufficient lead-time for carriers to prepare and distribute new notices. The Board is not adopting Transamerica's suggestion that the new requirements apply only to tickets printed after the effective date of the rule. Such a rule, based on the capricious factor of availability of each carrier's ticket stock, would be confusing for both consumers and the industry, and lack the evenhandedness that should characterize any such regulation.

Regulatory Flexibility Analysis

The Board concludes that this rule will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96-354.

One group affected are travel agents. There are about 20,000 travel agents, most of whom are small businesses. The effect of this rule will be to eliminate the burden of maintaining different ticket notices for each carrier for which they sell tickets. This represents a cost saving over the alternatives that involve specific notices for each carrier.

Secondly, this rule may have some economic impact on a number of small air carriers. The rule will impose significantly higher liability limitations, and correspondingly higher claims expenses for small carriers who interline with large carriers using the same tickets. There will be some compensating advantage for small carriers, however, in that their interlining with large carriers can take place easily, using the same ticket stock, with no need for the small carrier to furnish any documentation to ticket-selling locations. In addition, travel on the small carriers, in combination with larger ones, will be more attractive, and they may gain some business, to the extent that prospective passengers realize that any baggage losses will be as fully compensated as they are on large aircraft.

In the Board's judgment, the economic impact of this change will not be large, and the benefits to the public more than offset the costs to the small businesses involved. The alternative of continuing to allow a smaller liability limitation for small-aircraft operators, where a higher limit is shown on the ticket, presents a serious likelihood of misleading the public.

The need, objective, and legal basis for this rule and the reporting and recordkeeping requirements involved are described in more detail in the preceding Supplementary Information and the rule that follows. The rule does not duplicate, overlap, or conflict with other Federal rules.

McConnell, Vice Chairman, Concurring

I concur with the Board's decision in this amendment of the baggage liability rule. It is the least intrusive alternative. I question, however, whether there is a need for any rules in this area. Baggage handling, claims, and liability are areas that carriers could, and I believe would, use as a marketing tool. Absent Federal regulation, the carriers would have more of an incentive to improve those areas of service because of increased consumer

responsibility thus interest, and because the recourse for passengers would be through court action against the carrier. Innovation would thus be encouraged once Federal protection is removed.

For these reasons, I support the higher \$1250 limit in order to subject the carriers to at least some pressure of higher risk. In the absence of Federal rules, unreasonable carrier actions harming the consumer can be handled through court actions and market pressures.

Barbara E. McConnell

Morales, Member Concurring in Part and Dissenting in Part

I fully agree with the majority's decision not to require airlines to provide excess valuation insurance. I believe that this type of insurance will be available to those passengers who require it without the Board's regulatory intervention. The marketplace can, and in other areas of consumer need does, respond to such needs. Clearly, there is an entrepreneurial opportunity here which will be exploited without Board mandate. A Board mandate would more than merely "identify" such an opportunity. How could we require excess valuation insurance to be available and yet not require the airlines to provide it? The fact that airlines would not have to sell it cannot eliminate the burden of assuring that such insurance is in fact available. This type of insurance is almost universally available today; the Board knows of no problem with it; and, as a general rule, we should not impose detailed regulations without a demonstrated need.

I believe that raising the minimum baggage liability limitation to \$1250 is an excessive regulatory intrusion into an area that, in my opinion, clearly does not need our intervention.

While I have supported imposing a minimum baggage limitation, I cannot agree that the *minimum* necessary is more than \$750. I have carefully reviewed the history of this provision. It has become clear to me that even in the *hey-day* of regulation, the liability limit was viewed as a way to establish an amount below which carriers could not unreasonably limit the responsibility they assumed for passenger baggage. The minimum amount does not guarantee a monetary settlement. Consumers have always had and will continue to have to prove their damages to a carrier under these baggage rules. The question is whether the \$750 limit has prevented consumers who have proven actual losses from recovering a reasonable amount from the carrier

responsible for their loss. The answer to that question is clearly "no". While the record in this case shows that inflation and the consumer price index have fluctuated wildly upward in previous years, we do not have a record which show that \$750 is a figure which has been used as a carrier cut-off or excuse to avoid payment of valid consumer claims. The average settlements cited by commenters on this rule ranged between \$250 and \$300. Passage of time alone does not, in my opinion, justify raising a limit which seems to have protected the average person making and proving a baggage claim. I simply do not feel that we have the facts necessary to support raising this amount.

Diane K. Morales

Paperwork Reduction Act

This rule is not subject to OMB approval under the Paperwork Reduction Act of 1980. The Board anticipates that there will be fewer than 10 carriers providing carrier-specific notice. The Board expects that most carriers will use the Board-mandated notice, which is not subject to the Act.

List of Subjects in 14 CFR Part 254

Air carriers, Consumer protection, Freight.

Accordingly, the Civil Aeronautics Board amends 14 CFR Chapter II by reissuing and revising Part 254 so that it reads as follows:

PART 254—DOMESTIC BAGGAGE LIABILITY

Sec.

- 254.1 Purpose.
- 254.2 Applicability.
- 254.3 Definitions.
- 254.4 Carrier liability.
- 254.5 Notice requirement.

Authority: Secs. 204, 403, 404, and 411, Pub. L. 85-726, as amended, 72 Stat. 743, 758, 760, 769; 49 U.S.C. 1324, 1373, 1374, 1381.

§ 254.1 Purpose.

The purpose of this part is to establish rules for the carriage of baggage in interstate and overseas air transportation. The part sets permissible limitations of air carrier liability for loss, damage, or delay in the carriage of passenger baggage and requires air carriers to provide certain types of notice to passengers.

§ 254.2 Applicability.

This part applies to any air carrier that provides charter or scheduled passenger service in interstate or overseas air transportation.

§ 254.3 Definitions.

"Large aircraft" means any aircraft designed to have a maximum passenger capacity of more than 60 seats.

§ 254.4 Carrier liability.

In any flight segment using large aircraft, or on any flight segment that is included on the same ticket as another flight segment that uses large aircraft, an air carrier shall not limit its liability for provable direct or consequential damages resulting from the disappearance of, damage to, or delay in delivery of a passenger's personal property, including baggage, in its custody to an amount less than \$1250 for each passenger.

§ 254.5 Notice requirement.

In any flight segment using large aircraft, or on any flight segment that is included on the same ticket as another flight segment that uses large aircraft, an air carrier shall provide to passengers, by conspicuous written material included on or with its ticket, either—

- (a) Notice of any monetary limitation on its baggage liability to passengers; or
- (b) The following notice: "Federal rules require any limit on an airline's baggage liability to be at least \$1250 per passenger."

By the Civil Aeronautics Board:

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-3767 Filed 2-9-84; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-20625, File No. S7-950]

Exemption for Certain Over-the-Counter Options on Exempted Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting Rule 3a12-7, which will designate as exempted securities under the Securities Exchange Act of 1934 (the "Exchange Act") over-the-counter options on government securities ("OTC government options") where (1) such options are traded otherwise than on a national securities exchange or an automated quotation system of a registered securities association; and (2) the options relate to securities representing obligations of \$250,000 or more. The rule will not affect the status

of any option with respect to the Securities Act of 1933.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Kevin S. Fogarty, Esq., Branch of Options Regulation, Division of Market Regulation, (202) 272-7345.

SUPPLEMENTARY INFORMATION:

I. Introduction

In Securities Exchange Act Release No. 19162 (October 20, 1982), 47 FR 49409 (November 1, 1982) ("Initial Proposing Release"), the Commission proposed Rule 3a12-7 for comment. The proposal was to establish as "exempted securities" under the Exchange Act options or privileges which relate to securities guaranteed by the U.S. government or issued by the government or government corporations, and which are exclusively traded otherwise than on a national securities exchange or an automated quotation system of a registered securities association.

As discussed in the Initial Proposing Release, the market in OTC government options is a modest one and is dominated by options on the Government National Mortgage Association's mortgage-backed pass-through securities ("GNMAs"). The market is primarily an institutional one, with government securities dealers ordinarily providing market making services and non-dealer participants trading for hedging or income-producing purposes. While the Commission staff has generally taken the position that OTC government options are securities separate from the exempt securities underlying them,¹ the Commission has not, as a general administrative matter, required registration of firms that limit their activities to government securities and OTC government options. As originally proposed, Rule 3a12-7 would have codified this informal practice and also made it clear that the options are not subject to the margin requirements of Section 7 or to any other provision of the Exchange Act that does not apply to "exempted securities." All the provisions of the Securities Act of 1933, including the registration requirements, would remain applicable. The rule's principal purpose is to accommodate market professionals and institutions that trade OTC government options incidentally to their primary business and who, but for their dealings in those

¹ This position has now been written into the securities statutes by virtue of the securities legislation implementing the SEC/CFTC Jurisdictional Accord. See, e.g., Securities Exchange Act of 1934, as amended, Section 3(a)(10), 15 U.S.C. 78c(a)(10).

options, would not be subject to registration and other requirements of the Exchange Act.

Comments opposing the proposal were submitted by the brokerage firm of Donaldson Lufkin & Jenrette and the Options and Derivative Products Committee of the Securities Industry Association. In particular, these commentators warned that a failure to regulate trading and the participants in this market might lead to some of the same irresponsible practices experienced in the late 1970's in the commodity options and GNMA securities markets. They stressed the importance of Commission rules in this market governing financial stability and recordkeeping, since the obligor on the OTC option contract (the "writer") is neither the government nor a well-financed clearing corporation.

As a result of this unexpected opposition to the proposed rule, the Commission resolicited comment ² to learn more about the OTC government options market, the prospect for public investor participation in it, and the regulatory alternatives for dealing with it.

Six comment letters were received in response to the Resolicitation Release.³ After the Commission staff had considered these comments and discussed with a number of the commentators the issues raised, the Commission repropose Rule 3a12-7 with a provision limiting its application to OTC government options relating to underlying securities representing obligations of \$250,000 or more. No further comments were received.

II. Discussion

As noted above, the Commission, in the exercise of administrative discretion, has not sought to impose the expense of registration and associated reporting, recordkeeping and financial requirements upon firms otherwise exempt from these requirements but for an incidental involvement in OTC government options. The rule adopted today, in part, formalizes this policy, conforms with Congressional expectations of an exemption for these products ⁴ and, of course, does not

prevent the Commission from revisiting the exemption should problems arise in the future.

While some commentators warned that an exemption would leave few ways to assure or even to assess the good faith or financial responsibility of the obligor on the exempted options, others argued that this was no more true with respect to OTC government options than with respect to various other contractual arrangements relating to government securities, such as forward delivery contracts or dealer-financed cash purchases.⁵

In the Commission's view, the Exchange Act should not be applied comprehensively to firms doing business in government securities and OTC options on them without either evidence of abuse or specific Congressional direction. Such comprehensive regulation of OTC government options would more appropriately be considered as part of an overall review of the government securities market and not limited to a single product such as OTC government options.⁶

The Commission does, to some extent, share the concerns cited by commentators of potential selling practice abuses occurring in an unregulated trading environment for OTC government options. Therefore in order to help insure that the exemption is utilized only in the professional/institutional market it is aimed at, the Commission has limited the rule adopted today to options on debt instruments having aggregate principal amounts of \$250,000 or more. While this limitation cannot preclude the sale of OTC government options to individual investors, particularly options well out-of-the-money (which generally have smaller premiums), the limitations should at least inhibit such sales efforts and should do so at very little

inconvenience to the professional/institutional type of business that currently characterizes the OTC government options market.⁷

For the reasons stated above, the Commission adopts Rule 3a12-7 as set out below.

III. Regulatory Flexibility Act Considerations

The Chairman of the Commission certified in connection with the Proposing and Modifying Releases that Rule 3a12-7, if adopted, would not have a significant economic impact on a substantial number of small entities. None of the comments addressed the certification.

IV. Effects on Competition and Other Findings

Section 23(a)(2) of the Act ⁸ requires the Commission, in adopting rules under the Act, to consider the anti-competitive effect of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has considered Rule 3a12-7 in light of the standards cited in Section 23(a)(2) and believes that adoption of Rule 3a12-7 will not impose any burden on competition not necessary or appropriate in furtherance of the Act. As stated herein, the rule is designed to prevent unnecessary burden to traders, and insofar as it contains limitations, they are designed to promote the purposes of the Act by protecting the public against unscrupulous or financially irresponsible persons.

The Commission finds, in accordance with the Administrative Procedure Act,⁹ that the adoption of Rule 3a12-7 relieves statutory registration and other requirements and is exemptive in nature. Accordingly, the Commission has determined to make the foregoing action effective immediately upon publication in the Federal Register.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

² Securities Exchange Act Release No. 19512 (February 18, 1983) 48 FR 8291 (February 28, 1983) ("Resolicitation Release").

³ For further discussion of these letters, see Securities Exchange Act Release No. 20080 (August 12, 1983), 48 FR 37430 (August 18, 1983) ("Modifying Release").

⁴ In connection with the legislation enacting the SEC/CFTC Jurisdictional Accord, both the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Energy and Commerce stated that they expected the Commission to define OTC government options as exempted securities. S.

Rep. No. 390, 97th Cong., 2d Sess. 5 n. 2 (1982); H.R. Rep. No. 626, Pt. 1, 97th Cong., 2d Sess. 9 and 12 (1982). It should be noted, however, that Congress has since taken some action on its own, exempting OTC options on Federal Home Loan Mortgage Corporation certificates. Pub. L. No. 98-35, 98th Cong., 1st Sess., Section 5.

⁵ See Resolicitation Release and Modifying Release.

⁶ Although the market in exchange-traded government options has been and will continue to be fully regulated, this was anticipated when the SEC/CFTC Accord legislation was enacted. Such an approach was based on the greater accessibility of the listed options markets to individual public investors and the perception that such markets would be more closely associated in the minds and expectations of investors with the Commission's traditional regulatory role. If, for example, OTC government options were to become standardized and substantial public trading activity were to develop, the Commission believes it might be appropriate to revisit this exemption. This development is not, however, a present prospect.

⁷ As noted in the Modifying Release, \$250,000 was selected as a minimum because it represents the minimum principal amount for a mortgage package that can be guaranteed by GNMA. The Commission's understanding is that OTC government options generally are of substantially greater denominations, typically \$1 million or more.

The wording proposed in the Modifying Release has been slightly amended to make clear that the obligations underlying an exempted option must in total represent \$250,000 or more, rather than that the exempted option may relate only to at least one security individually representing a \$250,000 obligation.

⁸ 15 U.S.C. 78w(a)(2).

⁹ 5 U.S.C. 553(d).

V. Statutory Basis

Rule 3a12-7 is adopted under the Act, 15 U.S.C. 78a *et seq.*, and particularly Sections 3(a)(12), 15(a)(2) and 23(a) [15 U.S.C. 78c(a)(12), 78o(a)(2) and 78w(a)].

VI. Text of the Amendment

PART 240—[AMENDED]

On the basis of the above discussion and analysis, the Commission amends Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 240.3a12-7 as follows:

§ 240.3a12-7 Exemption for certain derivative securities traded otherwise than on a national securities exchange.

Any put, call, straddle, option, or privilege traded exclusively otherwise than on a national securities exchange and for which quotations are not disseminated through an automated quotation system of a registered securities association, which relates to any securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States, or securities issued or guaranteed by a corporation in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury pursuant to section 3(a)(12) of the Act, shall be exempt from all provisions of the Act which by their terms do not apply to any "exempted security" or "exempted securities," provided that the securities underlying such put, call, straddle, option or privilege represent an obligation equal to or exceeding \$250,000 principal amount.

By the Commission.

Dated: February 6, 1984.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84-3740 Filed 2-9-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 8

[Docket No. RM83-67-000]

Revision of Licensed Hydropower Development Recreation Report: FERC Form 80

Issued: February 6, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; notice of effective

date and OMB control number.

SUMMARY: On November 27, 1983 the Federal Energy Regulatory Commission issued a final rule in Docket No. RM83-67-000, 48 FR 53,090 (November 25, 1983), revising FERC Form 80, Licensed Hydropower Development Recreation Report. This document gives notice of the effective date and of the OMB control number for § 8.11 of the final rule.

EFFECTIVE DATE: This rule was effective January 24, 1984.

FOR FURTHER INFORMATION CONTACT:

Karen Hurwitz, Rulemaking and Legislative Analysis Division, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501-3520 (Supp. V 1981) and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1983), require that OMB approve certain information collection requirements imposed by agency rule. On January 20, 1984, OMB approved the information collection requirements of § 8.11 and issued control number 1902-0106 for that section. The final rule in Docket No. RM83-67-000 was effective on January 24, 1984.

§ 8.11 [Amended]

1. Section 8.11 is amended by adding "(Approved by the Office of Management and Budget under control number 1902-0106)," to the end thereof.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3561 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 35

[Docket No. RM83-62-000]

Treatment of Purchased Power in the Fuel Cost Adjustment Clause for Electric Utilities; Correction

Issued: February 7, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of receipt of OMB approval and control number for final rule; corresponding correction.

SUMMARY: This document gives notice of receipt of approval by the Office of Management and Budget of the information collection provisions of a final rule issued by the Commission in

Docket No. RM83-62-000 (Order No. 352) on December 7, 1983, and of receipt of an OMB control for those provisions. The final rule, which will be effective on February 13, 1984, amends the Commission's regulations with respect to the treatment of purchased power costs in the fuel cost adjustment clause for electric utilities. This document also amends the final rule by adding the OMB control number to the Commission's regulations.

DATE: As provided for in Order 352, the rule is effective on February 13, 1984.

FOR FURTHER INFORMATION CONTACT:

Wilbur Earley, (202) 357-8158 or Robert S. Angyal, (202) 357-8228, Office of Regulatory Analysis, Federal Energy Regulatory Commission, Room 3000, 825 North Capitol Street NE., Washington, D.C. 20426.

SUPPLEMENTARY INFORMATION: On December 7, 1983, the Commission issued a final rule amending its regulations on the treatment of purchased power costs in the fuel cost adjustment clause used by electric utilities. Order No. 352, Docket No. RM83-62-000, 25 FERC ¶ 61,378, 48 FR 55429 (December 13, 1983). Because certain provisions of the final rule appeared to be subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982), those provisions were submitted to the Office of Management and Budget for review, and for the assignment of a control number upon approval by OMB.

OMB has now notified the Commission that it has approved the provisions of the rule submitted to it for review. OMB has assigned those provisions the following control number: 1902-0096. Accordingly, by this document, the Commission is amending its final rule to incorporate the OMB control number. The effective date of the rule is February 13, 1984.

The following correction is made in FR Doc. 83-33009, appearing on page 55437 of the December 13, 1983 issue of the Federal Register:

PART 35—[AMENDED]

§ 35.14 [Amended]

1. § 35.14 is amended by removing the period at the end of that paragraph (a)(12)(v) and adding the following:

(OMB) control No. 1902-0096)

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3669 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Parts 154, 157, 375 and 381

[Docket No. RM 82-25-000; Order No. 360]

Fees Applicable to Producer Matters Under the Natural Gas Act

Issued: February 6, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to establish fees for the services and benefits it provides to producers under the Natural Gas Act. This rule is the first of a series of rules to be issued on fees. These fees are authorized by the Independent Offices Appropriations Act. That Act provides for the collection of fees to make agencies "self-sustaining to the full extent possible."

EFFECTIVE DATE: This rule will become effective April 25, 1984.

FOR FURTHER INFORMATION CONTACT: Karen S. Hurwitz, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. INTRODUCTION

The Federal Energy Regulatory Commission (Commission) is adding a new Part 381 to its regulations to establish fees for services and benefits provided to natural gas producers under the Natural Gas Act (NGA).¹ This rule establishes the following fees for producer matters: (1) Blanket certificate for a small producer, \$800; (2) producer certificate of public convenience and necessity, \$1600; and (3) changes in producer rate schedules, \$300. This rule is one part of the Commission's ongoing program to establish fair and equitable fees for the services and benefits provided to those entities subject to the Commission's regulatory jurisdiction. To establish Docket No. RM82-25-000 a major part of the fee structure for the Commission's NGA activities, this rule is being issued at the same time as the Commission's rule establishing fees for natural gas pipeline rate changes under the NGA (see companion Docket No. RM83-2-000).

II. BACKGROUND

The Commission is authorized under the Independent Offices Appropriation Act of 1952 (IOAA) to establish fees for

services and benefits it provides.² The IOAA provides in pertinent part:

[A]ny work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency . . . to or for any person . . . shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation . . . to prescribe therefore such fee, charge, or price, if any, which he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration the direct and indirect costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amounts so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts . . .

The principal interpretation of the IOAA is Bureau of the Budget Circular A-25,³ which states that a fee should be assessed for each measurable unit or amount of government service or property from which an identifiable recipient derives a special benefit.⁴

In accordance with the IOAA and authoritative interpretations of that statute,⁵ the Commission, in establishing any fee, must:

² Act of Aug. 31, 1951, Ch. 376, Title v, 501, 65 Stat. 290, as codified, 31 U.S.C. 483(a) (1979).

³ Bureau of the Budget Circular A-25 (September 23, 1959). This interpretation has been cited by the United States Supreme Court as "the proper construction of the act." *FPC v. New England Power Co.*, 415 U.S. 345, 351 (1974).

⁴ Budget Circular A-25, at 1-2:
General Policy. A reasonable charge . . . should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit . . . For example, a special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

a. Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (e.g., receiving a patent, crop insurance, or a license to carry on a specific business); or

b. Provides business stability or assures public confidence in the business activity of the beneficiary (e.g., certificates of necessity and convenience for airline routes, or safety inspections of craft); . . .

c. Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (e.g., receiving a passport, visa, airman's certificate, or an inspection after regular duty hours).

⁵ See *National Cable Television Association, Inc. v. United States*, 415 U.S. 336 (1974); *FPC v. New England Power Co.*, 415 U.S. 345 (1974); *Mississippi Power & Light v. NRC*, 601 F.2d 223 (5th Cir. 1979); *National Cable Television Association, Inc. v. FCC*, 554 F.2d 1094 (D.C. Cir. 1976); *Electronic Industries Association v. FCC*, 554 F.2d 1109 (D.C. Cir. 1976); *National Association of Broadcasters v. FCC*, 554 F.2d 1118 (D.C. Cir. 1976); *Capital Cities Communications, Inc. v. FCC*, 554 F.2d 1135 (D.C. Cir. 1976).

(a) Identify the service for which the fee is to be assessed;

(b) Explain why that particular service benefits an identifiable recipient more than it benefits the general public;

(c) Base the fee on as small a category of service as practical;

(d) Demonstrate what direct and indirect costs are incurred by the Commission in rendering the service, and show that those costs are incurred in connection with the service rendered to the beneficiary; and

(e) Set a fair and equitable fee for the service.

For the reasons detailed below, the Commission believes that the fees set forth in this final rule meet these requirements of the IOAA.

III. SUMMARY AND ANALYSIS OF COMMENTS

The services and benefits provided to producers under the NGA for which the Commission is instituting a fee are the following:

1. \$800 for Commission review of applications for blanket certificates for small producers under section 7(c) of the NGA, filed in accordance with 18 CFR 157.40(b).

2. \$1600 for Commission review of applications by producers for certificates of public convenience and necessity under section 7(c) of the NGA, filed in accordance with 18 CFR Part 157.

3. \$300 for Commission review of changes in producer rate schedules under section 4 of the NGA, filed in accordance with 18 CFR 154.94.

A. Identification of Services

A small producer is an independent producer of natural gas who is not affiliated with a Class A natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with such sales by affiliated producers, were not in excess of 10,000,000 Mcf at 1473 psia (60° F) during the preceding calendar year. To lessen the burden of filing requirements on small producers of gas, the Commission, under section 7(c) of the NGA, permits sales by small producers under a blanket certificate which covers all existing and future sales by the small producer subject to certain limitations.⁶ The blanket certificate benefits the small producer in two important ways. First, it is a one time filing covering all existing and future jurisdictional small producer sales. This differs from large producers, who must secure a certificate for every new service. Second, the

¹ 15 U.S.C. 717-717w (1976 & Supp. V 1981).

⁶ See 18 CFR 157.40.

blanket certificate holder does not need to file its rate schedules with the Commission, and thus, does not have the obligation of filing all of its changes in rate schedules like the large producer.

A large producer is a producer whose total jurisdictional sales are in excess of 10,000,000 Mcf. Large producers under the NGA are required under section 7(c) of the Act to obtain from the Commission a certificate of public convenience and necessity prior to commencing any sale of gas for resale in interstate commerce. In certain situations is where the natural gas involved was committed or dedicated to interstate commerce on or before November 8, 1978, producers are required to file for authority to commence new sales and to modify existing certificate authority where appropriate. A certificate of public convenience and necessity benefits an applicant by allowing the applicant to engage in the business of sale for resale of natural gas.

Applications for producer certificates of public convenience and necessity and blanket certificates for small producers are processed by the Office of Pipeline and Producer Regulation (OPPR). Each application is noticed in the *Federal Register* and is reviewed for conformity with the Commission's regulations. A draft order is prepared and reviewed by the Office of the General Counsel for legal sufficiency. In most cases, the Director of OPPR conducts an abridged statutory hearing required under 18 CFR 385, Subpart H, and issues a certificate under delegated authority pursuant to 18 CFR 375.307.

All large producers are required to file rate schedules with the Commission detailing the terms, conditions, and rates for each of their jurisdictional gas sales contracts. Changes in such schedules cannot be made without prior notice to the Commission and the public. The Commission, under section 4 of the NGA, reviews changes in rate schedules filed by producers. Each of these changes must be analyzed to determine whether it conforms to the Commission's rules and regulations.

Large producers file changes in their rate schedules under § 154.94 of the NGA. These changes are reviewed and analyzed by the Rate Filing Branch of OPPR for conformity with statutes, Commission regulations or orders, and contractual entitlement. This review and analysis ensures that the changes are in the public interest and are just and reasonable. Once this analysis is complete, a staff memorandum on whether to approve or disapprove is prepared and submitted to the Office of the General Counsel for review. Then,

the Director of OPPR reviews the staff memorandum and issues a letter of acceptance or rejection.

One commenter argues that there should not be a fee for changes in producer rate schedules because a rate increase is not always the subject of the change. While it is true that a rate increase is not always involved, Commission staff goes through the same procedure on all rate filings, whether or not a rate increase is involved, and must make a finding that the non-rate change filings conform to the Commission's rules and regulations as well. In addition, the Commission considers that it is reasonable to assume, for the purposes of this rule, that the majority of such filings will meet the standards for approval. Thus, the minor number of rejected filings should not control the application of a fee. Further, a producer can refile a change in rate schedule knowing what was found lacking on the first review. For these reasons, the Commission believes it reasonable to impose a fee for all filings for changes in producer rate schedules.

A number of commenters argue that the Commission should not include the costs associated with abandonments with the costs associated with certificates because the two are separate proceedings, and because an abandonment provides no benefit to a producer. The Commission has decided to exclude the costs of abandonments from the costs of certificates in devising its fees. The Commission agrees that an abandonment is not part of the same application or proceeding. Further, the Commission has decided not to charge a separate fee for applications for abandonment in this rule for two reasons. First, it believes that such fees could cause undue economic hardship on producers whose wells are no longer producing gas. And second, the Commission wants to encourage all producers to obtain the necessary abandonment authorization. However, the Commission has not concluded, as a final matter, that there is no benefit associated with an abandonment, and may consider instituting a fee for an abandonment in future rules.

A number of commenters state opposition to charging a fee for a certificate application filed to cover the sale of gas which is awaiting a jurisdictional agency determination under the NGA that the gas will be produced from a new lease on the Outer Continental Shelf and, thus, ultimately exempted from NGA jurisdiction. Also, one commenter states that since no abandonment filing is required for sales from new OCS leases, the abandonment fee component should be removed from

any fees charged for gas which is ultimately removed from NGA jurisdiction.⁷ While it may be true that some of the applicants initially subject to the NGA are ultimately exempted from that Act, not all are. Further, the Commission goes through the same procedure in processing those certificates that are ultimately exempted. Therefore, there will be no blanket exemption from fees in such cases.

One commenter argues the Commission should give separate treatment to hearings and interventions in its fee calculations. The Commission has not established a fee for hearings in the producer area. Such hearings in the producer NGA area are extremely rare, leaving the Commission without sufficient data to establish a fee. Furthermore, some producer hearings held under the NGA might benefit one identifiable recipient more than they protect the general public interest. Absent more data on the nature of producer hearings held under the NGA, the Commission has decided not to establish a fee for filings set for hearings in this final rule. Under other circumstances, however, the Commission may be able to reach a different conclusion on the issue of charging fees for hearings. Hence, the Commission does retain the right to directly bill [see III. H. below] an applicant for the costs associated with a hearing in the producer area where the hearing provides a private benefit to an identifiable recipient and where the filing requires an extraordinary amount of Commission time and effort to process.

One commenter says that the Commission should not charge a fee for petitions for rehearing. It states that the rehearing process is a prerequisite to judicial review, and the IOAA provides no authority for the Commission to impose economic barriers to judicial review.

The Commission has decided not to establish a fee for filing a petition for rehearing at this time. In those cases where the applicant petitions for rehearing seeking a private benefit, the Commission believes it could charge a fee for reviewing that petition. However, there are also cases where an entity petitions for rehearing in the public's interest. In those cases, the Commission does not believe it would be reasonable to impose a fee. Because of the large

⁷ As noted above, the work-months associated with applications for abandonment will be separately recorded and will not be included with the work-months associated with certificate applications.

administrative burden involved in trying to segregate which rehearing petitions could be subject to a fee and because of our decision not to charge a fee for producer hearings, the Commission has also decided not to set a fee for a petition for rehearing at this time.

Another commenter says the Commission should not charge a fee for rulemakings. The Commission is not charging a fee for rulemakings in this rule. The Commission is also not charging a fee for a number of other actions it takes relating to gas producers under the NGA. Those actions include declaratory orders, preliminary and formal enforcement investigations, enforcement-related settlements and litigation, news releases and litigation in the courts. As for preliminary and formal enforcement investigations, enforcement-related settlements and litigation, news releases, and litigation in the courts, the Commission believes that these actions generally result in a benefit to the public at large, and do not manifest the necessary, identifiable benefit to an individual entity. This is especially true in enforcement-related matters. As for rulemakings and declaratory orders, while the Commission believes that these actions might warrant fees, the Commission has decided not to establish a separate fee category for these items as they pertain to NGA producer certificate and rate matters.⁸

B. Special Benefits to Identifiable Recipients

In delineating the services or benefits for which agencies are permitted to charge under the terms of the IOAA, Budget Circular A-25 states that a fee may be charged to an identifiable recipient who derives a special benefit from a Government service.⁹ In addition, the circular states that a "special benefit" has accrued if the recipient obtains "more immediate or substantial gains or values than those which accrue to the general public."¹⁰

A number of commenters state that in order to be classified as an allowable "fee" under the IOAA, a particular charge must be incident to a voluntary act. Changes in producer rate schedules and certificate applications, they say, are not voluntary acts but are required by the NGA and the Commission's regulations. This type of argument has

previously been rejected in *National Cable Television Association, Inc. v. FCC*, 554 F.2d 1094 (D.C. Cir. 1976), and *Mississippi Power & Light v. NRC*, 601 F.2d 223 (5th Cir. 1979).

In response to the argument put forth by cable television operators that they receive no benefit from an FCC license because the cable television industry would have developed better without FCC regulation, the D.C. Circuit in *National Cable Television* said "[a]ll that may be true, but these distinctions have no relevance here. The fact is that the FCC has undertaken to regulate this industry and has so far been sustained by the Supreme Court in this endeavor, with the result that a certificate of compliance has become a necessary and therefore valuable license."¹¹ The Fifth Circuit in *Mississippi Power & Light* similarly held that since a license from the NRC is an absolute prerequisite to operating a nuclear facility, that license is a benefit not shared by other members of society.¹² Hence, the Commission believes this issue has been settled by the courts and need not be the subject of further discussion in this rule.

Many commenters argue that the proposed rule fails to explain how producers receive a greater benefit from the Commission's regulations than the general public. They claim that the Commission's regulations offer no greater benefit than the authorization to price and sell natural gas in interstate commerce in conformity with a regulatory scheme which benefits only the general public. Other commenters raise related arguments. That the Commission's regulation of producer prices and actions is not a benefit but a detriment to producers; that consumers are the real beneficiaries of producer regulation; that the courts have held the purpose of the entire natural gas regulatory scheme is to keep consumer natural gas prices low; and that the Commission itself has recognized that NGA certificate and rate review functions primarily benefit consumers.

While consumers may be ultimate beneficiaries from the regulation of natural gas, that is not determinative of the Commission's right to charge fees under the IOAA. The IOAA provides for the collection of fees for any "work, service, publication, document benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility."¹³

Processing producer applications and rate schedule filings are the types of services for which the IOAA expressly authorizes the collection of fees. Not only is the statute clear on its face, but the D.C. Circuit has held that a fee otherwise authorized by the IOAA is not rendered invalid because the public may also enjoy downstream benefits.¹⁴

Furthermore, while it is true that in 1965 the Federal Power Commission (FPC) took an opposite approach toward fees, that approach does not prevent this successor Commission from adopting a different policy. Not until the 1970's did the courts begin reviewing fee structures of various agencies. It was after those cases were decided that the law became sufficiently clear, the Commission now believes that it can reasonably charge fees for the services and benefits provided to specific applicants.

C. Smallest Practical Unit

In designing a fee schedule, the Commission should establish fees on the smallest unit or category of service that is practical. In remanding fees established by the FCC, the United States Court of Appeals for the D.C. Circuit set forth the most authoritative interpretation of this IOAA requirement as follows:

[W]e interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is practical. In most cases, we expect this unit will be classes of carriers or applicants or grantees or services which the Commission has already singled out for separate treatment in its 1975 fee schedule. Classification is always a difficult problem, involving as it does the drawing of lines; but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed.¹⁵

¹⁴ *Electronic Industries Association v. FCC*, 554 F.2d 1109, 1115 (D.C. Cir. 1976). In that case, petitioners argued that fees should not be assessed for tariff filings or equipment testing and approval. The court answered that even though both activities were required by statute, the FCC was entitled to charge for services which assisted a person in complying with his statutory duties. Such services, the court said, create an independent private benefit since they provide a means for the carrier to obtain its revenues and to regulate subscriber use of its facilities. The court concluded that although the statute was enacted in order to protect the public against excessive or unreasonably discriminating or preferential charges, that result in only an incidental benefit from the service which is rendered by the agency, i.e., providing the means for carriers to comply with the statute.

¹⁵ *Electronic Industries Association v. FCC*, 554 F.2d 1109, 1116-17 (D.C. Cir. 1976).

⁸ The Commission is considering, in other rulemakings, both fees for declaratory orders under all of its jurisdictional statutes and fees to recover the costs of certain rulemakings. In those cases, the Commission believes that there are special benefits provided to identifiable recipients.

⁹ Budget Circular A-25, at 1-2.

¹⁰ *Id.* at 2.

¹¹ 554 F.2d at 1101-02.

¹² 601 F.2d at 229.

¹³ 31 U.S.C. 483(a) (1970).

Further, Budget Circular A-25 states that "costs shall be determined or estimated from the best available records in the agency, and new cost accounting systems will not be established solely for this purpose."¹⁶

The Commission, in keeping with Budget Circular A-25, is classifying its fees by types of applications or proceedings. The Commission has calculated its fees from its Management Information Systems (MIS). The MIS is an agency system established to track workload. This MIS tracks time, by work-months, based on types of applications or proceedings. The Commission is establishing one fee for an entire application or proceeding because that application or proceeding is the smallest unit practical for the Commission to develop fees.¹⁷

D. Basis of Cost Recovery

1. Direct and Indirect Costs Included

The Commission's fee schedule is designed to account for all types of recoverable costs associated with the processing of the specified applications and filings under the NGA. The costs attributable to a particular Commission service are not merely the salaries of the employees who review the applications or filings. The attributable costs include the direct salary costs as well as the substantial amount of indirect costs which the Commission expends in its reviews. As the Fifth Circuit has stated, employees

... must be supplied with working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that ... [they are] hired, paid on a regular basis and provided specialized training courses. Those and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application.¹⁸

Accordingly, the Commission has included in its identification of costs the following items: salaries and benefits; travel; transportation of things; rents; communications and utilities; printing; other support services; supplies; and equipment.

2. Methodology

(a) Underlying Considerations

The Commission's calculation of the costs of providing each of the services represented by a fee category is directly

related to the amount of time the Commission spends providing each of the services. The fees in this rule are based on information obtained through the Commission's Management Information System (MIS), which provides the amount of time spent on all Commission functions. The functions are grouped into categories which represent the Commission's various programs, including gas wellhead pricing, gas pipeline rates, gas pipeline certificates, gas producer certificates, gas producer rates, oil pipeline regulation, hydropower regulation, and electric power regulation. The MIS workload data is recorded on a monthly basis.

With respect to each function, the supervisor records for the MIS the number of projects initiated (receipts) and completed (completions) in a particular time period. Most Commission functions can be measured in terms of the number of projects initiated and completed. In accordance with Commission practice, these projects are generally assigned docket numbers and, for purposes of this discussion, will be referred to as "docketed activities". The supervisor in each organization unit reports to the MIS the amount of time spent by staff on each functional category in terms of work-months. A "work-month" is the unit of work represented by one employee's devotion of 100% of his or her time for one month. Time sheets are coded by functional categories and are filled out Commission wide every two weeks. The supervisor checks employee time sheets for accuracy in coding.

Support functions regularly undertaken, with respect to any program, are not docketed and may not be measured in terms of receipts and completions. The nature of these functions makes impractical any measurements in terms of receipts and completions, but these functions are nevertheless essential to the completion of any docketed activity. This time is also allotted and reported by unit supervisors in terms of work-months.

Only those support activities that are related to providing a benefit are included in the calculations. These support functions will be referred to as "support activities" and can be divided into three categories. First, there are support activities that involve general supervision, personnel management, and routine administrative functions such as maintenance of time and leave records, the handling of property and supplies, staff meetings, and the planning and organizing of leave. This category can be labeled as "administrative services" and is included in the fee structure

because it is essential to the FERC's ability to complete docketed activities.

Second, support staff responds to requests for information that may not contribute directly to the completion of a docketed activity. Examples include requests for information from the public, from the Congress, from the General Accounting Office, and from other governmental agencies. The Commission has excluded from its calculation of fees the work-months associated with this second category of "inquiries and internal communications" because this type of support activity is not involved in completing docketed activities.

Third, support staff establishes or reviews certain Commission operations and procedures. This is "technical management and operations." These activities include work on the FERC budget, management information systems, and program development functions such as special studies or briefings on relevant subjects, but which are not identified with just one docketed activity. This category is therefore an integral part of completing docketed activities.

The comments indicate confusion as to the difference between indirect costs and support functions. While both are types of indirect costs, they are channeled into the cost calculation at different times. Direct and indirect costs (such as physical plant overhead) are added together to come up with an average monthly cost per Commission employee of (\$4,770.67). That figure is multiplied by the time (in work-months) taken to review a type of application. Support activities represent work-months expended which cannot be allocated directly to each individually tracked, docketed activity. Therefore, the work-months used in the fee calculation consist both of time actually spent reviewing a particular type of application and also a pro-rata share of the time spent on support activities associated with reviewing that type of application.

(b) Calculation of Fee Amounts

For purposes of this rule, the Commission has used the following methodology to determine the cost of providing any service or benefit. First, the work-months reported for a class of docketed activity are added to a pro-rata share of the work-months reported for the relevant support activities for that activity. This figure, representing the total number of work-months dedicated to a class of docketed activity for a year, is divided by the number of completions for that year for the given activity. The resulting quotient

¹⁶ Budget Circular A-25, at 3.

¹⁷ The Commission has recently updated the MIS by starting to track its workload on a new system (Time Distribution Reporting System) which may provide an even greater degree of accuracy of Commission workload. At this time, however, the Commission does not have a year's worth of data to develop actual fees from the new system.

¹⁸ *Miss. Power & Light v. NRC*, 601 F.2d at 232.

represents the average number of work-months required to complete one proceeding in that given class of docketed activity.

Second, the Commission used the following data provided by its Office of Program Management to figure the average cost of a work-month, based on the Commission's fiscal year 1983 actual costs.

Salaries and benefits ¹	\$46,228
Travel.....	726
Transportation of things.....	7
Rents, communications and utilities.....	3,165
Printing.....	1,899
Other Services—excludes direct program contracts.....	4,684
Supplies.....	477
Equipment.....	42
Total.....	57,248

¹Based on year and payroll data and benefits at 26 percent.

The total was divided by 12 to yield an average work-month cost of \$4,770.67.

Third, in order to determine the cost of an activity, the Commission multiplied the average cost per work-month by the average number of work-months required to complete the activity.¹⁹

There were numerous complaints about the cost methodology proposed in the Notice of Proposed Rulemaking, such as inadequate information to verify the costs, calculations based on salary and overhead from one year and time per project from another year, use of budgeted figures as opposed to actual figures, use of average work-month costs rather than median or mode, and use of only one year for determining fees.

As for what costs are permissible for inclusion, the IOAA provides for the collection of fees which include both direct and indirect costs to the Government. Thus, there is no reason to exclude any item except for support functions relating to inquiries and internal communications, as discussed above. Second, in devising its fee schedule, the Commission is authorized to "determine or estimate [its costs] from the best available records in the agency."²⁰ For this Commission, that means the MIS.

The Notice of Proposed Rulemaking (NOPR), 47 FR 20621 (May 13, 1982) used 1982 budgeted figures to determine its costs, and 1981 actual completions and work-months in the fee calculation.

¹⁹ Updated data sheets have been placed in the Commission's Public File Room detailing the calculations.

²⁰ Budget Circular A-25, at 3.

Further, the method of updating the fees was tied to 1981. Each subsequent year was to be adjusted by the change in costs between the base year and the year in consideration. Many commenters argue that 1981 may not be a typical year for completions and work-months, and thus, should not be the base year. The Commission agrees with this argument, and believes it is much more accurate to calculate fees from actual completions and work-months, as well as actual costs. The Commission has decided to use actual fiscal year figures in this rule as well as in updating the fees in subsequent years (see section III E. below). This approach keeps data more current and is more representative of what actual fees should be. Therefore, the Commission has calculated the fees in this rule from actual fiscal year 1983 direct and indirect costs, completions, and work-months. This eliminates any inaccuracies which could arise from using budgeted figures.

Finally, a number of commenters claim that the Commission should not use an agency-wide figure for determining its direct costs. Instead, they maintain that the Commission should determine producer fees based on the salary of only those employees processing producer filings. As permitted under the requirements of Budget Circular A-25, since the Commission's accounting system employs an agency-wide figure, the Commission has used an agency-wide figure as the basis for its costs.

One commenter claims that the Commission gives no consideration to the number of staff personnel actually involved in a specific activity, but rather the commenter says the Commission assumes it will operate with a full staff. The Commission's MIS calculates work-months for every office at the end of each month, based on the number of full time employees actually working at the time of calculation. Thus, no assumptions are involved at all.

E. Actual Fees Established and Procedure for Updating Fees

The following table summarizes for 1983 the total number of work-months, and completions, and the average cost per completion in rendering the producer services for which the Commission is establishing fees in this final rule.

Service	Total WM's in 1983	Total completions in 1983	Average number WM's per completion in 1983	Average cost per completion in 1983
Review of applications for blanket certificates for small producers.....	32.7	179	.18	\$858.72
Review of applications for producer certificates of public convenience and necessity.....	152.75	434	.35	1,669.73
Review of producer changes in rate schedules.....	249.4	3,472	.07	333.94

The following fees are therefore established:²¹

Services	Fee
Review of application for a blanket certificate for a small producer.....	\$800
Review of application for a producer certificate of public convenience and necessity.....	1,600
Review of filing establishing a change in producer rate schedule.....	300

The Commission will update its fees each year to reflect the most current Commission costs. An updated fee schedule will be published annually in the *Federal Register*, after the close of the preceding fiscal year. The updated fees will be based on actual completions, work-months and costs from the preceding fiscal year. In this way, the fees will reflect, using the most current data available, the benefits to the recipients.

F. Exceptions to Full Cost Recovery

1. Reductions in Fee Amounts by Category

The Commission has established in this rule fees which include all the recoverable costs associated with the particular benefits and services provided. The Commission, based on its expertise, recognizes that there may be instances in the future in which establishing full cost recovery fees would have an adverse effect on applicants, or would undermine Commission activities. In such cases, the Commission may exercise discretion to reduce fees to less than full cost

²¹ Fees are established by taking actual costs and rounding down to:

(1) The nearest \$5 increment, if the total cost is \$100 or less; and

(2) The nearest \$100 increment, if the total cost is more than \$100.

recovery in order to prevent a disproportionate economic impact or for other good cause. Good cause would include situations where the Commission wishes to encourage use of a service, where less Commission time is required than staff time, or where there is a reduction in the amount of time required to process a filing. Any reduction in a fee would be initiated only by the Commission by rulemaking. The same percentage of reduction would carry over to subsequent years unless further notice was given by the Commission that it was altering that reduction.

Two commenters say that the Commission needs more specific guidelines in this area, particularly to include undue economic hardship as a standard. The Commission believes that the standards enumerated are sufficiently specific, particularly since any categorical reductions in fee amounts will be done by means of a rulemaking. Moreover, any determination on whether to establish a fee at less than full cost recovery amount would take into account economic hardship, as discussed above, if it applies to a class of applicants. This is to be distinguished from the situation where an individual producer can demonstrate severe economic hardship and qualify for a waiver, as discussed below.

2. Case-by-Case Waiver Procedure

The Commission also realizes that a different situation could arise in which an individual applicant is unable to pay fees as set by the Commission due to severe economic hardship. The Commission does not expect this to happen often in the producer areas covered by this rule. If an applicant is suffering from a period of severe economic hardship, the applicant will have the burden of presenting evidence, such as a financial statement, to the Commission showing that the applicant is either economically unable to pay the fee, or that if the applicant does pay the fee, it will place the applicant in a state of financial distress or emergency. As stated by the D.C. Circuit:

The applicant for waiver must articulate a specific pleading, and adduce concrete support, preferably documentary.²² This material must be included with the petition for waiver at the time of filing the application. The Commission, or its designee, will analyze petitions for waiver to determine whether the standards for waiver have been met. The Commission will notify the

applicant as to whether the petition for waiver has been denied or accepted.

G. Procedures for Paying Fees

The Commission's notice states that fees must be submitted by certified check, made payable to the United States Treasury. A number of commenters argue that there is no reason to require certified checks. They state that a corporate check should be sufficient.

The Commission has decided to delete the certified check requirement. However, a check made payable to the United States Treasury must still be included with the filing or application, unless a petition for waiver is submitted in lieu of the fee. The check must indicate for what the fee is being submitted, e.g., producer certificate of public convenience and necessity. This may be written on the bottom of the check. If the filing or application is not accompanied by either the appropriate fee or a petition for waiver, it will be considered deficient and will not be processed.

Two commenters complain of the Commission's decision to exclude the possibility of fee refunds. They argue that the Commission should include a provision in the final rule whereby an applicant could receive a refund if the application was rejected on grounds other than nonpayment of fees, or if the Commission did not respond within a reasonable amount of time. One commenter also argues the Commission must provide for refunds so that Commission business can continue while the proposed fees are undergoing judicial review.

The Commission's decision not to allow refunds is consistent with the policy behind the IOAA. That statute authorizes and orders Government agencies to become self-sustaining to the fullest extent possible. To do so, the agency is to collect fees for services and benefits it provides. The Congress gave this Commission the duty of carrying out the Natural Gas Act, part of which is to administer producer certificates and to review rate schedules. These are the services for which the IOAA authorizes the collection of fees. The service is reviewing the application or the rate change, not guaranteeing the issuance of a certificate or an increase in rates. The Commission reviews every application or rate change equally. Some are accepted, some are not, but the vast majority are accepted. The Commission's fees cover the time and cost of providing these services. It does not cost the Commission any less when it rejects an application or a rate change. Furthermore, the Commission's decision not to allow refunds is

consistent with its current policy of no refunds of fees and annual charges under the NGA under Part 159 of the Commission's regulations.

H. Direct Billing

The methodology used to establish the fees in this rule is based on the actual time of processing filings and the actual agency-wide costs involved with this processing. The Commission takes the actual work-months associated with a class of docketed activity and divides it by the number of completions in that class to arrive at an average number of work-months per completion. That figure is then multiplied by the average cost per work-month to arrive at the fee.

However, the Commission occasionally receives filings which are not average. These filings may be extensive in scope and present factual, legal, or policy issues of such complexity that the Commission may devote an extraordinary amount of time and effort to processing them. The standard fees established in this rule bear no reasonable relationship to the actual cost of processing those extraordinary filings. Moreover, if the costs of processing extraordinary filings are included in the costs associated with average filings, persons submitting average filings would be subsidizing those submitting the extraordinary filings. Therefore, in the case of an extraordinary filing, the Commission reserves the option of ordering a direct billing procedure at the beginning of processing the filing or at any time up to one year after receiving a complete filing. While the Commission does not expect direct billings to be used often in the fee areas covered by this rule, it is necessary to allow this degree of flexibility. Also, direct billings may prove to be useful in other fee areas.

Under the direct billing procedure, the Commission will periodically bill the entity that submitted the filing for all the direct and indirect costs incurred by the Commission in processing the filing, unless a lesser amount is determined to be fair and equitable. If the decision to bill a lesser amount is based upon the presence of intervenors in a proceeding, the Commission is retaining the discretion to determine whether some of the costs not directly billed to an applicant should instead be billed to the intervenors. The Commission doubts this will occur frequently since intervenors in many instances are raising issues oriented toward protecting the public interest as opposed to a private interest. Any decision to directly bill intervenors will be made on a case-by-case basis when a hearing is actually held in the NGA producer area.

²² United Gas Pipe Line Company v. FERC, 707 F.2d 1507, 1511 (D.C. Cir. 1983).

The staff resources devoted to processing a filing resulting in a direct billing will be separately recorded and will not be included in the work-months associated with processing average filings. This final rule also requires the Commission to credit an applicant whose filing becomes subject to direct billing with any fee paid under this fee system.

Seven commenters address this issue and each state that the direct billing procedure is entirely too vague. These commenters object to this direct billing method because they claim that the complexity of a filing might result simply from the participation of intervenors, that it is impossible to know beforehand if a matter will be complex, and that a proceeding may be complex because it contains important public policy issues where the potential benefit to the applicant is secondary to that of the public or to other industry members. A suggestion has been made that if the Commission does require direct billings in complex cases, it should allocate the fees among the intervenors as well as the applicant since the intervenors receive the same benefit as the original applicant. The Commission recognizes the points made by these commenters but, as indicated above, there is no reason to determine this issue generically in light of the Commission's decision not to establish a fee for filings set for hearings. The possible allocation of some costs to intervenors in direct billing situations will be handled on a case-by-case basis.

Also, a commenter requests that the Commission itemize all direct billings so that there will be a means of appealing the billed amount. Finally, one commenter suggests that, in the case of unsuccessful staff contests of filings, there be no additional direct billing costs.

Almost all of the filings in the producer areas covered by this rule are average in complexity and time spent. As noted above, it is rare to have an application go to hearing. Therefore, the number of times that the Commission expects to have direct billings of these producer fees is small. Where there is a direct billing, the Commission will itemize, to the best degree of accuracy under the MIS, the costs involved in the direct billing. There is no way the Commission can estimate in advance what the costs will be, but once the party is advised that direct billing will be used, it can then decide whether or not to pursue the matter in the filed application.

IV. SUMMARY OF FINAL RULE

This final rule establishes fees for services and benefits provided by the Commission to producers under the NGA in new Part 381 of Chapter 1, Title 18 of the Code of Federal Regulations.

Section 381.101 states the purpose of Part 381.

Section 381.102 provides the definition of "person", "work year cost", "work-month", and "filing".

Section 381.103 provides that each filing must be accompanied either by the proper fee or petition for waiver, or the filing will be considered deficient.

Section 381.103 also provides that if a filing for one service or benefit could be considered as falling within two or more fee categories, the higher or highest of the respective fees is the applicable fee.

Section 381.104 requires the publication of an updated fee schedule each year to reflect the most current Commission costs and the resulting NGA producer fees.

Section 381.105 provides the appropriate method of payment of fees.

Section 381.106 provides that the Commission, or its designee, may in the case of severe economic hardship waive a fee for an individual applicant. Such a waiver depends on the individual applicant providing the Commission with evidence that the applicant is either unable to pay the fee, or, that if the applicant does pay the fee, the applicant will be placed in a state of financial distress or emergency. Such evidence would include a financial statement, and must be submitted at the time of filing the application. The Commission, or its designee, will notify the applicant as to whether the waiver has been denied or accepted. If the petition is denied, the applicant has 30 days from date of the notification of denial to submit the appropriate fee.

Section 381.107 provides that the Commission may order any filing, the processing of which requires an extraordinary amount of time and staff resources, to be subject to fees based upon a direct billing procedure. Any fees paid under Part 381 upon submission of the filing would be credited against the direct billings.

Section 381.201 establishes a \$800 fee payable upon the submission of an application for a blanket certificate for a small producer under section 7(c) of the NGA.

Section 381.202 establishes a \$1,600 fee payable upon submission of an application for a producer certificate of public convenience and necessity under section 7(c) of the NGA.

Section 381.203 establishes a \$300 fee payable upon the filing of a producer

change in rate schedule under section 4 of the NGA.

In addition, this rule makes a number of technical, conforming amendments to the Commission's regulations. These conforming amendments address the above-mentioned categories of service and ensure that the requirement for each producer to file the proper fee with the application or rate schedule filing is clearly stated in the appropriate sections of Parts 154, 157, and 375.

V. FINAL REGULATORY FLEXIBILITY ANALYSIS

When an agency promulgates a final rule under section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, after being required by that section or any other law to publish a notice of proposed rulemaking, a final regulatory flexibility analysis may be appropriate under the Regulatory Flexibility Act of 1980. Each final regulatory flexibility analysis must contain (1) a statement of need for the rule, (2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, and the agency response to those comments, and (3) a description of alternatives to the rule consistent with the stated objectives of the applicable statute which the agency considered and ultimately rejected.

In this preamble, the Commission has already detailed its reasons for this agency action, its objectives, and the legal basis for this rulemaking. As discussed, the rule establishes a schedule of fees to be paid to the Commission for certain benefits it provides, in accordance with the IOAA and Budget Circular A-25.

This rule affects natural gas producers. There are approximately 10,000 natural gas producers in the United States. The Small Business Administration's (SBA) regulations do not establish size standards for producers.²³ However, some producers would probably be classified as small businesses. Therefore, this rule may have some degree of economic impact on a number of small producers. But, there is no reason to expect that this impact will be significant for a substantial number of those small producers. Further, in the case of blanket certificates for small producers, there is only a one time fee for all small

²³ 5 U.S.C. 601(3) citing to section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. V 1981). Section 3 of the Small Business Act defines "small-business concern" as a business which is independently owned and operated and which is not dominant in its field or operation. See also SBA's Small Business Size Standards, 13 CFR Part 121 (1983).

producer sales, after which the small producer, unlike a large producer, is not required to file rate changes, and therefore will not incur any additional fees.

Only one commenter discusses the Initial Regulatory Flexibility Analysis. The commenter simply states that the Commission's analysis is inadequate, and that the Commission does not consider the possibility of not imposing fees.

The Commission believes it followed the requirements of the Regulatory Flexibility Act in its notice of proposed rulemaking. Further, while the Commission has operated for a long time without charging fees for these categories of filings, its adoption of this fee schedule is authorized by statute.

Concerning the impacts on producers, and in particular small producers the final rule addresses those cases where there is either a disproportionate economic burden or severe economic hardship on a producer. The rule contains a provision for waiver of fees for an individual applicant which could protect small producers from undue economic hardship. However, the Commission is also required to satisfy the IOAA's statutory directive to be "self sustaining to the full extent possible." Hence, there is no blanket exemption for small entities. The Commission believes the rule as now promulgated represents a fair balance between the purposes of both the IOAA and the Regulatory Flexibility Act.

VI. PAPERWORK REDUCTION ACT STATEMENT AND EFFECTIVE DATE

The information collection provisions in § 381.106(b) of this rule will be submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501-3520 (Supp. V 1981), and OMB's regulations, 5 CFR Part 1320 (1983). Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC., 20426 (Attention: Karen Hurwitz, (202) 357-8033). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

This rule will become effective April 25, 1984. If OMB's approval and control number have not been received by this effective date, the Commission will issue a notice temporarily suspending the effective date.

List of Subjects

18 CFR Parts 154 and 157

Natural gas.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 381

Natural gas, General fees.

In consideration of the foregoing the Commission is amending Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

By the Commission.

Kenneth F. Plumb.

Secretary.

PART 154—RATE SCHEDULES AND TARIFFS

1. The authority citation for Part 154 is revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717-717z (1976 & Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Executive Order 12009, 3 CFR 142 (1978).

2. In § 154.94, a new sentence is added at the end of paragraph (a) to read as follows:

§ 154.94 Changes in rate schedules.

(a) * * * Each filing of a change in rate schedule must be accompanied by the appropriate fee prescribed in § 381.203 of this chapter, unless a petition for waiver is submitted in lieu thereof under § 381.106 of this chapter.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

3. The authority citation for Part 157 is revised to read as follows:

Authority: Secs. 7, 16, 52 Stat. 824, as amended, 830; 15 U.S.C. 717f, 717g; Executive Order 12009, 3 CFR 442 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a (1970), unless otherwise noted.

4. In § 157.24, a new paragraph (c) is added at the end thereof to read as follows:

§ 157.24 Contents of application.

(c) Each application for a certificate of public convenience and necessity required under § 157.23 must be accompanied by the appropriate fee prescribed in § 381.202 of this chapter,

unless a petition for waiver is submitted in lieu thereof under § 381.106 of this chapter.

5. In § 157.40, a new paragraph (b)(7) is added to read as follows:

§ 157.40 Exemption of small producers from certain filing requirements.

(b) * * *

(7) Each application for a blanket certificate by a small producer must be accompanied by the appropriate fee prescribed in § 381.201 of this chapter, unless a petition for waiver is submitted in lieu thereof under § 381.106 of this chapter.

PART 375—THE COMMISSION

6. The authority citation for Part 375 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Executive Order 12009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 553 (1976 & Supp. V 1981).

7. In § 375.307, new paragraph (u) is added at the end thereof to read as follows:

§ 375.307 Delegation to the Director of the Office of Pipeline and Producer Regulation.

(u) Deny or accept, in whole or in part, petitions for waiver of the fees prescribed in §§ 381.201, 381.202, and 381.203 of this chapter, in accordance with § 381.106(b) of this chapter.

8. In Part 375, a new § 375.313 is added to read as follows:

Subpart C—Delegations

§ 375.313 Delegations to the Executive Director.

The Commission authorizes the Executive Director or the Executive Director's designee to prescribe the updated fees for §§ 381.201, 381.202, and 381.203 of this chapter, in accordance with § 381.104 of this chapter.

9. In Subchapter W, a new Part 381 is added to read as follows:

SUBCHAPTER W—REVISED GENERAL RULES

PART 381—FEES

Subpart A—General Provisions

Sec.
381.101 Purpose.
381.102 Definitions.
381.103 Filings.

Sec.

- 381.104 Annual adjustment of fees.
 381.105 Method of payment.
 381.106 Waivers.
 381.107 Direct billing.

Subpart B—Fees Applicable To The Natural Gas Act And Related Authorities

- 381.201 Blanket certificates for small producers.
 381.202 Producer certificates of public convenience and necessity.
 381.203 Changes in producer rate schedules.

Subpart C—Fees Applicable To General Functions [Reserved]**Subpart D—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]****Subpart E—Fees Applicable to the Federal Power Act [Reserved]****Subpart F—Fees Applicable to the Public Utility Regulatory Policies Act of 1978 [Reserved]****Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]**

Authority: Department of Energy Organization Act 42 U.S.C. 7102-7352 (Supp. V 1981); E.O. 12,009, 3 CFR 442 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a (1970); Natural Gas Act, 15 U.S.C. 717-717z (1976 and Supp. V 1981); Federal Power Act, 16 U.S.C. 791a-828c (1976 & Supp. V 1981); Natural Gas Policy Act, 15 U.S.C. 3301-3432 (Supp. V 1981); Public Utility Regulatory Policies Act, Pub. L. 95-617, 92 Stat. 3117 (1978); Interstate Commerce Act, 49 U.S.C. 1-27 (1976), unless otherwise noted.

Subpart A—General Provisions**§ 381.101 Purpose.**

The purpose of this part is to set forth the fees charged by the Commission for services and benefits provided by the Commission.

§ 381.102 Definitions.

For purposes of this part, the following definitions apply.

(a) "Person" means any person, group, association, organization, partnership, corporation, or business, except those authorized to engage in the transaction of official business for the United States Government.

(b) "Work year cost" means the ratio of the Commission's budgeted expenses during any given fiscal year to the authorized staff level for that fiscal year.

(c) "Work-month" means the amount of work represented by one employee's devotion of 100 percent of his or her time for one month.

(d) "Filing" means any application, tariff or rate filing, intervention, complaint, petition, request, or motion submitted to the Commission in connection with any of the services or benefits for which a fee is established in this part.

§ 381.103 Filings.

(a) *Submittal of fees.* Except as provided in § 381.106(b), a fee in the amount set forth in this part shall accompany each filing for which a fee has been established.

(b) *Deficiencies.* (1) Any filing that is not accompanied by either the fee established for that filing or a petition for waiver in accordance with § 381.106(b) is deficient.

(2) The Secretary will inform any person submitting a deficient filing that:

(i) Such filing will be rejected unless the appropriate fee is submitted within a time specified by the Secretary;

(ii) The Commission will not process any filing that is deficient under this paragraph; and

(iii) The date of filing is the date on which the Commission receives the appropriate fee.

(3) This provision does not preclude a determination that a filing is deficient for any other reason.

(c) *Choice of two or more fees.* If a filing for one service or benefit may be considered as falling within two or more categories or services for which a fee is established, that filing must be accompanied by the higher or highest of the applicable fees.

§ 381.104 Annual adjustment of fees.

(a) *Update and publication.* The Commission, by its designee the Executive Director, will update its fees each fiscal year according to the formula in paragraph (c) of this section. The Executive Director will publish the fees in the Federal Register.

(b) *Payment of updated fees.* Any person who submits a filing for which a fee is established in this part must pay the currently effective fee unless a waiver is granted.

(c) *Formula.* The formula for determining each fee is the actual work-months dedicated to a given fee category for the previous fiscal year divided by the number of actual completions in the previous fiscal year multiplied by the average cost per work-month in the previous fiscal year. The fee is rounded down to the nearest \$5 increment if the fee is \$100 or less, and the nearest \$100 increment if the fee is more than \$100.

(d) *Effective date of fee.* Any fee updated under this section is effective on the thirtieth day after publication in the Federal Register of the revised sections in this part, unless otherwise specified in the Federal Register notice.

§ 381.105 Method of payment.

Fee payment shall be made by check or money order payable to the Treasurer of the United States. The check should

state the nature of the filing and the docket number where applicable so that the fee category for which the check is being submitted is clearly identifiable.

§ 381.106 Waivers.

(a) *Filing of petition.* If an applicant is suffering from severe economic hardship at the time of filing an application which makes the applicant economically unable to pay the appropriate fee for the application, rate change, tariff, petition, request or other filing requiring a fee, the applicant may submit a petition for waiver with the application in lieu of the applicable fee. The petition for waiver must include evidence, such as a financial statement, clearly showing either that the applicant does not have the money to pay all or part of the fee, or that if the applicant does pay the fee, the applicant will be placed in financial distress or emergency.

(b) *Decision on petition.* The Commission or its designee will analyze each petition to determine whether the applicant has met the standards for waiver and then will notify the applicant of its grant or denial, in whole or in part. If the petition is denied, the applicant will have 30 days from the date of notification of the denial to submit the appropriate fee to the Commission.

§ 381.107 Direct billing.

(a) *Applicability.* If a filing presents an issue of fact law, or policy, procedural difficulty, or technical complexity, which requires an extraordinary amount of Commission time and effort to process the filing, the Commission will institute a direct billing procedure for the direct and indirect costs of processing that filing. The Commission will make a direct billing determination under this paragraph not later than one year after receiving a complete filing from an applicant. Fees assessed by a direct billing procedure in accordance with this section will supersede the fees otherwise established in this part for the category of service involved.

(b) *Procedures.* (1) Direct billing will not be instituted with respect to any filing until the person who submitted the filing is notified that direct billing will be applied to the filing in lieu of the fees established under this part.

(2) Any fee submitted with the filing will be applied, as a credit, to the amount billed directly for processing costs. The Secretary will thereafter periodically bill the person who submitted the filing for the actual direct and indirect costs of processing the filing.

(3) If the Commission institutes a direct billing for the costs of a hearing and reduces the fee to the applicant to less than full cost recovery due to the presence of intervenors, the Commission will consider, on a case-by-case basis, direct billing the intervenors for all or part of the reduced portion.

Subpart B—Fees Applicable to the Natural Gas Act and Related Authorities

§ 381.201 Blanket certificates for small producers.

The fee established for an application for a blanket certificate for a small producer is \$800.00. This fee must be submitted in accordance with Subpart A of this part and § 157.40(b).

§ 381.202 Producer certificates of public convenience and necessity.

The fee established for an application for a producer certificate of public convenience and necessity is \$1,600.00. This fee must be submitted in accordance with Subpart A of this part and § 157.24.

§ 381.203 Producer changes in rate schedules.

The fee established for filing producer changes in rate schedules is \$300.00. This fee must be submitted in accordance with Subpart A of this part and § 154.94.

Subpart C—Fees Applicable to General Functions [Reserved]

Subpart D—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]

Subpart E—Fees Applicable to the Federal Power Act [Reserved]

Subpart F—Fees Applicable to the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

[FR Doc. 84-3587 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Parts 154 and 381

[Docket No. RM83-2-000; Order No. 361]

Fees Applicable to Natural Gas Pipeline Rate Matters

Issued: February 6, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations to establish fees for the services and benefits it provides

pipelines with regard to pipeline rate matters under the Natural Gas Act. This is the second of a series of rules to be issued on fees. These fees are authorized by the Independent Offices Appropriations Act. That Act provides for the collection of fees to make agencies "self-sustaining to the full extent possible."

EFFECTIVE DATE: This rule will become effective April 25, 1984.

FOR FURTHER INFORMATION CONTACT: Karen S. Hurwitz, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. INTRODUCTION

The Federal Energy Regulatory Commission (Commission) is adding a new Part 381 to its regulations to establish fees for services and benefits provided to natural gas pipelines under the Natural Gas Act (NGA) and related authorities.¹ This rule establishes the following fees for pipeline rate matters: (1) Tariff filings for general changes in rates and for changes other than in rates, \$2,000; (2) tariff filings that track certain changes in costs, \$2,300; and (3) petitions seeking advance approval of rate treatment of research, development, and demonstration expenditures, directly billed.

This rule is the companion rule to Docket No. RM83-2-000, which sets the fees for NGA producer matters. Together, these rules establish a major part of the Commission's fee structure for activities under the NGA, and are key parts of the Commission's ongoing program to establish fair and equitable fees for the services and benefits provided to those entities subject to the Commission's regulatory jurisdiction.

II. BACKGROUND

The Commission is authorized under the Independent Offices Appropriation Act of 1952 (IOAA) to establish fees for services and benefits it provides.² The IOAA provides in pertinent part:

[A]ny work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal

agency . . . to or for any person . . . shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation . . . to prescribe therefore such fee, charge, or price, if any, which he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration the direct and indirect costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amounts so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts . . .

The principal interpretation of the IOAA is Bureau of the Budget Circular A-25,³ which states that a fee should be assessed for each measurable unit or amount of government service or property from which an identifiable recipient derives a special benefit.⁴

In accordance with the IOAA and authoritative interpretations of that statute,⁵ the Commission, in establishing any fee, must:

- (a) Identify the service for which the fee is to be assessed;
- (b) Explain why that particular service benefits an identifiable recipient more than it benefits the general public;
- (c) Base the fee on as small a category of service as practical;
- (d) Demonstrate what direct and indirect costs are incurred by the

³ Bureau of the Budget Circular A-25 (September 23, 1959). This interpretation has been cited by the United States Supreme Court as "the proper construction of the act." *FPC v. New England Power Co.*, 415 U.S. 345, 351 (1974).

⁴ Budget Circular A-25, at 1-2.

General Policy. A reasonable charge . . . should be made to each identifiable for a measurable unit or amount of Government service or property from which he derives a special benefit . . . For example, a special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

- a. Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (e.g., receiving a patent, crop insurance, or a license to carry on a specific business); or
- b. Provides business stability or assures public confidence in the business activity of the beneficiary (e.g., certificates of necessity and convenience for airline routes, or safety inspections of craft) . . .

- c. Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (e.g., receiving a passport, visa, airman's certificates, or an inspection after regular duty hours).

⁵ See *National Cable Television Association, Inc. v. United States*, 415 U.S. 336 (1974); *FPC v. New England Power Co.*, 415 U.S. 345 (1974); *Mississippi Power & Light v. NRC*, 601 F.2d 223 (5th Cir. 1979); *National Cable Television Association, Inc. v. FCC*, 554 F.2d 1094 (D.C. Cir. 1976); *Electronic Industries Association v. FCC*, 554 F.2d 1109 (D.C. Cir. 1976); *National Association of Broadcasters v. FCC*, 554 F.2d 1118 (D.C. Cir. 1976); *Capital Cities Communications, Inc. v. FCC*, 554 F.2d 1135 (D.C. Cir. 1976).

¹ 15 U.S.C. 717-717z (1976 & Supp. V 1981). The Natural Gas Policy Act (NGPA), 15 U.S.C. 3301-3432 (1976 and Supp. V 1981) relates to the fees in this rule with respect to the Commission's jurisdiction over costs associated with purchase gas adjustments, incrementally priced gas, and transactions under section 311 of the NGPA.

² Act of Aug. 31, 1951, Ch. 376, Title V, 501, 65 Stat. 290, as codified, 31 U.S.C. 483(a) (1970).

Commission in rendering the service, and show that those costs are incurred in connection with the service rendered to the beneficiary; and

(e) Set a fair and equitable fee for the service.

For the reasons detailed below, the Commission believes that the fees set forth in this final rule meet these requirements of the IOAA.

III. SUMMARY AND ANALYSIS OF COMMENTS

The services and benefits provided to pipelines under the NGA for which the Commission is instituting a fee are the following:

1. \$2,000 for Commission review of pipeline tariff filings for general changes in rates and for changes other than in rates under section 4 or section 5 of the NGA, filed in accordance with 18 CFR 154.63.

2. \$2,300 for Commission review of pipeline tariff filings that track certain changes in costs under section 4 or section 5 of the NGA, filed in accordance with 18 CFR 154.38 or pursuant to approved tariff provisions, orders of the Commission or settlement agreements with the Commission.

3. Direct billings for Commission review of petitions seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures filed in accordance with 18 CFR 154.38(d)(5).

A. Description and Identification of Services Related to Pipeline Filings

At the outset, the Commission can identify a variety of services and activities that provide direct benefits to the applicant involved, as required under the IOAA and Budget Circular A-25. Without the performance of these services, the applicants would not be able to transport and sell gas. Therefore, the applicants involved are the recipients of special benefits that have more immediate value than those which accrue to the general public.

1. Tariff Filings

Commission acceptance of tariff filings that involve general changes in rates permits the pipeline to make the following changes⁶ in rates: (1) General rate changes (increases or decreases) that affect the level for most, if not all, of the services provided by the pipeline and will enable it to recover its costs and earn a fair rate of return on jurisdictional sales;⁷ and (2) minor rate

increases that usually relate to a few rate schedules and are designed to bring them into harmony with general tariff policy, to eliminate inequities, or to achieve other formal adjustment. A pipeline must submit any change in its rates to the Commission for its review and acceptance.

Commission acceptance of tariff filings for changes other than in rates allows the pipeline to amend an existing gas tariff to change the terms and conditions of service. Such filings, if accepted by the Commission, permit changes in the general terms and conditions of the tariff, rate schedules, service agreements and other miscellaneous tariff provisions, none of which changes any rate level or generates a change in annual revenues.⁸ A pipeline must submit any change in its gas tariff to the Commission for its review and acceptance.

Natural gas pipeline tariff filings are processed principally by the Office of Pipeline and Producer Regulation (OPPR) and the Office of General Counsel (OGC). A notice of the filing is published in the *Federal Register*. The filing is analyzed from a legal and technical standpoint to determine whether the proposed changes comply with the Commission's requirements for natural gas pipeline tariff filings, and, in the case of tariff filings that involve general changes in rates, whether the changes are consistent with the statutory "just and reasonable" standard.

If the filing is determined to comply with all statutory and regulatory requirements and is uncontested, the Commission staff prepares a letter order accepting the changes, together with a memorandum in which the staff summarizes the filing and the responses to the public notice, analyzes the filing, and makes a recommendation to accept the changes. The letter order and memorandum are sent either to the Commission or to the Director of OPPR for consideration. If the recommendations of staff are accepted, the letter order is issued by the Commission or by the Director of OPPR pursuant to delegated authority.

If the changes are found not to comply fully with applicable statutory and regulatory requirements, staff prepares a memorandum to the Commission in which staff summarizes the filing and

the responses to the public notice, analyzes the filing, and makes recommendations whether to suspend the filing and set the matter for hearing. If the Commission does not set the matter for hearing, a letter order accepting the changes is issued either by the Commission or by the Director of OPPR pursuant to delegated authority.

In those cases where the Commission agrees with the staff recommendation to set the matter for hearing or determines that a genuine issue of material fact exists, the tariff filing is suspended and the case is set for hearing before an administrative law judge.

2. Tracking Filings

Another category of tariff filings permits the pipeline to adjust its rates for certain costs without the need to support the level of all other costs. These so-called "tracking filings" are treated separately for purposes of fees. Natural gas pipelines pass through certain "tracked costs" (such as for purchased gas) to their customers on the basis of the costs incurred.⁹ The pipelines are reimbursed dollar-for-dollar for these tracked costs. Although the pipelines make no profit from pass-through of these costs, they avoid the attrition in earnings that would otherwise occur without tracking authority. In permitting pipelines to track certain costs for pass-through, the Commission has found that the nature of these costs is sufficiently distinguishable from other costs so that they can be tracked without jeopardizing the overall relationship between costs and revenues. Even so, this relationship is subject to periodic review. See, e.g., 18 CFR 154.38(d)(4)(vi) (1983). The tracking filings themselves are subject to thorough review and analysis to ensure that only the proper costs are being tracked.

Tracking filings are also processed principally by OPPR and OGC. A notice of the filing is published in the *Federal Register*. The filing is also analyzed from a legal and technical standpoint to determine both if it meets the Commission's filing requirements and if it comports with the provisions of any approved tariff Commission order or settlement agreement which the tracking filing is intended to implement.

If the filing is determined to comply with all the above requirements and is

⁶ The Commission has incorporated into the proposed fees for pipeline certificate applications the costs incurred in reviewing tariff filings that relate directly to a natural gas pipeline certificate authorization or amendment thereto. Therefore, the Commission is not, in this rulemaking, assessing a separate fee for tariff filings submitted in connection with a pipeline certificate application.

⁷ 18 CFR 154.63(a)(2)-(4) (1983).

⁸ Sections 4 and 5 of the NGA, 15 U.S.C. 717c, 717d (1976 & Supp. V 1981).

⁹ The Commission has the responsibility under sections 4 and 5 of the NGA to ensure that all rates charged by pipelines for the interstate transportation and sale of natural gas are just and reasonable, regardless of whether these rates are established by general rate change filings or by tracking filings.

uncontested, the Commission staff prepares a letter order accepting the tracking filing, together with a memorandum in which staff summarizes the filing and makes a recommendation to accept the tracking filing. The letter order and memorandum are sent either to the Commission or to the Director of OPR. If the recommendations of staff are accepted, the letter order is issued either by the Commission or by the director of OPR pursuant to delegated authority.

If the tracking filing is found not to comply fully with applicable statutory and regulatory requirements or not to implement properly the provisions of approved tariff provisions, Commission orders, or settlement agreements, the staff prepares a memorandum to the Commission in which the staff summarizes the filing and the responses to the public notice, analyzes the filing, and makes a recommendation whether to suspend the filing and set the matter for hearing. If the Commission decides not to set the matter for hearing, a letter order accepting the tracking filing is issued either by the Commission or by the Director of OPR pursuant to delegated authority. In those cases where the Commission agrees with the staff recommendation to set the matter for hearing or determines that a genuine issue of material fact exists, the tracking filing is suspended and the case is set for hearing before an administrative law judge.

The NOPR proposed to recover the Commission costs associated with audits and refunds as they relate to tracking filings. However, the Commission now believes that it cannot reasonably find a particular identifiable benefit to the applicant in these services. For that reason, the Commission has excluded these costs from the calculation of the fee for tracking filings.

3. Research, Development, and Demonstration Expenses

Petitions that are filed by the pipelines, groups of pipelines, or entities acting on behalf of pipelines to obtain advance Commission approval for pass-through of research, development, and demonstration expenditures are processed by OPR. A notice of the filing is published in the Federal Register.

The staff reviews the proposed projects and submits a memorandum to the Commission examining whether the expenditures are "valid, justifiable, and reasonable" ¹⁰ and, therefore, should be

allowed to be passed through to the pipeline's jurisdictional customers. The Commission then considers the matter and issues an order either accepting or rejecting the petition, in whole or in part.

The Gas Research Institute, acting on behalf of its member pipelines, regularly files petitions to obtain advance Commission approval of its research, development, and demonstration expenditures. When the Gas Research Institute files such a petition, the Commission follows a special procedural schedule. The staff prepares a report in which it summarizes the proposed projects and discusses whether the expenditures are "valid, justifiable, and reasonable" and whether pass-through of the costs should be allowed. The report is sent to all intervenors. ¹¹ Reply comments on the report from intervenors and final comments from the Gas Research Institute are then submitted to the Commission. The Commission then issues an order either accepting or rejecting the Gas Research Institute's petition, in whole or in part.

4. Hearings

The Notice of Proposed Rulemaking (NOPR), 47 FR 57943 (December 29, 1982), also proposed a fee structure that included charging for hearings held in connection with the categories of services involved in this rule—tariff filings that involve general rate changes, tariff filings for changes other than in rates, and tariff filings that track changes in costs. For several reasons, the Commission has decided not to charge fees to recover the costs of hearings related to the fee categories established in this rule.

First, a number of commenters contend that if the Commission chooses to charge a fee for tariff filings that are set for hearing, the Commission should charge a portion of that fee to parties which intervene. It is true that, in some instances, the intervenors raise issues related directly to their own welfare and not so related to overall public interest considerations. At other times, intervenors may be protecting the public interest to a greater extent than any identifiable recipient. Thus, it might be appropriate to charge intervenors, but only if the Commission expends the effort to distinguish between these two situations. This administrative obstacle complicates considerably the ability of the Commission to establish fee categories that include recovery of hearing costs.

¹¹ All state public utility commissions and all members of the Gas Research Institute automatically are made intervenors.

Second, the Commission customarily does not track the time it spends on hearings on a case-by-case basis. Thus, it is not possible under the present circumstances to determine precisely how much of each hearing fee would be related directly to intervenors.

Third, the Commission believes that the range of complexity among hearings is so great that an "average hearing fee" might be viewed as unduly burdensome on many parties. If hearing costs are tracked more closely on a case-by-case or type-by-type basis, any potential inequity from an averaging approach can be avoided.

The above reasons outline the administrative and practical problems for the Commission to charge for hearings in the present circumstances. Even though the Commission could elect to charge for fees in this rule, the Commission, in its discretion, has decided not to do so at this time.

Therefore, this rule does not include a separate hearing fee category and does not include costs associated with hearings in any of the fee categories that are specified in this rule. The Commission may in the future reconsider its position on this point. Meanwhile, the Commission does retain the right to directly bill [see Section III.H below] an applicant for the costs associated with a hearing in the pipeline area where the hearing provides a private benefit to an identifiable recipient and where the hearing requires an extraordinary amount of Commission time and effort to process.

5. Other Considerations

The Commission is not establishing in this rulemaking fees for a number of other activities related to natural gas pipeline rate matters. Those actions include rehearings, declaratory orders, rulemakings, preliminary and formal enforcement investigations, enforcement-related settlements and litigation, news releases, and litigation in the courts. As for preliminary and formal enforcement investigations, enforcement-related settlements and litigation, news releases, and litigation in the courts, the Commission believes that these actions generally result in a benefit to the public at large, and do not manifest the necessary, identifiable benefit to an individual entity. This is especially true in enforcement related matters.

As for rulemakings and declaratory orders, while the Commission believes that these actions might warrant fees, the Commission has decided not to establish a separate fee category for these items as they pertain to NGA

¹⁰ 18 CFR 154.38(d)(5)(1983).

pipeline rate matters.¹² Finally, as for rehearings, in those cases where a petitioner for rehearing is seeking a private benefit, the Commission believes that it could charge a fee for reviewing that petition. However, there are also cases where an entity's petition for rehearing raises issues that are primarily in the public's interest. In those cases, the Commission does not believe it would be reasonable to impose a fee. Due to the administrative burden that would be involved in trying to segregate which petitions could be charged, the Commission has decided not to set a fee for petitions for rehearing or to include the costs associated with rehearings into the fee categories established in this rule.

B. Special Benefits to Identifiable Recipients

In delineating the services or benefits for which agencies are permitted to charge under the terms of the IOAA, Budget Circular A-25 states that a fee may be charged to an identifiable recipient who derives a special benefit from a Government service.¹³ In addition, the circular states that a "special benefit" has accrued if the recipient obtains "more immediate or substantial gains or values than those which accrue to the general public."¹⁴

All of the commenters argue that there are no special benefits to natural gas pipelines that will substantiate a fee. Furthermore, many claim it is the public that receives the benefits of these filings. And, they say, it is the Commission's responsibility under the IOAA to show that the pipelines are receiving the benefits of these Commission services.

These arguments have previously been rejected in *National Cable Television Association, Inc. v. FCC*, 554 F.2d 1094 (D.C. Cir. 1976), and *Mississippi Power & Light v. NRC*, 601 F.2d 223 (5th Cir. 1979). In response to the argument put forth by cable television operators that they receive no benefit from an FCC license because the cable television industry would have developed better without FCC regulation, the D.C. Circuit in *National Cable Television* said "[a]ll that may be true, but these distinctions have no relevance here. The fact is that the FCC has undertaken to regulate this industry and has so far been sustained by the

Supreme Court in this endeavor, with the result that a certificate of compliance has become a necessary and therefore valuable license."¹⁵ The Fifth Circuit in *Mississippi Power & Light* similarly held that since a license from the NRC is an absolute prerequisite to operating a nuclear facility, that license is a benefit not shared by other members of society.¹⁶ Hence, the Commission believes this issue has been settled by the courts and need not be the subject of further discussion in this rule.

In a similar vein, two commenters contrast the Commission's fees to those of the NRC. These commenters contend that while an NRC licensee receives a special benefit (for example, the ability to construct and operate a nuclear facility), a pipeline filing a tariff or rate change does not receive any similar benefit. Instead, the commenters claim a ratemaking proceeding under the NGA primarily protects the public's interest.

While consumers may be ultimate beneficiaries from the regulation of natural gas, that is not determinative of the Commission's right to charge fees under the IOAA. The IOAA provides for the collection of fees for any "work, service, publication, document benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility."¹⁷ Processing pipeline rate filings is the type of service for which the IOAA expressly authorizes the collection of fees. Not only is the statute clear on its face, but the D.C. Circuit has held that a fee otherwise authorized by the IOAA is not rendered invalid because the public may also enjoy downstream benefits.¹⁸

Furthermore, while it is true that in 1965 the Federal Power Commission took an opposite approach toward fees,¹⁹ that approach does not prevent this successor Commission from adopting a different policy. Not until the 1970's did the courts begin reviewing fee

systems of various agencies. Since those cases were decided and the law became sufficiently clear, the Commission now believes that it can reasonably charge fees for the services and benefits provided to specific applicants.

C. Smallest Practical Unit

In designing a fee schedule, the Commission should establish fees on the smallest unit or category of service that is practical. In remanding fees established by the FCC, the United States Court of Appeals for the D.C. Circuit set forth the most authoritative interpretation of this IOAA requirement as follows:

[W]e interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is practical. In most cases, we expect this unit will be classes of carriers or applicants or grantees or services which the Commission has already singled out for separate treatment in its 1975 fee schedule. Classification is always a difficult problem, involving as it does the drawing of lines; but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed.²⁰

Further, Budget Circular A-25 states that "costs shall be determined or estimated from the best available records in the agency, and new cost accounting systems will not be established solely for this purpose."²¹

The Commission, in keeping with Budget Circular A-25, is classifying its fees by types of applications or filings. The Commission has calculated its fees from its Management Information Systems (MIS). The MIS is an agency system established to track workload. The MIS tracks time, by work-months, based on types of applications or proceedings. The Commission is establishing one fee for an entire filing or proceeding because that filing or proceeding is the smallest unit practical for the Commission to develop fees.²² In the NOPR in this docket, the Commission stated that it anticipated establishing two separate fee categories for tariff filings for general changes in rates and for tariffs filings for changes

¹² 554 F.2d at 1101-02.

¹³ 601 F.2d at 229.

¹⁴ 31 U.S.C. 483(a) (1970).

¹⁵ *Electronics Industries Ass'n v. FCC*, 554 F.2d 1109, 1115 (D.C. Cir. 1976). In that case, petitioners argued that fees should not be assessed for tariff filings or equipment testing and approval. The court answered that even though both activities were required by statute, the FCC was entitled to charge for services which assisted a person in complying with his statutory duties. Such services, the court said, create an independent private benefit since they provide a means for the carrier to obtain its revenues and to regulate subscriber use of its facilities. The court concluded that although the statute was enacted in order to protect the public against excessive or unreasonably discriminating or preferential charges, that result is only an incidental benefit from the service which is rendered by the agency, i.e. providing the means for carriers to comply with the statute.

¹⁶ 30 FR 12,077 (Sept. 15, 1965).

²⁰ *Electronic Industries Association v. FCC*, 554 F.2d 1109, 1116-17 (D.C. Cir. 1976).

²¹ Budget Circular A-25, at 3.

²² The Commission has recently updated the MIS by starting to track its workload on a new system (Time Distribution Reporting System) which may provide an even greater degree of accuracy of Commission workload. At this time, however, the Commission does not have a year's worth of data to develop actual fees from the new system.

¹² The Commission is considering, in other rulemakings, both fees for declaratory orders under all of its jurisdictional statutes and fees to recover the costs of certain rulemakings. In those cases, the Commission believes that there are special benefits provided to identifiable recipients.

¹³ Budget Circular A-25, at 1-2.

¹⁴ *Id.* at 2.

other than in rates. After calculating the time spent on these two areas and the resulting fees, the Commission found the fees to be so nearly identical that, for logical and administrative efficiency reasons, only one fee category for both activities is being established. The Commission will continue to monitor these two subparts of the single category, however, and will establish two different fees if necessary in the future.

D. Basis of Cost Recovery

1. Direct and Indirect Costs Included

The Commission's fee schedule is designed to account for all types of recoverable costs associated with the processing of the specified applications or filings under the NGA. The costs attributable to a particular Commission service are not merely the salaries of the employees who review the applications or filings. The attributable costs include the direct salary costs as well as the substantial amount of indirect costs which the Commission expends in its reviews. As the Fifth Circuit has stated, employees

... must be supplied with working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that . . . [they are] hired, paid on a regular basis and provided specialized training courses. Those and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application.²³

Accordingly, the Commission has included in its identification of costs the following items: salaries and benefits; travel; transportation of things; rents; communications and utilities; printing; other support services; supplies; and equipment.

2. Methodology

(a) Underlying Considerations

The Commission's calculation of the costs of providing each of the services represented by a fee category is directly related to the amount of time the Commission spends providing each of the services. The fees in this rule are based on information obtained through the Commission's Management Information System (MIS), which provides the amount of time spent on all Commission functions. The functions are grouped into categories which represent the Commission's various programs, including gas wellhead pricing, gas pipeline rates, gas pipeline certificates, gas producer certificates, gas producer rates, oil pipeline regulation, hydropower regulation, and electric

power regulation. The MIS workload data is recorded on a monthly basis.

With respect to each function, the supervisor in that area records for the MIS the number of projects initiated (receipts) and completed (completions) in a particular time period. Most Commission functions can be measured in terms of the number of projects initiated and completed. In accordance with Commission practice, these projects are generally assigned docket numbers and, for purposes of this discussion, will be referred to as "docketed activities". The supervisor in each organization unit reports to the MIS the amount of time spent by staff on each functional category in terms of work-months. A "work-month" is the unit of work represented by one employee's devotion of 100 percent of his or her time for one month. Time sheets are coded by functional activity and are filled out Commission-wide every two weeks. The supervisor merely checks employee time sheets for accuracy in coding.

Support functions regularly undertaken, with respect to any program, are not docketed and may not be measured in terms of receipts and completions. The nature of these functions makes impractical any measurements in terms of receipts and completions, but these functions are nevertheless essential to the completion of any docketed activity. This time is also allotted and reported by unit supervisors in terms of work-months.

Only those support activities that are related to providing a benefit are included in the calculations. These support functions will be referred to as "support activities" and can be divided into three categories. First, there are support activities that involve general supervision, personnel management, and routine administrative functions such as maintenance of time and leave records, the handling of property and supplies, staff meetings, and the planning and organizing of leave. This category can be labeled as "administrative services" and is included for fee recovery because it is essential to the FERC's ability to complete docketed activities.

Second, support staff responds to requests for information that may not contribute directly to the completion of a docketed activity. Examples include requests for information from the public, from the Congress, from the General Accounting Office, and from other governmental agencies. The Commission has excluded from its calculation of fees the work-months associated with this second category of "inquiries and

internal communications" because this type of support activity is not involved in completing docketed activities.

Third, support staff establishes or reviews certain Commission operations and procedures. This is "technical management and operations." These activities include work on the FERC budget, management information systems, and program development functions such as special studies or briefings on relevant subjects, but which are not identified with just one docketed activity. This category is therefore an integral part of completing docketed activities.

(b) Calculation of Fee Amounts

For purposes of this rule, the Commission has used the following methodology to determine the cost of providing any service or benefit. First, the work-months reported for a class of docketed activity are added to a pro-rata share of the work-months reported for the relevant support activities for that activity. This figure, representing the total number of work-months dedicated to a class of docketed activity for a year, is divided by the number of completions for that year for the given activity. The resulting quotient represents the average number of work-months required to complete one proceeding in that given class of docketed activity.

Second, the Commission used the following data provided by its Office of Program Management to figure the average cost of a work-month, based on the Commission's fiscal year 1983 actual costs.

Salaries and benefits based on year and payroll data and benefits at 26 percent		\$46,228
Travel		726
Transportation of things		7
Rents, communications and utilities		3,185
Printing		1,893
Other services—excludes direct program contracts		4,684
Supplies		477
Equipment		42
Total		57,248

The total was divided by 12 to yield an average work-month cost of \$4,770.67.

Third, in order to determine the cost of an activity, the Commission multiplied the average cost per work-month by the average number of work-months required to complete the activity.²⁴

²⁴ Updated data sheets have been placed in the Commission's Public File Room detailing the calculations.

²³ *Miss. Power & Light v. NRC*, 601 F.2d at 232.

There were numerous complaints about the cost methodology proposed in the Notice of Proposed Rulemaking, such as inadequate information to verify the costs, calculations based on salary and overhead from one year and time per project from another year, use of budgeted figures as opposed to actual figures, use of average work month costs; use of only one year for determining fees, and use of number of completions per year to determine the fees.

As for what costs are permissible for inclusion, the IOAA provides for the collection of fees which include both direct and indirect costs to the Government. Thus, there is no reason to exclude any item except for support functions relating to inquiries and internal communications, as discussed above. Second, in devising its fee schedule, the Commission is authorized to "determine or estimate [its costs] from the best available records in the agency."²⁵ For this Commission, that means the MIS.

The Notice of Proposed Rulemaking used 1982 budgeted figures to determine its costs, and 1981 actual completions and work-months in the fee calculation. Further, the method of updating the fees was tied to 1981. Each subsequent year was to be adjusted by the change in costs between the base year and the year in consideration. Many commenters argue that 1981 may not be a typical year for completions and work-months, and thus, should not be the base year. The Commission agrees with this argument, and believes it is much more accurate to calculate fees from actual completions and work-months, as well as actual costs. The Commission has decided to use actual fiscal year figures in this rule as well as in updating the fees in subsequent years (see section III

E. below). This approach keeps data more current, and is more representative of what actual fees should be. Therefore, the Commission has calculated the fees in this rule from actual fiscal year 1983 direct and indirect costs, completions, and work-months. This is in keeping with the Commission's statement in the NOPR that it would use the most accurate and representative base year data available to establish fees. Furthermore, this approach eliminates any inaccuracies which could arise from using budgeted figures, as was done in the NOPR.

One commenter claims that the Commission should not use an agency-wide figure for determining its direct costs. Instead, it maintains, the Commission should determine pipeline fees based on the salaries of only those employees processing pipeline filings. As permitted under the requirements of Budget Circular A-25, since the Commission's accounting system employs an agency-wide figure, the Commission has used an agency-wide figure as the basis for its costs.

Two commenters claim that "number of completions" is insufficient for determining accurate fees. They argue that the Commission should also include cases in progress; otherwise, one commenter claims the fees will exceed the costs associated with completions. By using "number of completions," the Commission is attempting to recover the full amount it spends on any filing at the time the filing is submitted. While it is true that the fee in any one year is tied to an average based on completions in the immediately preceding year, those completions are the best and most current data available on the workload of the Commission. While an unusually high or low number of completions in any given year will raise or lower the fee in the succeeding year, these completions are a reasonable barometer of where the Commission is spending its

resources. Since the workload in the gas pipeline rate area is not expected to fluctuate widely, the use of completions in a year is appropriate. Furthermore, if there is an unusual number of completions in a year, that number may reflect a future trend for which the succeeding year's fees should rise or fall accordingly. Finally, this approach will not overcharge any one applicant because it is assumed that most applications are worked on in more than one year. In other words, a filing might be filed at the end of 1982, and be completed in 1983. Rather than charge two fees (one for each year that the review of the filing is in progress), the Commission is able to charge one fee at the time of filing. Nevertheless, should a fee result, which the Commission views as being abnormally high, it may elect to use statistical averaging techniques to bring the fees to a more reasonable level.

Finally, one commenter objects to supervisors' monitoring the time spent by staff that is ultimately used to calculate Commission work-months. As was explained above, the role of the supervisor is only to check for accuracy in filling out time reporting forms. Commission employees fill out their own time reports, listing how their time was spent. This approach, which has been in operation for a little over a year, is different from that used at the NOPR stage. The Commission believes that actual time reporting by each employee is as accurate an account of how time is spent by this Commission as can be feasibly implemented.

E. Actual Fees Established and Procedures for Updating Fees

The following table summarizes for 1983 the total number of work-months, and completions, and the average cost per completion in rendering the pipeline services for which the Commission is establishing fees in this final rule.

Service	Total WM's in 1983	Total completions in 1983	Average number WM's per completion in 1983	Average cost per completion in 1983
Review of tariff filings for changes other than in rates, and general changes in rates	118.20	279	0.42	\$2,003.68
Review of tariff filings that track changes in costs (tracking filings)	136.35	277	.49	2,337.63

The Commission uses the standard methodology set forth in this and other fees rulemakings to determine all of the fees for natural gas pipeline rates matters, except the fee for petitions seeking advance Commission approval

of rate treatment of research, development, and demonstration expenditures. Rather than devise a single fee for reviewing these petitions, the Commission will use the direct billing procedure to recover these costs

(see section III. H. below) for the following reasons. Most of the Commission time spent in reviewing these petitions is spent reviewing petitions filed by the Gas Research Institute (GRI). However, pipelines,

groups of pipelines, and entities acting on behalf of pipelines also file petitions seeking advance Commission approval of expenditures for their own projects. The projects are usually much smaller than GRI projects and require much less Commission time to review. If the Commission were to determine a fee based on the average cost per petition seeking advance approval of research, development, and demonstration expenditures, the result might be inequitable from two standpoints. On the one hand, the more lengthy GRI proceedings would tend to increase the fee for other pipeline petitions. On the other hand, the time spent on the pipeline petitions would tend to lessen the fee for GRI with the result that the other pipeline fees might be a subsidy for the cost of reviewing GRI's petitions. Therefore, the Commission will directly bill, by means of the procedures set forth in § 381.107,²⁶ for the costs of processing any petition seeking advance approval of rate treatment of research, development, and demonstration expenditures.

The following fees are therefore established:²⁷

Services	Fee
Tariff filings for general changes in rates and for changes other than in rates.	\$2,000
Tariff filings that track changes in costs.	\$2,300
Petitions seeking advance approval of rate treatment of research, development, and demonstration expenditures.	Direct billing.

The Commission will update its fees each year to reflect the most current Commission costs. An updated fee schedule will be published annually in the *Federal Register* after the close of the preceding fiscal year. The updated fees will be based on actual completions, work-months, and costs from the preceding fiscal year. In this way, the fees will reflect, using the most current data available, the benefits to the recipients.

Many commenters contend that the fees in the NOPR would be too high for small pipelines. They also claim that the customers of small pipelines will be hurt much more than those of the larger companies, who can spread their fees among many more customers.

²⁶ These general procedures for direct billing are discussed and promulgated in the companion final rule for NGA producer fees (Docket No. RM82-25-000).

²⁷ Fees are established by taking actual costs and rounding down to:

(1) The nearest \$5 increment, if the total cost is \$100 or less; and

(2) The nearest \$100 increment, if the total cost is more than \$100.

The Commission is required under the Regulatory Flexibility Act²⁸ to consider the degree of economic effect of its rules on small businesses and other small entities. The Commission has concern over a small pipeline's ability to pay for filings that include the costs of hearings (e.g., \$46,000 as proposed in the NOPR for the hearing phase of tariff filings involving general changes in rates). As is discussed above, the Commission has decided not to establish fees to recover hearing costs in this rule. The Commission believes in light of that decision, small pipelines will not be overly or unfairly burdened by the fees established in this rule. Nevertheless, the final rule does provide for a waiver in the case of severe economic hardship (see section F.2, *infra*).

F. Exceptions to Full Cost Recovery

1. Reductions in Fee Amounts by Category

The Commission has established in this rule fees which include all the recoverable costs associated with the particular benefits and services provided. The Commission, based on its expertise, recognizes that there may be instances in the future in which establishing full cost recovery fees would have an adverse effect on applicants, or would undermine Commission activities. In such cases, the Commission may exercise discretion to reduce fees to less than full cost recovery in order to prevent a disproportionate economic impact or for other good cause. Good cause would include situations where the Commission wishes to encourage use of a service, where less Commission time is required than staff time, or where there is a reduction in the amount of time required to process a filing. Any reduction in a fee would be initiated only by the Commission by rulemaking. The same percentage of reduction would carry over to subsequent years unless further notice was given by the Commission that it was altering that reduction.

A number of commenters say that the Commission's guidelines on making reductions are too vague. The Commission believes that the standards enumerated are sufficiently specific, particularly since any categorical reductions in fee amounts will be done by means of a rulemaking. In addition, economic hardship to a class of applicants will be taken into account; this factor is as specific as possible given the degree of flexibility the

Commission needs in determining good cause for a categorical reduction.

2. Case-by-Case Waiver Procedure

The Commission also realizes that a different situation could arise in which an individual applicant is unable to pay fees as set by the Commission due to severe economic hardship. The Commission does not expect this to happen often in the gas pipeline rate area since the Commission has reduced the fees significantly as a result of excluding any recovery of hearing costs. If an applicant is suffering from a period of severe economic hardship, the applicant will have the burden of presenting evidence, such as a financial statement, to the Commission showing that the applicant is either economically unable to pay the fee, or that if the applicant does pay the fee, it will place the applicant in a state of financial distress or emergency. As stated by the D.C. Circuit:

The applicant for waiver must articulate a specific pleading, and adduce concrete support, preferably documentary.²⁹

This material must be included with the petition for waiver at the time of filing the application. The Commission, or its designee, will analyze petitions for waiver to determine whether the standards for waiver have been met. The Commission will notify the applicant as to whether the petition for waiver has been denied or accepted.

G. Procedures for Paying Fees

The Commission's NOPR states that fees must be submitted by certified check, made payable to the United States Treasury. A number of commenters argue that there is no reason to require certified checks. They state that a corporate check should be sufficient.

The Commission has decided to delete the certified check requirement. However, a check made payable to the United States Treasury must still be included with the filing or application, unless a petition for waiver is submitted in lieu of the fee. The check must indicate for what the fee is being submitted, e.g., tariff filing, general change in rates. This may be written on the bottom of the check. If the filing or application is not accompanied by either the appropriate fee or a petition for waiver, it will be considered deficient and will not be processed.³⁰

²⁹ United Gas Pipe Line Company v. FERC, 707 F.2d 1507, 1511 (D.C. Cir. 1983).

³⁰ The fees categories established in this final rule are designed on the assumption that

²⁸ 5 U.S.C. 601-612 (Supp. V 1981).

A few commenters question the Commission's decision to exclude the possibility of fee refunds. The Commission's decision not to allow refunds is consistent with the policy behind the IOAA. That statute authorizes and orders Government agencies to become self-sustaining to the fullest extent possible. To do so, the agency is to collect fees for services and benefits it provides. The Congress gave this Commission the duty of carrying out the Natural Gas Act, part of which is to review and regulate pipeline rates. These are services for which the IOAA authorizes the collection of fees. The service is reviewing the tariff filing, not guaranteeing the acceptance of the filing or the desired increase in rates. The Commission reviews every tariff filing and rate change equally. Some are accepted, some are not, but the vast majority are accepted. The Commission's fees cover the time and cost of providing these services. It does not cost the Commission any less when it disallows a rate increase or a change in rate schedule or PGA clause. Furthermore, the Commission's decision not to allow refunds is consistent with the current policy of no refunds of fees and annual charges under the NGA under Part 159 of the Commission's regulations.

H. Direct Billing

The methodology used to establish the fees in this rule is based on the actual time of processing filings and the actual agency-wide costs involved with this processing. The Commission takes the actual work-months associated with a class of docketed activity and divides it by the number of completions in that class to arrive at an average number of work-months per completion. That figure is then multiplied by the average cost per work-month to arrive at the fee.

However, the Commission occasionally receives filings which are not average. These filings may be extensive in scope and present factual, legal, or policy issues of such complexity that the Commission may devote an extraordinary amount of time and effort to processing them. In addition, there may not be a truly

representative average due to the small number of filings in a particular area.

The standard fees established in this rule bear no reasonable relationship to the actual cost of processing those extraordinary and atypical filings. Moreover, if the costs of processing extraordinary filings are included in the costs associated with average filings, persons submitting average filings would be subsidizing those submitting the extraordinary filings. Therefore, in the case of an extraordinary filing, the Commission reserves the option of ordering a direct billing procedure at the beginning of processing the filing or at any time up to one year after receiving a complete filing. As discussed above, in the case of petitions seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures, the Commission has decided to use direct billing for the entire fee category due to the unavailability of reliable data to establish an average fee.

Under the direct billing procedure, the Commission will periodically bill the entity that submitted the filing for all the direct and indirect costs incurred by the Commission in processing the filing, unless a lesser amount is determined to be fair and equitable. The staff resources devoted to processing a filing resulting in a direct billing will be separately recorded and will not be included in the work-months associated with processing average filings. This final rule also requires the Commission to credit an applicant whose filing becomes subject to direct billing with any fee paid under this fee system.

Four commenters address this issue and each state that the direct billing procedure is entirely too vague. These commenters object to this direct billing method because they claim that the complexity of a filing might result simply from the participation of intervenors, or because it contains important public policy issues where the potential benefit to the applicant is secondary to that of the public or to other industry members. The Commission recognizes the points made by these commenters but, as indicated above, there is no reason to determine this issue generically in light of the Commission's decision not to establish fees to recover the costs associated with hearings in NGA pipeline rate matters. The possible allocation of some costs to intervenors in direct billing situations will be handled on a case-by-case basis.

IV. FINAL REGULATORY FLEXIBILITY ANALYSIS

When an agency promulgates a final rule under section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, after being required by that section or any other law to publish a notice of proposed rulemaking, a final regulatory flexibility analysis may be appropriate under the Regulatory Flexibility Act of 1980. Each final regulatory flexibility analysis must contain (1) a statement of need for the rule, (2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, and the agency response to those comments, and (3) a description of alternatives to the rule consistent with the stated objectives of the applicable statute which the agency considered and ultimately rejected.

In this preamble, the Commission has already detailed its reasons for this agency action, its objectives, and the legal basis for this rulemaking. As discussed, the rule establishes a schedule of fees to be paid to the Commission for certain benefits it provides, in accordance with the IOAA and Budget Circular A-25.

This rule affects natural gas pipelines subject to Commission jurisdiction under the NGA and the NGPA as well as non-jurisdictional entities seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures. There are approximately 150 interstate natural gas pipelines in the United States. The Small Business Administration's (SBA) regulations do not establish specific size standards for natural gas pipelines. (See 13 CFR Part 121). However, natural gas pipelines, especially interstate pipelines, are large businesses. Only about 40 interstate natural gas pipelines possibly could be classified as small entities.³¹ Petitioners seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures are pipelines groups of pipelines, or entities owned or controlled by pipelines and,

jurisdictional entities will continue to submit filings and applications in the same manner as in the past. Although this fee schedule is designed to collect a separate fee for each discrete service or benefit provided, the Commission recognizes that the potential exists, in some cases, for jurisdictional entities to combine filings in order to avoid the assessment of fees. If the implementation of this fee schedule causes jurisdictional entities to alter their reporting practices, the Commission will consider additional means to ensure that the Commission does not recover all of the costs it incurs in providing these services.

³¹ Generally, the Commission considers small pipelines to be those pipelines classified as Class C or Class D natural gas companies, that is, companies earning \$25,000 or more per year, but less than \$1,000,000. (See 18 CFR Parts 201, 204, Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act.) In addition, the Commission considers small entity pipelines to include those companies earning less than \$25,000 a year or those that are so new that they cannot yet be classified. The proposed change in nomenclature for these small pipelines in Docket No. RM 83-66-000, 48 Fed. Reg. 46361 (October 12, 1983), does not affect in a significant way the conclusions reached herein.

therefore, usually are either large businesses or are owned and controlled by large businesses. Therefore, this rule may have some degree of economic impact on a number of small pipelines. But, there is no reason to expect that this impact will be significant for a substantial number of those pipelines. Furthermore, the fees established in this final rule are much lower than the fees proposed in the NOPR. This will assuage any potentially significant economic effect.

Concerning the impacts on pipelines, and in particular small pipelines, the final rule addresses those cases where there is either a disproportionate economic burden or severe economic hardship on a pipeline. The rule contains a provision for waiver of fees for an individual applicant which could protect small pipelines from undue economic hardship. However, the Commission is also required to satisfy the IOAA's statutory directive to be "self sustaining to the full extent possible." Hence, there is no blanket exemption for small entities. The Commission believes the rule as now promulgated represents a fair balance between the purposes of both the IOAA and the Regulatory Flexibility Act.

V. PAPERWORK REDUCTION ACT STATEMENT AND EFFECTIVE DATE

This rule does not contain any information collection provisions and therefore is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501-3520 (Supp. V 1981). However, this rule is companion to RM82-25-000, which does contain information collection provisions. Since the information collection provisions in RM82-25-000 are the general procedures for collecting fees and are integral to the administration of this final rule, the effective date for this rule will be the same as that for RM82-25-000. Therefore, this rule will become effective April 25, 1984. If OMB's approval and control number have not been received for RM82-25-000 by this effective date, the Commission will issue a notice temporarily suspending the effective date of this final rule.

List of Subjects

18 CFR Part 154

Natural gas.

18 CFR Part 381

Natural gas, General fees.

In consideration of the foregoing, the Commission is amending Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 154—[AMENDED]

1. The authority citation for Part 154 is revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717-717z (1976 & Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7102-7352 (Supp. V 1981); Executive Order 12,009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a (1970).

§ 154.24 [Amended]

2. In Part 154, § 154.24 is amended by inserting at the end of the current text, following the word "part", the phrase " * * * or is not accompanied with the fee prescribed in Part 381, unless a petition for waiver is submitted in lieu thereof under § 381.106 of this chapter."

3. In Part 154, § 154.63 is amended by adding a new paragraph (b)(1)(iii) to read as follows:

§ 154.63 Changes in a tariff, executed service agreement or part thereof.

(b) * * *

(1) * * *

(iii) A fee in the amount prescribed in Part 381 of this chapter, unless a petition for waiver is submitted in lieu thereof under § 381.106 of this chapter.

PART 375—[AMENDED]

4. The authority citation for Part 375 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Executive Order 12,009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 553 (1976 & Supp. V 1981).

5. In § 375.307, paragraph (u) is revised to read as follows:

§ 375.307 Delegation to the Director of the Office of Pipeline and Producer Regulation.

(u) Deny or accept in whole or in part, petitions for waiver of the fees prescribed in §§ 381.201, 381.202, 381.203, 381.204, 381.205, 381.206 of this chapter in accordance with § 381.106(b) of this chapter.

PART 381—[AMENDED]

6. The authority citation for Part 381 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Executive Order 12,009, 3 CFR 422 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a (1970); Natural Gas Act, 15 U.S.C. 717-717z (1976 and Supp. V 1981); Federal Power Act, 16 U.S.C. 791a-828c (1976

& Supp. V 1981); Natural Gas Policy Act, 15 U.S.C. 3301-3432 (Supp. V 1981); Public Utility Regulatory Policies Act, Pub. L. 95-617, 92 Stat. 3117 (1978); Interstate Commerce Act, 49 U.S.C. 1-27 (1976).

7. In Part 381, Subpart B is amended by adding §§ 381.204 through 381.206 to read as follows:

Subpart B—Fees Applicable to the Natural Gas Act and Related Authorities

§ 381.204 Pipeline tariff filings for general changes in rates and for changes other than in rates.

The fee established for a tariff filing for general changes in rates and for changes other than rates is \$2,000.

§ 381.205 Pipeline tariff filings that track certain costs.

The fee established for a tariff filing that tracks costs is \$2,300.

§ 381.206 Petitions for advance approval of rate treatment of research, development, and demonstration expenditures.

The fee for a petition seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures will be determined and billed according to the procedures for direct billing set forth under § 381.107 of this chapter.

[FR Doc. 84-3586 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-219 (Colorado—1 Amdt. II); Order No. 357]

High-Cost Gas Produced From Tight Formations; Colorado

Issued: February 6, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission

recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of Colorado Oil and Gas Conservation Commission that an additional area of the Wattenberg J Sand Formation previously adopted by the Federal Energy Regulatory Commission, located in Weld County, Colorado, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective March 7, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357-8571, or Victor H. Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Final Rule

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, J. David Hughes, A. G. Sousa and Oliver G. Richard III.

In the matter of High-Cost Gas Produced from Tight Formations; Docket No. RM79-76-219 (Colorado—1 Amendment II), Order No. 357.

Issued: February 6, 1984.

The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include additional acreage in the Wattenberg J Sand Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued November 14, 1983 (48 FR 52594, November 21, 1983)¹ based on a recommendation by the State of Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703, that an additional area of the Wattenberg J Sand Formation located in Weld County, Colorado be designated as a tight formation.

On January 23, 1983, in Order No. 124² the Commission adopted in part Colorado's recommendation that portions of the Wattenberg J Sand Formation located in Larimer, Weld, Adams and Boulder Counties, Colorado, be designated as a tight formation. Certain areas within the recommended area were not included in the designation pursuant to § 271.703(c)-(2)(i)(D) because these areas had been subject to infill drilling.³ In the instant

recommendation, Colorado requested that Order No. 124 be amended to include acreage that had incorrectly been identified as areas that were subject to infill drilling.

Evidence submitted by Colorado supports the assertion that the additional area of the Wattenberg J Sand Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the recommendation.

This amendment shall become effective March 7, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

§ 271.703 [Amended]

2. Section 271.703(d)(11)(i)(A) is amended by adding the following description to the end thereof:

Township 2 North, Range 68 West, 6th P.M., Sec. 13 W/2.

(FR Doc. 84-3562 Filed 2-9-84; 8:45 am)

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 84-39]

Customs Regulations Amendment Relating to the Customs Field Organization

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to the field organization of the Customs Service by changing the status of the Customs district of Bridgeport, Connecticut. This change will not impair services to area businesses or the general public. The change is consistent with the Customs

objective to effectively carry out its management responsibilities. This change will not disturb the present level of service at Bridgeport.

EFFECTIVE DATE: June 1, 1984.

FOR FURTHER INFORMATION CONTACT: Renee DeAtley, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, by a notice published in the *Federal Register* on May 26, 1982, (47 FR 22964), Customs proposed to change the status of the Providence, Rhode Island, and Bridgeport, Connecticut, Customs districts.

Prior to publication of this notice Customs completed a survey of staffing and workload for the Providence and Bridgeport districts and, based on its findings, determined that the workload and manpower requirements do not warrant separate district organizations.

Discussion of Comments

In response to the notice, 100 comments were received from individuals, members of Congress, state governments, municipalities, customhouse brokers, shippers, banks, accounting firms, insurance companies, a college, a business council, a state representative, the Department of Commerce, and trade associations.

The majority of the comments were from the Providence and Bridgeport business communities and were in opposition to the proposal. There were some letters in favor of the change.

Those in favor believed that the change in status made good business sense, were pleased with the ability for licensed brokers to transact business within the Boston-Providence-Bridgeport areas interchangeably, and felt that the Boston district could handle any increase in workload adequately.

Those opposed to the change raised these issues most frequently: the area will suffer economic hardship by the loss of jobs to the business community; loss of business will minimize Government savings; effects on revitalization efforts and growth potential; and increased costs and delays of processing imports resulting in an overall deterioration of service.

It is Customs position that any change in district status will have no bearing on the services provided to the general

¹ Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

² Docket No. RM79-76 (Colorado—1), issued January 23, 1981, 46 FR 9921 (January 30, 1981).

³ See Order No. 270, Docket No. RM79-128 (Colorado—1 Amendment), issued November 22, 1982, 21 FERC ¶61,092 wherein the Commission adopted a similar recommendation of Colorado.

public or business communities involved. There will be a continuance of the full range of Customs services at all ports of entry and no changes in the way the commercial community enters and clears importations.

One concern raised by commenters is that if the current level of imports cannot be increased, or at least maintained, revenues obtained through Customs duties will be decreased, thereby minimizing savings to the Government. They contend that this would make the proposal counterproductive. Customs maintains that no gain or loss of revenue as a result of such a change is expected.

Another concern expressed by the local business community seemed to be that of the revitalization and growth potential of the area. Specifically mentioned are upgrading harbor facilities, cargo container operations, return of cruise ships, modernization of airport facilities, and a pending application for a Foreign Trade Zone (FTZ) for Providence.

The change in the status should not interfere with any revitalization plans and, in fact, Customs would encourage this type of activity which would certainly attract new business to the area and ensure that current businesses remain. The existing FTZ in Bridgeport will not be affected by this change.

Change in Status

After consideration of the numerous comments received in response to the notice and further review of the matter, it has been determined to proceed with the change in the status of the Bridgeport district. No action will be taken in regard to the Providence district until further study.

It should be noted that brokers currently licensed to transact business in Bridgeport will be considered licensed in Boston. Likewise those brokers currently licensed to transact business in Boston also could do business in Bridgeport. Thus, licensed brokers will be allowed to transact business interchangeably in Boston and Bridgeport.

The change will place the Bridgeport port of entry under the Boston district. Also, the ports of entry currently under the jurisdiction of the Bridgeport district will be placed under the Boston district. Those ports are as follows: Bridgeport, Hartford, New Haven, and New London, Connecticut.

Another concern raised by area businesses is that unnecessary expense will be incurred when the need arises to deal directly with the Boston district. The Boston District Director will hold local meetings each month with brokers,

importers, and transportation companies, to ensure that there will be no adverse impact on the trade community as a result of the change. Also a toll-free 800 telephone number will be installed for the benefit of the trade community.

Customs believes that the change in status of the Bridgeport district will result in more economical and efficient use of its personnel and resources in carrying out the Customs mission. As stated, there will be no reduction in Customs service to the general public or to those organizations conducting business in the Bridgeport district. In addition, Customs will be better able to meet the present needs and growth potential of the area.

Accordingly, Customs has determined that it is in the public interest to change the status of the Bridgeport, Connecticut, district.

Change in the Customs Field Organization

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449), the Customs district of Bridgeport, Connecticut, is placed under the Boston, Massachusetts, district. The limits of the amended district include all of the territory currently in the Boston, Massachusetts, and Bridgeport, Connecticut, districts.

List of Subjects in 19 CFR Part 101

Organization and functions (Government agencies).

Amendments to the Regulations

PART 101—[AMENDED]

§ 101.3 [Amended]

1. To reflect this change, the list of Customs regions, districts, and ports of entry, in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by removing: "Bridgeport, Conn." directly below "Providence, R.I." under the column headed "Name and headquarters"; "The State of Connecticut" under the column headed "Area"; and references to Bridgeport, Hartford, New Haven, and New London under the column headed "Ports of entry".

2. Section 101.3(b) is further amended by revising the listing for the Boston, Massachusetts, district to read as follows:

Name and headquarters	Area	Ports of entry
Boston, Mass.	The States of Massachusetts and Connecticut. (T.D. 84-39)	Boston, Mass., including territory and waters adjacent thereto described in T.D. 56493 Bridgeport, Conn., including territory described in T.D. 68-224 Fall River, Mass., including territory described in T.D. 54476 Gloucester, Mass. Hartford, Conn., including territory described in T.D. 68-224 Lawrence, Mass., including territory described in T.D. 71-12 (E.O. 5444, Sept. 16, 1930); (E.O. 10088, Dec. 3, 1949, 14 FR 7267) New Bedford, Mass. New Haven, Conn., including territory described in T.D. 68-224 New London, Conn., including territory described in T.D. 68-224 Plymouth, Mass. Salem, Mass., including Beverly, Marblehead, Lynn, and Peabody, Mass. (E.O. 9207, July 27, 1942) Springfield, Mass. (T.D. 69-189) Worcester, Mass.

Executive Order 12291

Because this will not result in a "major rule" as defined in section 1(b) of E.O. 12291, the regulatory impact analysis and review prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 et. seq.), it is certified that the regulation set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulation is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Customs routinely establishes, expands and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the Bridgeport, Connecticut, area, it is not expected to be significant because similar changes in the Customs field organization have not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act.

Drafting Information

The principal author of this document was James S. Demb, Regulation Control Branch, U.S. Customs Service. However,

personnel from other Customs offices participated in its development.

William von Raab,
Commissioner of Customs.

Approved: January 24, 1984.

John W. Walker, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 84-3707 Filed 2-9-84; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Director, National Center for Drugs and Biologics, et al.

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority on drug and biological product matters to add new delegations to National Center for Drugs and Biologics' officials. The new delegations of authority will expedite the administrative handling of certain routine actions.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: In § 5.31 (21 CFR 5.31), new paragraph (e)(3) is added delegating to the Director and Scientific Director, National Center for Drugs and Biologics (NCDB), the authority to issue 180-day tentative responses to citizen petitions on drug and biological product matters under § 10.30(e)(2)(iii) (21 CFR 10.30(e)(2)(iii)).

Also in § 5.31, paragraph (f) is being revised to delegate authority to the Director and the Scientific Director, NCDB, to issue final responses to citizen petitions in specific program areas for which the Director and Scientific Director already have final approval authority. The Director, NCDB, will refer to the Office of the Commissioner for signature any document involving a highly visible, controversial, or sensitive issue and any document that in the Director's judgment should be signed by the Commissioner, even though it is within the authority delegated to the Center.

The Office of the General Counsel will continue to review tentative and final

responses to citizen petitions before issuance.

List of Subjects in 21 CFR Part 5

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended in § 5.31 by adding new paragraph (e)(3) and by revising paragraph (f) to read as follows:

§ 5.31 Petitions under Part 10.

* * * * *

(e) * * *

(3) The Director and Scientific Director, NCDB, are authorized to issue 180-day tentative responses to citizen petitions on drug and biological product matters under § 10.30(e)(2)(iii) of this chapter that relate to the assigned functions of that Center.

(f)(1) The Director and Scientific Director, NCDB, are authorized to grant or deny citizen petitions submitted under § 10.30 of this chapter on drug and biological product matters in program areas where they have been delegated final approval authority in the following sections of this part: (i) section 5.68 *Issuance and revocation of licenses for the propagation or manufacture and preparation of biological products*; (ii) § 5.69 *Notification of release for distribution of biological products*; (iii) § 5.70 *Issuance of notices implementing the provisions of the Drug Amendments of 1962 (DESI)*; (iv) § 5.71 *Termination of exemptions for new drugs for investigational use in human beings or in animals*; (v) § 5.73 *Certification of insulin*; (vi) § 5.74 *Issuance, amendment, or repeal of regulations pertaining to drugs containing insulin*; (vii) § 5.75 *Designation of official master and working standards for antibiotic drugs*; (viii) § 5.76 *Certification of antibiotic drugs*; (ix) § 5.78 *Issuance, amendment, or repeal of regulations pertaining to antibiotic drugs*; (x) § 5.79 *Issuance, amendment, or repeal of regulations establishing bioequivalence requirements for drug products for human use*; (xi) § 5.80 *Approval of new drug applications and their supplements*; and (xii) § 5.82 *Issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and their supplements*.

(2) The Director, Office of Drugs, NCDB, is authorized to issue responses

to citizen petitions submitted under § 10.30 of this chapter seeking a determination of the suitability of an abbreviated new drug application for a drug product.

Effective date. This regulation shall become effective February 10, 1984.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: February 3, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84-3652 Filed 2-9-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 73

[Docket No. 83C-0179]

Listing of Color Additives for Coloring Contact Lenses; Correction

AGENCY: Food and Drug Administration.
ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that amended the color additive regulations to provide for the safe use in coloring contact lenses of the colored polymeric reaction products formed by chemically bonding certain dyes, used singly or in combination, with poly(hydroxyethyl methacrylate).

DATE: Effective February 6, 1984.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In FR Doc. 84-81 appearing at page 372 in the *Federal Register* of Wednesday, January 4, 1984, the following corrections are made:

1. In the left column on page 372, the first sentence in the "Summary" is corrected by changing the words "color polymeric reaction products" to read "colored polymeric reaction products".

2. In the center column on page 372, the first sentence of the first full paragraph is corrected by changing the words "that are subject of this petition" to read "that are the subject of this petition".

3. In the left column on page 373, the last sentence in the first paragraph is corrected by changing the words "color additive" to read "color additives".

4. In the center column on page 373, in § 73.3121 *Poly(hydroxyethyl methacrylate)-dye copolymers*:

a. The second sentence in paragraph (a) is corrected to read "The dyes are (1) Reactive Black 5 [2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-3,6-bis[(4-[(2-

(sulfooxy)ethyl)sulfonyl)phenyl]azo)-tetrasodium salt] [CAS Reg. No. 17095-24-8]; (2) Reactive Blue 21 [copper, (29H,31H-phthalocyaninato(2-)-N²⁹,N³⁰,N³¹,N³²)-, sulfo(4-((2-sulfooxy)ethyl)sulfonyl)phenyl)amino)sulfonyl derivs] [CAS Reg. No. 73049-92-0]; (3) Reactive Orange 78 [2-naphthalenesulfonic acid, 7-(acetylamino)-4-hydroxy-3-((4-((2-sulfooxy)ethyl)sulfonyl)phenyl)azo)-] [CAS Reg. No. 68189-39-9]; and (4) Reactive Yellow 15 [benzenesulfonic acid, 4-(4,5-dihydro-4-((2-methoxy-5-methyl-4-((2-sulfooxy)ethyl)sulfonyl)phenyl)azo)-3-methyl-5-oxo-1H-pyrazol-1-yl)-] [CAS Reg. No. 60958-41-0]."

b. The second sentence in paragraph (b)(3) is corrected by changing the word "copolymers" to read "copolymer".

c. The words "color additive" in paragraph (c) are corrected to read "color additives".

d. Paragraph (d) is corrected to read "(d) Exemption from certification. Certification of these color additives is not necessary for the protection of the public health, and therefore these color additives are exempt from the certification requirements of section 706(c) of the act."

Dated: February 2, 1984.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 84-3651 Filed 2-9-84; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 74

[Docket No. 83C-0130]

[Phthalocyaninato(2-)]Copper; Listing as a Color Additive for Coloring Contact Lenses; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of September 2, 1983, for a regulation listing [phthalocyaninato(2-)] copper as a color additive for coloring contact lenses. This action responds to a petition filed by Wilsa, Inc.

Effective date: September 2, 1983.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a final rule published in the Federal Register of August 2, 1983 (48 FR 34946), FDA amended the color additive regulations

to provide for the safe use of [phthalocyaninato(2-)]copper as a color additive for coloring contact lenses. This color additive had been listed for use in polypropylene sutures used in general and ophthalmic surgery (21 CFR 74.1045). However, to reflect the fact that sutures, which were regulated as drugs before the passage of the Medical Device Amendments of 1976, are now regulated as medical devices, the final rule removed § 74.1045 and incorporated the provisions of that section in new § 74.3045 (21 CFR 74.3045). Additionally, the agency revised the restriction that appeared in § 74.1045(c) (now § 74.3045(c)(3)) to state that the medical devices in which this color additive is used (including sutures) are subject to the requirements of sections 510(k), 515, and 520(g) of the Federal Food, Drug, and Cosmetic Act instead of section 505. In the final rule FDA gave interested persons until September 1, 1983, to file objections.

The agency received one letter in response to the final rule. This letter, which was from the Wesley-Jessen Division of the Schering Corp., is on file in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, under the docket number found in the heading of this document. The agency is treating this letter as a comment, rather than as an objection, because it did not object to any of the provisions of the final rule. Instead, the comment requested that the agency increase the limit on the use of [phthalocyaninato(2-)] copper in contact lenses from 0.01 percent by weight (as it is in the final rule) to 0.10 percent by weight and submitted citations of toxicology studies that purportedly document that the additive may be safely used at the higher level. However, the comment did not include any of the details of studies.

The agency has completed its evaluation of the comment. FDA finds that in the absence of the details of the studies cited in the comment, it cannot determine whether the increased use level is safe. Thus, the agency concludes that the comment is not adequate to justify modification of the regulation listing [phthalocyaninato(2-)]copper as a color additive. Further, the agency notes that the type of modification suggested by the comment should be the subject of a color additive petition rather than of a comment.

No requests for a hearing were received in response to the listing regulation. Therefore, this document confirms the effective date as September 2, 1983, for the regulation listing [phthalocyaninato(2-)] copper.

List of Subjects in 21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs, Medical devices.

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701(e), 706, 70 Stat. 919 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371(e), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for hearing were filed in response to the August 2, 1983 final rule. Accordingly, the amendments promulgated thereby became effective September 2, 1983.

Dated: February 2, 1984.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 84-3653 Filed 2-9-84; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Parts 430, 436, 440, 442, 444, 450, and 452

[Docket No. 84N-0013]

Antibiotic Drugs; Updating and Technical Changes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by making corrections, updates, and minor noncontroversial technical changes in certain regulations providing for accepted standards of antibiotic and antibiotic-containing drugs for human use. These changes will result in more accurate and up-to-date regulations.

DATES: Effective February 10, 1984. Comments, notice of participation, and request for hearing by March 12, 1984. Data, information, and analyses to justify a hearing by April 10, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA is amending the antibiotic drug regulations

by making corrections, updatings, and minor noncontroversial technical changes in certain regulations that provide for accepted standards of antibiotic and antibiotic-containing drugs intended for human use. In two instances, the need for a change was called to FDA's attention by industry representatives. To aid in understanding the types of changes included in this document, the changes have been grouped into three general classes for discussion in this preamble: monograph corrections, updatings, and technical changes.

Monograph Corrections

1. In § 440.49(b)(5), the word "200-milliliter" in the third sentence is corrected to read "200-millimeter."

2. In § 442.225c, paragraph (b)(1)(i) is corrected as follows:

a. In the third sentence, "1.0 percent potassium phosphate buffer," is corrected to read "1 percent potassium phosphate buffer,"; and

b. In the fourth sentence, "1.0 potassium phosphate buffer," is corrected to read "1 percent potassium phosphate buffer,".

Updatings

1. In § 440.107c, paragraph (a)(1)(iii) and (iv) is removed. These drug product formulations are no longer manufactured.

2. In § 440.236, paragraphs (a)(1) and (b)(5) are revised to remove provisions for the drug product containing EDTA, which is no longer manufactured, and to provide standards for the drug product without preservatives.

3. In §§ 452.310(b)(1) and 452.510a(b)(1), the sample preparation method for determining the potency of erythromycin ophthalmic ointment is revised to delete the size of the separatory funnel to reflect the official method.

Technical Changes

1. In §§ 430.4(a)(24), 430.5(a)(38) and (b)(38), 430.6(b)(41), 436.35, 436.105(a) and (b), 450.40, and 450.240, the name "Mithramycin" is changed to read "Plicamycin" to be in agreement with the United States Adopted Names (USAN) designation.

2. In § 444.342d(a)(1), the pH range for neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic suspension (5.0 to 7.0) is changed to read 4.1 to 7.0. The sole manufacturer has submitted adequate stability data to support the lower limit.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (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

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 436

Antibiotics.

21 CFR Part 440

Antibiotics, penicillin.

21 CFR Part 442

Antibiotics, cepha.

21 CFR Part 444

Antibiotics, oligosaccharide.

21 CFR Part 450

Antibiotics, antitumor.

21 CFR Part 452

Antibiotics, macrolide.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 430, 436, 440, 442, 444, 450, and 452 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended:

§ 430.4 [Amended]

a. In § 430.4 *Definitions of antibiotic substances*, paragraph (a)(24), by changing the name "Mithramycin" to read "Plicamycin" wherever it appears.

§ 430.5 [Amended]

b. In § 430.5 *Definitions of master and working standards*, paragraphs (a)(38) and (b)(38), by changing the name "Mithramycin" to read "Plicamycin" wherever it appears.

§ 430.6 [Amended]

c. In § 430.6 *Definitions of the term "unit" and "microgram" as applied to antibiotic substances*, paragraph (b)(41), by changing the name "Mithramycin" to read "Plicamycin" wherever it appears.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended:

§ 436.35 [Amended]

a. In § 436.35 *Depressor substances test*, in the table by changing the name "Mithramycin" to read "Plicamycin".

§ 436.105 [Amended]

b. In § 436.105 *Microbiological agar diffusion assay*, the table in paragraphs (a) and (b), by changing the name "Mithramycin" to read "Plicamycin".

PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. Part 440 is amended:

a. In § 440.49(b)(5) by revising the third sentence to read as follows:

§ 440.49 Oxacillin sodium monohydrate.

(b) * * *

(5) * * * Pipette a 5.0-milliliter aliquot of the sample solution into a 22- by 200-millimeter test tube, and add 5 milliliters of 10N NaOH. * * *

§ 440.107c [Amended]

B. In § 440.107c *Ampicillin trihydrate for oral suspension* by removing paragraph (a)(1) (iii) and (iv).

c. In § 440.236 by revising paragraphs (a)(1) and (b)(5) to read as follows:

§ 440.236 Methicillin sodium monohydrate for injection.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* Methicillin sodium monohydrate for injection is methicillin sodium monohydrate with or without one or more suitable and harmless preservatives and the buffer sodium citrate in a quantity not less than 4 percent and not more than 5 percent by weight of its total solids (such sodium citrate conforms to the standards prescribed therefor by the U.S.P.). Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of methicillin that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 6.0 and not more than 8.5. Its moisture content is not more than 6.0 percent. The methicillin sodium monohydrate used conforms to the standards prescribed by § 440.36a(a)(1).

(b) * * *

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

PART 442—CEPHA ANTIBIOTIC DRUGS

4. Part 442 is amended in § 442.225c(b)(1)(i) by revising the third and fourth sentences to read as follows:

§ 442.225c Cephalothin sodium for injection.

(b) * * *

(1) *Content; potency*—(i) *Sample preparation.* * * * Dilute with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), for the microbiological agar diffusion assay or distilled water for the hydroxylamine colorimetric assay to obtain a stock solution of convenient concentration. In addition, if the cephalothin sodium is not isolated, dissolve an accurately weighed sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), for the microbiological agar diffusion assay or distilled water for the hydroxylamine colorimetric assay to obtain a stock solution of convenient concentration. * * *

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

5. Part 444 is amended in § 444.342d(a)(1) by revising the fourth sentence to read as follows:

§ 444.342d *Neomycin sulfate-polymyxin B sulfate ophthalmic suspension (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).*

(a) * * *

(1) * * * Its pH is not less than 5.0 and not more than 7.0; except if it contains 10 milligrams per milliliter of hydro-cortisone, its pH is not less than 4.1 and not more than 7.0. * * *

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

6. Part 450 is amended:

§ 450.40 [Amended]

a. In § 450.40 *Mithramycin* by changing the name "Mithramycin" to read "Plicamycin" Wherever it appears.

§ 450.240 [Amended]

b. In § 450.240 *Mithramycin for injection* by changing the name "Mithramycin" to read "Plicamycin" Wherever it appears.

PART 452—MACROLIDE ANTIBIOTIC DRUGS

7. Part 452 is amended:

a. In § 452.310(b)(1) by revising the first sentence to read as follows:

§ 452.310 Erythromycin ophthalmic ointment.

(b) * * *

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the ointment in a separatory funnel containing 50 milliliters of reagent-grade petroleum ether. * * *

b. In § 452.510a by revising the first sentence in paragraph (b)(1) to read as follows:

§ 452.510a Erythromycin ointment.

(b) * * *

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the ointment in a separatory funnel containing 50 milliliters of reagent-grade petroleum ether. * * *

These amendments institute changes that are corrective, editorial, or of a minor substantive nature. Because the amendments are not controversial and because when effective they provide notice of accepted standards, FDA finds that notice, public procedure, and delayed effective date are unnecessary and not in the public interest. The amendments, therefore, may become effective February 10, 1984. However, interested persons may, on or before March 12, 1984, submit written comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before March 12, 1984, a written notice of participation and request for hearing, and (2) on or before April 10, 1984, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing

that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the hearing of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday. *Effective date.* This regulation shall be effective February 10, 1984.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)).)

Dated: February 6, 1984.

Philip L. Paquin,
Acting Associate Director for Regulatory Affairs.

[FR Doc. 84-3649 Filed 2-9-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 449

[Docket No. 84N-0019]

Antibiotic Drugs; Nystatin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new use of nystatin. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective February 10, 1984, comments, notice of participation, and request for hearing by March 12, 1984, data, information, and analyses to justify a hearing by April 10, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, National Center for Drugs and Biologics (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new use (packaged for extemporaneous preparation of oral suspensions) of nystatin. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 449 (21 CFR Part 449) to provide for the new use of this product.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (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 449

Antibiotics, antifungal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 449.50 is amended by revising paragraphs (a) (1)(i) and (3)(i) and by adding paragraphs (a)(1) (vi) and (vii) and (b) (6) and (7) to read as follows:

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

§ 449.50 Nystatin.

(a) * * *

(1) * * *

(i) Its potency is not less than 4,400 units of nystatin per milligram; except, if it is packaged for extemporaneous preparation of oral suspensions, its potency is not less than 5,000 units of nystatin per milligram.

(vi) If it is packaged for extemporaneous preparation of oral

suspensions, it passes the suspendibility test.

(vii) If it is packaged for extemporaneous preparation of oral suspensions, it is crystalline.

(3) * * *

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, and identity. In addition, if it is packaged for extemporaneous preparation of oral suspensions, results of tests and assays on the batch for suspendibility and crystallinity.

(b) * * *

(6) *Suspendibility test.* Transfer 200 milligrams of the sample into a 250-milliliter beaker containing 200 milliliters of water. Swirl the suspension gently with a stirring rod. Allow the beaker to remain still for 2 minutes and observe the bottom. It passes the test if the powder remains in suspension. If a significant amount of sediment is observed, withdraw an accurately measured aliquot of the undisturbed suspension and assay as directed in § 449.150c(b)(1) of this chapter. It passes the test if the suspension contains not less than 90 percent of the number of units of nystatin that it is represented to contain.

(7) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this regulation is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective February 10, 1984. However, interested persons may, on or before March 12, 1984, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before March 12, 1984, a written notice of participation and request for hearing, and (2) on or before April 10, 1984, the data, information, and

analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Effective date, February 10, 1984.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: February 6, 1984.

Philip L. Paquin,

Acting Associate Director for Regulatory Affairs.

[FR Doc. 84-3648 Filed 2-9-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate Capsules

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 Happy Jack, Inc., to revise the labeling to provide more specific directions for use of diethylcarbamazine citrate capsules

for prevention of heartworm disease in dogs.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT:

Bob G. Griffith, Bureau for Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Happy Jack, Inc., Snow Hill, NC 28580, filed a supplement to NADA 125-137 which covers use of 12.5-, 50-, 200-, and 400-milligram diethylcarbamazine citrate capsules for prevention of heartworm disease (*Dirofilaria immitis*) in dogs. The supplement provides for adding a statement to the label: "Capsules may be administered to the dog directly or added to the daily ration." Approval of this application does not change the approved use of the drug. The previously approved labeling provided for oral use of the drug, and the new statement merely provides more specific directions for use. The supplement is approved and the regulations are amended to reflect the approval.

NADA 125-137 was originally approved by a final rule published in the Federal Register of October 17, 1983 (48 FR 46979). The freedom of information summary made available under the provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), which consisted of a summary of safety and effectiveness data and information submitted to support approval of the original application, applies also to this supplemental application and 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 Bureau of 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.

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 Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.622d by adding a sentence at the beginning of paragraph (b)(3)(ii) to read as follows:

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

§ 520.622d Diethylcarbamazine citrate capsules.

* * * * *

(b) * * *

(3) * * *

(ii) *Limitations.* Capsules may be administered to the dog directly or added to the daily ration. * * *

Effective date. February 10, 1984.

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

Dated: February 1, 1984.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 84-3654 Filed 2-9-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

**Implantation or Injectable Dosage
Form New Animal Drugs Not Subject
to Certification; Cloprostenol Sodium**

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 Bayvet Division of Miles Laboratories, Inc., providing for use of a lower concentration cloprostenol sodium injection as an abortifacient (an agent that induces abortion) in pregnant feedlot heifers.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT:

Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Bayvet Division of Miles Laboratories, Inc., P.O. Box 390, Shawnee Mission, KS 66201, filed supplemental NADA 113-645 providing for intramuscular (IM) use of an additional concentration of 125 micrograms (μ g) of cloprostenol (as cloprostenol sodium) per milliliter (mL) of injection solution. The drug product is indicated for inducing abortion in

pregnant feedlot heifers from 1 week after mating until 4½ months of gestation. Bayvet has an existing approval for IM use of a 250- μ g/mL cloprostenol solution in beef and dairy cattle for scheduling estrus, terminating unwanted pregnancies from mismatings, or treating unobserved (nondetected) estrus, mummified fetus, and luteal cysts. The additional lower concentration solution (i.e., 125 μ g/mL cloprostenol) is limited to use as an abortifacient and is administered as a single injection of 375 μ g. When the existing drug product is used as an abortifacient, it is also administered as a single injection but the dose is 500 μ g. The supplemental NADA is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary referred to below.

In addition, the current regulations do not specify the number of drug injections for the indications listed, therefore, the regulations are further amended to specify that treatment involves a single injection for all indications.

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 Bureau of 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 Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), 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 522

Animal drugs, injectable.

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 Bureau of Veterinary Medicine (21 CFR 5.83). Part 522 is amended in § 522.460 by redesignating existing paragraphs (a), (b), and (c) (1), (2) (i) (a), (b), (ii), (3), (4), and (5) as paragraph (a) (1), (2), (3) (i), (ii) (a) (1), (2), (b), (iii), (iv), and (v), respectively; by revising redesignated paragraph (a) (3) (ii) (b); and adding new paragraph (b) to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.460 Cloprostenol sodium.

(a)(1) *Specifications.* * * *

(2) *Sponsor.* * * *

(3) *Conditions of use.* * * *

(i) *Amount.* * * *

(ii) *Indications.* (a) * * *

(1) * * *

(2) * * *

(b) Single cloprostenol injection for terminating unwanted pregnancies from mismatings from 1 week after mating until 5 months after conception, or for treating unobserved (nondetected) estrus, mummified fetus, and luteal cysts.

(iii) * * *

(iv) * * *

(v) * * *

(b)(1) *Specifications.* Each milliliter of sterile aqueous solution contains 131.5 micrograms of cloprostenol sodium (equivalent to 125 micrograms of cloprostenol).

(2) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(3) *Special considerations.* Labeling shall bear the statements prescribed in paragraph (a)(3) (iii) and (iv) of this section.

(4) *Conditions of use.*—(i) *Amount.* 3 milliliters (equivalent to 375 micrograms of cloprostenol) intramuscularly per animal as a single dose.

(ii) *Indications for use.* To induce abortion in pregnant feedlot heifers from 1 week after mating until 4½ months of gestation.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. February 10, 1984.

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

Dated: February 2, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84-3650 Filed 2-9-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 51

[Docket No. R-84-709; FR-935]

Environmental Criteria and Standards; Siting of HUD-Assisted Projects Near Hazardous Operations Handling Petroleum Products or Chemicals of an Explosive or Flammable Nature

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This final rule provides standards for the safe siting of HUD-assisted projects near hazardous operations handling petroleum products or chemicals of an explosive or flammable nature. The rule establishes standards and methods for calculating the acceptable separation distance of a proposed HUD-assisted project from such hazardous operations, and describes mitigating measures which can be taken to modify the application of the acceptable separation distance requirements.

EFFECTIVE DATE: March 22, 1984.

FOR FURTHER INFORMATION CONTACT: James L. Christopolos, Office of Environment and Energy, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone number 202-755-7225 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Proposed Rule

A Notice of Proposed Rulemaking was published August 19, 1980 (45 FR 55223) that proposed a new regulation establishing Departmental standards, requirements and guidelines for siting HUD-assisted projects near hazardous operations which store or process petroleum products or chemicals of an explosive or fire prone nature. The proposed rule would have established blast (overpressure) and thermal radiation (fire) safety standards. The effect of these standards would have been to withhold HUD assistance for projects located within a prescribed acceptable separation distance from specific hazardous operations.

The standards set forth in § 51.203 of the proposed rule and carried over into the final rule are:

	Thermal radiation	Blast overpressure
Amount of acceptable exposure allowed for building structures.	10,000 BTU/ft ² /hr.	0.5 psi.
Amount of acceptable exposure allowed for people in open areas.	450 BTU/ft ² /hr.	0.5 psi.

The standards are based on the findings of two studies conducted for the Department: "Safety Consideration in Siting Housing Projects," prepared by Arthur D. Little, Inc. published in December, 1975 by the Office of Policy Development and Research, HUD, and "Urban Development Siting with Respect to Hazardous Commercial/Industrial Facilities," by Rolf Jensen and Associates, Inc., submitted April 2, 1982. A summary of these studies follows:

(a) Thermal Radiation

Flammable products stored in above-ground containers represent a definite, potential threat to human life and structures in the event of fire. The resulting flame from a fire emits thermal radiation which is absorbed by the surroundings. Combustible structures, such as wooden houses, may be ignited by the thermal radiation being emitted. The radiation can cause severe burn injuries and even death to exposed persons some distance away from the site of the fire.

Wooden buildings, window drapes and trees generally ignite spontaneously when exposed for a relatively long period of time to thermal radiation flux levels of approximately 10,000 BTU/hr. sq. ft. It will take 15 to 20 minutes for a building to ignite at the degree of thermal intensity. Since the reasonable response time for fire fighting units in urbanized areas is approximately five to ten minutes, a standard of 10,000 BTU/hr. sq. ft. is considered an acceptable level of thermal radiation for buildings.

People in outdoor areas exposed to a thermal radiation level of approximately 1,500 BTU/ft²/hr will suffer intolerable pain after 15 seconds. Longer exposure causes blistering, permanent skin damage, and even death. Since it is assumed that children and the elderly could not take refuge behind walls or run away from the thermal effect of the fire within the 15 seconds before skin blistering occurs, unprotected (outdoor) areas, such as playgrounds, parks, yards, school grounds, etc., must be placed at such a distance from potential fire locations so that the radiation flux level is well below 1500 BTU/ft²/hr. An acceptable flux level, particularly for elderly people and children, is 450 BTU/ft²/hr. The skin can be exposed to this degree of thermal radiation for a prolonged period of time with no serious detrimental effect. The effects at this exposure would be the same as a bad sunburn. Therefore, the standard for areas in which there will be people in exposed settings (e.g., outdoor recreation areas such as playgrounds and parks) will not exceed 450 BTU/hr.

sq. ft. Areas covered also include open space ancillary to residential structures, such as yard areas and vehicle parking areas.

(b) Blast Overpressure

The range of sensitivity of the explosion tolerance of a material and the magnitude of the violent sudden release of energy can vary widely from one material to another. Therefore, for the sake of simplicity, the blast effect of an explosive material is compared to TNT, whose blast energies are well known. This method of comparison is known as "TNT Equivalent." The term "TNT Equivalent" (TNT_{eq}) refers to the amount of material (other than TNT) it would take to have the same blast effect as one pound of TNT.

The Acceptable Separation Distance (ASD) for people and structures from materials prone to explosion is dependent upon the resultant blast measured in pounds per square inch (psi) overpressure. The military services have determined that 0.5 psi in the acceptable level of blast overpressure for both buildings and occupants, because a frame structure can normally withstand the level of external exertion with no serious structural damage and it is unlikely that human beings inside the building would normally suffer any serious injury. Using this standard and after determining the TNT equivalent for the material concerned, the ASD can be computed by determining the distance at which the blast overpressure will be 0.5 psi. The Arthur D. Little and the Rolf Jensen reports both corroborate 0.5 psi as the acceptable level of blast overpressure for both buildings and occupants. Therefore, HUD has adopted this standard.

The Acceptable Separation Distances for buildings, which are computed for fire and blast overpressure, delineate separate identifiable danger zones for each potential accident source. For some materials the fire danger zone will have the greatest radius, and cover the largest area, while for others the explosion danger zone will be the greatest. For example, conventional petroleum fuel products stored in unpressurized tanks do not emit blast overpressure of dangerous levels when ignited. In most cases, hazardous substances will be stored in pressurized containers. The resulting blast overpressure will be experienced at a greater distance than the resulting thermal flux at the standards set in this rule. The hazard requiring the greatest separation distance will govern in determining the location of HUD-assisted projects.

Appendix II to this rule provides an illustration of how this rule is applied.

Procedures for calculating the ASD are described. A fuller treatment of the subject is included in a HUD guidebook entitled "Urban Development Siting With Respect to Hazardous Commercial/Industrial Facilities," which will be issued for use with this rule.

II. Public Comments

The following discussion summarizes changes that were to the final rule based upon significant comments received. Thirteen comment letters were received, and all comments were evaluated and given due consideration. The discussion is organized by section of the proposed rule.

1. *Proposed § 51.200, Purpose*, has been revised to indicate that the general purpose of the rule is to establish standards for the location of proposed HUD-assisted projects near hazardous operations handling chemicals of an explosive or fire prone nature, in order to minimize the possibility of loss of life and substantial property loss from such hazards.

The reasoned basis for this new regulation was not fully set forth in the proposed rule. HUD policy has been to consider the location of HUD-assisted projects near hazardous operations as part of its environmental assessment. No regulatory standards, however, were published. The policy took cognizance of the fact that projects and their occupants may be placed at unacceptable risk located too near a hazardous operation containing substances of an explosive or fire prone nature. For example, in 1975, during the environmental review process, the Department learned about the proposed construction of 1,250 units of public housing which were to be located within 120 feet of a public utility facility containing forty 60,000 gallon liquid propane storage tanks. An engineering analysis determined that an explosion of just one of the tanks would emit a force capable of destroying 60 percent of the project.

HUD policy was to approve projects to be located near hazardous operations if appropriate measures to mitigate the effects of unacceptable thermal radiation and blast overpressure conditions were used. For example, a high-rise housing facility for Senior Citizens was to be constructed within 282 feet of two 30,000 gallon liquid propane tanks. However, the safe separation distance, based on explosion and thermal radiation computations was determined to be 660 feet. Since there was no other economically acceptable site in the area, compliance with the safe separation distance computations

would have meant cancellation of the project. After an engineer field analysis, it was determined that erection of an 18 foot high reinforced concrete wall, between the project and the tanks, designed to withstand 1.5 psi overpressure would contain the anticipated blast in event of an incident. Design changes to the upper portion of the structure that could withstand an anticipated thermal radiation flux level of 12,000 Btu per sq. ft. per hr. in the event of a fireball, were also recommended. These recommendations were incorporated into the project and the facility is now complete and occupied. The wall is effectively camouflaged with shrubbery and vines so that it is not discernible as a concrete wall.

More systematic data are available as to the need for limited regulation. The National Fire Protection Association (NFPA), an organization dedicated to promote the science and improve the methods of fire protection, reports that there are an average of approximately 3,000 incidents (nationwide) of fire/explosion per year, involving stationary chemical and petrochemical facilities. This report was corroborated by the United States Fire Administration, an adjunct of the Federal Emergency Management Administration (FEMA). FEMA reported 3,197 and 3,358 fire/explosion incidents for the years 1980 and 1981 respectively, as outlined below. FEMA data demonstrate that fires and explosions of the type relevant to this rule occur with resulting property damages to buildings and death and injuries to persons off the premises. These data show that the event, when it occurs, carries significant dangers; however, the incidence of such damage is infrequent. Therefore any regulation in this area needs to focus on those circumstances of potential adverse effects and not impose burdens on interested parties where there is little likelihood of adverse effects.

FIRE/EXPLOSION AT STATIONARY CHEMICAL-PETROCHEMICAL FACILITIES

Total	Damage off-premises
1980:	
3,197 incidents	7 deaths
20 deaths	198 injuries
444 injuries	\$15,800,000 property loss
\$39,637,000 property loss	
1981:	
3,358 incidents	4 deaths
10 deaths	225 injuries
445 injuries	\$23,200,000 property loss
\$51,126,799 property loss	

2. *Proposed § 51.201, Definitions*, has been condensed to remove unnecessary language. The definition of "HUD-

assisted project" has been amended to indicate that the terms "rehabilitation" and "modernization" refer only to such repairs and renovation of a building or buildings as will result in an increased number of people being exposed to hazards by: (1) increasing residential densities; (2) converting the type of use of a building to habitation; or (3) making a vacant building habitable. This qualification was, in substantial part, contained in § 51.202(c)(2) of the proposed rule.

The broad definition of "Hazard" in § 51.201 has been revised to exempt from the definition containers with a storage capacity of 100 gallons or less when they contain common liquid industrial fuels, such as gasoline, fuel oil, kerosene, jet fuel or crude oil. The ASD from 100 gallons of common industrial liquid fuels is only 15 feet. Therefore, this threshold level was included in the definition on the basis of the Department's conclusion that common liquid industrial fuels in quantities of 100 gallons or less would generally pose no danger in terms of thermal radiation or blast overpressure consequences to a project, and that it is therefore unnecessary to calculate acceptable separation distances for such facilities. Also excepted are facilities which are shielded from a proposed HUD project by the topography, because these topographic features effectively provide a mitigating measure already in place. The regulation clarifies that the term "hazard" does not apply to pipelines for the transmission of hazardous substances if such pipelines are located underground or if they comply with applicable Federal, State and local safety standards.

3. *Proposed § 51.202, Policy.* Section 51.202(a) has been added to make clear that HUD will not approve applications for assistance if a project fails to satisfy the § 51.203 standards. In addition, the requirement in paragraph (d) of the proposed rule—grantees or sponsors of projects which have received HUD approval must notify the Department if they hear of any planned hazard to be located near the project, so that HUD could advise the appropriate local government on hazard implications and remedial measures—has been deleted as vague and without effect. Section 51.202 of the final rule authorizes HUD, in cases when HUD knows that operations involving hazardous substances are proposed to be built within the acceptable separation distance of the project, to require mitigating measures as a condition of approval of the project.

4. *Proposed § 51.203, Safety Standards.* has been revised by deleting

explanatory information now contained in the appendix and in other sections of the final rule. The fire and explosion safety standards themselves have been retained. Clarification was necessary as to the applicability of the standards to Gas Transmission Pipelines and liquid natural gas (LNG) facilities. Of the 13 comments received, nine expressed concern that the proposed standards would be applicable to high pressure gas transmission lines. This is not the intent, and language appearing in the regulation has been changed to make it clear that the standards are only applicable to stationary storage facilities. Existing Department of Transportation Regulations and HUD Minimum Property Standards (MPS) govern proximity of structures to high pressure gas transmission lines.

Several of the reviewers questioned the necessity for the HUD regulation in view of the existing Federal Fire Safety Standards for Liquefied Natural Gas (LNG) Facilities, 49 CFR Part 193, developed by the Materials Transportation Bureau (Department of Transportation). The DOT regulation establishes thermal radiation standards which are applicable *only* to LNG facilities, not to other petroleum products or chemicals of an explosive or fire prone nature. The HUD regulation establishes explosion and thermal radiation (fire) standards, both of which are applicable to 53 commonly encountered chemicals or petrochemicals of an explosive and/or fire prone nature, in addition to LNG. While the DOT standards may affect the location of proposed LNG facilities relative to existing projects, they do not govern the placement of HUD-assisted projects near existing LNG facilities.

5. *Proposed § 51.204, Responsibilities.* has been deleted. General implementation responsibilities are now found in § 51.206 of the final rule. The specific responsibilities applicable to HUD staff for carrying out the regulation will be continued in the HUD guidebook, "Urban Development Siting With Respect to Hazardous Commercial/Industrial Facilities."

6. *Proposed § 51.205, Exceptions.* has been deleted as redundant. The inclusion of the 100 gallon container and other exceptions in the final § 51.201 makes unnecessary the proposed section.

7. *Proposed § 51.206, Mitigating Measures.* has been renumbered § 51.205. One of the reviewers suggested that additional mitigation factors be listed. The final section on mitigating measures (§ 51.205) has accordingly been revised. The HUD field

representative will determine whether an existing intervening structure can serve as an effective barrier against blast and thermal radiation.

8. A new § 51.206, *Implementation*, has been added. It provides that the regulation shall be implemented for each proposed HUD-assisted project by the Departmental official responsible for environmental review of the project. In the case of HUD-assisted projects for which the Department's project selection criteria at 24 CFR § 200.700 *et seq.* are applicable, § 51.206 indicates that the regulation shall be implemented by the Departmental official responsible for determining compliance with such criteria.

9. A *New Appendix I* has been added which lists the most common hazardous substances. The preamble to the proposed rule provided illustrations—kerosene, gasoline, naphtha, liquid propane, liquid butane, and liquified natural gas—of hazardous substances which triggered the regulatory requirement. The proposed rule, however, did not define hazardous substance creating ambiguity as to the coverage of the rule. The definition of hazardous substance in § 51.201 and Appendix I clarify this point. The list is based on a study prepared for the Department by Rolf Jensen and Associates, Inc., entitled "Urban Development Siting with respect to Hazardous Commercial/Industrial Facilities," dated April 2, 1982.

10. A new § 51.207 is added to prescribe the procedures for modifying the list of substances defined as hazardous under this Part. Paragraphs "a" and "b" allow the Secretary to act quickly either on a case-by-case basis or more generally when the facts warrant the enforcement of the policy with regard to the substance. The hazardous nature of the substance justifies expeditious application of the rule without the time consuming requirements of notice and comment. In cases where a substance is added to Appendix 1, notice in the *Federal Register* is required. The notice is to provide the basis for the action. Interested parties may petition changes to Appendix 1 pursuant to 24 CFR 15.20, the HUD procedure for issuing, amending or repealing a rule.

11. The material contained in parts one and two of the Appendix of the proposed rule has been retained without substantial revision to Appendix II of the rule.

Other Supplementary Information

The Department finds that based on the criteria set out in Executive Order

12291, this regulation is not a major rule in that it will not:

(a) Have an annual effect on the economy of \$100 million or more;

(b) Cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions;

(c) Have 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 basic benefit of the regulation will be to assure that people and property are not unreasonably and unnecessarily exposed to potential explosion and thermal radiation hazards caused by hazardous substances.

The proposed regulation does not require action by, or generate direct costs to, local government, private enterprises, or individuals. It may, however, generate some indirect costs, or reduce expected profits in that it could limit the types of development that would occur with HUD assistance in areas near hazardous operations. The regulation may, for instance, preclude a local government from using cheaper land for some types of projects using HUD assistance, or it may prevent a private landowner from developing his/her land with HUD assistance for the use with the highest possible return.

However, based upon the Department's experience over the past several years, application of safety standards together with mitigating measures (where appropriate) have not imposed an undue burden on interested parties. The definitional exceptions to the term hazard and the use of mitigating measures minimizes the imposition of unjustified costs.

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this Rule does not have a significant economic impact on a substantial number of small entities. The rule will affect only a small number of projects.

In evaluating the need for this regulation, the Department considered alternative approaches reliance on other standards and insurance coverage.

The Department surveyed professional societies, regulatory agencies, the National Fire Protection Association, Safety Councils and Boards, other Federal agencies, State and local entities, and The Insurance Information Institute, and found that the only extensive explosion and thermal radiation safety standards are as follows:

1. Explosion safety standards developed by the U.S. Air Force for liquid propelled Atlas "D," "E" and "F," and Titan I and II Inter Continental Ballistic Missiles (ICBM's). These standards were developed specifically for establishing safety easements around liquid propelled ICBM sites; they are predicated upon the TNT equivalent of the propellants used in the respective ICBM systems, and cannot be applied to HUD's purpose.

2. LNG thermal radiation standards developed by the Department of Transportation (DOT), discussed above.

3. National Fire Protection Association (NFPA) fire standards. These standards are limited to fire hazards, and are for the specific use of industry in determining the internal configuration of petrochemical facilities, rather than determining acceptable separation distances from such facilities.

Reliance on State and local controls would be an unsatisfactory alternative; few localities have extensive standards governing the siting of residences near hazardous operations. Moreover, the data on the incidence of off-premises damage caused by fires and explosions at stationary chemical and petrochemical facilities indicate that safety standards for storage tanks do not themselves provide sufficient protection against damage to nearby dwellings. Insurance was also rejected. While high insurance costs might deter many project sponsors from locating a project near a hazardous operations site, this result is not always the case. The potential outcome of personal injury and death are sufficient reasons for prohibiting the location of projects within dangerous proximity of hazardous operations.

As an alternative to issuing a regulation, the Department also considered issuing a handbook with guidelines. However, the Department determined that compulsory standards are necessary in order to ensure that residents of proposed HUD-assisted projects are sufficiently protected against hazardous operations.

The regulation will not create any new reporting or recordkeeping requirements for either HUD personnel or for local governments, private industries, or individuals. All procedures necessary to implement the regulation are already part of existing site and/or environmental review procedures currently followed by HUD personnel.

The Department determined that the regulation may affect the quality of the human environment. Therefore, a Draft Environmental Impact Statement (EIS) was prepared and circulated for agency

and public comment in accordance with the National Environmental Policy Act of 1969 (U.S.C. 4321), Council on Environmental Quality Regulations (40 CFR Part 1500-1508) and HUD's Regulations (24 CFR Part 50). All comments received were reviewed, evaluated, and those which were substantially pertinent were incorporated into the Final EIS. A copy of this Final EIS will be available for inspection in the Office of the Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410.

List of Subjects in 24 CFR Part 51

Hazardous substances, Housing standards.

PART 51—[AMENDED]

Accordingly, 24 CFR Part 51 is amended as follows:

1. By adding new Subpart C to read as follows:

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

Sec.

- 51.200 Purpose.
- 51.201 Definitions.
- 51.202 Approval of HUD-Assisted Projects.
- 51.203 Safety Standards.
- 51.204 HUD-Assisted Hazardous Facilities.
- 51.205 Mitigating Measures.
- 51.206 Implementation.
- 51.207 Amendments of Appendix 1.
- 51.208 Reservation of Administrative and Legal Rights.

Authority: Sec. 2 Housing Act of 1949 (42 U.S.C. 1441); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Sec. 2, Housing and Urban Development Act of 1969 (42 U.S.C. 1441(a)).

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

§ 51.200 Purpose.

The Department of Housing and Urban Development finds that it is necessary to establish standards for the location of proposed HUD-assisted projects near hazardous operations handling petroleum products or chemicals of an explosive or fire-prone nature in order to minimize the possibility of loss of life and substantial property loss from such hazards.

The purpose of this subpart is to:

(a) Establish safety standards which can be used as a basis for calculating acceptable separation distances (ASD) for HUD-assisted projects from specific

stationary, hazardous operations which store, handle, or process hazardous substances;

(b) Alert those responsible for the siting of HUD-assisted projects to the inherent potential dangers when such projects are located in the vicinity of such hazardous operations;

(c) Provide guidance for identifying those hazardous operations which are most prevalent;

(d) Provide the technical guidance required to evaluate the degree of danger anticipated from explosion and thermal radiation (fire); and

(e) Provide technical guidance required to determine acceptable separation distances from such hazards.

§ 51.201 Definitions.

Acceptable Separation Distance (ASD)—means the distance beyond which the explosion or combustion of a hazard is not likely to cause structures or individuals to be subjected to blast overpressure or thermal radiation flux levels in excess of the safety standards in § 51.203. The ASD is determined by applying the safety standards established by this subpart to the guidance set forth in HUD Guidebook, "Urban Development Siting With Respect to Hazardous Commercial/Industrial Facilities."

Blast Overpressure—means the pressure, in pounds per square inch, in excess of normal atmospheric pressure on the surrounding medium caused by an explosion.

Danger Zone—means the land area circumscribed by the radius which delineates the ASD of a given hazard.

Department—means the Department of Housing and Urban Development (HUD).

Hazard—means any stationary container which stores, handles or processes hazardous substances of an explosive or fire prone nature. The term "hazard" does not include pipelines for the transmission of hazardous substances, if such pipelines are located underground or comply with applicable Federal, State and local safety standards. Also excepted are: (1) Containers with a capacity of 100 gallons or less when they contain common liquid industrial fuels, such as gasoline, fuel oil, kerosene and crude oil since they generally would pose no danger in terms of thermal radiation of blast overpressure to a project; and (2) facilities which are shielded from a proposed HUD-assisted project by the topography, because these topographic features effectively provide a mitigating measure already in place.

Hazardous Substances—means petroleum products (petrochemicals)

and chemicals that can produce blast overpressure or thermal radiation levels in excess of the standards set forth in § 51.203. A specific list of hazardous substance is found in Appendix 1.

HUD-Assisted Project—the development, construction, rehabilitation, modernization or conversion with HUD subsidy, grant assistance, loan, loan guarantee, or mortgage insurance, of any project which is intended for residential, institutional, recreational, commercial or industrial use. For purposes of this subpart the terms "rehabilitation" and "modernization" refer only to such repairs and renovation of a building or buildings as will result in an increased number of people being exposed to hazardous operations by increasing residential densities, converting the type of use of a building to habitation, or making a vacant building habitable.

Secretary—means the Secretary of Housing and Urban Development.

Thermal Radiation Level—means the emission and propagation of heat energy through space or a material medium, expressed in BTU per square foot per hour (BTU/ft.² hr.)

§ 51.202 Approval of HUD-assisted projects.

(a) It is HUD's policy that projects receiving HUD assistance will be located in a safe and healthful environment. The Department will not approve an application for assistance for a proposed project located at less than the acceptable separation distance from a hazard, as defined in § 51.201, unless appropriate mitigating measures, as defined in § 51.205, are implemented, or unless mitigating measures are already in place.

(b) In the case of all applications for proposed HUD-assisted projects, the Department shall evaluate projected development plans in the vicinity of these projects to determine whether there are plans to install a hazardous operation in close proximity to the proposed project. If the evaluation shows that such a plan exists, the Department shall not approve assistance for the project unless the Department obtains satisfactory assurances that adequate mitigating measures will be taken when the hazardous operation is installed.

§ 51.203 Safety standards.

The following standards shall be used in determining the acceptable separation distance of a proposed HUD-assisted project from a hazard:

(a) **Thermal Radiation Safety Standard.** Projects shall be located so that:

(1) The allowable thermal radiation flux level at the building shall not exceed 10,000 BTU/sq. ft. per hr.;

(2) The allowable thermal radiation flux level for outdoor, unprotected facilities or areas of congregation shall not exceed 450 BTU/sq. ft. per hour.

(b) **Blast Overpressure Safety Standard.** Projects shall be located so that the maximum allowable blast overpressure at both buildings and outdoor, unprotected facilities or areas shall not exceed 0.5 psi.

(c) If a hazardous substance constitutes both a thermal radiation and blast overpressure hazard, the ASD for each hazard shall be calculated, and the larger of the two ASDs shall be used to determine compliance with this subpart.

§ 51.204 HUD-assisted hazardous facilities.

In reviewing applications for proposed HUD-assisted projects involving the installation of hazardous facilities, the Department shall ensure that such hazardous facilities are located at an acceptable separation distance from residences and from any other facility or area where people may congregate or be present. The mitigating measures listed in § 51.205 may be taken into account in determining compliance with this section.

§ 51.205 Mitigating measures.

Application of the standards for determining an Acceptable Separation Distance (ASD) for a HUD-assisted project from a potential hazard of an explosion or fire prone nature is predicated on level topography with no intervening object(s) between the hazard and the project. Application of the standards can be eliminated or modified if:

(a) The nature of the topography shields the proposed project from the hazard.

(b) An existing permanent fire resistant structure of adequate size and strength will shield the proposed project from the hazard.

(c) A barrier is constructed surrounding the hazard, at the site of the project, or in between the potential hazard and the proposed project.

(d) The structure and outdoor areas used by people are designed to withstand blast overpressure and thermal radiation anticipated from the potential hazard (e.g., the project is of masonry and steel or reinforced concrete and steel construction).

§ 51.206 Implementation.

This subpart shall be implemented for each proposed HUD-assisted project by

the Departmental official responsible for Departmental review of the project. The implementation procedure will be part of the environmental assessment process in accordance with the decision points set forth in 24 CFR Part 50. In the case of HUD-assisted projects for which the Department's Project Selection Criteria at 24 CFR 200.700 *et seq.* are applicable, the requirements of this subpart shall be implemented by the Departmental official responsible for determining compliance with such criteria.

§ 51.207 Amendments to Appendix I.

(a) The Secretary may prescribe supplementary substances for inclusion in Appendix I without prior notice and public procedure. Specific notice of these supplementary substances, to include the reason for including the substances, shall be published in the *Federal Register*, in accordance with 5 U.S.C. 552 and 24 CFR 15.11. Such notice may incorporate these supplementary substances by reference. In addition, discussion of the basis for including these supplementary substances will be available for examination and distribution in the Office of Environment and Energy, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, and in each HUD Regional and local office.

(b) The Secretary or his designee may, on a case-by-case basis, when circumstances warrant, require the application of this subpart with respect to a substance not listed in Appendix I that would create thermal or overpressure effect in excess of that listed in § 51.203.

(c) Any interested person may petition the Secretary for amendment of Appendix I in accordance with 24 CFR 10.20.

§ 51.208 Reservation of administrative and legal rights.

Publication of these standards does not constitute a waiver of any right: (a) Of HUD to disapprove a project proposal if the siting is too close to a potential hazard not covered by this Subpart, and (b) of HUD or any person or other entity to seek to abate or to collect damages occasioned by a nuisance, whether or not covered by the Subpart.

Dated: February 1, 1984.

Samuel R. Pierce, Jr.,
Secretary of Housing and Urban
Development.

2. The Appendix, Definition of Acoustical Quantities is removed.

3. New Appendices I and II are added to Part 51 to read as follows:

Appendix I—Specific Hazardous Substances

The following is a list of specific petroleum products and chemicals defined to be hazardous substances under § 51.201.

Hazardous Liquids

Acetic Acid	Ethyl Benzene
Acetic Anhydride	Ethyl Dichloride
Acetone	Ethyl Ether
Acrylonitrile	Gasoline
Amyl Acetate	Heptane
Amyl Alcohol	Hexane
Benzene	Isobutyl Acetate
Butyl Acetate	Isobutyl Alcohol
Butyl Acrylate	Isopropyl Acetate
Butyl Alcohol	Isopropyl Alcohol
Carbon Disulfide	Jet Fuel and Kerosene
Carbon Disulfide	Methyl Alcohol
Cellosolve	Methyl Amyl Alcohol
Cresols	Methyl Cellosolve
Crude Oil (Petroleum)	Methyl Ethyl Ketone
Cumene	Naphtha
Cyclohexane	Pentane
No. 2 Diesel Fuel	Propylene Oxide
Ethyl Acetate	Toluene
Ethyl Acrylate	Vinyl Acetate
Ethyl Alcohol	Xylene

Hazardous Gases

Acetaldehyde	Liquefied Natural Gas (LNG)
Butadiene	Liquefied Petroleum Gas (LPG)
Butane	Propane
Ethene	Propylene
Ethylene	Vinyl Chloride
Ethylene Oxide	
Hydrogen	

(Primary Source: "Urban Development Siting with respect to Hazardous Commercial/Industrial Facilities," by Rolf Jensen and Associates, Inc., April 1982)

Appendix II—Development of Standards; Calculation Methods

I. Background Information Concerning the Standards

(a) Thermal Radiation:

(1) *Introduction.* Flammable products stored in above ground containers represent a definite, potential threat to human life and structures in the event of fire. The resulting fireball emits thermal radiation which is absorbed by the surroundings. Combustible structures, such as wooden houses, may be ignited by the thermal radiation being emitted. The radiation can cause severe burn, injuries and even death to exposed persons some distance away from the site of the fire.

(2) *Criteria for Acceptable Separation Distance (ASD).* Wooden buildings, window drapes and trees generally ignite spontaneously when exposed for a relatively long period of time to thermal radiation levels of approximately 10,000 Btu/hr. sq. ft. It will take 15 to 20 minutes for a building to ignite at that degree of thermal intensity. Since the reasonable response time for fire fighting units in urbanized areas is approximately five to ten minutes, a standard of 10,000 BTU/hr. sq. ft. is considered an acceptable level of thermal radiation for buildings.

People in outdoor areas exposed to a thermal radiation flux level of approximately 1,500 Btu/ft² hr will suffer intolerable pain after 15 seconds. Longer exposure causes

blistering, permanent skin damage, and even death. Since it is assumed that children and the elderly could not take refuge behind walls or run away from the thermal effect of the fire within the 15 seconds before skin blistering occurs, unprotected (outdoor) areas, such as playgrounds, parks, yards, school grounds, etc., must be placed at such a distance from potential fire locations so that the radiation flux level is well below 1500 Btu/ft² hr. An acceptable flux level, particularly for elderly people and children, is 450 Btu/ft² hr. The skin can be exposed to this degree of thermal radiation for 3 minutes or longer with no serious detrimental effect. The result would be the same as a bad sunburn. Therefore, the standard for areas in which there will be exposed people, e.g. outdoor recreation areas such as playgrounds and parks, is set at 450 Btu/hr. sq. ft. Areas covered also include open space ancillary to residential structures, such as yard areas and vehicle parking areas.

(3) *Acceptable Separation Distance From a Potential Fire Hazard.* This is the actual setback required for the safety of occupied buildings and their inhabitants, and people in open spaces (exposed areas) from a potential fire hazard. The specific distance required for safety from such a hazard depends upon the nature and the volume of the substance. The Technical Guidebook entitled "Urban Development Siting With Respect to Hazardous/Commercial Industrial Facilities," which supplements this regulation, contains the technical guidance required to compute Acceptable Separation Distances (ASD) for those flammable substances most often encountered.

(b) Blast Overpressure:

The Acceptable Separation Distance (ASD) for people and structures from materials prone to explosion is dependent upon the resultant blast measured in pounds per square inch (psi) overpressure. It has been determined by the military and corroborated by two independent studies conducted for the Department of Housing and Urban Development that 0.5 psi is the acceptable level of blast overpressure for both buildings and occupants, because a frame structure can normally withstand that level of external exertion with no serious structural damage, and it is unlikely that human beings inside the building would normally suffer any serious injury. Using this as the safety standard for blast overpressure, nomographs have been developed from which an ASD can be determined for a given quantity of hazardous substance. These nomographs are contained in the handbook with detailed instructions on their use.

(c) Hazard evaluation:

The Acceptable Separation Distances for buildings, which are determined for thermal radiation and blast overpressure, delineate separate identifiable danger zones for each potential accident source. For some materials the fire danger zone will have the greatest radius and cover the largest area, while for others the explosion danger zone will be the greatest. For example, conventional petroleum fuel products stored in unpressurized tanks do not emit blast overpressure of dangerous levels when ignited. In most cases, hazardous substances

will be stored in pressurized containers. The resulting blast overpressure will be experienced at a greater distance than the resulting thermal radiation for the standards set in Section 51.203. In any event the hazard requiring the greatest separation distance will prevail in determining the location of HUD-assisted projects.

The standards developed for the protection of people and property are given in the following table.

	Thermal radiation	Blast overpressure
Amount of acceptable exposure allowed for building structures.	10,000 BTU/ft ² ·hr.	0.5 psi.
Amount of acceptable exposure allowed for people in open areas.	450 BTU/ft ² ·hr.	0.5 psi.

Problem Example

The following example is given as a guide to assist in understanding how the procedures are used to determine an acceptable separation distance. The technical data are found in the HUD Guidebook. Liquid propane is used in the example since it is both an explosion and a fire hazard.

In this hypothetical case a proposed housing project is to be located 850 feet from a 30,000 gallon liquid propane (LPG) tank. The objective is to determine the acceptable separation distance from the LPG tank. Since propane is both explosive and fire prone it will be necessary to determine the ASD for both explosion and for fire. The greatest of the two will govern. There is no dike around the tank in this example.

Nomographs from the technical Guidebook have been reproduced to facilitate the solving of the problem.

ASD For Explosion

Use Figure 1 to determine the acceptable separation distance for explosion.

The graph depicted on Figure 1 is predicated on a blast overpressure of 0.5 psi.

The ASD in feet can be determined by applying the quantity of the hazard (in gallons) to the graph.

In this case locate the 30,000 gallon point on the horizontal axis and draw a vertical line from that point to the intersection with the straight line curve. Then draw a horizontal line from the point where the lines cross to the left vertical axis where the ACCEPTABLE SEPARATION DISTANCE of 660 feet is found.

Therefore the ASD for explosion is 660 feet.

Since the proposed project site is located 850 feet from the tank it is located at a safe distance with regards to blast overpressure.

ACCEPTABLE SEPARATION DISTANCE
BLAST OVERPRESSURE
(NO BLAST BARRIERS)
HAZARDOUS GAS CONTAINER

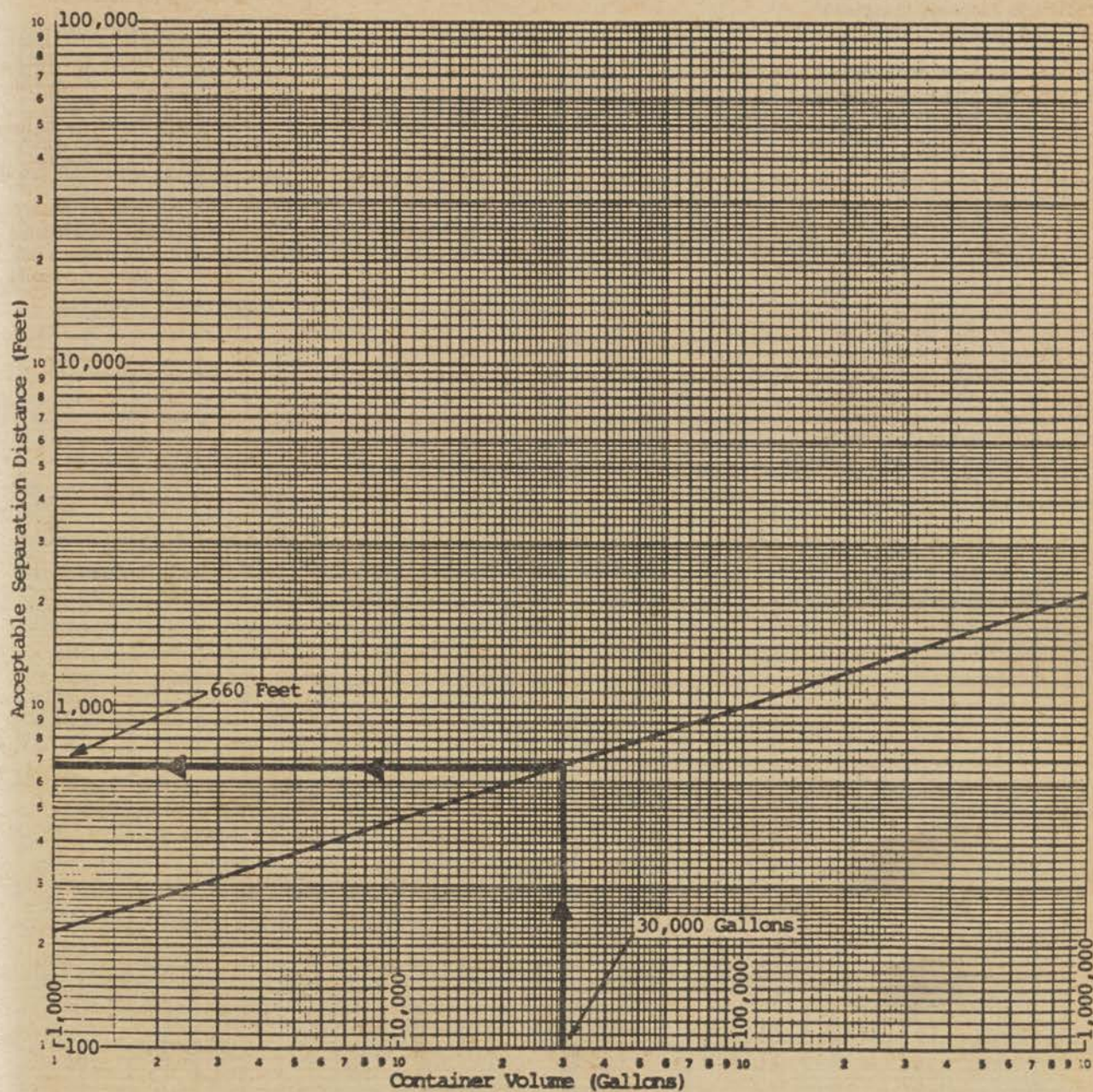


Figure 1

ASD For Fire

To determine the ASD for fire it will be necessary to first find the fire width (diameter of the fireball) on Figure 2. Then apply this to Figure 3 to determine the ASD.

Since there are two safety standards for fire: (a) 10,000 BTU/ft²hr. for buildings; and (b) 450 BTU/ft²hr. for people in exposed areas, it will be necessary to determine an ASD for each.

To determine the fire width locate the 30,000 gallon point on the horizontal axis on Figure 2 and draw a vertical line to the straight line curve. Then draw a horizontal line from the point where the lines cross to the left vertical axis where the FIRE WIDTH is found to be 350 feet.

Now locate the 350 ft. point on the horizontal axis of Figure 3 and draw a vertical line from that point to curves 1 and 2. Then draw horizontal lines from the points where the lines cross to the left vertical axis where the ACCEPTABLE SEPARATION DISTANCES of 240 feet for buildings and 1,150 feet for exposure to people is found.

Based on this the proposed project site is located at a safe distance from a potential fireball. However, exposed playgrounds or other exposed areas of congregation must be at least 1,150 feet from the tank, or be appropriately shielded from a potential fireball.

(Source: HUD Handbook, "Urban Development Siting With Respect to Hazardous Commercial/Industrial Facilities.")

BILLING CODE 4210-32-M

FIRE WIDTH - UNCONFINED SPILL
HAZARDOUS GAS CONTAINER
NOT DIKED

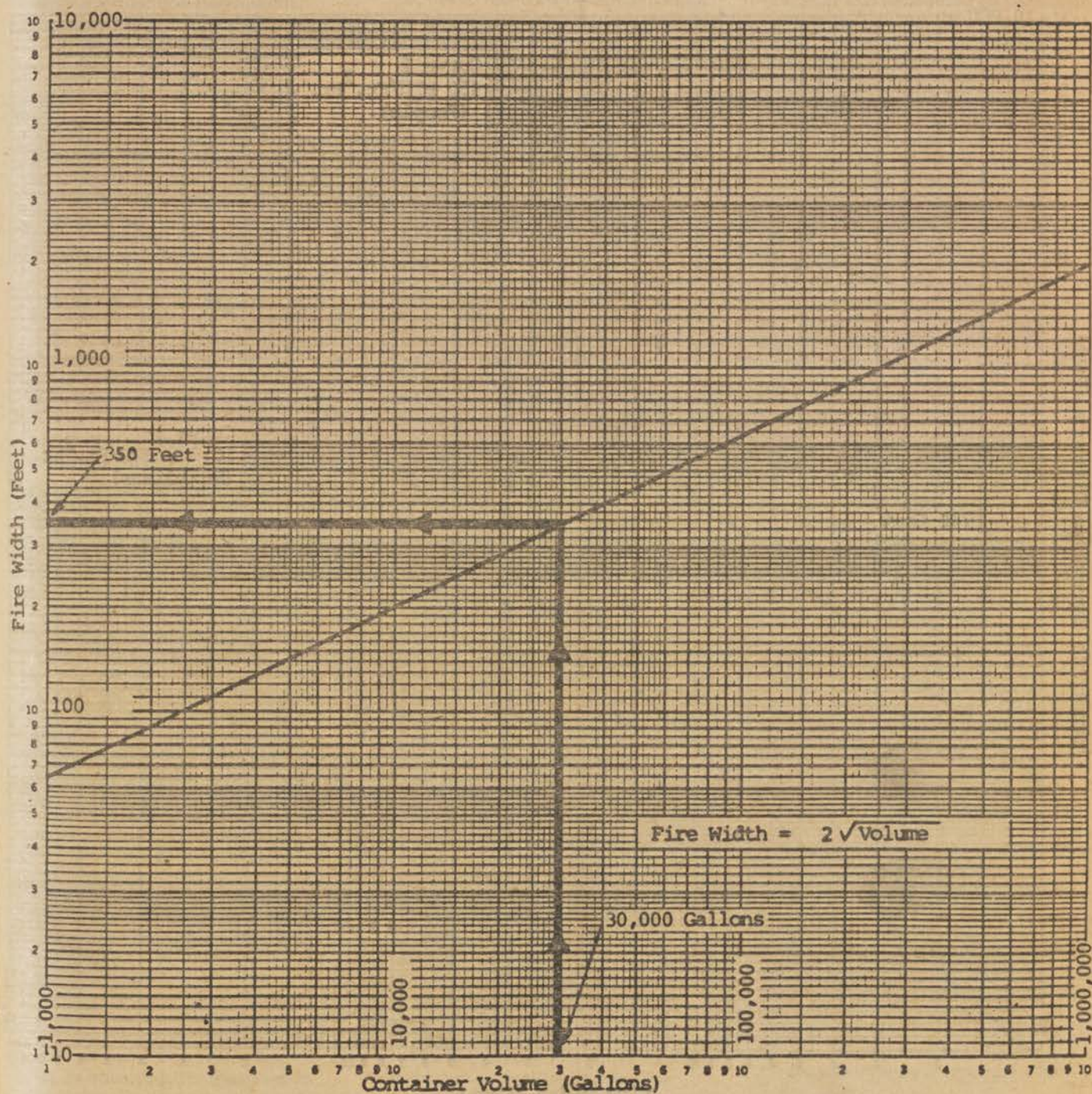


Figure 2

ACCEPTABLE SEPERATION DISTANCE
HAZARDOUS GAS CONTAINER
DIKED/UNDIKED

33

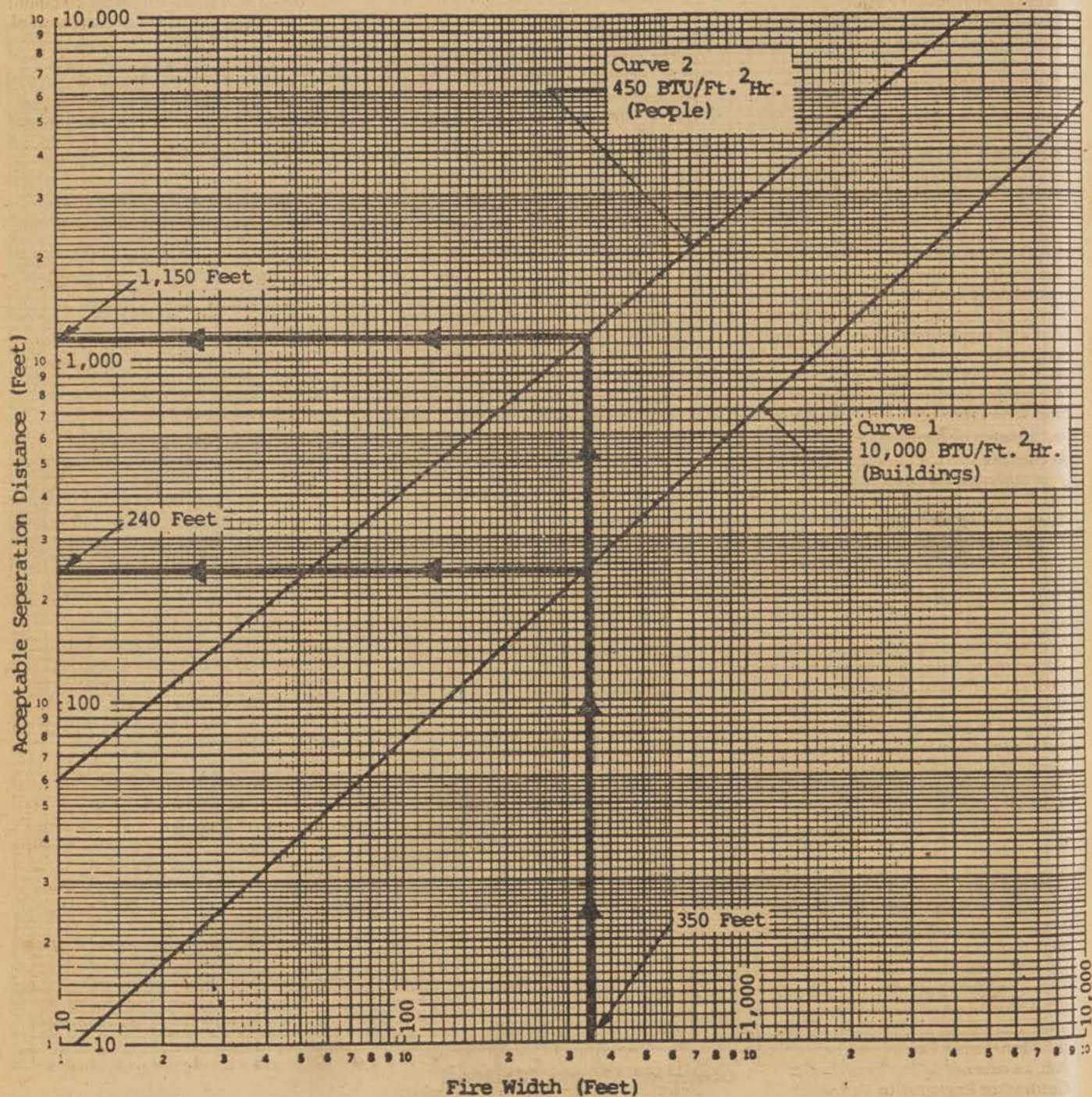


Figure 3

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 500

Migrant and Seasonal Agricultural Worker Protection Regulations; Issuance of Farm Labor Contractor Certificates of Registration by States

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: This is a procedural amendment authorizing the State of Florida by agreement with the Department of Labor to issue Farm Labor Contractor Certificates of Registration and Farm Labor Contractor Employee Certificates of Registration in compliance with the Migrant and Seasonal Agricultural Worker Protection Act and regulations issued thereunder. This document lists the State of Florida as a state authorized to issue farm labor contractor certificates of registration and farm labor contractor employee certificates of registration.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523-8305.

SUPPLEMENTARY INFORMATION: The Migrant and Seasonal Agricultural Worker Protection Act authorizes the Secretary to enter into agreements with Federal and State agencies to utilize their facilities and services, and to delegate to such agencies certain authority, other than rulemaking, as the Secretary deems necessary in carrying out the provisions of the Act. Under this authority the State of Florida, Department of Labor and Employment Security, Division of Labor, Employment and Training entered into an agreement with the Department of Labor to continue to receive, handle, and process applications and issue certificates of registration under the Migrant and Seasonal Agricultural Worker Protection Act. The State previously performed these functions under an agreement which had been entered into pursuant to the Farm Labor Contractor Registration Act, as amended. The Farm Labor Contractor Registration Act was repealed and replaced by the Migrant and Seasonal Agricultural Worker Protection Act, effective April 14, 1983.

This document incorporates into the existing regulations these delegated functions of the Secretary to the State of

Florida and lists the State as being authorized to issue farm labor contractor certificates of registration and farm labor contractor employee certificates of registration under the Migrant and Seasonal Agricultural Worker Protection Act which are entitled to the same recognition in all states as if they had been issued by the Department of Labor.

The authority conferred by section 513 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1863) requires the issuance of regulations which authorize the Department to enter into agreements with states to carry out delegated functions, such as the issuance of certificates of registration on behalf of the Secretary. These regulations were issued in final form on August 12, 1983 (48 FR 36761 *et seq.*) and appear at 29 CFR 500.155 through 500.162. Agreements entered into pursuant to this authority are effective upon execution and notice to the public thereof is required. The State of Florida has executed such agreement, effective November 2, 1983 and notice is hereby given.

This document was prepared under the direction and control of Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, Department of Labor.

Publication in Final

The Department of Labor has determined, pursuant to 5 U.S.C. 553(b)(B), that good cause exists for waiving public comment on this procedural amendment to the regulation because such comment is unnecessary. This finding is made because section 513 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1863) and the regulations issued thereunder at 29 CFR 500.155 through 500.162 authorizes the Secretary to enter into agreements with State agencies to use their facilities and services to perform functions delegated to them by the Secretary as may be useful in carrying out this Act. Such agreements are effective upon their execution as noted above and merely require notice of such execution.

Effective Date

The Department has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. Therefore, this amendment shall be effective immediately. This finding is made because the agreement with the State of Florida became effective upon its

execution (November 2, 1983) and affects only the procedural processing of certificates of registration.

Executive Order 12291

The Department has determined that the amendment is procedural in character and announces an agreement between a state and the Department of Labor. Therefore, this rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b) the requirements of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1165, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

As the incorporation of the agreement with the State of Florida requires the collection of no additional information additional approval of the Office of Management and Budget is not required. See 44 U.S.C. 3501 *et seq.*

List of Subjects in 29 CFR Part 500

Administrative practice and procedure, Agricultural associations, Agricultural worker, Aliens, Carpooling, Day-haul, Farmers, Farm labor contractor, Health, Housing, Housing standards, Immigration, Insurance, Investigation, Migrant agricultural workers, Migrant labor, Motor carriers, Motor vehicle safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements, Seasonal agricultural workers, State of Florida, Transportation, Wages, Manpower training programs, Labor, Safety.

PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

For reasons set out in the preamble, Part 500 of Chapter V of Title 29 of the

Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 500 reads as follows:

Authority: Pub. L. 97-470, 96 Stat. 2583 (29 U.S.C. 1801-1872); Secretary's Order No. 5-83, 48 FR 15352; and Employment Standards Order No. 83-1, 48 FR 15352.

2. Section 500.160 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 500.160 Approved State plans.

(a) The Secretary, in accordance with the authority referred to in § 500.155 of this Part, has delegated the following functions to the States listed herein below:

State	Function
Florida	Receive, handle, process applications and issue certificates of registration.

(c) Every enumerated delegated function shall be valid in all states.

Signed at Washington D.C., this 3rd day of February 1984.

William M. Otter,

Administrator, Wage and Hour Division,
Employment Standards Administration.

[FR Doc. 84-3747 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

29 CFR Part 1910

Access to Employee Exposure and Medical Records; Extension of Partial Stay

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Extension of partial stay.

SUMMARY: OSHA is hereby extending the partial administrative stay of the access to employee exposure and medical records regulation, 29 CFR 1910.20, for the flavor and fragrance industries. The current partial stay, which expired February 1, 1984, is being extended until February 1, 1985, or until completion of the current rulemaking, whichever is sooner, to allow OSHA to complete consideration of the issues presented by the flavor and fragrance industries as part of its rulemaking on the records access rule.

DATE: The flavor and fragrance stay is extended to February 1, 1985, or until completion of the current rulemaking, whichever is sooner.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Information and

Consumer Affairs, OSHA, Room N-3641, Third Street and Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-8151.

SUPPLEMENTARY INFORMATION: Since August 1980, the flavor and fragrance industries have been subject to a series of administrative stays of 29 CFR 1910.20, OSHA's access to employee exposure and medical records rule. The current partial stay, which expired February 1, 1984, is hereby being extended until February 1, 1985, or until completion of the current rulemaking, whichever is sooner, to allow OSHA to complete its consideration of the issues presented by the flavor and fragrance industries as part of its rulemaking on the records access rule. A proposal to modify the records access rule was published July 13, 1982 (47 FR 30420 *et seq.*), and it is anticipated that a final determination with respect to this proposal will be completed in advance of February 1, 1985.

The full text of the current administrative stay for the flavor and fragrance industries was published in the August 7, 1981, *Federal Register* (46 FR 40490).

(Secs. 6(b), 8(g); 84 Stat. 1593, 1600 (29 U.S.C. 655, 657); sec. 4 of the Administrative Procedure Act (5 U.S.C. 553))

Signed at Washington, D.C., this 7th day of February 1984.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 84-3772 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-26-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Implementing Legislation

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The following regulatory provisions implement some of the provisions of the Veterans' Compensation, Education and Employment Amendments of 1982 which affect people receiving educational assistance under chapters 34, 35 and 36, title 38, United States Code. Some of the changes are liberalizing. Some are more restrictive.

EFFECTIVE DATE: In keeping with Pub. L. 97-306, the effective date for the cancellation of § 21.4252(g) is October 1, 1982. The effective date for all other changes is October 14, 1982.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program

Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: On pages 47011 through 47014 of the *Federal Register* of October 17, 1983 there was published a notice of intent to amend part 21 to implement some provisions of the Veterans' Compensation, Education and Employment Amendments of 1982.

Interested people were given 30 days to submit comments, suggestions or objections. The VA (Veterans Administration) received no comments, suggestions or objections. Accordingly, the agency is making the proposal final without change.

The VA has determined that these regulations do not contain a major rule as that term is defined by Executive Order 12291, entitled "Federal Regulation". The annual effect on the economy will be less than \$100 million. They will not result in any major increases in costs or prices for anyone. They will have no 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 Administrator of Veterans' Affairs 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 (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations dealing with payments to incarcerated veterans and eligible persons will affect only individual benefit recipients. They will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

The regulations on disapproving courses for enrollments and reenrollments and suspending and discontinuing payments of educational assistance allowance will primarily affect individual benefit recipients. They may affect some small entities, such as privately-owned educational institutions or educational institutions supported by small school districts. However, in most cases where there are recordkeeping, reporting or approval violations, the educational institution either corrects the violation or the State approving

agency withdraws approval. The VA expects to suspend payments under these regulations less than 10 times annually. Some of the educational institutions affected will not be small entities. Therefore, the number of small entities affected by these regulations will not be substantial.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: January 25, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 221—[AMENDED]

The Veterans Administration amends 38 CFR Part 21 as follows:

1. In § 21.4131, paragraph (h) is revised and paragraph (i) is removed and reserved as follows:

§ 21.4131 Commencing dates.

* * *

(h) *Individuals in a penal institution.* If a veteran or eligible person is paid a reduced rate of educational assistance or no educational assistance under § 21.4136 (n), (o), (p), or (r) § 21.4137 (j) or (l), the rate will be increased or benefits will commence effective the earlier of the following dates:

(1) The date the tuition and fees are no longer being paid under another Federal program, or a State or local program, or

(2) The date of the release from the prison or jail.

(38 U.S.C. 1682(g), 1732(e); Pub. L. 97-306, 96 Stat. 1429)

(i) [Reserved].

2. Section 21.4133 is revised as follows:

§ 21.4133 Notification of suspension or discontinuance.

(a) *Presuspension notice.* Not less than 30 days before the Director of a Veterans Administration field station acts to make a mass suspension of payments of educational assistance allowance under § 21.4134(c) he or she shall send written notice to each affected veteran or eligible person. The notice—

(1) Shall state the Director's intent to suspend payments unless the

educational institution takes corrective action;

(2) Shall give the Director's reasons for suspending payments; and

(3) Shall state the date on which the Director intends to suspend payments.

(38 U.S.C. 1790(b); Pub. L. 97-306, 96 Stat. 1429)

(b) *Notice of suspension and discontinuance.* When the Veterans Administration suspends or discontinues payment to any veteran or person under § 21.4134(b) or § 21.4135, the Veterans Administration shall send written notice of the suspension or discontinuance to the veteran or eligible person. The notice—

(1) Shall state the reasons for the suspension or discontinuance of payments, and

(2) Shall notify the veteran or eligible person that he or she has a right—

(i) To a hearing, and

(ii) To present evidence why payments should not be discontinued or suspended.

(38 U.S.C. 1790(b))

3. Section 21.4134 is revised as follows:

§ 21.4134 Suspension and discontinuance.

(a) *Suspension and discontinuance despite course approval.* Even though a State approving agency has approved a course offered by a school, the Director of the Veterans Administration field station of jurisdiction—

(1) May suspend payment of educational assistance allowance to any or all veterans and eligible persons enrolled in the course, and

(2) After following the procedures in § 21.4207 may discontinue payment of educational assistance to any or all veterans and eligible persons enrolled in the course.

(38 U.S.C. 1790)

(b) *Evidence requirements for individual suspensions.* The Director of the Veterans Administration field station of jurisdiction may suspend or discontinue payments of educational assistance allowance to a veteran or eligible person, even if the Director continues payment to other veterans or eligible persons enrolled in the course. Before the Director can do this, he or she must have evidence showing either that—

(1) The program of education or any course in which the veteran or eligible person is enrolled fails to meet any of the requirements of chapters 32, 34, 35, or 36, title 38, United States Code, or

(2) The educational institution offering the veteran's or eligible person's course has violated or failed to meet any of the

requirements of chapters 32, 34, 35, or 36, title 38, United States Code, and

(3) The violation or failure results in erroneous payment of educational assistance to the veteran or eligible person.

(38 U.S.C. 1790(b))

(c) *Evidence requirements for mass suspension of payments.* Before suspending payments to all veterans and eligible persons enrolled in a course the Director must have evidence to support the suspension. The evidence must show that a substantial pattern of veterans and eligible persons enrolled in the course are not entitled to the educational assistance they are receiving because—

(1) One or more of the course approval requirements of chapter 36, title 38, United States Code are not met, or

(2) The educational institution offering the course has violated one or more of the recordkeeping or reporting requirements of chapters 32, 34, 35, or 36, title 38, United States Code.

(38 U.S.C. 1790(b); Pub. L. 97-306, 96 Stat. 1429)

(d) *Notification.* (1) The Director may suspend educational assistance allowance as provided in this section only after—

(i) He or she notifies the State approving agency concerned and the educational institution in writing of any failure to meet the approval requirements and any violation of recordkeeping or reporting requirements.

(ii) The educational institution—

(A) Refuses to take corrective action, or

(B) Does not take corrective action within 60 days (or 90 days if permitted by the Director); and

(iii) The Director notifies each veteran and eligible person as provided in § 21.4133.

(2) If an educational institution believes it cannot complete corrective action within 60 days, it may ask the Director for additional time (not to exceed 30 days) to take corrective action.

(38 U.S.C. 1790(b); Pub. L. 97-306, 96 Stat. 1429)

(e) *Action following suspension.* If following a suspension of payments the Director is convinced that the educational institution will not take corrective action and that the State approving agency will not disapprove the course, he or she will refer the facts to the station Committee on Educational Allowances. See §§ 21.4207 and 21.4208.

(38 U.S.C. 1790(b); Pub. L. 97-306, 96 Stat. 1429)

4. Immediately following § 21.4134, a cross reference is added as follows:

Cross reference: Overcharges—restrictions on enrollments. See § 21.4202.

5. In § 21.4135, paragraph (m) is revised and paragraph (x) is removed and reserved as follows:

§ 21.4135 Discontinuance dates.

(m) *Incarceration in prison or penal institution for conviction of a felony.* (1) The provisions of this paragraph apply to a veteran or eligible person whose educational assistance must be discontinued or who becomes restricted to payment of educational assistance allowance at a reduced rate under § 21.4136 (n), (o), (p) or (r) or § 21.4137(j) or (l).

(2) The reduced rate or discontinuance will be effective the latest of the following dates:

(i) The first day on which all or part of the veteran's or eligible person's tuition and fees were paid by a Federal, State or local program.

(ii) The date the veteran or eligible person is incarcerated in prison or penal institution, or

(iii) The commencing date of the award as determined by § 21.4131.

(38 U.S.C. 1682(g); 1732(e); Pub. L. 97-306, 96 Stat. 1429)

(x) [Reserved]

6. In § 21.4136, paragraph (m), (n), (o), (p), and (r) are revised and paragraph (q) is removed and reserved as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. Chapter 34.

(m) *Incarcerated veterans—general.* Notwithstanding the provisions of paragraphs (a) and (c) of this section, some incarcerated veterans and servicepersons may have their educational assistance allowance terminated or reduced.

(38 U.S.C. 1682(g); Pub. L. 97-306, 96 Stat. 1429)

(n) *No educational assistance allowance for some incarcerated servicepersons.* As with servicepersons who are not incarcerated, the Veterans Administration will not pay educational assistance allowance to an incarcerated serviceperson enrolled in a course for which there are no tuition and fees. Furthermore, the Veterans Administration will not pay educational assistance allowance to a serviceperson who—

(1) Is enrolled in a course where his or her tuition and fees are being paid for by

a Federal program (other than one administered by the Veterans Administration) or by a State or local program, and

(2) Is incarcerated in a Federal, State or local prison or jail for conviction of a felony, and has incurred no expenses for supplies, books or equipment.

(38 U.S.C. 1682(g); Pub. L. 97-306, 96 Stat. 1429)

(o) *No educational assistance allowance for some incarcerated veterans.* The Veterans Administration will pay no educational assistance allowance to a veteran who—

(1) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(2) Is enrolled in a course—

(i) For which there are no tuition and fees, or

(ii) For which tuition and fees are being paid by a Federal program (other than one administered by the Veterans Administration) or by a State or local program, and

(3) Is incurring no charge for the books, supplies and equipment necessary for the course.

(38 U.S.C. 1682(g); Pub. L. 97-306, 96 Stat. 1429)

(p) *Reduced educational assistance allowance for some incarcerated servicepersons.* (1) The Veterans Administration will pay a reduced educational assistance allowance to a serviceperson who—

(i) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(ii) Is enrolled in a course where his or her tuition and fees are being paid for entirely or partly by a Federal program (other than one administered by the Veterans Administration) or by a State or local program, and

(iii) If all the tuition and fees are paid for by such a program, must buy books, supplies or equipment for the course.

(2) The monthly rate of educational assistance allowance payable to a serviceperson described in paragraph (p)(1) of this section shall equal the lowest of the following:

(i) The monthly rate of the portion of the tuition and fees paid by the serviceperson plus the monthly rate of the cost of books, supplies and equipment paid by the serviceperson;

(ii) The monthly rate of the portion of the tuition and fees paid by the serviceperson plus the monthly rate of the portion of tuition and fees paid by the Federal, State or local program; or

(iii) The monthly rate found in paragraph (c)(2) of this section.

(38 U.S.C. 1682(g); Pub. L. 97-306, 96 Stat. 1429)

(q) [Reserved].

(r) *Reduced educational assistance allowance for some incarcerated veterans—felony conviction.* (1) The Veterans Administration will pay a reduced educational assistance allowance to a veteran who—

(i) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(iii) Is enrolled in a course—

(A) For which the veteran pays some (but not all) of the charges for tuition and fees, or

(B) For which a Federal program (other than one administered by the Veterans Administration) or a State or local program pays all the charges for tuition and fees, but which requires the veterans to pay for books, supplies and equipment.

(2) The monthly rate of educational assistance allowance payable to such a veteran who is pursuing the course on a half-time or greater basis shall be the lesser or the following:

(i) The monthly rate of the portion of the tuition and fees that the veteran must pay plus the monthly rate of the charge to the veteran for the cost of necessary supplies, books and equipment, or

(ii) The monthly rate stated in paragraph (a) of this section for a veteran with no dependents.

(3) The monthly rate of educational assistance allowance payable to such a veteran who is pursuing the course on a less than half-time basis or on a one quarter-time basis shall be the lowest of the following:

(i) The monthly rate of the tuition and fees charged for the course,

(ii) The monthly rate of tuition and fees which the veteran must pay plus the monthly rate of the charge to the veteran for the cost of necessary supplies, books and equipment, or

(iii) The monthly rate stated in paragraph (a) of this section.

(38 U.S.C. 1682(g); Pub. L. 97-306, 96 Stat. 1429)

7. In § 21.4137, paragraphs (i), (j) and (l) are revised and paragraph (k) is removed and reserved as follows:

§ 21.4137 Rates; educational assistance allowance—38 U.S.C. Chapter 35.

(i) *Incarcerated eligible person—general.* Notwithstanding the provisions of paragraph (a) of this section, some incarcerated eligible persons may have

their educational assistance allowance eliminated or reduced.

(38 U.S.C. 1732(e); Pub. L. 97-306, 96 Stat. 1429)

(j) *No educational assistance allowance for some incarcerated eligible persons.* The Veterans Administration will pay no educational assistance allowance to an eligible person who—

(1) Is incarcerated in a Federal, State or local prison or jail for conviction of a felony, and

(2) Is enrolled in a course—

(i) For which there are no tuition or fees or charges for books, supplies and equipment; or

(ii) For which tuition and fees are being paid by a Federal program (other than one administered by the Veterans Administration) or by a State or local program, and the eligible person is incurring no charge for the books, supplies and equipment necessary for the course.

(38 U.S.C. 1732(e); Pub. L. 97-306, 96 Stat. 1429)

(k) [Reserved].

(l) *Reduced educational assistance allowance for some incarcerated eligible persons—felony conviction.* (1) The Veterans Administration will pay a reduced educational assistance allowance to an eligible person who—

(i) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(ii) Is enrolled in a course—

(A) For which the eligible person pays some (but not all) of the charges for tuition and fees, or

(B) For which a Federal program (other than one administered by the Veterans Administration) or a State or local program pays all the charges for tuition and fees, but which requires the eligible person to pay for books, supplies and equipment.

(2) The monthly rate of educational assistance allowance payable to such an eligible person who is pursuing a course on a half-time or greater basis shall be the lesser of the following:

(i) The monthly rate of the portion of the tuition and fees that the eligible person must pay plus the monthly rate of the charge to the eligible person for the cost of necessary supplies, books and equipment, or

(ii) The monthly rate stated in paragraph (a) of this section.

(3) The monthly rate of educational assistance payable to such an eligible person who is pursuing the course on a less than half-time basis or on a one quarter-time basis shall be the lowest of the following:

(i) The monthly rate of the tuition and fees charged for the course,

(ii) The monthly rate of tuition and fees which the eligible person must pay plus the monthly rate of the charge to the eligible person for the cost of necessary supplies, books and equipment, or

(iii) The monthly rate stated in paragraph (a) of this section.

(38 U.S.C. 1682(g); Pub. L. 97-306, 96 Stat. 1429)

8. In § 21.4140, paragraph (d)(1) is revised and paragraph (e) is removed and reserved as follows:

§ 21.4140 Apportionment.

(d) *Apportionment—incarceration due to a felony conviction.* (1) The provisions of this paragraph apply to a veteran whose educational assistance allowance is terminated or reduced because the veteran is incarcerated in a Federal, State or local penal institution for conviction of a felony.

(38 U.S.C. 3107(c); Pub. L. 97-306, 96 Stat. 1429)

(e) [Reserved].

9. In § 21.4202, the introductory portion of paragraph (b) and (b)(4) and (b)(7) are revised and paragraph (b)(8) is added so that the added and revised material reads as follows:

§ 21.4202 Over charges—restrictions on enrollments.

(b) *Restrictions on enrollments.* The Veterans Administration will disapprove a course for further enrollments or reenrollments and will discontinue educational assistance allowance to veterans or eligible persons already enrolled when one or more of the following conditions exist, and the conditions result in a substantial pattern of veterans or eligible persons or both receiving educational assistance allowance to which they are not entitled. If one or more of the following conditions exist at a school, but there is no pattern of overpayments of educational assistance allowance, the Veterans Administration will discontinue payments only to the affected veterans and eligible persons, and will disapprove new enrollments.

(38 U.S.C. 1790(b); Pub. L. 97-306, 96 Stat. 1429)

(4) The Veterans Administration has notified the school and the State approving agency in writing of a violation of a provision of the law or of failure of a course to meet the specific

requirements of law other than approval criteria. The school has—

(i) Failed to correct the situation within 60 days (or 90 days if the director of the Veterans Administration field station of jurisdiction determines additional time is warranted), or

(ii) Has knowingly and willfully repeated the violation.

(38 U.S.C. 1790(b); Pub. L. 97-306, 96 Stat. 1429)

(7) The requirements of §§ 21.4250, 21.4253, 21.4254, 21.4261 and 21.4264 are not being met in respect to a substantial number of veterans and eligible persons.

(8) The Veterans Administration has given written notice to the state approving agency and the school as to specific violations—

(i) Within 60 days following the notice, or

(ii) Within 90 days following the notice when the Director of the Veterans Administration field station of jurisdiction determines that conditions warrant allowing additional time to take corrective action.

(38 U.S.C. 1790(b); Pub. L. 97-306, 96 Stat. 1429)

10. In § 21.4207, paragraph (a) is revised as follows:

§ 21.4207 Failure of school to meet requirements.

(a) *Committee and Educational Allowances.* (1) The Committee on Educational Allowances will consist of a minimum of three staff members designated by the Director of the field station.

(2) The Committee is authorized to recommend the action to be taken for the purposes of this section, subject to approval by the Director of the Veterans Administration field station. The Committee's recommendations may include, but are not limited to—

(i) Disapproval of the enrollment or reenrollment of veterans and eligible persons in any course, and

(ii) Discontinuance of payment of educational assistance allowance to eligible veterans and eligible persons enrolled in a course.

(3) The Committee may not recommend disapproval or discontinuance unless the evidence requirements of § 21.4202 are met. However, if the provisions of § 21.4202 require disapproval or discontinuance, those actions must be recommended by the Committee.

(4) The unanimous recommendations of the Committee, when approved by the

Director of the Veterans Administration field station, becomes the final administrative decision of the Veterans Administration unless an application for review is filed as provided in paragraph (d) of this section.

(38 U.S.C. 1671, 1721, 1790(b); Pub. L. 97-306, 96 Stat. 1429)

§ 21.4252 [Amended]

11. In § 21.4252, paragraph (g) is removed and reserved

(g) Reserved

[FR Doc. 84-3672 Filed 2-9-84; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6585]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; Connecticut

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes

the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287-0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the

communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

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

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance—flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Region I					
Connecticut:					
Fairfield.....	Bethel, town of.....	090001B	July 29, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Apr. 5, 1974 and Feb. 18, 1977.	Feb. 15, 1984
Fairfield.....	New Fairfield, town of.....	090188A	Nov. 17, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Jan. 31, 1975.....	Do.
Region II					
New Jersey:					
Monmouth.....	Middletown, township of.....	340313B	May 20, 1974, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	July 19, 1974 and July 9, 1976.	Do.
Sussex.....	Vernon, township of.....	340561A	July 29, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Apr. 11, 1975.....	Do.
Sussex.....	Wantage, township of.....	340562A	July 28, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	July 11, 1975.....	Do.
Region III					
Maryland:					
Kent.....	Chestertown, town of.....	240046B	Sept. 4, 1973, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	July 26, 1974 and Jan. 16, 1976.	Do.
Pennsylvania:					
Bucks.....	Lanighome Manor, Borough of.....	422336A	Oct. 5, 1976, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Feb. 14, 1975.....	Do.
Region IV					
Florida:					
Sarasota.....	Sarasota, city of.....	125150B	Sept. 18, 1970, emergency, July 30, 1971, regular, Feb. 15, 1984, suspended.	July 30, 1971.....	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Kentucky:					
Martin.....	Ocean Breeze Park, town of	120163C	Apr. 15, 1976, emergency, Dec. 15, 1983, regular, Feb. 15, 1984, suspended.	Aug. 2, 1974 and Apr. 2, 1976.	Do.
Carter.....	Unincorporated areas.....	210050B	Jan. 20, 1976, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Dec. 13, 1974 and Dec. 23, 1977.	Do.
Floyd.....	Martin, city of	210071B	Apr. 14, 1977, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	May 24, 1974, Feb. 27, 1976 and June 10, 1977.	Do.
Region V					
Illinois:					
Jefferson.....	Mt. Vernon, city of	170308B	Sept. 30, 1974, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	June 7, 1974 and June 11, 1976.	Do.
Ohio:					
Monroe.....	Unincorporated areas.....	390404B	Feb. 11, 1977, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Feb. 14, 1975 and Feb. 10, 1976.	Do.
Region VI					
Oklahoma:					
Oklahoma.....	Unincorporated areas.....	400466B	May 6, 1983, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	July 13, 1982.....	Do.
Texas:					
Bell.....	Unincorporated areas.....	480706B	Jan. 19, 1976, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Jan. 10, 1975 and Apr. 8, 1977.	Do.
Willacy.....	Unincorporated areas.....	480664B	July 25, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	May 16, 1977.....	Do.
Region VIII					
Colorado:					
Montrose.....	Unincorporated areas.....	080124B	May 23, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Aug. 30, 1974 and Aug. 30, 1977.	Do.
Region X					
Idaho:					
Payette.....	Unincorporated areas.....	160198B	July 3, 1974, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	May 17, 1977.....	Do.
Washington:					
Snohomish.....	Marysville, city of	530168B	Oct. 16, 1974, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Mar. 15, 1974 and Apr. 2, 1976.	Do.

[44 CFR § 64.6]

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: February 6, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-3661 Filed 2-9-84; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood

elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the *Federal Register* for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster

Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Federal Insurance Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant

economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 1229, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the

address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Piedmont, Calhoun County (FEMA-6521)	Mill Creek	Approximately 420 feet upstream of confluence of Dry Creek at State Highway 9.	*665
			Just upstream of State Highway 200	*694
			Approximately 100 feet upstream of confluence of Mill Creek Tributary 1.	*698
		Mill Creek Tributary	Just downstream of Southern Railway	*700
			Approximately 150 feet upstream of Seaboard Coast Line Railroad.	*707
		Dry Creek	Approximately 90 feet upstream of Old State Highway 9 (Centre Avenue).	*666
		Nances Creek	Approximately 100 feet upstream of Babbling Brook Road.	*682
			Just downstream of Spencer Street	*684
		Nances Creek Tributary 2	Just upstream of U.S. Highway 278	*675
Maps available for inspection at City Administration Building, 109 North Center Avenue and at Piedmont Public Library, 101 North Main Street, Piedmont, Alabama 36272.				
California	Concord (city), Contra Costa County (FEMA-6568)	Galindo Creek	East side of Newhall Parkway, 250 feet southeast of its intersection with Boxer Boulevard.	*247
		Pine Creek	50 feet upstream from the center of Newhall Parkway	*249
			Intersection of Arlington Road and Lexington Road	*36
			Intersection of the stream and the center of Treat Boulevard.	*92
		Ditch No. 2	Intersection of Newton Way and Markham Street	*53
			50 feet upstream from the center of Minert Road	*74
		Farm Bureau Road Drain	Intersection of stream and the center of Concord Boulevard.	*124
			50 feet upstream of the upstream culvert opening at Walnut Place.	*142
		Clayton Valley Drain	Intersection of Solano Way and Olivera Road	*18
			Intersection of the stream and center of Port Chicago Way.	*60
			Intersection of Huron Drive and Woodhaven Lane	#1
		Mt. Diablo Creek	40 feet upstream from the center of Ayers Road	*258
Maps available for inspection at the Department of Public Works, 1950 Parkside Drive, Concord, California.				
California	Fairfield (city), Solano County (FEMA-6550)	Suisun Creek	30 feet upstream from the center of Southern Pacific Railroad.	*18
		Green Valley Creek	100 feet upstream from the center of Central Way	*12
		Ponding	At the center of the intersection of Via Sombrero and Via Verdi.	*14
		Sheet Flow	400 feet north from the center of the intersection of Via Verdi and Via Sombrero.	#1
			At the center of the intersection of Central Way and Commerce Court.	#2
		Dan Wilson Creek	At the center of the intersection of Lookout Hill Road and Central Place.	*16
		McCoy Creek	30 feet upstream from Travis Air Force Base Railroad crossing.	*35
		Pennsylvania Avenue Creek	80 feet upstream from the center of Water Works Lane.	*14
		Ponding	50 feet north from the center of the intersection of Madison Street and Kentucky Street.	*18
		Sheet Flow	At the center of Second Street crossing.	#1
		Ledgewood Creek	30 feet upstream from the center of Matellan Road.	#26
		Sheet Flow	At the center of the intersection of Henry Street and Stephen Street.	#1
		Laurel Creek	50 feet upstream from the center of Air Base Parkway	*57
		Sheet Flow	At the center of the intersection of Beauford Drive and Atlantic Avenue.	#1
		Union Avenue Creek	30 feet upstream from the center of Acacia Street	*34
		Ponding	At the intersection of Heather Drive and Dahlia Street	*62
		Sheet Flow	200 feet south from the center of the intersection of Clay Street and Delaware Street.	#1
		Suisun Slough	At the center of the intersection Illinois Street and Webster Street.	*7
Maps available for inspection at the Department of Public Works, 1000 Webster Street, Fairfield, California.				
California	San Diego County (unincorporated areas) (FEMA-6546)	Agua Hedionda Creek	At the intersection of Smilax Drive and South Santa Fe Avenue.	*460
		Buena Creek	At the intersection of South Santa Fe Avenue and Buena Creek Canyon Drive.	*442
		Broadway Creek	50 feet upstream from center of Magnolia Avenue	*408
		Carroll Canyon Creek	300 feet upstream from center of Northbound Interstate 15.	*458

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Descanso Creek.....	50 feet upstream from center of Vijas Boulevard.....	*3,410
		Escondido Creek.....	100 feet upstream from center of El Camino del Norte.....	*54
		Hatfield Creek.....	50 feet upstream from center of Julian Road.....	*1,480
		Kit Carson Park Creek.....	1,000 feet upstream from center of Bear Valley Parkway (in City of Escondido).	*422
		North tributary to Santa Maria Creek.....	50 feet upstream from Ramona Airport Road.....	*1,373
		Otay River.....	At the intersection of Failure Street and Jacqua Street.....	*29
		Pacific Ocean.....	75 feet downstream from center of Camino del Mar at San Elijo State Beach.	*6
		Reidy Creek.....	100 feet North of the intersection of La Entradita and Pasa del Norte.	*783
		Samegutana Creek.....	75 feet upstream from the center Cuyamaca Way.....	*3,509
		Santa Maria Creek.....	At the intersection of Durgin Street and Mitten Lane.....	*1,382
		San Diego River.....	100 feet downstream from the center of Friars Road Extension.	*70
		San Vicente Creek.....	At the intersection of Mary Lane and Topo Avenue.....	*414
		South Las Chollas Creek.....	100 feet upstream from the center of Imperial Avenue.....	*70
		South tributary to Santa Maria Creek.....	At the intersection of creek and center of Julian Road.....	*1,379
		Sweetwater River.....	50 feet upstream from center of Steele Canyon Road.....	*348
		Sweetwater River (Descanso Area).....	At the intersection of river and center of Viejas Boulevard.	*3,403
		Sweetwater (near National City).....	50 feet upstream from center of Edgemore Avenue.....	*33
		Telegraph Canyon Creek.....	50 feet upstream from center of 4th Avenue.....	*77
		Tributary of south tributary to Santa Maria Creek.....	At the intersection of creek and Julian Road.....	*1,379
		San Luis Rey River.....	50 feet upstream from center of Olive Hill Road.....	*165
			At the intersection of river and center of Wiskon Way.....	*792

Maps available for inspection at County Department of Public Works, 5555 Overland Avenue, San Diego, California.

California.....	Visalia (city) Tulare County (FEMA-8442).....	Shallow flooding.....	Center of intersection of Airport Drive and Plaza Drive.....	#1
			Center of intersection of Main Street and Cain Street.....	#3

Maps available for inspection at City Department of Public Works, 707 W. Acequia Street, Visalia, California.

California.....	Watsonville (city) Santa Cruz County (FEMA-6560).....	Pajaro River.....	25 feet upstream from center of Main Street.....	*36
		Pajaro River—without consideration of levee.	Intersection of Beach Street and Errington Road.....	*21
		Struve Slough.....	Intersection of Struve Slough and center of Harkins Slough Road.	*15
		Watsonville Slough.....	25 feet downstream from center of Lee Road.....	*15
		Salsipuedes Creek.....	Intersection of Salsipuedes Creek and State Highway 129.	*37
		Salsipuedes Creek—without consideration of levee.	Intersection of Bridge Street and El Rio Street.....	*40
		Corralitos Creek.....	950 feet northeast of intersection of Packard Avenue and Kaddery Lane along Packard Avenue.	*93

Maps are available for inspection at the Department of Planning, 250 Main Street, Watsonville, California 95076.

Connecticut.....	East Lyme (town), New London County (FEMA Docket No. 6560).	Long Island Sound.....	Entire shoreline of Long Island Sound within community.	*15
		Niantic River.....	Entire shoreline of Niantic Bay within community.....	*15
			Rope Ferry Road.....	*11
			Smith Street extended.....	*12
			Town Road extended.....	*13
			At U.S. Route 1.....	*11

Maps available for inspection at the East Lyme Town Hall, Niantic, Connecticut.

Connecticut.....	Madison (town), New Haven County (FEMA Docket No. 6560).	Long Island Sound.....	Entire shoreline within community.....	*16
		Hammonasset River.....	At U.S. Route 1.....	*10
			At River Road.....	*10
			Approximately 1.26 miles upstream of River Road.....	*15
			Approximately 2.14 miles upstream of River Road.....	*17
			Upstream of Chestnut Hill Road.....	*52
			Approximately .66 mile upstream of Chestnut Hill Road.....	*85
			At confluence of Camp Laurelwood Brook.....	*120
			Approximately 1.0 mile downstream of State Route 80.....	*150
			Approximately .57 mile downstream of State Route 80.....	*180
		Camp Laurelwood Brook.....	Downstream of State Route 80.....	*213
			At confluence with Hammonasset River.....	*120
			Approximately .5 mile upstream of confluence with Hammonasset River.	*131
			Approximately .8 mile upstream of confluence with Hammonasset River.	*140
			Upstream of Summer Hill Road.....	*185
		Bailey Creek.....	At Nathan Lane.....	*11
			Upstream of Salem Road.....	*12
			Upstream of Connecticut Turnpike.....	*17
		Neck River.....	At confluence with East River.....	*12
			At Overshore East extended.....	*11
			Upstream of U.S. Route 1.....	*14
			Upstream of CONRAIL.....	*20
			Upstream of Green Hill Road.....	*28
			Upstream of Wepas Road.....	*31
			Approximately .7 mile upstream of Wepas Road.....	*45
			Downstream of dam located just upstream of Opening Hill Road.	*88

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Engineer's Office, Town Hall, Madison, Connecticut.				
Connecticut	Old Saybrook (town), Middlesex County (Docket No. FEMA-8535).	Connecticut River	South of CONRAIL crossing	*13
			Shoreline at Cornwall Place (extended north)	*13
			Shoreline at Dock Road (extended)	*15
			Shoreline of South Cove at Clinton Avenue (extended)	*13
			Shoreline of South Cove at Reed Court (extended)	*13
		Long Island Sound	Entire shoreline within community	*16
Maps available for inspection at Town Hall, 302 Main Street, Old Saybrook, Connecticut.				
Idaho	Boise (city), Ada County (FEMA-5330)	Boise River	100 feet southwest of intersection of Moore Street and Clover Drive	*2,653
			At the intersection of Royal Boulevard and Dale Street	*2,684
		Boise River Side Channel	At the intersection of Mallard Street and Park Center Boulevard	*2,710
		Stuart Gulch	Along Access Road to Hillside Jr. High School; 100 feet east of Stuart Gulch Road	*2,692
			At the intersection of Catalpa Drive and Hill Road	#4
		Crane Gulch	At the intersection of Crane Creek Road and Ranch Road	*2,788
			At the intersection of Good Street and Harrison Boulevard	#4
		Cottonwood Creek	40 feet upstream of confluence with Freestone Creek	*2,796
			At the intersection of Krall Street and Avenue C	#2
		Hulls Gulch	At stream crossing of Mile High Road	*2,806
			At the intersection of Alturas Street and North 7th Street	#1
Maps available for inspection at Public Work Department, 150 North Capitol, Boise, Idaho.				
Illinois	(V) Birds, Lawrence County (Docket No. FEMA-6568)	Brushy Creek	About 900 feet downstream Main Street (At downstream corporate limits)	*440
			About 1,350 feet upstream Main Street (At upstream corporate limits)	*442
Maps available for inspection at the Post Office.				
Illinois	(V) Fisher, Champaign County (Docket No. FEMA-6574)	Owl Creek	Just upstream of U.S. Highway 136	*702
			Just downstream of Hamilton Street	*716
Maps available for inspection at the Water Plant, Fisher, Illinois.				
Illinois	(V) Hutsonville, Crawford County (Docket No. FEMA-6574)	Mill Creek	Mouth at Wabash River	*447
			About 475 feet upstream of West North Street	*452
		Hutson Creek	Within community	*447
		Wabash River	Within community	*447
		Mill Creek Tributary	Mouth at Mill Creek	*452
			At 0.35 mile above mouth	*473
Maps available for inspection at Village Hall.				
Iowa	(C) Sageville, Dubuque County (Docket No. FEMA-6568)	Little Maquoketa River	At confluence of Bloody Run Creek	*622
			About 0.64 mile upstream of U.S. Highway 52	*630
		Couler Valley	About 1,000 feet downstream of Chicago and North Western Railroad	*629
			About 200 feet upstream of Chicago and North Western Railroad	*629
		Couler Valley Tributary	Just upstream of Sageville Road	*622
			About 1,140 feet upstream of Sageville Road	*638
		Bloody Run Creek	At confluence with Little Maquoketa River	*622
			At upstream corporate limits	*622
		Union Park Hollow	About 300 feet downstream of U.S. Highway 52	*635
			Just upstream of County Road	*641
			At upstream corporate limits	*683
Maps available for inspection at Rt. 1, P.O. Box 245, Dubuque, Iowa.				
Louisiana	Harenhan (city), Jefferson Parish (FEMA Docket No. 6568)	Mississippi River	Downstream corporate limits	*20
			Upstream corporate limits	*21
		Rainfall-Runoff Ponding	Between Jefferson Highway and Mississippi River levee, east of Colonial Club Drive to eastern corporate limits	*12
			Between Jefferson Highway and Mississippi River levee, west of Colonial Club Drive to Woodlawn Avenue	*11
			Between Jefferson Highway and Mississippi River levee, northwest of Woodlawn Avenue to northwestern corporate limits	*8.5
			North of Suave Road to corporate limits	*2.5
			Between corporate limits, north of Grover Avenue, to a point approximately 900 feet north of Citrus Road	*4
Maps available for inspection at the City Hall, Harenhan, Louisiana.				
Louisiana	Lake Charles (city), Calcasieu Parish (FEMA Docket No. 6568)	Calcasieu River	Downstream corporate limits to Two O'Clock Point	*9
			Two O'Clock Point to upstream corporate limits	*10
		Bayou Contraband	Confluence with Calcasieu River to Lake Street	*9
		Pithon Coulee	Confluence with Lake Charles	*9
		English Bayou	Confluence with Calcasieu River	*10
		Little Bayou	Confluence with Bayou Contraband	*9

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
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Maps available for inspection at the City Hall, 326 Pujol, Lake Charles, Louisiana.

Louisiana	Westwego (city), Jefferson Parish (FEMA Docket No. 6568).	Mississippi River	Downstream corporate limits	*19
			Upstream corporate limits	*20
		Rainfall-Runoff Ponding	From western corporate limits along Old Spanish Trail to levee.	*4
			West of Texas and Pacific Railroad yard and north of Texas and Pacific Railroad to western corporate limits.	*2.5
			Along Southern Pacific Railroad to Pond Street extended.	*2
			East of Louisiana Avenue, south of 2nd Street, west of Patterson Street, and north of Texas and Pacific Railroad.	*3
			East of Patterson Street, south of River Road, west of Klien Street, and north of Texas and Pacific Railroad.	*3
			Along eastern corporate limits between River Road and Texas and Pacific Railroad.	*5
			South of Texas and Pacific Railroad and north of West Bank Expressway, from western corporate limits to eastern corporate limits.	*3
			South of West Bank Expressway, west to levee, east to corporate limits, and south to corporate limits, over to Dugues Canal in eastern part of city.	*2.5
		Gulf of Mexico—Flooding Affecting Westwego.	Western corporate limits east to levee, north to Otto Street extended.	*5
			In eastern part of city, from Lapalco Boulevard south to southernmost corporate limits, along Dugues Canal.	*5

Maps available for inspection at the City Hall, 419 Avenue A, Westwego, Louisiana.

Maine	Kittery (town), York County (FEMA Docket No. 6509)	Atlantic Ocean	Shoreline of community northwest of Horn Island	*16
			Inland of Wood Island	*14
		Spruce Creek	Wilson Road (downstream)	*9
			Approximately 0.4 mile upstream of Wilson Road	*19
		Spinney Creek	Approximately 370 feet downstream of Leach Road	*9
			Dennett Road (upstream)	*30

Maps available for inspection at the Town Municipal Building, Kittery, Maine.

Maine	Old Orchard Beach (town), York County (FEMA Docket No. 6509).	Atlantic Ocean	Shoreline at Atlantic Avenue (extended)	*13
			Shoreline at York Street (extended)	*14
			Shoreline at Odessa Avenue (extended)	*15
		Goosefare Brook	At mouth	*9
			Downstream of Boston and Maine Railroad bridge	*10
			Downstream of Ocean Park Road	*17
			Downstream of Ross Road	*20
			Upstream corporate limits	*29
		Mill Brook	Upstream of Ross Road	*9
			430 feet downstream of Portland Road	*19

Maps available for inspection at the Planner's Office in the Town Hall, Old Orchard Beach, Maine.

Massachusetts	Ashburnham (town), Worcester County (Docket No. FEMA-6550).	Phillips Brook	Downstream corporate limits	*820
			Upstream of Whitman Hill Road	*857
			Upstream of Factory Village Dam	*920
			Upstream of Puffer Road	*972
			Upstream of Old Mill Dam	*1,058
			Upstream of Ashby Road	*1,107
			Approximately 1,165 feet upstream of Ashby Road	*1,132
		Whitman River	Downstream corporate limits	*829
			Upstream of Main Street	*882
			Upstream of Pleasant Street	*968
			Approximately 230 feet upstream of Center Street	*991

Maps available for inspection at the Selectman's Office, Town Hall, Ashburnham, Massachusetts.

Massachusetts	Holland (town), Hampden County (FEMA Docket No. 6470).	Hamilton Reservoir	Upstream from Sturbridge Road	*686
			Downstream from Mashapaug Road Causeway	687
			Upstream corporate limits	*690
		Stevens Brook	Confluence with Hamilton Reservoir	*687
			Downstream from Marcey Road (first crossing)	*763
			Downstream from Marcey Road (second crossing)	*776
		May Brook	Confluence with Hamilton Reservoir	*690
			Approximately 2,540 feet upstream from confluence with Hamilton Reservoir.	*736

Maps available for inspection at the Town Hall, Holland, Massachusetts.

Massachusetts	New Braintree (town), Worcester County (FEMA Docket No. 6550).	Ware River	Downstream corporate limits	*533
			Upstream of CONRAIL	*546
			Upstream Sibley Road	*556
			Upstream New Silver bridge	*566
			Upstream Wheelwright Dam	*575
			Upstream corporate limits	*579
		Winimuset Brook	Confluence with Ware River	*569
		Upstream of Wine Road	*600	
		Sucker Brook	Downstream corporate limits	*791
			Upstream Utley Road	*889
			Upstream Barre Road	*919

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Mill Brook	Outlet to Gussy Pond upstream	*980
			Downstream corporate limits	*644
		Meadow Brook	At confluence of Meadow Brook	*648
			Confluence with Mill Brook	*649
			Upstream Pierce Road/Barr Road	*668
			Upstream West Brookfield Road	*699
			Upstream corporate limits	*701

Maps available for inspection at the Planning Board, New Braintree Grade School, New Braintree, Massachusetts.

Michigan	(C) Bloomfield Hills, Oakland County (Docket No. FEMA-8527).	Quarton Branch—River Rouge	Just upstream of Quarton Road	*754
			Just downstream of Lone Pine Road	*778
			Just upstream of Lone Pine Road	*783
			Just downstream of Cranbrook Road	*791
			About 50 feet upstream of Cranbrook Road	*795
			At confluence of Amy Drain	*822
		Stonycroft Branch—River Rouge	At confluence of Amy Drain	*822
			About 50 feet upstream of East Long Lake Road	*826
			At confluence of Hamlin Drain	*848
		Murphy Drain	At confluence of Hamlin Drain	*848
			Just downstream of Woodward Avenue	*873
			Just upstream of Woodward Avenue	*879
			Just downstream of Hickory Grove Road	*895
		Amy Drain	At mouth	*822
			Just upstream of the Grand Trunk and Western Railroad	*838
			Upstream corporate limit	*847
		Sodon Lake Branch—River Rouge	At mouth	*817
			About 450 feet downstream of Vaughn Road	*821
			Just upstream of Vaughn Road	*829
			Just downstream of Lahser Road	*829
		Hamlin Drain	At mouth	*848
			Just downstream of the Grand Trunk and Western Railroad	*854
			Just upstream of Kensington Road	*861
			Just downstream of New Bridge	*861
			Just upstream of New Bridge	*867
			About 550 feet upstream of New Bridge	*867
			About 750 feet upstream of New Bridge	*871
		Long Lake-Forest Lake Branch—River Rouge	At mouth	*807
			Just downstream of Lake Placid Dam	*838
			Just upstream of Lake Placid Dam	*844
			Just downstream of Lahser Road	*858

Maps available for inspection at the City Manager's Office, City Hall, 45 East Long Lake Road, Bloomfield Hills, Michigan.

Michigan	(Chld. Twp) Buena Vista, Seginaw County (Docket No. FEMA-8588).	Seginaw River	About 600 feet upstream of Interstate 75 (At downstream corporate limits)	*588
			About 1.1 miles upstream of Interstate 75 (At upstream corporate limits)	*589
		Koehler Drain	At East Washington Road	*589
			Just upstream Chessie System	*596
			Just downstream of Wadsworth Road	*598
		Cheboyganing Creek	Within corporate limits	*586

Maps available for inspection at the Township Office.

Mississippi	Unincorporated areas of Harrison County (FEMA-8568).	Gulf of Mexico/Mississippi Sound	Intersection of 3rd Street and Bayview Street	*13
		St. Louis Bay	Intersection of Jones Road and Mungs Avenue	*12
		Back Bay of Biloxi	Intersection of Bay Shore Road and Lamey Bridge Road	*11

Maps available for inspection at Harrison County Courthouse, 1801 23rd Avenue, Gulfport, Mississippi 39501.

Nebraska	(c) Kearney, Buffalo County (Docket No. FEMA-8568)	Platte River	About 2.9 miles downstream of State Highway 10 and State Highway 44	*2,121
			Just downstream of State Highway 10 and State Highway 44	*2,143
			About 3.3 miles upstream of State Highway 10 and State Highway 44	*2,164
		North Channel Platte River	About 700 feet downstream of County Highway 36	*2,116
			About 100 feet upstream of State Highway 10 and State Highway 44	*2,142
			About 3.0 miles upstream of County Road X (just downstream of County Road)	*2,168
		Wood River	At confluence of Glenwood Park Creek	*2,139
			About 1,200 feet upstream of State Highway 10	*2,145
		Glenwood Park Creek	About 550 feet upstream of confluence with Wood River	*2,139
			Just upstream of County Road D-V	*2,152
			Just upstream of Union Pacific Railroad	*2,159
			Just downstream of 17th Avenue	*2,188
			Just upstream of 17th Avenue	*2,195
			About 1,500 feet upstream of 56th Street	*2,209
		Kearney Canal	At confluence with North Channel Platte River	*2,147
			About 1,400 feet upstream of U.S. Highway 30	*2,153
			About 1,425 feet upstream of U.S. Highway 30	*2,210
			About 3.8 miles upstream of Conifer Avenue	*2,220
		North Dry Creek Ditch	About 100 feet upstream of North Channel Platte River (just upstream of County Road)	*2,153
			About 3,500 feet upstream of County Road	*2,155

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Shallow Flooding (overflow from North Dry Creek Ditch).	Just east of North Dry Creek Ditch.....	#1
Maps available for inspection at City Hall, Kearney, Nebraska.				
Nevada	Ely (city), White Pine County (FEMA-6560)	Gleason Creek	At the intersection of First and Aultman Streets.....	#1
		Murray Creek	At the intersection of North Street and Parker Avenue.....	#2
			At the intersection of Murry Street and Dickerson Avenue.....	#1
			300 feet south on Murry Street from its intersection with Reilly Avenue.	*6,548
Maps available for inspection at City Clerk's Office, City Hall, Ely, Nevada.				
New Jersey	Atlantic Highlands, borough, Monmouth County (FEMA Docket No. 6568).	Sandy Hook Bay.....	Shoreline from western corporate limits to Bowne Avenue, extended).	*18
			Shoreline from Bowne Avenue (extended) to First Avenue (extended).	*17
			Shoreline of Atlantic Highlands Yacht Harbor.....	*15
			Shoreline from Ballinswood Road extended to eastern corporate limits.	*17
Maps available for inspection at the Borough Hall, 100 First Avenue, Atlantic Highlands, New Jersey.				
New Jersey	Orange, city, Essex County (FEMA Docket No. 6557)	Wigman Brook	Downstream corporate limits.....	*149
			Upstream Cleveland Street.....	*156
			Upstream corporate limits.....	*163
		East Branch Rahway River	Downstream corporate limits.....	*144
			Upstream of Tremont Avenue.....	*151
			Upstream corporate limits.....	*162
		East Fork of East Branch Rahway River.	Approximately 320 feet downstream of Freeman Street.	*171
			Mitchell Street.....	*175
			Joyce Street.....	*176
Maps available for inspection at the City Hall, 29 North Day Street, Orange, New Jersey.				
New York	Chautauque, town, Chautauque County (Docket No. FEMA-6568).	Chautauque Lake	Entire shoreline within community.....	*1,310
		Big Inlet.....	Confluence with Chautauque Lake.....	*1,310
			State Route 17.....	*1,315
			Approximately 1,170 feet upstream of Centralia Road.....	*1,318
Maps available for inspection at the Chautauque Town Hall, Mayville, New York.				
New York	Clinton, town, Dutchess County (FEMA Docket No. 6568).	Crum Elbow Creek	Downstream corporate limits.....	*263
			Upstream of State Route 9G.....	*280
			Upstream of Schultz Hill Road.....	*298
			Upstream of Frost Road.....	*321
			Upstream of downstream crossing of Sipe Barracks Road.	*369
			At Private Drive upstream of State Quarry Road.....	*417
		East Branch Wappinger Creek	At confluence with Wappinger Creek.....	*254
			Upstream of Dam.....	*262
			Upstream corporate limits.....	*263
		Little Wappinger Creek	Downstream corporate limits.....	*252
			Upstream of Halstead Road.....	*276
			Upstream of dam located just upstream of Hollow Road.	*305
			Approximately 600 feet upstream of Nine Partners Road.	*337
		Wappinger Creek	Downstream corporate limits.....	*243
			Upstream of Taconic State Parkway.....	*249
			Upstream corporate limits.....	*254
		Silver Lake	Entire shoreline within community.....	*376
		Long Pond	Entire shoreline.....	*346
Maps available for inspection at the Town Hall, Center Road, Clinton Corners, New York.				
New York	East Fishkill, town, Dutchess County (Docket No. FEMA-6568).	Fishkill Creek	Downstream corporate limits.....	*232
			Upstream Palen Road.....	*224
			Upstream State Route 376.....	*240
			Upstream Carol Road.....	*252
			Upstream of third dam.....	*287
			Upstream Taconic State Parkway.....	*295
			Upstream corporate limits.....	*311
		Sprout Creek	Confluence with Fishkill Creek.....	*224
			Upstream State Route 82.....	*231
			Upstream Brown Road.....	*245
			Upstream Montfort Road.....	*257
			Upstream Robinson Lane.....	*279
			Upstream corporate limits.....	*290
		Whortekill Creek	Confluence with Fishkill Creek.....	*234
			Upstream second CONRAIL crossing.....	*250
			Upstream Creamery Road.....	*279
			Upstream Taconic State Parkway Ramp.....	*332
		Sylvan Lake Outlet	Confluence with Fishkill Creek.....	*295
			Upstream Bogardus Lane.....	*309
			Upstream corporate limits.....	*320
Maps available for inspection at the East Fishkill Town Hall, Route 376, Hopewell Junction, New York.				
New York	Esopus, town, Ulster County (FEMA Docket No. 6568)	Rondout Creek	Confluence with Hudson River.....	*9
			State Route 213 (upstream side).....	*12

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Wallkill River.....	Confluence of Wallkill River..... Approximately 125 feet downstream of Perrine's Bridge Road. New York State Thruway..... Upstream corporate limits.....	*36 *179 *187 *192
		Hudson River.....	Entire shoreline within community.....	*9
Maps available for inspection at the Esopus Town Hall, Broadway and Sound Streets, Port Ewen, New York.				
New York.....	Fillmore, village, Allegany County (FEMA Docket No. 6568).	Cold Creek.....	Downstream corporate limits..... 1st upstream corporate limits.....	*1,175 *1,176
		Genesee River.....	Confluence of Cold Creek.....	*1,175
Maps available for inspection at the Village Hall, Fillmore, New York.				
New York.....	Hyde Park, town, Dutchess County (FEMA Docket No. 6560).	Crum Elbow Creek.....	At confluence with Hudson River..... At Access Road located upstream of Dock Street..... Upstream of dam located just upstream of U.S. Route 9. Upstream of downstream crossing of East Market Street. Upstream of upstream crossing of East Market Street..... Upstream of Mill Road..... Upstream of South Cross Road (most upstream crossing). Upstream of North Cross Road..... Upstream of Mills Cross Road..... Corporate limits.....	*9 *75 *134 *176 *207 *228 *246 *256 *273 *290
		Fall Kill.....	At corporate limits..... Upstream of Dutchess Hill Road..... Upstream of Roosevelt Road..... Upstream of Roosevelt Road North..... Upstream of Cream Street.....	*216 *217 *224 *228 *248
		Maritje Kill.....	Approximately 150 feet downstream of U.S. Route 9..... Upstream of Saint Andrew Road..... Upstream of Newhold Road..... Upstream of State Route 9G..... Approximately 4,100 feet upstream of Crum Elbow Road.	*71 *149 *198 *233 *253
		Hudson River.....	Entire shoreline within community.....	*9
Maps available for inspection at the Town Hall, Albany Post Road, Hyde Park, New York.				
New York.....	Moreau, town, Saratoga County (FEMA Docket No. 6560).	Hudson River.....	Downstream corporate limits..... Delaware and Hudson Railway upstream side..... Approximately .5 mile downstream of Bakera Falls Dam. Upstream Balcers Falls Dam..... Downstream of Feeder Dam..... Upstream of Feeder Dam.....	*129 *131 *141 *211 *275 *290
Maps available for inspection at the Town Hall, 61 Hudson Street, South Glens Falls, New York.				
New York.....	Niagara, town, Niagara County (FEMA Docket No. 6560).	Cayuga Creek.....	Porter Road (upstream side)..... Downstream corporate limits..... Drag Strip (downstream side)..... Porter Road (upstream side)..... Gill Creek..... Upstream corporate limits..... Downstream corporate limits..... East Tributary to Gill Creek..... CONRAIL (upstream side)..... North Whitham Drive (upstream side).....	*577 *571 *593 *582 *599 *586 *601 *598
Maps available for inspection at the Town Hall, 7105 Lockport Road, Niagara Falls, New York.				
New York.....	Saratoga, town, Saratoga County (FEMA Docket No. 6557).	Hudson River.....	Downstream corporate limits..... Confluence of The Cove..... Upstream corporate limits.....	*97 *99 *102
		Fish Creek.....	Downstream corporate limits..... Upstream of State Route 32..... Upstream of Burgoyne Road..... Upstream of State Route 29 (1st crossing)..... Upstream of dam..... Upstream of Bryant Road..... Approximately 1,000 feet upstream of State Route 9P..... Entire shoreline within community.....	*181 *196 *198 *200 *206 *209 *210 *210
Maps available for inspection at the Town Hall, Ferry Street, Schuylerville, New York.				
New York.....	Saratoga Springs, city, Saratoga County (FEMA Docket No. 6557).	Geyser Brook.....	Upstream of State Route 50..... At confluence of Slade Creek and Rowland Hollow Creek.....	*288 *297
		Slade Creek.....	At confluence of Geyser Brook and Rowland Hollow Creek.....	*297
		Putnam Brook.....	At confluence with Putnam Brook..... At confluence with Slade Creek..... Approximately 6,500 feet above State Route 9N.....	*299 *299 *312
		Rowland Hollow Creek.....	At confluence of Geyser Brook and Slade Creek..... Upstream corporate limits.....	*297 *318
		Spring Run.....	Upstream of State Route 29..... Upstream Interstate 87 southbound..... Downstream State Route 50.....	*231 *248 *261
		Kayaderoseras Creek.....	At confluence with Saratoga Lake.....	*210

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream U.S. Route 9 south.....	*215
			Upstream corporate limits.....	*228
		Fish Creek.....	At corporate limits downstream of Stafford Road.....	*210
			At confluence with Saratoga Lake.....	*210
		Saratoga Lake.....	Entire shoreline within community.....	*210

Maps available for inspection at the City Hall, Lake Avenue, Saratoga Springs, New York.

New York.....	Woodhull, village, Steuben County (FEMA Docket No. 6568).	Tuscarora Creek.....	Downstream corporate limits.....	*1,306
			Church Street (upstream side).....	*1,318
			100 feet upstream of upstream corporate limits.....	*1,327

Maps available for inspection at the Village Hall, Sherwood Street, Woodhull, New York.

Ohio.....	(V) Mantua, Portage County (Docket No. FEMA-6568).....	Cuyahoga River.....	About 0.8 mile downstream of Main Street.....	*1,084
			About 0.6 mile upstream of High Street.....	*1,088

Maps available for inspection at the Village Hall, East High Street, Mantua, Ohio.

Oregon.....	Canby (city), Clackamas County (FEMA-6568).....	Molalla River.....	70 feet upstream from center of northwest Knights Bridge Road.....	*94
		Willamette River.....	500 feet east from center of intersection of Redwood Street and the sewage treatment plant access road.....	*84

Maps available at the Public Works Department, 182 N. Holly, Canby, Oregon.

Oregon.....	Salem (city), Marion County (FEMA-6546).....	Mill Creek.....	At center of Commercial Street Northeast.....	*141
			30 feet upstream of Interstate Highway 5 Northbound.....	*224
			850 feet west of the intersection of Penitentiary Annex Road and Mill Creek.....	#1
		Mill Creek Overflow.....	Intersection of Waller Street Southeast and 15th Street Southeast.....	*169
		Shelton Ditch.....	100 feet downstream of Winter Street Southeast.....	*149
		Pringle Creek.....	100 feet upstream 12th Street Southeast.....	*169
			200 feet west of the intersection of Davcor Court and 19th Street Southeast along Davcor Court.....	#1
		Middle Fork Pringle Creek.....	100 feet upstream of Madrona Avenue Southeast.....	*203
		East Fork.....	100 feet upstream of McGilchrist Street Southeast.....	*183
			Intersection of 25th Street Southeast and McGilchrist Street Southeast.....	#1
		West Fork Pringle Creek.....	100 feet upstream of Salishan Street Southeast.....	*197
		Battle Creek.....	At center of U.S. Highway 99E (Commercial Street Southeast).....	*384
			Intersection of 13th Avenue Southeast and Doral Drive.....	#1
		Powell Creek.....	100 feet upstream of Doral Drive.....	*390
		Claggett Creek.....	Intersection of Felina Avenue and Deer Haven Drive.....	*160
		Willamette River.....	At center of State Highway 22 Westbound (Marion Street Northeast).....	*142

Maps available for inspection at Public Works and Engineering Department, 555 Liberty Street, SE., Room 325, Salem Oregon.

Pennsylvania.....	West Rockhill, township, Bucks County (FEMA Docket No. 6550).	Three Mile Run.....	At downstream corporate limits.....	*470
			Just upstream Mill Road.....	*479
			Just downstream of Catch Basin Road.....	*493
		Tributary No. 1 to Three Mile Run.....	Confluence with Three Mile Run.....	*481
			Just downstream of Forrest Road.....	*515
		Ridge Valley Creek.....	At downstream corporate limits.....	*397
			Upstream of downstream crossing Upper Rocky Dale Road.....	*419
			Just downstream of Allentown Road.....	*451
		East Branch Perkiomen Creek.....	At downstream corporate limits.....	*275
			Upstream Cat Hill Road.....	*291
			Upstream U.S. Route 309.....	*296
			At upstream corporate limits.....	*302

Maps available for inspection at West Rockhill Township Municipal Building, 1028 Ridge Road, Sellersville, Pennsylvania.

Tennessee.....	City of Clarksville, Montgomery County (FEMA-6568).....	Cumberland River.....	Approximately 3,900 feet upstream of Louisville and Nashville Railroad.....	*392
			Just upstream of New State Highway 13.....	*393
		Red River.....	Just downstream of U.S. Highway 79.....	*392
			Approximately 260 feet upstream of Warfield Boulevard.....	*399
		Little West Fork.....	Approximately 250 feet downstream of Louisville and Nashville Railroad.....	*406
			Approximately 1,000 feet upstream of U.S. Highway 41 Alternate.....	*411
		Fletchers Fork.....	Approximately 950 feet upstream of downstream corporate limits (approximately 1.16 miles upstream of confluence with Little West Fork).....	*425

Maps available for inspection at Clarksville-Montgomery County Regional Planning Commissioner's Office, or City Building Department or City Engineer's Office, City Hall, Public Square, Clarksville, Tennessee 37040.

Tennessee.....	Unincorporated areas of Dickson County (FEMA-6560).	Bartons Creek.....	Just downstream of Soules Chapel Road.....	*478
		Yellow Creek.....	Just downstream of Yellow Creek Road (State Highway 46) First crossing from downstream.....	*560
			Approximately 200 feet upstream of Yellow Creek Road, in the south of its intersection with Union Road (second crossing).....	*590
		Willow Branch.....	Just upstream of Cowan Road.....	*716
		Furnace Creek.....	Just upstream of State Highway 48.....	*514

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Jones Creek.....	Approximately 500 feet upstream of Hummingbird Lane.	*681
		Cumberland River.....	Just upstream of Jones Creek Road.....	*687
			Approximately 1,000 feet downstream of Cheatham Dam.	*399
		Harpeth River.....	At the confluence of Harpeth River.....	*401
			Approximately 800 feet downstream of Timberidge Road.	*418
			Approximately 700 feet downstream of Ashland City Road.	*425
Maps available for inspection at the Dickson County Executive's Office, County Courthouse Annex, Charlotte, Tennessee 37036.				
Tennessee	City of LaVergne, Rutherford County (FEMA-8568)	Finch Branch.....	Approximately 80 feet upstream of Minerva Drive.....	*554
			Just upstream of Murfreesboro Road.....	*556
		Hurricane Creek.....	Approximately 200 feet upstream of U.S. Highway 41.....	*554
		West Branch Hurricane Creek.....	Just upstream of Firestone Parkway.....	*581
		East Branch Hurricane Creek (Before Levee overtopping).	Approximately 700 feet upstream of Firestone Parkway.....	*579
		East Branch Hurricane Creek (After Levee overtopping).	Approximately 840 feet west of the intersection of Waldron Road and Firestone Parkway.	*579
Maps available for inspection at City Hall, 5218 Murfreesboro Highway, LaVergne, Tennessee 37086.				
Tennessee	City of Millersville, Sumner County (FEMA-8568)	Slaters Creek.....	Approximately 200 feet downstream of Cart Wright Drive extended.	*490
			Circle Drive extended.....	*482
		East Fork Slaters Creek.....	Approximately 200 feet downstream of Role Hill Road.....	*526
Maps available for inspection at City Hall, 1379 Louisville Highway, Millersville, Tennessee 37072.				
Tennessee	Unincorporated areas of Montgomery County (FEMA-8568).	Big West Fork.....	Approximately 530 feet upstream of Boy Scout Road.....	*398
			Approximately 700 feet upstream of Peachers Mills Road.	*407
		Little West Fork.....	Approximately 800 feet upstream of State Highway 41.....	*411
			Approximately 1500 feet upstream of East End Road.....	*430
			Approximately 500 feet upstream of McNair Road.....	*437
		Red River.....	Approximately 600 feet upstream of Louisville and Nashville Railroad.	*392
			Approximately 850 feet upstream of northbound bridge of Interstate Highway 24.	*406
		Fletchers Fork.....	Approximately 400 feet upstream of Woodlawn Road.....	*456
			Approximately 250 feet upstream of Lafayette Road.....	*467
		Cumberland River.....	Just upstream of the confluence of Cumberland River and Red River.	*391
			Approximately 500 feet upstream of New State Route 13.	*393
Maps available for inspection at Montgomery County Executive's Office, County Courthouse, Commerce Street or Civil Defense Office, Commerce Street, Clarksville, Tennessee 37040.				
Tennessee	City of Pigeon Forge, Sevier County (FEMA-8560)	West Prong Little Pigeon River.....	Just upstream of U.S. Highway 441.....	*977
			Just upstream of Mill Dam.....	*1,017
			Just upstream of Gulf Road.....	*1,037
		Mill Creek.....	Just upstream of County Road.....	*971
			Just upstream of Pine Mountain Road.....	*1,004
		Walden Creek.....	At confluence with West Prong Little Pigeon River.....	*963
			At confluence of Mill Creek.....	*967
Maps available for inspection at Building Inspector's Office, City Hall, Pigeon Forge, Tennessee 37863.				
Tennessee	Unincorporated areas of Robertson County (FEMA-8568).	Sulphur Fork.....	Just upstream of State Road 6279.....	*535
			At the confluence of Beaver Dam Creek.....	*563
			Approximately 100 feet upstream of White House road.....	*601
			Just upstream of Still House Road.....	*620
			Just upstream of Mount Pleasant Road.....	*647
		Beaver Dam Creek.....	Just downstream of Owens Chapel Road.....	*588
			Approximately 150 feet downstream of Louis Draughton Road.	*600
		Wartrace Creek.....	Approximately 50 feet upstream of Oakland Road (County Road 8341).	*663
		Lons Branch.....	At the intersection of Still House Road and an unnamed Road 1.56 miles above the confluence with Sulphur Fork.	*646
		Pole Bridge Branch.....	Just downstream of Kelley Willis Road.....	*703
		Savage Branch.....	Approximately 50 feet downstream of Still House Road.	*664
		Carr Creek.....	Approximately 200 feet downstream of New Chapel Road.	*523
			Approximately 100 feet upstream of Burr Road.....	*548
			Just upstream of New Cut Road.....	*525
			Just upstream of Lights Chapel Road.....	*641
		Brown Fork.....	Just downstream of Ammeto Larr Road.....	*524
		Millers Creek.....	Approximately 60 feet downstream of State Road 6280.	*546
		Unnamed Tributary of Millers Creek.	Approximately 40 feet downstream of State Road 6280.	*568
		Honey Run Creek.....	Just upstream of James Stone Road.....	*487
		Brush Creek.....	Just downstream of Edd Ross Road.....	*463
			Approximately 60 feet upstream of Stroudville Road.....	*550
			Just upstream of Charlie Maxie Road (State Road 6277).	*577

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		West Fork.....	Just downstream of Pinklet Road.....	*617
		Red River.....	Just downstream of Harmony Road.....	*567
			Approximately 150 feet upstream of Highland Road.....	*618
			Just upstream of State Highway 52.....	*630
			Approximately 200 feet downstream of Stacks Road.....	*634
			Approximately 350 feet downstream of Interstate Highway 65.....	*651
		Unnamed Tributary of Red River.....	Just upstream of Durers Mill Road.....	*627
		Frey Branch.....	Just upstream of Pleasant Grove Road.....	*693

Maps available for inspection at Planning and Zoning Office, Robertson County Office Building, Springfield, Tennessee 37172.

Tennessee	Unincorporated areas of Rutherford County (FEMA-6566).	Stewart Creek.....	Approximately 350 feet upstream of Old Nashville Highway.....	*527
			Just upstream of Interstate Highway 24, Eastbound Lake.....	*541
		Finch Branch.....	Just upstream of Burnt Knob Road.....	*569
		Rock Spring Branch.....	Approximately 350 feet downstream of Fergus Road.....	*540
			Just upstream of Old Nashville Highway.....	*549
			Just upstream of Rock Spring Road, first crossing upstream of Interstate Highway 24.....	*602
			Just upstream of Blair Road.....	*623
		Olive Branch.....	Just upstream of Interstate Highway 24, Eastbound Exit Ramp.....	*538
			Just upstream of Lee Road.....	*564
		West Fork Stones River.....	Approximately 500 feet upstream of Old Jefferson Pike.....	*502
			Just downstream of Sulphur Spring Road.....	*524
			Just upstream of Water Treatment Plant Road.....	*549
			Just upstream of State Highway 99.....	*594
			Just downstream of Barfield Road.....	*616
			Just downstream of Stones River Road.....	*656
		Overall Creek.....	Just upstream of Asbury Road.....	*556
			Approximately 200 feet upstream of State Highway 99.....	*596
		Puckett Creek.....	Approximately 500 feet upstream of Franklin Road (State Highway 96).....	*596
			Just downstream of State Highway 99 (Eagleview Pike).....	*627
		Lytle Creek.....	Just downstream of Manchester Pike (State Highway 2 and U.S. Highway 41).....	*617
			Just upstream of Dilton Road.....	*645
		Unnamed Tributary of West Fork Stones River.....	Just upstream of State Highway 99.....	*602
		Middle Fork Stones River.....	Just upstream of State Highway 10 (U.S. Highway 231).....	*610
			Just downstream of Elam Mill Road.....	*631
		East Fork Stones River.....	Approximately 250 feet upstream of Old Jefferson Pike.....	*508
			Just downstream of U.S. Highway 231 (Lebanon Pike).....	*534
			Approximately 300 feet downstream of Sandford Road.....	*551
			Just downstream of State Highway 96.....	*563
		Wades Branch.....	Approximately 4,000 feet upstream of Barlow Lane.....	*536
		Bear Branch.....	Just upstream of Veterans Hospital Road.....	*547
			Approximately 300 feet downstream of Oakland School Road.....	*576
		Bushman Creek.....	Approximately 500 feet upstream of Osborne Road.....	*562
			Approximately 200 feet downstream of State Highway 96.....	*568
		Bradley Creek.....	Just upstream of Browns Mill Road.....	*564
			Just downstream of State Highway 96 (Jefferson Pike).....	*580
		East Branch Hurricane Creek.....	Just upstream of Paul Road (which is located just upstream of Interstate Highway 24).....	*602

Maps available for inspection at Rutherford County Executive's Office or Building Commission Office, Rutherford County Courthouse, Maple Street, Murfreesboro, Tennessee 37130.

Tennessee	Unincorporated areas of Sevier County (FEMA-6560)	Middle Creek.....	Just upstream of Ridge Road.....	*949
			Just downstream of Centerville Road.....	*975
			Just downstream of Secondary Road 2605.....	*995
		Walden Creek.....	Just downstream of Secondary Road 2422 (Downstream Crossing).....	*969
		Mill Creek.....	Just downstream of Secondary Road 2422.....	*969
			Just upstream of Pine Mountain Road.....	*1,004
			Approximately 100 feet upstream of Mill Creek Road.....	*1,041
		West Prong Little Pigeon River.....	Just downstream of Park Road.....	*922
			Just upstream of U.S. Highway 441.....	*938
			Just upstream of Pine Grove Road.....	*955
		Little Pigeon River.....	Just downstream of Boyds Creek Road.....	*881
			Just upstream of Boyds Creek Road.....	*886
			Just upstream of Walnut Grove Road.....	*916
		Gists Creek.....	Just upstream of U.S. Highway 411 and 441 (Chapman Highway) (Downstream-most Crossing).....	*905
			Just downstream of Jess's Circle Road.....	*925
		West Fork Gists Creek.....	Approximately 120 feet downstream of Jess's Circle Road.....	*923
			Approximately 150 feet upstream of Loafroad.....	*934
		Dudley Creek.....	Just downstream of Private Road.....	*1,542

Maps available for inspection at Sevier County Executive's Office, County Courthouse, Sevierville, Tennessee 37862.

Tennessee	Unincorporated areas of Wilson County (FEMA-6568)	Bartons Creek.....	Just upstream of Coles Ferry Pike (FAS 6300).....	*458
			Approximately 400 feet downstream of Hartman Drive.....	*503
			Just upstream of Hartman Drive.....	*508
			Just upstream of Tuckers Gap Road.....	*547

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Stoners Creek.....	Approximately 300 feet downstream of Baptist Church Road.	*514
			Just downstream of Rutland Road.....	*568
		Cedar Creek.....	Approximately 200 feet upstream of U.S. Highway 70 and State Highway 24.	*477
			Just downstream of Louisville and Nashville Railroad.....	*520
			Just downstream of Leeville Road.....	*568
		Spring Creek.....	Approximately 200 feet downstream of Belotes Ferry Road.	*459
			Approximately 100 feet downstream of State Highway 141 (Lebanon Hartsville Pike).	*501
			Approximately 100 feet upstream of Interstate Highway 40.	*559
			Approximately 500 feet upstream of Louisville and Nashville Railroad.	*602
		Suggs Creek.....	Approximately 400 feet downstream of Mount Juliet Road.	*516
			Just upstream of Mires Road.....	*545
			Approximately 100 feet downstream of Underwood Road.	*565
		Sinking Creek.....	Approximately 500 feet downstream of Sewage Plant Road (extended).	*521
			Approximately 400 feet upstream of Interstate Highway 40.	*575
			Just downstream of Stumpy Lane.....	*594
		Cumberland River.....	Just upstream of the confluence of Cumberland River and Spencer Creek.	*452
			Just downstream of State Highway 2317.....	*459

Maps available for inspection at Planning Office, Wilson County Courthouse, Lebanon, Tennessee 37087.

Texas.....	City of China Grove, Bexar County (FEMA-6568).....	Calaveras Creek.....	Just downstream of FM 1516.....	*841
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Maps available for inspection at Hero's Ice and Feed Store, Highway 87E and Real Road, China Grove, Texas.

Texas.....	Nassau Bay, city, Harris County (Docket No. FEMA-6553).	Clear Lake.....	Northeastern shoreline of community at Sailboat Drive (extended).	*15
			From Bal Harbour Cove to confluence of Clear Creek....	*14
			Shoreline of inland bay near confluence with Clear Creek.	*13
		Clear Creek.....	Shoreline from confluence with Clear Lake to Martini Drive (extended).	*12
			Shoreline west of Martini Drive (extended) including shoreline of Cow Bayou.	*11

Maps available for inspection at the City Hall, 1800 Nassau Road, Houston, Texas.

Texas.....	Pearland, city, Brazoria and Harris Counties (FEMA Docket No. 6568).	Clear Creek.....	Downstream corporate limits.....	*33
			Country Club Drive (upstream side).....	*40
			Confluence of Hickory Slough.....	*45
			Upstream corporate limits.....	*48
		Marys Creek.....	Downstream corporate limits.....	*32
			John Lizer Road.....	*47
			Upstream corporate limits.....	*51
		Marys Creek By-Pass Channel.....	Downstream corporate limits.....	*32
			Confluence with Marys Creek.....	*43

Maps available for inspection at the City Hall, Pearland, Texas

Texas.....	Webster, city, Harris County (FEMA Docket No. 6557).....	Cow Bayou.....	Entire shoreline within corporate limits.....	*11
		Clear Creek.....	From confluence of Cow Bayou to State Route 3.....	*11
			From State Route 3 to U.S. Route 75.....	*12
		Tributary to Clear Creek.....	At confluence with Clear Creek.....	*12
			West NASA Road (upstream side).....	*20
			Medical Center Boulevard (upstream side).....	*22
			Most upstream corporate limits.....	*24

Maps available for inspection at the City Hall, 311 Pennsylvania Avenue, Webster, Texas.

Vermont.....	Hardwick, Town & Village, Caledonia County (FEMA Docket No. 6492).	Lamoille River.....	Downstream corporate limits.....	*784
			Upstream of Town Road 41.....	*789
			Upstream of Lake Hardwick Dam.....	*803
			Upstream of Cottage Street.....	*817
			Upstream of Main Street.....	*829
			Upstream of Lamoille Valley Railroad (downstream crossing).	*886
			Upstream of Lamoille Valley Railroad (upstream crossing).	*944
			Upstream of Town Road 31.....	*968
			Upstream of Town Road 30.....	*974
			Upstream of Town Road 28.....	1,046
			Upstream of State Route 16.....	*1,074
			Upstream of Town Road 62.....	*1,131
			Upstream corporate limits.....	*1,157
		Cooper Brook.....	Confluence with Lamoille River.....	*812
			Upstream of Elm Street.....	*815
			Upstream of State Route 14 (most downstream crossing).	*818
			Upstream corporate limits.....	*834

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Nichols Brook.....	Confluence with Cooper Brook.....	*818
			Approximately 1,000 feet downstream of Town Road 48.	*868
			Upstream of Town Road 48 Downstream of Mackville Dam.	*900
			Upstream of Mackville Dam.....	*813
				*929
Maps available for inspection at the Town Hall, Town Offices, Hardwick, Vermont.				
Washington.....	Snoqualmie (Town) King County (FEMA-8568).....	Snoqualmie River.....	At the intersection of King Street and North Maple Avenue.	*422
Maps available for inspection at the Town Hall, 109 River Street, Snoqualmie, Washington.				
West Virginia.....	Hancock County, Unincorporated Areas (FEMA Docket No. 6550).	Ohio River.....	Downstream County boundary.....	*675
			Upstream New Cumberland Lock and Dam.....	*680
			Upstream Newell Highway bridge.....	*687
			Upstream County boundary.....	*690
		Kings Creek.....	Confluence with Ohio River.....	*675
			Upstream Private Road.....	*711
			Upstream Kings Creek Road (1st crossing).....	*737
			Upstream Sandra Drive.....	*778
			Upstream Culler Road.....	*805
			Upstream County Boundary.....	*829
		North Fork.....	Confluence with Kings Creek.....	*747
			Upstream North Fork Road.....	*778
		Tomlinson Run.....	Confluence with Ohio River.....	*681
			Approximately .98 mile upstream of confluence with Ohio River.	*696
Maps available for inspection at the Hancock County Courthouse, New Cumberland, West Virginia.				
West Virginia.....	Handley, town, Kanawha County (FEMA Docket No. 6568).	Kanawha River.....	Upstream corporate limits.....	*620
			Upstream of London Lock and Dam No. 3.....	*618
			Downstream corporate limits.....	*616
		Upper Creek.....	Upstream corporate limits.....	*736
			Confluence with Kanawha River.....	*620
		Lower Creek.....	Upstream corporate limits.....	*745
			Confluence with Kanawha River.....	*618
Maps available for inspection at the Town Hall, Route 61, Handley, West Virginia.				

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Appeals of the proposed base flood elevations were received and have been resolved by the Agency.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California.....	San Mateo County (Unincorporated Areas), FEMA-6356.	Colma Creek Shallow Flooding.....	200 feet southwest from center of intersection of El Camino Real and E Street.	#2
		Lomita Channel Shallow Flooding.....	500 feet northeast from center of intersection of Cuervo Avenue and Corte Ana.	*4
		Montara Creek.....	50 feet upstream from center of State Highway 1.....	*70
		San Vicente Creek.....	25 feet upstream from center of Drake Street.....	*240
			Center of intersection of Nevada Avenue and North Lake Street.	*36
		Denniston Creek.....	50 feet upstream from center of State Highway 1.....	*44
		El Granada Creek.....	Center of intersection of Francisco Street and Alhambra Avenue.	*51
		Woodhams Creek.....	Intersection of creek and San Carlos Avenue.....	*108
			Center of intersection of Sueno Camino and Roquesa Drive.	*584
		La Honda Creek.....	25 feet upstream from center of Esmeralda Terrace.....	*730
			50 feet upstream from center of Entrada Way.....	*390
		San Gregorio and Alpina Creeks.....	40 feet upstream from confluence with La Honda Creek.	*325
		Pescadero Creek.....	25 feet upstream from center of State Highway 1.....	*11
			50 feet upstream from center of Butano Cutoff.....	*49
		San Francisco Bay.....	Vicinity of San Francisco International Airport.....	*7
Maps available for inspection at Department of Public Works, County Government Center, Redwood City, California				
Massachusetts.....	Burlington, Town, Middlesex County (FEMA Docket No. 6333).	Vine Brook.....	At downstream corporate limits.....	*124
			Downstream of Wheeler Road.....	*144
			Upstream corporate limits.....	*180
		Sandy Brook.....	Confluence with Vine Brook.....	*126
			Approximately 1,000 feet upstream of Raymond Road extension.	*137
		Sawmill Brook.....	Downstream corporate limits.....	*107
			Approximately 300 feet upstream of Lucaya Circle (extended).	*126
		Tributary B to Vine Brook.....	Confluence with Vine Brook.....	*126
			Downstream of Route 3 Northbound.....	*141
			Upstream corporate limits.....	*146

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary C to Vine Brook	Confluence with Vine Brook	*138
			Approximately 0.3 mile upstream of Muller Road	*157

Maps available for inspection at the Office of the Town Engineer, Burlington Town Hall, 29 Center Street, Burlington, Massachusetts.

Massachusetts	Milford, Town, Worcester County (FEMA Docket No. 6299).	Charles River	Upstream of Mellen Street	*239
			Downstream of Howard Street	*242
			Approximately 200 feet upstream of Central Street	*247
			Approximately 700 feet upstream of Main Street	*270
			Approximately 300 feet downstream of Dilla Street	*273
			Approximately 88 feet upstream of Dilla Street	*278
			Downstream of Cedar Street	*307
			Downstream of Abandoned Railroad	*321
			Upstream corporate limits	*325
		Mill River	Upstream of Milford Street	*288
			Downstream of Whitewood Road	*301
			Upstream of Camp Road	*307
			Upstream of North Pond Dam	*351
		O'Brien Brook	Confluence with Godfrey Brook	*283
			Upstream of Vincenzo Road	*291
		Stall Brook	Downstream corporate limits	*238
			Upstream of Interstate Route 495	*243
			Upstream of Beaver Street	*245
		Godfrey Brook	Confluence with Charles River	*244
			Upstream of South Main Street	*254
			Confluence of O'Brien Brook	*283
			Upstream of West Street	*327
			Upstream of Congress Terrace Culvert	*380
		Huckleberry Brook	Downstream of Abandoned Railroad	*273
			Upstream of upper Louise Lake Dam	*288
			Upstream of Ebin Street	*330
		Ivy Brook	Confluence with Huckleberry Brook	*300
			Approximately 1,400 feet downstream of Silver Hill Road	*316
			Approximately 1,300 feet upstream of Silver Hill Road	*333

Maps available for inspection at the Town Hall, 52 Main Street, Milford, Massachusetts.

Massachusetts	Tisbury, Town, Dukes County (FEMA Docket No. 6521).	Vineyard Sound	Shoreline at Memphremagog Avenue (extended)	*13
			Shoreline at Minnesota Street (extended)	*13
		Lake Tashmoo	Shoreline at Lake Street (extended)	*11
		Vineyard Haven Harbor	Shoreline at Grove Avenue (extended)	*12
			Approximately 650 feet east of intersection of Lagoon Pond Road and shoreline at Cronig Way (extended)	*10
		Lagoon Pond	Shoreline at Weaver Lane (extended)	*12

Maps available for inspection at the Tisbury Town Hall and the Town Hall Annex, Tisbury, Massachusetts.

Michigan	(C) Midland, Midland and Bay Counties (Docket No. FEMA-6485).	Tittabawassee River	About 900 feet downstream of Consumers Power Railroad	*610
			At upstream corporate limits	*617
		Chippewa River	Mouth at Tittabawassee River	*615
			At upstream corporate limits	*617
		Sturgeon Creek	At confluence with Tittabawassee River	*618
			At upstream corporate limits	*618
		Inman Drain	At confluence with Sturgeon Creek	*618
			At upstream corporate limits	*618
		Snake Creek	At confluence with Tittabawassee River	*618
			About 150 feet downstream of Crescent Drive	*618
			Just upstream of Saginaw Road	*626
			Just upstream of Wheeler Road	*630
			At East Wackerly Road	*637

Maps available for inspection at the City Hall, 202 Ashman Street, Midland, Michigan.

Minnesota	(C) Worthington, Nobles County (Docket No. FEMA-6218).	County Ditch No. 12	About 3,500 feet downstream of U.S. Highway 59	*1,561
			Just downstream of U.S. Highway 59	*1,566
			Just upstream of U.S. Highway 59	*1,568
			Just downstream of Interstate 90	*1,569
			Just upstream of Interstate 90	*1,572
			Just downstream of diversion with Whiskey Ditch	*1,578
		Whiskey Ditch	At confluence with Okabena Lake	*1,579
			Just downstream of Oxford Street	*1,584
			Just upstream of Oxford Street	*1,586
		Okabena Creek	At diversion with County Ditch No. 12	*1,586
			Just downstream of Interstate 90	*1,590
		County Ditch No. 6	About 1,250 feet downstream of U.S. Highway 59	*1,570
			Just upstream of Sherwood Street	*1,574
		West Inlet Creek	At confluence with Okabena Lake	*1,579
			Just downstream of County Highway 10	*1,582
			Just upstream of County Highway 10	*1,585
			Just downstream of Fox Farm Road	*1,585
		Lake Okabena	At Shoreline	*1,579

Maps available for inspection at City Hall, Worthington, Minnesota.

New York	Rotterdam, Town, Schenectady County (FEMA Docket No. 6509).	Mohawk River	Downstream corporate limits	*232
			Upstream of State Route 103	*251
			Upstream corporate limits	*258

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Sandsea Kill	Confluence with Mohawk River	*256
			Upstream of Interstate Route 90	*274
			Upstream corporate limits	*318
		Normans Kill	Downstream corporate limits	*276
			Upstream Giffords Church Road	*278
			Upstream corporate limits	*292

Maps available for inspection at the Town Hall, 1100 Vinewood Avenue, Rotterdam, New York.

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 [33 FR 17804, November 28, 1968], as amended; 42 U.S.C. 4001-4128; and Ex. O. 12127, 44 FR 19367)

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

January 31, 1984.

[FR Doc. 84-3860 Filed 2-9-84; 8:45 am]

BILLING CODE 6718-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[OW-FRL-2504-3]

General Pretreatment Regulations for Existing and New Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On September 20, 1983, the United States Court of Appeals for the Third Circuit issued an opinion in the case of *National Association of Metal Finishers, et al. v. EPA* (Nos. 79-2256, et al.). The suit involved challenges to various provisions of the General Pretreatment Regulations (40 CFR Part 403) and the electroplating categorical pretreatment standards (40 CFR Part 413). The court upheld the electroplating standards and several of the pretreatment provisions. However, the court remanded to the Agency several other of the challenged pretreatment sections. Those remanded were the definitions of "new source" (§ 403.3(k)), "interference" (§ 403.3(i)) and "pass through" (§ 403.3(n)), and the fundamentally different factors (FDF) variance provision (§ 403.13).

In accordance with the court's ruling, EPA is today taking the following final actions. First, EPA is suspending the regulatory definitions of "new source," "interference" and "pass through." Second, EPA is making a technical amendment to the pretreatment FDF provision to conform that section to the court's decision.

DATE: The effective date of this action is February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Craig Jakubowicz, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 426-4793.

SUPPLEMENTARY INFORMATION:

1. Background

On June 26, 1978, EPA promulgated the General Pretreatment Regulations establishing mechanisms and procedures for controlling the introduction of wastes from industry and other non-domestic sources into publicly owned treatment works (POTWs) (43 FR 27736). Following promulgation, several parties brought actions in Federal court challenging these regulations. On January 28, 1981, pursuant to the terms of a settlement agreement entered into by some of the parties, EPA promulgated amendments to the 1978 regulations (46 FR 9404). After some delay of the effective date of these amendments, EPA did, in response to a court order, put all of them into effect retroactive to March 30, 1981 (47 FR 42688, September 28, 1982).

On September 7, 1979, EPA promulgated the electroplating categorical pretreatment standards (40 CFR Part 413, 44 FR 52590). Following promulgation, several parties filed suits challenging the regulations. On March 7, 1980, EPA entered a settlement agreement with several parties, and pursuant to that agreement, EPA proposed several amendments to the electroplating standards (45 FR 45322, July 3, 1980). On January 28, 1981, final amendments to the electroplating pretreatment standards were promulgated (46 FR 9462). The deadlines for compliance with these standards are April 7, 1984 for non-integrated electroplating facilities, and June 30, 1984 for integrated electroplating facilities.

Various parties challenged the pretreatment regulations and the electroplating categorical pretreatment standards. All the cases were consolidated in *National Association of Metal Finishers (NAMF) et al. v. EPA* (Nos. 79-2256, et al.) in the United States Court of Appeals for the Third Circuit.

The pretreatment provisions challenged in the litigation were the definitions of "new source" (§ 403.3(k)), "interference" (§ 403.3(i)) and "pass through" (§ 403.3(n)), the combined wastestream formula (403.6(e)), the removal credits provision (§ 403.7) and the FDF variance provision (§ 403.13). On September 20, 1983, the Third Circuit issued its decision in this litigation. In its ruling, the court upheld the electroplating standards, the combined wastestream formula and the removal credits provision. However, the court remanded to the Agency the challenged definitions and the FDF provision of the General Pretreatment Regulations.

2. Suspension of the Definitions

Section 403.3(k)(2) of the General Pretreatment Regulations defined a "new source" as any source whose construction commenced after proposal of a categorical pretreatment standard applicable to such source, *but only if* the standard was promulgated within 120 days of its proposal. The Third Circuit held that the 120 day limitation cannot be reconciled with § 306(a)(2) of the Clean Water Act (CWA), and therefore remanded to the Agency the regulatory definition of new source.

Section 403.3(i) of the regulations defined "interference" as "an inhibition or disruption of the POTW, its treatment processes or operation, or its sludge processes, use or disposal which is a cause of or significantly contributes to" either a violation by the POTW of its NPDES discharge permit or prevention of sewage sludge use or disposal by the POTW. The regulatory provision specifically defined the subsidiary term "significantly contributes." Petitioners in the pretreatment litigation challenged the incorporation of the "significant contribution" concept into the definition of "interference" on the ground that it was contrary to the intent of the Clean Water Act because it could render an industrial discharger liable for interference even if its discharges did not cause the POTW permit violation or sludge problem. The court held that neither the language of the Act nor the

intent of Congress appears to contemplate liability without causation. Thus, the court also remanded the definition of interference.

The "pass through" definition in § 403.3(n) was challenged on procedural grounds. Petitioners argued that the definition was never proposed, thus eliminating the opportunity for public comment. EPA had conceded this procedural error and requested the court to remand the definition to the Agency. The court did remand the provision, and chose not to review the substance of the definition on its merits.

By today's action EPA is suspending the current definitions of new source, interference and pass through as they appear in the General Pretreatment Regulations. Revised definitions will be proposed in the near future in a separate rulemaking.

3. Technical Amendment to the FDF Provision

Section 403.13 of the General Pretreatment Regulations established the criteria and procedures for a FDF variance. The variance would be an adjustment, on a case-by-case basis, to the discharge limits in a categorical pretreatment standard as it applies to an individual indirect discharger if data specific to that indirect discharger indicate it presents factors fundamentally different from those considered by EPA in developing the categorical standard in question.

This provision was challenged in the pretreatment litigation on the grounds that EPA had no authority under the Clean Water Act to grant FDFs pretreatment standards, and that such a variance was contrary to § 301(l) of the Act. The court did not rule on whether EPA generally has authority to grant FDF variances from pretreatment standards. It held, however, that § 301(l) of the Act forbids modification of toxic pollutant discharge limits. Thus, it held that EPA cannot grant a FDF variance for a toxic pollutant regulated in a pretreatment standard. The court remanded the FDF provision to EPA.

In response to the court's ruling, EPA today is making a technical correction to § 403.13 of the General Pretreatment Regulations. The change will make clear that the pretreatment FDF variance provision is not available for toxic pollutants. FDF variances, therefore, are only possible for non-toxic pollutants regulated in a categorical pretreatment standard.

Executive Order 12291

Under Executive Order 12291, EPA

must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. These changes do not satisfy any of the criteria specified in § 1(b) of the Executive Order and, as such, do not constitute a major rulemaking.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, EPA must submit a copy of any rule that contains a collection of information requirements to the Director of OMB for review and approval. These changes contain no additional information collection requests and, therefore, the Paperwork Reduction Act is not applicable.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*, EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of all proposed rules on small entities. Although this rule is not subject to this requirement because it is not being proposed, EPA has determined that the rule will not have a significant economic impact on a substantial number of small entities.

Final Agency Action and Effective Date

Today's action constitutes final Agency action. EPA has determined that this action does not necessitate notice and comment under the Administrative Procedure Act (APA), 5 U.S.C. § 551 *et seq.*, because it is being taken to respond to the court's decision in *NAMF et al. v. EPA*. Delay in compliance with the court's ruling would not be in the public interest. Therefore, good cause exists for taking this final action without providing for notice and comment as prescribed by the APA. For the same reason, the Agency has determined that good cause exists for the final action taken today to become effective immediately.

List of Subjects in 40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: February 1, 1984.

William D. Ruckelshaus,
Administrator.

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES

For the reasons set out in the preamble, 40 CFR Part 403 is revised as follows:

1. The authority citation for part 403 reads as follows:

Authority: Section 54(c)(2) of the Clean Water Act of 1977 (Pub. L. 95-217), Sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(j)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405 and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92-500), as amended by the Clean Water Act of 1977.

2. In § 403.3, paragraphs (i), (k) and (n) are suspended until further notice.

3. Section 403.13 is amended by revising paragraph (b) to read as follows:

§ 403.13 Variance from categorical pretreatment standards for fundamentally different factors.

(a) * * *

(b) **Purpose and scope.** (1) In establishing categorical Pretreatment Standards for existing sources, the EPA will take into account all the information it can collect, develop and solicit regarding the factors relevant to pretreatment standards under section 307(b). In some cases, information which may affect these Pretreatment Standards will not be available or, for other reasons, will not be considered during their development. As a result, it may be necessary on a case-by-case basis to adjust the limits in categorical Pretreatment Standards, making them either more or less stringent, as they apply to a certain Industrial User within an industrial category or subcategory. This will only be done if data specific to that Industrial User indicates it presents factors fundamentally different from those considered by EPA in developing the limit at issue. Any interested person believing that factors relating to an Industrial User are fundamentally different from the factors considered during development of a categorical Pretreatment Standard applicable to that User and further, that the existence of those factors justifies a different discharge limit than specified in the applicable categorical Pretreatment Standard, may request a fundamentally different factors variance under this section or such a variance request may be initiated by the EPA.

(2) A fundamentally different factors variance is not available for any toxic pollutant controlled in a categorical Pretreatment Standard.

* * * * *

[FR Doc. 84-3689 Filed 2-9-84; 8:45 am]
BILLING CODE 6560-50-M

Proposed Rules

Federal Register

Vol. 49, No. 29

Friday, February 10, 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 1097

Milk in the Memphis, Tennessee, Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend a portion of the base computation provisions of the seasonal base and excess plan for paying producers under the Memphis, Tennessee, milk order for the months of March through July 1984. The proposed action would suspend the requirement that bases for producers be computed by dividing each producer's deliveries during the base-making period of September-January by a minimum of 120 days. The suspension was requested by Malone and Hyde, the operator of a fluid milk plant that recently became regulated under the Memphis order. Proponent indicates that the proposed suspension is needed to provide a more equitable allocation of base and excess milk among producers supplying its plant and that such action would not have any significant impact on the computation of bases for other producers currently supplying handlers regulated under the Memphis order.

DATE: Comments are due on or before February 17, 1984.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building; U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator,

Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would tend to provide a more equitable allocation of base and excess milk among a large number of dairy farmers supplying a plant that became regulated under the Memphis order on January 1, 1984, 4 months after the start of the base-making period under the Memphis order.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), suspension of the following provisions of the order regulating the handling of milk in the Memphis, Tennessee, marketing area is being considered for the months of March through July 1984:

In § 1097.92, the words "but not less than 120. In the case of producers delivering milk to a handler's plant which first became a fluid milk plant during or after the end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the handler's plant had been a fluid milk plant during such period."

All persons who want to send written data, views or arguments about the proposed suspension should send two copies to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 7th day after publication of this notice in the *Federal Register*. The period for filing comments is limited to seven days because a longer period would not provide the time needed to complete the required procedures to make the suspension effective for March 1984 if this is found necessary.

The comments that are received will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would eliminate for the months of March through July the requirement in the base computation section of the Memphis order that producer deliveries during the base-making period of September-January be divided by at least 120 days of production. Malone and Hyde, a fluid milk plant operator which first became regulated under the Memphis order in

January 1984, requested the suspension in order that approximately 225 producers delivering milk to the Malone and Hyde plant would be treated equitably in the issuance of producer bases and the resulting payments to producers for base and excess milk during the months of March through July 1984.

Malone and Hyde stated the suspension is needed to minimize the adverse impact on the bases of producers supplying its plant as a consequence of the plant's shift in regulation from the Nashville to Memphis, Tennessee, milk order. The handler's concern arises from the fact that, as a result of the plant's recent start-up, the average daily base of the 225 producers now supplying the plant would not be representative of their production during the base-making period. Some of the producers have been associated with the plant since October 31, 1983, when the plant began operating, while others have only recently associated their milk with the plant. Furthermore, none of the production history of these producers for the period of September 1, 1983 through October 30, 1983, can be utilized in the computation of their bases under the Memphis order because the Malone and Hyde plant did not start distributing milk until October 31, 1983. However, in the absence of any suspension action, each of the Malone and Hyde producers, despite having less than 120 days of delivery to Malone and Hyde, would have their daily base computed under the terms of the Memphis order by dividing their respective deliveries by 120 days. As a consequence, their resulting bases would not be representative of the producers' average daily milk production during the base-making period and the payments received by them for their base and excess milk from the Malone and Hyde plant for the months of March through July 1984 would be distributed inequitably among the producers delivering milk to that plant.

The handler states that in view of the individual handler pooling provisions of the Memphis order the suspension would have no impact on other producers supplying the Memphis order.

List of Subjects in 7 CFR Part 1097

Milk marketing orders, Milk, Dairy products.

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

Signed at Washington, D.C. on February 7, 1984.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 84-3835 Filed 2-9-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-115-AD]

Airworthiness Directives; McDonnell Douglas Model DC-8-70 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes a new airworthiness directive (AD) requiring replacement of certain thrust reverser hydraulic control units (HCU's) installed on the inboard thrust reversers on McDonnell Douglas Model DC-8-70 series airplanes. This action is necessary to correct a design deficiency in certain HCU's, and prevent a situation where the thrust reversers cannot be stowed following an in-flight deployment. This action would supersede an existing AD applicable to the same components.

DATES: Comments must be received no later than Mar. 10, 1984. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen P. Kolb, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2835.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption "AVAILABILITY OF NPRMS". All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-115-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Airworthiness Directive AD 82-19-51 RI, Amendment 39-4714, was published in the *Federal Register* September 6, 1983, (48 FR 40212), applicable to McDonnell Douglas Model DC-8-70 series airplanes, requiring a revision to the limitations section of the FAA approved Airplane Flight Manual (AFM). This revision to the (AFM) applies to airplanes with P/N C24466000 Thrust Reverser Hydraulic Control Units (HCU's) installed on inboard thrust reversers and remains in effect until those HCU's are replaced with P/N C24466000/-2, P/N C24466001-2 or other FAA approved units. These modified HCU's incorporate features to prevent malfunction of the emergency stow system if main aircraft hydraulic system pressure to the thrust reversers is lost. The AFM revision was required as an interim procedure for operation of thrust reversers with a design deficiency, and further corrective action is considered necessary. The proposed AD will require HCU replacements and eliminate the need for the special AFM procedures.

Cost for replacement and rework of affected HCU's are covered by the manufacturers warranty. For this reason, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of

the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDonnell Douglas: Applies to certain McDonnell Douglas Model DC-8-70 series airplanes equipped with P/N C24466000 Thrust Reverser Hydraulic Control Units (HCU's) on the inboard thrust reversers, certificated in all categories.

Compliance required as indicated in the body of this AD, unless previously accomplished:

A. Replace P/N C24466000 HCU's on both inboard (#2 & #3) engine thrust reversers with P/N C24466000/-2, P/N C24466001-2 or other FAA approved units, prior to May 1, 1984. The AFM limitations required per AD 82-19-51 RI, Amendment 39-4714 may be removed after HCU's are replaced on all aircraft in each operator's fleet.

Note.—P/N C24466000 HCU's can be modified to P/N C24466000/-2 in accordance with CFM Service Bulletin (CFM-56-2) 78-057, dated March 30, 1982, or later FAA approved revisions.

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

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

This supersedes Amendment 39-4714 (48 FR 40212), AD 82-19-51.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

(Sections 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 11.85)

Note.—For the reasons discussed earlier in the preamble: The FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the

Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, small entities operate DC-8-70 airplanes. A regulatory evaluation has been prepared and has been placed in the public docket. Issued in Seattle, Washington on January 26, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-3619 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-NM-01-AD]

Airworthiness Directives; McDonnell Douglas Model DC-10 and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require an inspection and torque check of the six bolts which attach the forward and aft cylinders to the trunnion block assemblies on the inboard aileron actuator control assemblies on McDonnell Douglas Model DC-10 series airplanes. Actuators have been found having loose and broken bolts which if not corrected could result in fluid leakage and rapid loss of pressure in two hydraulic systems. This AD is needed to minimize the possibility of dual hydraulic system failure which would reduce the capability of the flight control system.

DATES: Comments must be received on or before March 26, 1984.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert L. Thompson, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption "AVAILABILITY OF NPRMS." All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-01-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: On March 4, 1983, during a routine maintenance check by an operator of a DC-10-10 aircraft, three of the six bolts attaching the main ram cylinders to the actuator trunnion block of the right-hand inboard aileron actuator, P/N 200900-5011, S/N 308, were found to have failed. The heads on the failed bolts were separated from the shank but still attached to the actuator by lockwire. A gap or separation was observed between the cylinders and the block. There was no hydraulic leakage. The actuator was an original installation on the aircraft and had accumulated 24,615 flight hours and 9,959 flights. The actuator was removed and subsequent investigation revealed the following.

(1) Failure of the three actuator assembly bolts was initiated by fatigue rupture with multiple origins in the head to shank fillet radius of each bolt.

(2) All the bolts were magnetic particle inspected to find any additional cracks. A circumferential crack with a depth of .030 inch was found in the head to shank fillet radius of bolt No. 2. The crack exhibited a fracture morphology typical of fatigue rupture.

(3) Neither the failed bolts nor the unfailed bolts revealed any evidence of material, processing, or dimensional discrepancies.

(4) The main control valve was tested for excessive phasing pressure. The maximum phasing pressure was 4500 PSI, as compared to a maximum

pressure of 3900 PSI for a new unit. The 4500 PSI phasing pressure is substantially below the design snubbing pressure of 5578 PSI and is not considered to have contributed in any significant manner to the fatigue failure.

Four additional in-service actuators, serial numbers 306, 307, 309, and 310, have had torque checks of the affected nuts and bolts. These four actuators had not been overhauled; therefore, the associated bolts had not been touched since production. The original component manufacturer's production safety wire was intact and any torque stripes still visible were intact. Only five of the six bolts on each actuator were checked since the actuator manifold restricts access to the sixth bolt.

Actuator serial numbers 309 and 310 were found to have bolt torques above specified minimums and were considered serviceable. Serial number 306 was found to have four of the five bolts checked under minimum torque levels. All five bolts checked on serial number 307 were found under minimum acceptable levels. A review of service records indicated that actuator serial number 319, when removed due to an unassociated maintenance problem, was found to have one loose bolt and two bolts with low torque.

Douglas Aircraft Company issued an Operational Occurrence Report 10-8306, dated March 18, 1983, advising all DC-10 operators of the bolt failures. In addition, the actuator manufacturer has initiated a torque check of these bolts on actuators returned to them for service.

Variable bolt looseness is believed to have contributed to the reduced bolt fatigue life. It is not known if the bolt looseness was caused by assembly or service conditions. Actuators having loose bolts which are not corrected could result in fluid leakage and rapid loss of pressure in two hydraulic systems. This proposed AD would require initial visual inspections of the bolt condition and/or for a gap at the trunnion assembly and a subsequent torque check of the affected bolts to ensure bolt integrity and minimize the possibility of bolt failure. The proposed compliance times for the inspection and torque check are considered appropriate based upon all available data on the actuators inspected to date, a review of the actuator design parameters, and the resulting impact on overall airworthiness of the affected aircraft.

The estimated cost associated with the proposed AD are as follows: It is estimated that 181 U.S. registered airplanes would be affected by this AD, that it would take approximately 1.5 manhours per airplane to accomplish the

required inspection and 15.0 manhours per airplane to accomplish the required torque check, and that the average labor costs would be \$35 per manhour. The actual costs of parts necessary to accomplish the torque check are estimated to be \$80 per aircraft. Based on these figures, the total cost impact of this AD on the U.S. fleet is estimated to be \$1,439,891. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected since no small entities operate DC-10 airplanes.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposed to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10-10, -10F, -15, -30, -30F, -40, and KC-10A (Military) series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To preclude the possibility of dual hydraulic system failure as a consequence of loose or broken inboard aileron actuator cylinder tie bolts, accomplish the following:

A. On inboard aileron actuator control assemblies, Parker Bertea Part Numbers 200900-5007, -5009, -5011, -5013, and 217300-5005:

1. Prior to the accumulation of 5000 flight hours since new or overhauled, or within the next 1000 flight-hours, whichever occurs later after the effective date of this AD; and at 1000 flight-hour intervals thereafter, until the accomplishment of paragraph A.2., below, perform the inspection outlined in the Accomplishment Instructions, Phase I, of McDonnell Douglas DC-10 Service Bulletin A27-196, dated December 7, 1983, and Parker Bertea Service Bulletin 200900/217300-27-102, dated November 15, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

2. Within the next 5000 flight-hours after the effective date of this AD, perform the torque check outlined in the Accomplishment Instructions, Phase II, of McDonnell Douglas DC-10 Service Bulletin A27-196, dated December 7, 1983, and Parker Bertea Service Bulletin 200900/217300-27-102, dated November 15, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA Northwest Mountain Region.

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

Note.—Aircraft which have been inspected in accordance with the procedures specified in paragraph A.1. above, or according to equivalent inspection procedures approved by the FAA Principal Maintenance Inspector (PMI) since March 1, 1983, are considered to have complied with the initial inspection requirements of this AD.

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

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

(Secs. 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 11.85).

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since no small entities operate DC-10 airplanes. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on January 26, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-3821 Filed 2-9-84; 6:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-AWP-6]

Proposed Amendment to VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend VOR Federal Airway V-460 to enhance the application of air traffic control separation procedures between en route IFR aircraft navigating on V-460 and military jet aircraft arriving and departing the Miramar Naval Air Station, San Diego, CA.

DATES: Comments must be received on or before March 27, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWP-6, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

William C. Davis, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. 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-AWP-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 NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR Federal Airway V-460 eastward approximately 30 degrees. This realignment would enhance the application of air traffic control separation procedures between en route aircraft operating under IFR and military jet aircraft arriving and departing Miramar Naval Air Station, San Diego, CA. Section 71.123 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

VOR Federal airways, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V-460 [Amended]

By deleting the words "via Julian, CA;" and substituting the words "via INT Poggi 062" and Julian, CA, 184° radials; Julian;" (Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Note.—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 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 Washington, D.C., on February 3, 1984.

Beauford A. Bancroft,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-3822 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Reopening of Public Comment Period on the Status of the Tennessee Permanent Regulatory Program

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

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the public comment period on Tennessee's implementation of its approved regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). On December 21, 1983, the Director, OSM, scheduled a public hearing and public comment period to provide an opportunity for interested persons to express their concerns on the implementation of the Tennessee program. On January 26, 1984, the hearing was held and on January 31, 1984, the comment period closed.

In accordance with a citizen group request, OSM is reopening the comment period for ten days to provide interested persons additional time to review the testimony presented at the hearing and to comment on the State's implementation of the approved regulatory program.

DATE: Public comments must be received before February 21, 1984, in order to be considered in the Director's findings on the status of the Tennessee permanent regulatory program.

ADDRESSES: Written comments should be sent to Knoxville, Tennessee Field Office, Office of Surface Mining, 520 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902.

Copies of the transcript for the hearing held January 26, 1984, are available for public inspection and copying during normal business hours at:

Office of Surface Mining, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240; Telephone: (202) 343-4728. Office of Surface Mining, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902; Telephone: (615) 523-9523.

FOR FURTHER INFORMATION CONTACT:

Carl C. Close, Special Assistant to the Assistant Director, Program Operations and Inspection, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone (202) 343-4225.

James Curry, Knoxville, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902; Telephone: (615) 523-9523.

SUPPLEMENTARY INFORMATION: On December 21, 1983, the Director, OSM, scheduled a public hearing and public comment period in accordance with the provisions of section 733 of OSM's regulations to provide an opportunity for interested persons to express their concerns on the implementation of the Tennessee regulatory program under SMCRA (48 FR 56403). On January 26, 1984, the hearing was held and on January 31, 1984, the comment period closed.

Information on the events leading up to the hearing, and on the purpose of the hearing and comment period, is contained in the December 21, 1983 Federal Register notice.

Following the hearing, a citizen group contacted OSM to request that the comment period be extended. In accordance with this request, OSM is reopening the comment period until February 21, 1984 to provide interested persons additional time to review the testimony presented at the hearing and to comment on the State's implementation of the approved regulatory program. Copies of the hearing transcript are available for public review at the OSM Administrative Record offices at the addresses listed above.

During the hearing OSM indicated that it would be providing to the Tennessee Division of Surface Mining (OSM) additional written questions concerning the State's implementation of the approved regulatory program. OSM also stated that these questions as well as DSM's written response would be placed in the administrative record and an opportunity provided for the public to review and comment on the information contained in these documents.

OSM has since decided that it will not ask DSM to respond to any additional questions. Comment is sought on the

information contained in the January 26, 1984 hearing transcript or on any aspect of Tennessee's performance pertinent to the Director's concerns about the Tennessee program which were outlined in the December 21, 1983 Federal Register referenced above.

Following a review by OSM of all available information including the hearing transcript, written presentations and written comments, the Director will publish his findings on the status of Tennessee's program implementation in accordance with the provisions of 30 CFR 733.120(e).

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

Dated: February 6, 1984.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 84-3237 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SWH-FRL 2526-5]

Maryland's Application for Interim Authorization, Phase II, Components B and C, Hazardous Waste Management Program; Public Hearing and Comment Period

AGENCY: Environmental Protection Agency, Region III.

ACTION: Notice of Public Hearing and Public Comment Period.

SUMMARY: Today EPA is announcing the availability for public review of the Maryland application for Phase II, Components B and C Interim Authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: The public hearing on Maryland's application is scheduled for Monday, March 12, 1984 at 7:30 p.m. The State of Maryland will participate in any public hearing held by EPA on this subject. Written comments on the Maryland Phase II, Components B and C, Interim Authorization application must be received by the close of business on Monday, March 19, 1984.

ADDRESSES: Copies of the Maryland Phase II, Components B and C Interim Authorization application are available during normal business hours at the following addresses for inspection and copying:

Maryland Department of Health and Mental Hygiene, Waste Management

Administration, 2nd Floor, O'Connor Building, 201 West Preston Street, Baltimore, Maryland 21201 (Contact: Bernard Bigham, Phone: 301/383-5740)
Office of Environmental Programs, Failing Complex, Rt. 8 and Naves Crossroad, Cumberland, Maryland 21502 (Contact: Robert Creter, Phone: 301/777-2370)

Waste Management Administration, Centerville, Multi-Service Center, 120 Broadway, Centerville, Maryland 21617 (Contact: John Chlada, Phone: 301/758-2221)

EPA Headquarters Library, 401 M Street, SW., Washington, D.C. 20460 (Phone: 202/382-5926)

U.S. EPA, Region III, Library, 2nd Floor, 6th and Walnut Streets, Philadelphia, PA 19106 (Contact: Diane McCreary, Phone: 215/597-0580)

Written comments should be sent to John Humphries, State Programs Section (3HW31), U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, PA 19106 (215/597-2863)

The public hearing will be held in the 1st Floor Auditorium, State Office Complex, 300 West Preston Street, Baltimore, Maryland, on Monday, March 12, 1984 at 7:30 p.m.

FOR FURTHER INFORMATION CONTACT: John Humphries, State Programs Section (3HW31), U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, PA 19106 (215/597-2863).

SUPPLEMENTARY INFORMATION: In the May 19, 1980 Federal Register (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

Phase I of the Federal program, published in the May 19, 1980 Federal Register (45 FR 33063), includes regulations pertaining to the identification and listing of hazardous wastes; standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities

before they receive permits. The State of Maryland received interim authorization for Phase I on July 8, 1981.

In the January 26, 1981 Federal Register (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Phase II of the Federal program includes permitting procedures and standards for hazardous waste management facilities. Component A, published in the Federal Register January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Maryland received Phase II, Component A interim authorization on November 23, 1983.

The permitting standards for hazardous waste incinerators (Phase II, Component B), were published in the Federal Register on January 23, 1981 (46 FR 7666). Component C, published in the Federal Register on July 26, 1982 (47 FR 32274), contains standards for permitting the land disposal of hazardous wastes in surface impoundments, waste piles, land treatment facilities and landfills. The State of Maryland is applying for Phase II, Components B and C, Interim Authorization which would enable them to operate their hazardous waste incineration and land disposal permit programs in lieu of the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 271, Subpart B, as amended by 48 FR 14248.

As noted in the May 19, 1980 Federal Register, copies of complete state submittals for Phase II interim authorization are to be made available for public inspection and comment.

Compliance with Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The notice effectively continues the applicability of certain Federal regulations in Maryland. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority

This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Dated: February 7, 1984.

Thomas P. Eichler,

Regional Administrator.

[FR Doc. 84-3847 Filed 2-9-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 655**

[Docket No. 40207-11]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of preliminary initial specifications and request for comments.

SUMMARY: NOAA issues this notice to propose preliminary initial specifications for the 1984-1985 fishing year for Atlantic mackerel, squid, and butterfish; comments are invited on these specifications. Regulations governing these fisheries require the Secretary of Commerce (Secretary) to publish preliminary initial specifications. This action will provide data and requests comments for the agency's determination of the initial specifications for the 1984-1985 fishing year.

DATE: Comments must be received on or before March 12, 1984.

ADDRESS: Send comments to Salvatore A. Testaverde, Northeast Regional Office, NMFS, NOAA, State Fish Pier, Gloucester, MA 01930-3097. Mark on the outside of the envelope, "Comments on MAC/SQU/BUA—Annual Specifications."

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600, extension 273.

SUPPLEMENTARY INFORMATION: The Director, Northeast Region (RD), National Marine Fisheries Service (NMFS), approved Amendment No. 1 to the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) on December 9, 1983. Final regulations to implement Amendment 1 to the FMP were published January 4, 1984 (49 FR 402), and were effective on February 7, 1984. Section 655.22(b) requires the Secretary to publish a notice specifying the preliminary initial annual amounts of the respective optimum yields (OYs), as well as the amounts for domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), total allowable levels of foreign fishing (TALFFs), and reserves (if any) for Atlantic mackerel, *Illex* and *Loligo* squids, and butterfish. Procedures for determining the initial annual amounts are found at § 655.21. The Secretary is required to publish this notice by February 1 of each year and to provide for a 30-day comment period on

the preliminary specifications. These specifications are based on information submitted by the Mid-Atlantic Fishery Management Council (Council), including an analysis of the nine factors on which the initial squid specifications are based. The Council's recommendations and other relevant data are available for inspection at the regional office at the above address during the comment period. Recommendations by the New England Fishery Management Council were also considered. A notice of final determination of the initial amounts and responses to public comments will be published in the **Federal Register** after the conclusion of the comment period.

Specifications

The following Table lists the preliminary initial specifications in metric tons (mt) for the Allowable Biological Catch (ABCs), Initial OYs, DAHs, Domestic Annual Processing (DAPs), Reserve(s) and TALFFs for *Illex* and *Loligo* squids, Atlantic mackerel, and butterfish. These initial specifications are the amounts that the RD proposes for the 1984-1985 fishing year.

PRELIMINARY INITIAL SPECIFICATIONS FOR 1984-85

[In metric tons]

Species	ABC	IOY	DAH	DAP	JVP	Reserve	TALFF
Squid:							
<i>Loligo</i>	44,000	17,500	16,000	13,000	3,000	0	1,500
<i>Illex</i>	30,000	12,600	11,000	8,000	3,000	0	1,600
Atlantic mackerel.....	87,000	¹ 83,500	¹ 26,500	7,300	13,400	28,500	28,500
Butterfish.....	16,000	(²)	11,000	11,000		0	³ 500

¹ These amounts may be increased by 3,500 mt based upon domestic performance; DAH includes 5,800 mt for the recreational mackerel fishery.

² This amount will be increased as reserves of hakes and mackerel are reallocated.

³ Up to 16,000.

Although squid TALFF amounts have essentially been lowered to incidental catch levels only, except when allocations could benefit the U.S. industry, foreign nations should note the potential for increasing TALFFs and receiving allocations if suitable "fish and chips" agreements or JVs are developed. Since the foreign fisheries for

Illex will not resume in the northwestern Atlantic Ocean until June 15th, foreign nations can plan their fishing agreements for the summer-fall *Illex* fishery. The fishing season for *Loligo* will not begin until April 1 and foreign nations have similar opportunities to plan their fishing.

Classification

This action is authorized by 50 CFR Part 655, and complies with E.O. 12291. (16 U.S.C. 1801 *et seq.*)

Dated: February 7, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc 84-3763 Filed 2-7-84; 4:55 pm]

BILLING CODE 3510-22-M

50 CFR Part 655

[Docket No. 30104-201]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; technical amendments and request for public comment.

SUMMARY: This document proposes technical amendments to the rule implementing Amendment 1 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries that was proposed on October 24, 1983, at 48 FR 49077, and published as final on January 4, 1984 at 49 FR 402, and is requesting comments from the public. Paragraphs of § 655.21 Allowable levels of harvest differ from the Council-submitted text for Amendment 1. The intent is to correct the regulations so that the method of determining allowable levels of harvest for Atlantic mackerel is stated as the Council intended. A 15-day comment period is provided to allow the public an opportunity to comment beyond the previous 75-day period provided for this amendment and its proposed rule.

DATE: Comments should be submitted on or before February 23, 1984.

ADDRESS: Send comments to Salvatore A. Testaverde, Plan Coordinator, National Marine Fisheries Service, State Fish Pier, Gloucester, MA 01930-3097.

FOR FURTHER INFORMATION CONTACT:

Salvatore A. Testaverde, 617-281-3600.

Dated: February 7, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

It is proposed to amend 50 CFR 655.21 as follows:

1. A new sentence is added to the end of the introductory text of paragraph (b)(2) to read as follows, and

2. In paragraph (b)(2)(ii), the introductory text of (A), (A)(1) and (A)(2) are revised; (B) is revised, and the introductory text of (C) and (C)(2) are revised to read as follows:

§ 655.21 Allowable levels of harvest.

* * *

(b) * * *

(2) *Atlantic mackerel.* * * * Terms used in specifying mackerel OY, DAH, DAP, and TALFF are:

C=estimated mackerel catch in Canadian waters for the upcoming fishing year

US=estimated U.S. mackerel catch for the upcoming year

S=mackerel spawning-stock size in the year after the upcoming fishing year

Bycatch=2% of allocated portion of the silver hake TALFF and 1% of the allocated portions of the *Loligo*, *Illex*, and red hake TALFFs

AC=acceptable catch in U.S. waters for the upcoming fishing year
T=total catch in all waters (US and Canadian) for the upcoming fishing year

* * *

(ii) * * *

(A) If AC is less than 30,000 mt, and US is less than 30,000 mt, then:

(1) TALFF equals Bycatch.

(2) DAH equals US minus Bycatch (to the extent necessary).

* * *

(B) If AC is greater than or equal to 30,000 mt, and US is less than 30,000 mt, then:

(1) *TALFF plus reserve.* If OY minus DAH is less than 10,000 mt, then TALFF equals OY minus DAH (but no less than the fixed percentages specified in paragraph (b)(2)(i)(A) of this section), and there is no Reserve. If OY minus initial DAH is greater than or equal to 10,000 mt, then the difference between OY and initial DAH is divided evenly between TALFF and Reserve.

(2) OY equals AC minus (30,000 mt minus US).

(3) DAH equals US minus Bycatch (to the extent necessary).

(C) If AC is equal to or greater than 30,000 mt, and US is equal to or greater than 30,000 mt then:

(1) * * *

(2) DAH equals US minus Bycatch (to the extent necessary).

* * *

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

[FR Doc. 84-3764 Filed 2-8-84; 12:07 pm]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 49, No. 29

Friday, February 10, 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

Forest Service

Apache National Forest Grazing Advisory Board; Meeting

The Apache National Forest Grazing Advisory Board will meet at 10:00 a.m., April 9, 1984 at the Alpine Ranger District Office, Alpine, Arizona. The purpose of this meeting is to include a discussion on expenditures of Range Betterment Funds for the Apache National Forest. Discussion of Allotment Management Planning will be included.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, P.O. Box 640, Springerville, Arizona 85938, (602) 333-4301. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation: any interested persons besides the Advisory Board Members are welcome to attend and will be afforded the opportunity to speak after being duly recognized by the Chairman of the Board.

Dated: February 2, 1984.

Nick W. McDonough,
Forest Supervisor.

[FR Doc. 84-3643 Filed 2-9-84; 8:45 am]

BILLING CODE 3410-11-M

Sitgreaves National Forest Grazing Advisory Board; Meeting

The Sitgreaves National Forest Grazing Advisory Board will meet at 10:30 a.m., March 12, 1984 at the Maxwell House in Show Low, Arizona. The purpose of this meeting is to include a discussion on expenditures of Range Betterment Funds for the Sitgreaves National Forest. Discussion of Allotment Management Planning will be included.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, P.O. Box 640, Springerville, Arizona 85938, (602) 333-4301. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation: any interested persons besides the Advisory Board Members are welcome to attend and will be afforded the opportunity to speak after being duly recognized by the Chairman of the Board.

Dated: February 2, 1984.

Nick W. McDonough,
Forest Supervisor.

[FR Doc. 84-3644 Filed 2-9-84; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Northeast Guilford Critical Area Treatment, RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Northeast Guilford Critical Area Treatment RC&D Measure, Guilford County, North Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755-4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the

preparation and review of an environmental impact statement are not needed for this project.

This measure concerns treating critical eroding areas in a 35,400 acre region in Northeast Guilford County. Implementation of this measure will maintain the resource productivity of the agricultural land and will improve water quality of receiving streams.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Executive Order 12372, "Intergovernmental Review of Federal Programs" is applicable)

Dated: February 2, 1984.

Coy A. Garrett,

State Conservationist.

[FR Doc. 84-3642 Filed 2-9-84; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Filed under subpart Q of the board's procedural regulations.

Week ended February 3, 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 proceedings. (See 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
Jan. 30, 1984	41967	Lineas Aereas Costarricenses, S.A. (LACSA), c/o Robert D. Papkin, Squire, Sanders & Dempsey, 1201 Pennsylvania Avenue NW., Washington, D.C. 20004. Application of LACSA pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations applies for amendment of the foreign air carrier permit issued to it pursuant to Order 80-4-143 to add Panama City, Panama, as an additional intermediate point and San Juan, Puerto Rico, as an additional coterminal point on the existing route of that permit. Answers may be filed by February 27, 1984.
Jan. 31, 1984	41968	Virgin Island Air Services, Inc., c/o Harry A. Bowen, Bowen and Atkin, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006. Application of Virgin Island Air Services, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate to engage in scheduled interstate and overseas air transportation of persons, property, and mail between all points in the United States, its territories, and possessions. Conforming Applications, Motions, to Modify Scope and Answers may be filed by February 28, 1984.
Do	41969	First Cabin Airlines, Inc., c/o Stephen D. Potts, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20006. Application of First Cabin Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity to provide interstate and overseas scheduled air transportation and for a fitness determination. Conforming Applications, Motions, to Modify Scope and Answers may be filed by February 28, 1984.
Feb. 2, 1984	41972	40-Mile Air, Ltd., c/o Charles M. Warbelow, Post Office Box 539, Tok, Alaska 99780. Application of 40-Mile Air, Ltd., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail within the State of Alaska between the terminal point of Fairbanks, the intermediate points of Delta Junction/Fort Greely, Tanacross, Tetlin, Chicken, Boundary, and Eagle, and terminal point of Tok. Conforming Applications, Motions to Modify Scope and Answers may be filed by March 1, 1984.
Jan. 30, 1984	41777	Transporte Aereo Rioplatense S.A.C. et., c/o Paul Riber, 67 Whittier Avenue, McLean, Virginia 22101. Supplemental Exhibits to the Application of Transporte Aereo Rioplatense S.A.C. et., for a Renewal of its Foreign Air Carrier Permit. Answers may be filed by February 28, 1984.
Do	41776	Aerotransportes Entre Rios S.R.L. (AER), c/o Paul Riber, 6714 Whittier Avenue, McLean, Virginia 22101. Supplemental Exhibits to the Application of Aerotransportes Entre Rios S.R.L. (AER) for a Renewal of its Foreign Air Carrier Permit. Answers May be filed by February 28, 1984.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-3769 Filed 2-9-84; 8:45 am]

BILLING CODE 6320-01-M

Fitness Determination of Wheeler Flying Service, Inc. d.b.a. Wheeler Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84-2-14, Order to Show Cause.

SUMMARY: The Board is proposing to find that Wheeler Flying Service, Inc. d/b/a Wheeler Airlines 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. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than February 28, 1984, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Patricia T. Szrom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-2-14 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 84-2-14 to that address.

By the Civil Aeronautics Board: February 3, 1984.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-3766 Filed 2-9-84; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Appointments of Individuals To Serve as Members of the Performance Review Board—Senior Executive Service

The Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4) requires that notice of the appointments of individuals to serve as members of performance review boards be published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of the performance review board for the United States Commission on Civil Rights for the rating year beginning October 1, 1982 and ending September 30, 1983.

Caroline Gleiter: Assistant Staff Director for Program and Policy Review, USCCR

Lawrence B. Glick: Solicitor, USCCR
Anthony W. Hudson: Staff Director, Personnel, Headquarters Defense Logistics Agency

Harriett Jenkins: Assistant Administrator for Equal Opportunity Programs, NASA
Bert Silver: Assistant Staff Director for Administration USCCR (Chair)

Linda Chavez,
Staff Director.

[FR Doc. 84-3694 Filed 2-9-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-201-018]

Certain Carbon Steel Products From Mexico; Preliminary Affirmative Countervailing Duty Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of certain carbon steel products. The estimated net bounty or grant is 4.98 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain carbon steel products from Mexico which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net bounty or grant.

If these investigations proceed normally, we will make our final determinations by April 18, 1984.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT:

Roland MacDonald, Paul Tambakis, Loc Nguyen or Melissa Skinner, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-5496.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Mexico of certain carbon steel products. For purposes of these investigations, the following programs are preliminarily found to confer bounties or grants:

- Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).
- Nacional Financiera, S.A. Loans (NAFINSA).
- Fund for Industrial Development (FONDI).
- Preferential Federal Tax Incentives (CEPROFI).
- Article 94 Loans.
- Accelerated Depreciation Allowance.

The estimated bounty or grant is 4.98 percent *ad valorem*.

Case History

On November 10, 1983, we received a petition from the United States Steel Corporation (U.S. Steel), Pittsburgh, Pennsylvania, on behalf of the certain carbon steel products industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Mexico of certain carbon steel products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act and that these imports are materially injuring, or threatening to materially injure, a U.S. industry.

We found the petition to contain sufficient grounds upon which to initiate such investigations, and on November 30, 1983, we initiated such investigations (48 FR 55012). We stated that we expected to issue preliminary determinations by February 3, 1984.

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore

section 303 of the Act applies to these investigations. Because the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Mexico in Washington, D.C., on December 16, 1983. On January 16, 1984, we received responses to the questionnaire.

Scope of Investigations

The products covered by these investigations are carbon steel structural shapes, galvanized carbon steel sheet, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, carbon steel plate in coil, carbon steel plate cut to length and small diameter carbon steel plate welded pipe (certain carbon steel products) which are described in Appendix I to this notice.

There are nine known producers and exporters in Mexico of certain carbon steel products which export to the United States. We have received information from the government of Mexico regarding Altos Hornos de México, S.A. (AHMSA); Fundidora Monterrey, S.A. (Fundidora); Tubacero, S.A.; Productos Tubulares de Monclova, S.A. (Protumsa); Campaña Siderúrgica de Guadalajara (CSG), S.A.; Galvak, S.A.; Hylsa, S.A.; Tubería Laguna, S.A. de C.V.; and Industrias Monterrey, S.A. (IMSA).

The period for which we are measuring benefits is the most recent fiscal or calendar year for which we have complete data. The period is calendar year 1982 for AHMSA, Fundidora, Protumsa, Tubacero, CSG, Galvak, and Hylsa; calendar year 1983 for Tubería Laguna; and fiscal year 1983 for IMSA. In their responses, the government of Mexico and respondents provided data for the applicable periods.

Analysis of Programs

Throughout this notice, we have applied to the facts of the current investigations general principles described in detail in Appendix II which follows that notice. As per Appendix II, we will use the national average commercial rate, identified as the Percentage Cost Captation Average (CPP) + 10 points (See "Preliminary Countervailing Duty Determination on Unprocessed Float Glass from Mexico," 48 FR 56095 for an explanation of this rate) as the benchmark for short-term borrowing. Because of the lack of information and time, we were unable to

develop company specific benchmarks for long-term loans. Therefore, we will use the CPP + 10 points as the best benchmark available.

For purposes of these preliminary determinations, we are calculating a country-wide *ad valorem* rate. We allocated benefits received during the period of investigation over the total sales value or export value, as appropriate, of all respondents.

We have consistently held that government provision of, or assistance in, obtaining capital or debt does not confer *per se* a subsidy. Government equity purchases or financial backing bestows a countervailable benefit only when it is on terms inconsistent with commercial considerations. To determine if such action is commercially unsound, we review and assess financial data for the company in question. Because of time constraints, we were unable to thoroughly assess each company's financial situation for these preliminary determinations. Before reaching our final determinations, we will conduct a considerably more comprehensive review, and also consider more fully what factors are relevant to a determination of inconsistency with commercial considerations. For these preliminary determinations only, we relied primarily on sales, cash flow, current, and debt-equity ratios to determine if government equity infusions, loans and loan guarantees were no inconsistent with commercial considerations. For loans and loan guarantees, we determined whether the company was "creditworthy," and in making this determination we focused on cash flow and other measures of each company's ability to meet its long-term debt obligations.

With regard to whether a company was a reasonable equity investment (a condition we have termed "equityworthiness"), we focused on profitability and the long term expectations for the company in question. Throughout the rest of this notice, we will use the term "creditworthiness" to refer to both the company's equityworthiness and creditworthiness even though the two are not precisely the same.

In these preliminary determinations, we assessed the creditworthiness from 1979 through 1982 of the companies the petitioner alleged to be uncreditworthy. Before reaching our final determinations, we will assess their creditworthiness in prior years to determine if residual benefits from those years were bestowed during the period of investigation. During that period, we

found Protumsa to be uncreditworthy and the remaining companies to be creditworthy.

Based upon our analysis of the petition and the responses to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Mexico of certain carbon steel products under the following programs:

A. FOMEX

FOMEX is a trust established by the government of Mexico to promote the manufacturer and sale of exported products. The fund is administered by the Mexican Treasury Department with the Bank of Mexico acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions which establish contracts for lines of credit with manufacturers and exporters. On July 27, 1983, FOMEX was formally incorporated into the National Bank of Foreign Trade.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the company must have majority Mexican capital; (3) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (4) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (5) the exporter must carry insurance against commercial risks to the extent of the loans. The maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent, available only in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent.

1. Loans to Producers

Protumsa, Hylsa and IMSA received short-term pre-export financing from FOMEX for exports to the U.S. of the subject merchandise. AHMSA, Fundidora, Protumsa, and IMSA received short-term export financing at 6 percent interest, available in U.S. dollars, from FOMEX for exports to the U.S. of certain carbon steel products during the period for which we are measuring bounties or grants. Hylsa received short-term financing at 4

percent interest from FOMEX for exports of certain steel products to the U.S. Since FOMEX pre-export and export financing provides loans for export-related purposes at interest rates significantly less than those for comparable commercially available loans, we preliminarily determine that this program confers a bounty or grant upon the exportation of certain carbon steel products.

We used as benchmarks for the commercial interest rate in Mexico the national average commercial rate for comparable short-term peso or dollar-denominated loans during the appropriated period. For peso loans, we used the CPP+10 points, as described *supra*. For dollar-denominated loans, we used interest information obtained from the U.S. Federal Reserve Board. Based on this information, we preliminarily determine that, during the appropriate periods, comparable peso-denominated loans were available commercially from 42.34 percent to 68.73 percent, and comparable dollar-denominated loans were available at 18.15 percent and 14.13 percent. For FOMEX pre-export and export loans, the Government of Mexico was able to identify the loans applicable to exports destined for the U.S.

We determined the benefits from these loans according to the methodology outlined in Appendix II. We allocated the amount of the benefits over the value of total U.S. exports of certain carbon steel products. We calculated a bounty or grant in the amount of 1.38 percent *ad valorem*.

2. Loans to U.S. Importers

U.S. customers of Hylsa receive FOMEX loans. The customer obtains a letter of credit in a U.S. bank, for which the customer pays a fee. The customer can then draw on the line of credit as purchases are made and the U.S. bank accepts the draft. Moreover, Mexican banks accept the same drafts and extend the loan to the customers. These same drafts are finally accepted by FOMEX. The repayment schedule is due in full in 180 days at 6 percent per annum interest. Since FOMEX financing provides loans for export-related purposes at interest rates significantly less than those for comparable commercially available loans, we preliminarily determine that this program confers a bounty or grant upon the exportation of certain carbon steel products.

We determined the benefit for these loans in the same manner as described *supra* for FOMEX loans denominated in dollars. We calculated a bounty or grant

in the amount of 0.18 percent *ad valorem*.

B. Nacional Financiera, S.A., Loans

AHMSA, Fundidora and Hylsa had outstanding loans from the Nacional Financiera, S.A. (NAFINSA), a government-owned development bank. Since NAFINSA provided short- and long-term debt financing for companies engaged in priority development areas and industries at interest rates less than those for comparable commercially available loans, we preliminarily determine that these loans confer a bounty or grant.

We determined the benefit from these loans according to the methodology outlined in Appendix II. For purposes of these preliminary determinations, we are using as our benchmark CPP+10 points, as described *supra*. We allocated the amount of the benefits over total sales value of certain carbon steel products and determined a bounty or grant of 1.05 percent *ad valorem*.

C. Fund for Industrial Development (FONEI)

FONEI is a specialized financial development fund, administered by the Bank of Mexico, which grants long-term credit at below market rates for the creation, expansion or modernization of enterprises in order to foster industrial decentralization and the efficient production of goods capable of competing in the international market. FONEI loans are available under various programs having different eligibility requirements.

Galvak, IMSA, and CSG had FONEI loans outstanding for the period for which we are measuring bounties or grants. These companies received loans for plant expansion.

FONEI loans for plant expansion are only available to companies located outside of Zone IIIA (Mexico City and environs). Because such loans are limited to particular geographic regions and are made at below market rates, we preliminarily determine that FONEI loans for plant expansion and equipment confer a bounty or grant upon respondents.

We determined the benefits from these loans according to the methodology outlined in Appendix II. For purposes of these preliminary determinations, we are using CPP+10 points as our benchmark, as described *supra*. We allocated the amount of benefits from these loans over total sales value of certain carbon steel products. We determined a bounty or grant in the amount of 0.02 percent *ad valorem*.

D. CEPROFI

CEPROFIs are tax credits used to promote National Development Plan (NDP) goals, which include increased employment, encouragement of regional decentralization, and industrial development, particularly of small- and medium-sized firms.

CEPROFI certificates are tax certificates of fixed value which may be used for a five-year period to pay federal taxes. Certain CEPROFI certificates are granted for carrying out investments in "priority" industrial activities; others are available to all industries on equal terms.

Certain carbon steel products producers received six types of CEPROFIs for carrying out investments in priority industrial activities. These CEPROFIs were for: the purchase of Mexican-made capital goods (CEPROFIs at 15 or 20 percent of the value of the good); increased employment; investment in new plant and capacity expansion; investment in machinery and equipment to increase productivity; mining and exploration; and rental contracts. Because these types of CEPROFIs are limited to a specific group of industries or to companies located in specific regions, we preliminarily determine that this program confers a bounty or grant.

Article 25 of the decree authorizing the issuance of CEPROFIs, published in the *Diario Oficial de la Federación* (*Diario Oficial*) on March 6, 1979, provides for a 4 percent supervision fee. All respondents received CEPROFI certificates over the period of investigation and paid the government this 4 percent fee for all CEPROFIs. We preliminarily determine that the 4 percent supervision fee is "paid in order to qualify for, or to receive" the CEPROFIs, and is therefore an allowable offset from the gross bounty or grant as defined by section 771(6)(A) of the Act. Therefore, the benefit provided by CEPROFIs is the amount of the certificate received less the supervision fee.

We allocated these CEPROFI benefits in 1982 over total sales of the merchandise under investigation. We determined a bounty or grant in the amount of 2.30 percent *ad valorem*.

E. Article 94 Loans

This program was titled "Encaje Legal" in prior investigations. A more accurate title is "Article 94 Loans."

Under section II of Article 94 of the *General Law of Credit Institutions and Auxiliary Organizations* (the Banking Law), the Bank of Mexico establishes channels of credit to different sectors of

economic activity. There are 12 categories of credit under section II. They are as follows:

1. Loans of any type, intended to finance production of basic articles.
 2. Loans of any type for small- and mid-size industry.
 3. Loans for working capital, equipment and installations for tenant farmers, or small farmers of low income, or for agro-industrial enterprises.
 4. Loans of any type for agriculture, aviculture, apiculture, fishing, livestock and related industries.
 5. Investments or loans intended to finance activities of economic development.
 6. Loans extended to brokerage firms.
 7. Bonds and stocks of firms described in the subject circular and other firms approved by the National Commission on Investments, which are widely held either actual or projected.
 8. Loans for constructing housing for families with minimum income.
 9. Loans for constructing Type-A housing for families with low income.
 10. Loans for constructing Type-B housing for families with medium income and/or for construction of rental housing.
 11. Loans for constructing mid-size housing.
 12. Loans to finance export of manufactured products, production and/or inventory of goods of national manufacture intended for sale abroad.
- Most categories carry their own maximum interest rate which is set by the Bank of Mexico. Loans granted under category 12 are targeted to exports of manufactured products. The maximum interest rate under this category is 8 percent.

One respondent, IMSA, received short-term loans under section II of Article 94. One loan was granted under category 12, which is available only for exports. Therefore, we preliminarily determine that this loan confers a bounty or grant because it was made at preferential interest rates and was targeted to exports. The other Article 94 loans received by IMSA are discussed in the "Programs for Which More Information is Needed" section of this notice, *infra*.

We determined the benefit from this loan according to the methodology outlined in Appendix II. For purposes of these preliminary determinations, we are using as our benchmark CPP+10 points, as described *supra*. We allocated the amount of the benefit over the total value of U.S. exports. On this basis, we calculated a bounty or grant of 0.05 percent *ad valorem*.

F. Accelerated Depreciation Allowance

Petitioner alleged that the carbon steel products industry benefited from federal income tax reductions through accelerated depreciation on the construction or purchase of plants, equipment, warehouses and other facilities.

For purposes of economic development, the income Tax Department may grant accelerated depreciation on the basis of geographical regions or industrial activities. The iron and steel industry is allowed to use accelerated depreciation.

Under normal tax depreciation schedules, machinery and equipment is subject to straightline depreciation over a 10-year period. Under such a schedule, 10 percent of the cost of the asset would be tax deductible in each of the 10 years. Under an accelerated schedule, 20 percent of the cost of eligible assets are tax deductible in each of five years. Tuberia Laguna used both the normal and accelerated depreciation schedules. We preliminarily determine that accelerated depreciation allowances for machinery and equipment confer a bounty or grant because such allowances are limited to a specific group of industries or to companies located in specific regions.

To calculate the benefit received by this program, we took the amount of tax savings realized by Tuberia Laguna, from accelerated depreciation and divided that by total 1983 sales of the merchandise under investigation. On this basis, we calculated a bounty or grant in the amount of less than 0.001 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Confer Bounties or Grants

We preliminarily determine bounties or grants are not being provided to manufacturers, producers, or exporters in Mexico of certain carbon steel products under the following programs:

A. Equity Infusions

Petitioner alleged that the government of Mexico has provided bounties or grants through equity infusions to Mexican steel companies—both directly and through the conversion of debt—on terms inconsistent with commercial considerations.

The responses state that AMHSA, Fundidora, Galvak and the company which owns Hylsa received equity infusions from the government of Mexico. We followed the guidelines outlined in Appendix II to determine whether the equity infusions were made on terms inconsistent with commercial considerations. Based on our review of

various financial ratios, operating results and other relevant data in each company's annual reports, we preliminarily determine that AMHSA, Fundidora, Galvak, the company which owns Hylsa, and Hylsa were reasonable commercial investments at the times made. Therefore, the equity infusions were not inconsistent with commercial considerations.

B. CEPROFI for Salary Adjustment, the Purchase of Mexican Manufactured Capital Goods, the Acquisition of Pollution Control Equipment, Importing Goods With Mexican Flag Vessels, and for Companies Providing Research and Development Services to Other Companies

The certain carbon steel products industry received CEPROFI for: adjusting salaries; purchasing Mexican made capital goods (CEPROFI at 5 percent of the value of the goods); acquiring pollution control equipment (*Diario Oficial*, November 26, 1980); importing goods with Mexican flag vessels; and funding research and development services to other companies (*Diario Oficial*, November 26, 1980). We preliminarily determine that these types of CEPROFI do not confer a bounty or grant because they are not limited to a specific industry, group of industries, or to companies located in specific regions of the country.

C. National Preinvestment Fund for Studies and Projects (FONEP)

Administered by the NAFINSA, FONEP finances such studies as economic, technical and feasibility studies, as well as basic and detailed engineering projects.

Two companies, Hylsa, and CSG, received FONEP loans for feasibility studies. Since the financing of such feasibility studies is available to all companies in Mexico, we preliminarily determine that these loans do not confer a bounty or grant.

D. Import Duty Reductions and Exemptions

Petitioner alleged that certain carbon steel products exporters receive import duty reductions or exemptions on equipment used in producing of exports. Two firms did receive some raw material in-bond for the production of exports of the merchandise under investigation. In the case of in-bond processing, a firm may import material duty-free under bond, but must export such material within a certain time limit or the importer must pay customs duty. We preliminarily determine that import duty reductions or exemptions on raw

materials received by Hylsa and IMSA do not confer a bounty or grant. The Department's regulations (paragraph 3, annex 1 of 19 CFR Part 355) provide that the non/excessive drawback, rebate or remission of duties on imported items physically incorporated in the final product is not a subsidy. Although the drawback, rebate or remission of duties on imported capital goods or items not physically incorporated (e.g., capital equipment) is a subsidy, none of the respondents have imported machinery, parts or equipment in-bond.

E. FONEI Loan for Pollution Equipment

One steel company, CSG, received a FONEI for the acquisition of environmental control equipment. In our final determination of *Portland Hydraulic Cement and Cement Clinker from Mexico* (48 FR 43063), we determined that FONEI loans for this purpose were not countervailable if the purchase of the equipment was necessary for a company to comply with federal antipollution requirements.

While some types of FONEI loans are restricted to industries located in specific regions of the country, this loan is not so limited. Any industry in Mexico is eligible to receive FONEI loans in order to comply with the anti-pollution requirements. Because this FONEI loan is not limited to exporters, to a specific enterprise or industry, or to a group of enterprises or industries, we preliminarily determine the FONEI loan for acquisition of environmental control equipment does not confer a bounty or grant.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs have not been used by producers or exporters of certain carbon steel products. Unless otherwise indicated, the basis for these preliminary determinations is the Mexican government's statement that producers and exporters of certain carbon steel products did not receive benefits under these programs.

A. Wage Controls

Petitioner alleged that state-owned Mexican producers of certain carbon steel products may benefit from labor at preferential rates. In its response, the Mexican government stated that it does not set any limit on wages.

B. State Investment Incentives

Certain Mexican states offer selected industries exemptions from state taxes, free or low cost land, or infrastructure improvements as incentives to establish

or expand industrial facilities and to export.

C. Port Facilities

Petitioner alleged that the Mexican government is constructing a special port to promote the export of certain carbon steel products by state-owned Mexican producers. In its response, the Mexican government stated that none of the companies under investigation has used specially constructed port facilities for exporting certain carbon steel products.

D. Guarantee and Development Fund for Medium and Small Industries (FOGAIN)

FOGAIN provides financing at interest rates below prevailing commercial rates to small- and medium-sized firms in Mexico.

E. Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN)

This program is aimed at developing industrial parks and cities.

F. Fondo Nacional de Fomento Industrial (FOMIN)

FOMIN operates as a trust fund, providing funding to certain small- and medium-sized companies by either buying stock or providing loans at rates below those of commercial lending institutions.

G. The Mexican Institute of Foreign Trade (IMCE)

IMCE was created by a law published on December 31, 1970, in the *Diario Oficial*. IMCE was organized primarily for the purpose of promoting Mexico's foreign trade and coordinating efforts to stimulate such trade. IMCE performs a number of functions including organizing and directing trade fairs abroad, promoting the visits of foreign trade missions to Mexico, carrying out investigations to identify national products or services which might be in demand abroad, and providing exporters with technical assistance.

H. Preferential Vessel, Freight, Terminal, and Insurance Benefits

Petitioner alleged that industries in Mexico may benefit from rebates or other discounts on transportation, storage, and insurance expenses involved in exporting products to the United States.

I. Government-Financed Technology Development

Petitioner alleged that certain Mexican industries may receive benefits under the NIDP, in the form of grants to

purchase technological services at new plants.

J. PROFIDE

PROFIDE has been established under the auspices of FOMEX to administer a new financing program to provide exporters with foreign currency financing needed for imports.

IV. Programs Determined To Be Suspended

We preliminarily determine that the following program has been suspended.

A. *Certificado de Devolución de Impuesto (CEDI)*

The *Certificado de Devolución de Impuesto (CEDI)* is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are used, a percentage of the c.i.f. value of the exported product. The CEDIs are nontransferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value-added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

The government of Mexico suspended eligibility for CEDI tax certificates by an Executive Order published on August 25, 1982, in the *Diario Oficial*. The order abrogates prior executive orders which contained the list of products eligible to receive CEDI certificates. Suspension of eligibility to apply for the CEDI was effective one day after publication of the Executive Order in the *Diario Oficial*.

Before this program was suspended, seven steel companies did receive CEDI tax rebates. However, CEDIs are used on a current basis and none remains outstanding. Since this program is suspended, it is highly unlikely that certain carbon steel products benefitting from CEDIs will enter the United States after the date of these preliminary determinations. Therefore, we are not calculating a net bounty or grant for CEDIs received by the steel industry before the suspension of this program.

If we issue countervailing duty orders and if this program is reactivated, the Department will review its applicability in administrative reviews under section 751 of the Act.

V. Programs for Which More Information is Needed

We preliminarily determine that more information is needed on the following programs:

A. *Acquisition of Iron and Coal at Preferential Terms*

Petitioner alleged that state-owned mines may supply iron ore and coal to Mexican producers of certain carbon steel products on preferential terms. In their responses, some Mexican companies stated that they own iron and coal mines. Other companies stated that they did not receive any such benefits. We will seek further information on this program.

B. *Preferential Loan Guarantees*

Petitioner alleged that the Mexican government provides special loans and loan guarantees to state-owned and private sector steel companies, especially for purposes of enabling debt restructuring of foreign loans. Petitioner further alleged that the government has also provided certain companies with special loans. Allegedly, these guarantees and loans enabled companies to obtain foreign financing which would not otherwise have been available.

Respondents state they have received no preferential loan guarantees and that the only loan guarantees received were made available to all Mexican public companies with foreign debt. Respondents further state that the Mexican government negotiated with the international banking community to restructure all public commercial debt payments within a certain time period. In doing this the government offered a guarantee to all international banks. We will seek further information on this program.

C. *Line of Credit*

The responses states that Banco Nacional de Obras y Servicios Públicos, S.A. (Banobras), a publically owned lending institution, extended a line of credit to Afko, S.A. (a finance company that is a separate subsidiary of Grupo Industrial Alfa, S.A.) with which it could finance the purchase of accounts receivable from other subsidiaries of Grupo Industrial Alfa, S.A., such as Hylsa. The response also states that Hylsa has sold some of its accounts receivables to Afko, S.A.

We will seek further information about this line of credit and the purchase of accounts receivable so that we can determine whether or not they were made on terms inconsistent with commercial considerations.

D. *Article 94 Loans*

One steel company, IMSA, received short-term loans under section II of Article 94, as described in the "Programs Preliminarily Determined to Confer

Bounties or Grants" section of this notice. The company did not identify the category under which these loans were received. Although these loans were used to finance exports, they were obtained at interest rates above the maximum rate applicable to category 12 loans (exports). We will seek further information on these loans.

E. *Preferential Prices for Natural Gas, Oil and Electricity*

Petitioner alleged that prices for natural gas, oil and electricity are set by the Mexican government and could include a 30 percent discount for respondents. In its response, the Mexican government stated that energy pricing policies for energy are the same for carbon steel producers as policies for all other domestic industries in Mexico. We will seek further information on this program.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determinations.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain carbon steel products from Mexico which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register* and to require a cash deposit or bond for each such entry of this merchandise in the amount of 4.98 percent *ad valorem*.

This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10 a.m. on March 22, 1984, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., 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, at least 10 copies of the

prehearing briefs must be submitted to the Deputy Assistant Secretary by March 19, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

February 3, 1984.

Appendix I.—Description of Products

For purposes of these investigations:

1. The term "carbon steel structural shapes" covers hot-rolled, forged, extruded, or drawn, or cold-formed or cold-finished carbon steel angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the *Tariff Schedules of the United States Annotated (TSUSA)*. Such products are generally referred to as structural shapes.

2. The term "galvanized carbon steel sheet" covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0730, 608.1310, 608.1320, or 608.1330, of the *TSUSA*.

3. The term "hot-rolled carbon steel sheet" covers the following hot-rolled carbon steel products. Hot-rolled carbon steel sheet is a flat-rolled carbon steel product, whether or not corrugated or crimped; not cold-rolled, not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; 0.1875 inch or more in thickness, over 8 inches in width and pickled; as currently provided for in item 607.8320 of the *TSUSA*; or under 0.1875 inch in thickness and over 12 inches in width, whether or not pickled, whether or not in coils, as currently provided for in items 607.6710, 607.6720, 607.6730, 607.6740, or 607.8342 of the *TSUSA*. Please note that the description of hot-rolled carbon steel sheet includes some products classified as plate in the *TSUSA*.

4. The term "cold-rolled carbon steel sheet" covers the following cold-rolled carbon steel products. Cold-rolled carbon steel sheet is a flat-rolled carbon steel product, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width, and 0.1875 or more in thickness; as currently provided for in item 607.8320 of the *TSUSA*; or over 12 inches in width and under 0.1875 inch in thickness whether or not in coils; as currently provided for in items 607.8350, 607.8355, or 607.8360 of the *TSUSA*. Please note that the description of cold-rolled carbon steel sheet includes some products classified as "plate" in the *TSUSA*.

5. The term "carbon steel plate in coil" covers the following hot-rolled carbon steel

products. Hot-rolled carbon steel plate in coils is a flat rolled carbon steel product in coils 0.1875 inch or more in thickness and over 8 inches in width, currently provided for in item 607.6610 of the *TSUSA*.

6. The term "carbon steel plate cut to length" covers hot-rolled or cold-rolled carbon steel products, whether or not corrugated or crimped; not in coils; cut to length, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width as currently provided for in item 607.6615 of the *TSUSA*. Semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included.

7. The term "small diameter carbon steel welded pipe" covers hollow products of circular cross section of carbon steel, 0.375 inch or more in outside diameter and less than 16 inches in outside diameter, of welded construction, not cold-rolled or cold drawn and not for use as oil well tubing with wall thickness not less than 0.065 inch, whether or not galvanized, currently provided for in item 610.3208, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, or 610.3247 of the *TSUSA*.

Appendix II.—Revisions to Methodology

In Appendix 2 to our Final Affirmative Countervailing Determinations: Certain Steel Products from Belgium (47 FR 39304, 39316), we explained our methodology for dealing with government assistance to firms in the form of grants, loans, equity infusions, loss coverage, research and development projects and labor programs. We have used these methods in calculating countervailing duties in investigations and administrative reviews since then.

Through our experience, we have become aware of possible shortcomings in the Appendix 2 methodology or its application. To remedy these, we are preliminarily changing and clarifying that methodology in the current countervailing duty investigations of Certain Steel Products from Argentina, Brazil and Mexico. The purpose of this appendix is to describe these changes and clarifications, which are principally in the areas of the discount rate used in allocating benefits over time, loans to uncreditworthy companies, the time period over which grant benefits are allocated, and determinations that loans to and equity investments in companies were inconsistent with commercial considerations.

Allocating Benefits Over Time Through a Discount Rate

Funds provided under government direction or directly by the government provide a subsidy to the extent that the recipient pays less for the funds than it would on the open market. In the case of a loan, this is the difference between the cash flows—the company's receipts and expenditures—on the government loan and the cash flows for a similar commercial loan taken out by the same company. For equity, it is the difference between what the government paid for a share of the company and what the market would have paid for the share. For grants, because the market would not have extended

funds free of any repayment or proceeds to the financing party, the savings to the recipient is the face value of the grant (i.e., the difference between what the company paid for the funds, nothing; and what it would have to pay on the open market to receive the funds, the face value of the grant). The difference in cash flows can arise in a single year, as with grants (complete receipt of the funds at once), or over several years, as with long-term loans through periodic repayment.

The timing of the benefits, the point(s) at which the difference in cash flows occurs, does not in many cases provide an appropriate schedule for assessing countervailing duties. The actual benefit to a firm is diffused around the time that the cash benefit occurs. For example, it would be inappropriate to allocate a \$1 billion grant received on March 17, 1981, entirely to March 17, 1981. The grant continues to benefit the company after that date, and it would not counteract the subsidy to apply countervailing duties to goods exported on only that single day. Therefore, we must choose a period over which to allocate benefits, and decide how much of the benefit to allocate to each subperiod, usually each year. Also, we must choose a discount rate to reflect the time value of money; i.e., the fact that a given nominal amount of money has a changing real value over time.

Calculating and allocating subsidies therefore require calculating the cash flow of the benefits, choosing a discount rate for moving the money through time, and deciding both the length of time over which to allocate benefits and the shape of the allocated benefit stream. We describe the first task in the appropriate sections below on grants, loans, and equity.

The discount rate reflects the company's time preference for money. If a company is indifferent between receiving \$1.00 today and \$1.12 next year, its discount rate for the intervening year is 12%. We use the discount rate to ensure that our allocation of money over time does not change the value of that money to the firm. That is, we choose a discount rate such that the present value of the cash stream remains constant. For example, if a company receives a fully countervailable grant of \$1000 in 1977, we wish to countervail no more or less than 1000 1977 dollars, regardless of the period over which we allocate the benefit.

In Appendix B to the notice of preliminary determinations for certain steel products from Belgium (preceding Appendix 2 to the notice of final determinations), we selected the company's weighted cost of capital as the appropriate discount rate. Since we lacked sufficient information to calculate the weighted cost of capital, we used as a substitute the national cost of long-term corporate debt. In Appendix 2, we selected instead the risk-free rate, the rate on government bonds in the country under investigation, as the most appropriate rate. We stated that using the risk-free rate appropriately avoided judging the riskiness of either the project undertaken with subsidized funds or the company as a whole. We further stated that the risk-free rate avoided

speculating how a project would have been financed absent government subsidization.

Upon reconsideration, we believe that the use of a risk-free rate inappropriately treats all companies as having an equal tradeoff between present and future income, a tradeoff equal to a government bond rate. Different companies engage in different activities of varying risk, and investors require a higher anticipated return from riskier companies. At the same time, riskier firms expect higher returns from their own investments; this is how they are able to pay debt and equity holders. Thus, different firms have different tradeoffs of income between periods. A high risk firm would require more future income to give up \$1.00 today than a low risk firm; otherwise the former company would not be able to pay a satisfactory return to its debt and equity holders.

Ideally we would use the rate of return expected by the firm on investments at the time the subsidy is received; i.e., its opportunity cost of capital. Since this is not quantifiable, we have used the weighted cost of capital as the best surrogate for such expectations. This discount rate is the best pragmatic measure of what makes a firm indifferent between funds received today and funds received in the future, since a firm will finance to the point where further financing becomes unprofitable. By cost of capital we mean the marginal cost of capital; that is, we measure the marginal cost of new financing, not historical costs. We consider this rate appropriate because it measures the firm's current costs, and therefore what trade it is willing to make between present and future income. We are not judging the riskiness of the project undertaken with subsidized funds, but instead merely using the risk reflected in the company's capital structure.

The weighted cost of capital is the average of the marginal costs of debt and equity, weighted by the proportion each form of total financing, with debt cost adjusted for taxes for tax-paying firms. It is calculated as follows:

$$WCC = (1-t)k_d(D/(D+E)) + k_e(E/(D+E))$$

Where t is the tax rate

k_d is the marginal cost of debt

k_e is the marginal cost of equity

D is the value of outstanding debt

E is the value of outstanding equity

The equation assumes that the company will use debt and equity in the same proportions at the margin as it has historically. Since debt and more especially equity issuances often occur years apart, examining an arbitrary recent period would not provide a better measure of the proportions than the overall historic amounts. The actual marginal proportions are not observable. In using the historical proportions, we also avoid speculating on how a project would have been financed absent government involvement. We implicitly recognize that we do not know whether in a particular instance a company would raise money by issuing debt or equity, but that in the past it has done both.

For k_d , the marginal cost of debt, we prefer to use the interest rate on bonds issued or long-term loans received by the company in the period for which we are calculating the discount rate.

The marginal cost of equity, k_e , is the rate of return a commercial investor would require on his money invested in the firm. It is a function of three variables: the risk-free rate on alternative investment, the anticipated future rate of return on the Equity market as a whole, and the risk of the firm relative to the market (the "systematic risk"). The latter two are not observable, and so an exact calculation of the marginal cost of equity for a firm is not possible. Therefore, for each firm we have used k_d , plus the difference between the national average rate of return on equity and the national average debt cost. We have substituted the rate of return for the period for the second variable, the national cost of equity, which is the anticipated return on equity and therefore not observable. This provides our company cost of equity, which we weight-average with the cost of debt to derive the discount rate.

Since equity is riskier than debt, investors demand a higher return on equity than on debt. That is, the cost of equity—the expected returns on any company's equity—is greater than the cost of debt, the interest rate to be paid on its debt. While normally this is reflected in national historical experience, the national rate of return on equity can be lower than the national average cost of debt in two circumstances: (1) when investors have anticipated incorrectly, paying too much for equity; and (2) when less risky firms finance relatively more with equity than more risky firms, thereby lowering the cost of equity and raising the cost of debt over what constant debt/equity ratios across all firms would imply. Because of this, we have set a floor on the national return on equity (our surrogate for the national cost of equity). This floor is the national cost of debt. For our purposes, the weighted cost of capital will in no instance be lower than the cost of debt.

We note that we may not be able to apply in all cases a discount rate based on weighted cost of capital as described above. This is because we may not be able to obtain, e.g., the national average long-term debt cost or return on equity. In such cases we then fall back to the next best surrogate available based on the particular facts in a case. For example, for national average return on equity, we may average returns on equity for some number of particular companies. If we believe that any reasonable weighted cost of capital figure is unavailable, we generally use instead the company's cost of long-term debt. Possible subsequent choices, in order of general preference, are national average long-term debt costs and the prime interest rate. In other words, we try to implement our first choice, but in some circumstances find ourselves compelled to use surrogates. Of course, if unavailability of necessary information results from a respondent's lack of cooperation, we will use best information available.

We must also consider the appropriate point in time at which to determine weighted cost of capital for discount rate purposes. Where a grant or a loan is actually received in a year subsequent to the year of agreement in principle on the terms of such grant or loan, we will determine the weighted cost of capital using the year in which agreement in principle was reached rather than the year of

receipt or year in which an agreement was formally concluded.

Once a discount rate is calculated, we need to establish a schedule of payments in order to allocate benefits over time. For grants and long-term loans, we have reviewed our past preference for an annuity-style schedule, involving equal nominal payments, in light of the Court of International Trade's preference for a declining balance schedule. See *Michelin v. United States*, (6 CIT—, Slip Op. 83-136, December 22, 1983). Both methods are reasonable, as reflected in numerous commercial loans of each type. We continue to prefer equal nominal payments for several reasons. First, the use of equal nominal payments facilitates our administration of annual reviews under section 751 of the Act. Second, use of the declining balance schedule as formulated by the Court could result in countervailing duties whose present value exceeded the nominal amount of subsidies in the year of receipt, unless the first benefit for a grant is assigned one year after receipt. Third, the annuity-style schedule of payments is consistent with our decision (described *infra*) to allocate very small grants exclusively to the year of receipt. In using its formulation of the declining balance schedule of payments, the Court basically treats grants as loans. If so, then for a grant allocated in one year, countervailing duties would exceed the nominal amount of the grant since the firm would have incurred some cost in borrowing that amount, even if only for a short time. Thus, when funds are deemed to have conferred a benefit, that benefit will be allocated according to the formula:

$$A = x[(1-(1+d)^{-n})/d](1+d)$$

where A is the present value of the money received, d the discount rate, n is the number of years over which benefits are allocated and x is the dollar amount to be countervailed each year.

Given this approach for allocating benefits over time, it is necessary to look individually at grants, loans and equity purchases.

Grants

In Appendix 2 we allocated solely to the year of receipt all grants of less than one percent of a company's gross revenues. As a result, under Appendix 2 we would find no subsidies (and make a negative determination) for a firm that received only a grant of one percent of the company's gross revenues, because that grant would be allocated over time. However, we would find subsidies for a firm receiving solely a grant of .75 percent of the firm's gross revenues, since that amount would be allocated solely to the year of receipt and would not be *de minimis*. To prevent this anomaly, we will total all grants. If the sum is less than .5 percent of all sales concerned (for domestic subsidies) or .5 percent of all export sales concerned (for export subsidies), we will allocate such grants only to the year of receipt.

All other grants will be allocated over the average useful life of equipment used in the industry concerned, as reflected by United States Internal Revenue Service (IRS) in the 1977 Class Life Asset Depreciation Range System (Rev. Proc. 77-10, 1977-1 C.B. 548 (RR-38)). We would prefer to use estimated

economic useful life, but the IRS tax tables, which reflect reasonable accounting useful life, provide the best practicable means of consistently determining useful life. In the 1982 steel investigations, we based our estimation of average useful life upon IRS tax tables. In subsequent practice, we have sometimes considered alternatively the accounting useful life as reflected in company books or by tax tables used in the country in which the company is located. We now propose instead to base estimated average useful life exclusively on IRS tax tables in order to prevent inconsistent treatment of different companies within the same country and of companies in different countries. As we noted in Appendix 2, use of company books or even foreign government practice may yield extremely inconsistent results due to different accounting principles, extraordinary write-offs, and corporate reorganizations.

We have considered two other main alternatives for the allocation period: the average life of long-term debt for the company or country; and a single fixed allocation period, between 6 and 12 years, for all cases. The main argument for using life of long-term debt is that since the benefit is the lower price paid for financing through the government rather than through the open market, the average time it takes to turn over debt in some sense measures the life of the benefit. However, we continue to prefer average useful life of equipment because: (1) life of debt captures only one of the two financing alternatives, there being no apparent way to measure life of equity; and (2) the national life of debt, necessary at least in those cases where a company has no debt, does not have much relevance to a particular company's financing. The argument for using a single allocation period for all cases (in the range of 6 to 12 years) is premised on the idea that the choice of an allocation period is not an economic decision, and no period is more or less correct than any other in economic terms. The "life" of the countervailable benefit is indefinitely diffused around the time that the cash benefit arises. Therefore, the average life of equipment is arguably no more accurate a measure than simply choosing a number. The choice of a period is a matter of Departmental policy, not financial argument, as long as the present value of the benefit is kept constant. The argument for a period between 6 and 12 years is that allocating over this period would best countervail the subsidy, but avoid assessing duties on actions that occurred in the distant past. Further, it would greatly ease the administrative burden on the Department for cases involving industries with long useful lives of equipment. However, we have used the average life of equipment in these preliminary determinations because we remain uncomfortable with the superficial arbitrariness of choosing a single number and thereafter applying it to all cases.

In Appendix 2, we allocated very large grants (in those investigations, greater than \$50 million), given expressly to purchase specific equipment, over the useful life of that particular equipment. We did so based upon our belief that the legislative history required such allocation as a *per se* rule. Based upon

our reconsideration of that legislative history, we do not believe that an exceptional allocation technique is required for such grants. Therefore, large grants given to purchase specific equipment will be allocated over the normal period of time; i.e., the average useful life of equipment used in the industry concerned, as reflected by IRS tax tables.

In Appendix 2, we also treated exceptionally any grants used to cover operating losses. We allocated them exclusively to the year of receipt to reflect that operating losses are ordinarily expensed in the year incurred. We now believe that such deference to accounting practices is inappropriate, since generally the countervailable benefit to the firm of a grant extends beyond the year in which the losses were incurred. We prefer to apply to these grants the general grant methodology, i.e., to allocate them over the average useful life of capital assets used in the industry concerned, as reflected by IRS tax tables.

In Appendix 2, we made exceptions for grants for labor and research and development. We now believe it is more appropriate to allocate these over the life of equipment, since the benefit is again what the company paid for the funds (nothing) versus what it would have paid on the market (the face value of the grant). The eventual stated use of the funds does not affect the value to the firm of having received them from the government rather than the market.

Loans

As discussed in Appendix 2, loans made by a government to a firm do not necessarily confer a subsidy. A subsidy arises when the terms of the government loan are inconsistent with commercial considerations; i.e., more favorable than the terms of a loan that could be obtained in the borrowing market. This comparable loan from the commercial market is called the benchmark.

The first step to determine whether a loan is subsidized and, if so, to calculate the present value of the benefits accruing from it is to find a benchmark. In Appendix 2, we generally used the national average commercial interest rate as the benchmark. We usually compared a subsidized loan with what the average commercial borrower would have to pay for a loan of similar principal and duration.

Upon reconsideration, we have decided that the benchmark for long-term loans will be company-specific, unless the company lacks adequate comparable commercial experience. If the latter, then we will use a national average loan interest rate or the debt experience of a comparable company as the best benchmark available for creditworthy firms. Use of a company-specific benchmark for long-term borrowing enables us to capture the fact that certain firms are more (or less) risky than average, and that commercial lenders will take these risk characteristics into account in setting the conditions of the loan.

For short-term loans, however, we intend to continue to use a national average commercial rate as the benchmark. We believe this distinction is valid because short-term loans are usually not as risky for the

lender because they often are secured by accounts receivable and are outstanding for a shorter period. Hence, we would not expect short-term rates to vary widely from the national average rate; there is little need for the lender to take into account the risk characteristics of the firm. Additionally, the use of company-specific benchmarks for short-term loans would significantly impair our general administration of annual reviews under section 751 of the Act.

We continue to believe that benefits of loans are most appropriately allocated over the life of the loan. Unlike grants, loans reflect the period of time in which the company has undertaken to repay the principal plus interest. Therefore, we will allocate loan benefits over the life of the loan, even for loans given expressly to purchase costly capital equipment. We do not believe a contrary result for loans "tied" to capital equipment is required.

Long-Term Loans for Companies Considered Uncreditworthy

Under Appendix 2, we have considered as uncreditworthy, for purposes of our investigations, any company receiving a government loan that would not, in our view, have been able to obtain comparable loans in the absence of government intervention. We now clarify that such determinations of uncreditworthiness take into account criteria in addition to profitability. We consider a firm creditworthy at a given time if it has resources or revenues, absent future government assistance, sufficient over time to meet its costs. This test involves two classes of evidence: (1) reflections of the present and past health of the company, particularly various financial statistics and ratios; and (2) the environment that was expected to face the company in the future, as reflected in market studies, general economic forecasts, etc.

Under Appendix 2, a loan to a company considered uncreditworthy was treated as equity in view of its great risk, very junior status, and low probability of repayment absent government intervention or direction. We then applied our equity methodology, based upon an *ex post facto* comparison of the national average rate of return on equity and the subsidized company's rate of return. We considered the amount by which the company's rate of return on equity was lower than the national average rate of return to be a subsidy, less any principal and interest actually repaid on the loans. And in no case did we countervail a loan subsidy to either a creditworthy or an uncreditworthy company in a greater amount than if the government gave the principal as an outright grant.

For our equity methodology, we would prefer to determine what a private investor motivated solely by commercial considerations would have paid for equity in the firm at the time of its purchase. To date we have been unable to do so where the government buys shares directly from the company and similar shares are not traded on a market. Therefore, we continue to apply the Appendix 2 method for equity infusions. However, in view of its *ex post facto* element, we have decided not to apply

this method to determine subsidies conferred by government loans to companies considered uncreditworthy. We consider it preferable to add a risk premium to the highest interest rate commonly available in the country concerned. In Appendix 2, we described our inability at that time to find any reasonable and practical basis for selecting a risk premium. We now believe that the risk premium that we propose to use is both reasonable and practical. The first step is to find the difference between the highest commonly observed interest rate and the second highest in the United States. For purposes of these preliminary determinations, we have used the difference between Baa and A corporate bond rates. We then calculated the percentage such difference represents of the prime interest rate in the United States. This percentage is then applied to the prime interest rate in the country concerned. The resulting risk premium is then added to the highest interest rate commonly available to companies in that country. We believe this method is practical. Moreover, it seems reasonable since the spread in riskiness among companies in the United States, which has a highly sophisticated bond market, reasonably reflects the competitive forces determining the cost of debt. By applying the difference in riskiness as a portion of the U.S. prime interest rate to the prime interest rate in the country concerned, we expect to achieve a meaningful assessment of risk for companies unable to obtain a commercial loan without government intervention. As under Appendix 2, we will not impose greater countervailing duties for a subsidized loan (to a creditworthy or uncreditworthy company) than for an outright grant in the amount of the loan principal, because a loan cannot be worth more to a company than an outright grant of the same amount.

To calculate the benefit attributable to short-term loans, we did not apply the creditworthiness test because of the low level of risk associated with debt that is repaid within a short period.

Equity

As indicated above, we have been unable to improve our method for calculating subsidies arising from equity infusions inconsistent with commercial considerations. When there is no market for the equity, that method first requires a determination whether the investment appeared reasonable at the time. If so, we conclude it does not confer a subsidy. If not, we then examine the difference between the company and the market rates of return. We wish to clarify the first step. Highly similar to the (clarified) way in which we determine "uncreditworthiness," we consider criteria in addition to profitability, not just profitability. For the second step, we welcome comments proposing and supporting alternative surrogates for what the market would have paid for the equity at the time of the government purchase.

Conclusion

Based upon comments received on this appendix, we will include in our final determinations a revised appendix that will

describe, as thoroughly as possible, current countervailing duty methodology on these issues.

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[C-351-021]

Cold-Rolled Carbon Steel Sheet From Argentina: Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet. The estimated net bounty or grant is 6.03 percent *ad valorem*. We are directing the U.S. Customs Service to suspend liquidation of all entries of cold-rolled carbon steel sheet from Argentina which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this product in the amount equal to the estimated net bounty or grant.

If this investigation proceeds normally, we will make our final determination by April 18, 1984.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT:

Andrew Debicki or Barbara Tillman: Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-5403-0192.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet. For purposes of this investigation, the following programs are preliminarily found to confer bounties or grants:

- "Reembolso"—tax rebate on exports.
- Post-financing of exports under Circular OPRAC 1-9.
- Government equity infusions.
- Loan guarantees.

We estimate the net bounty or grant to be 6.03 percent *ad valorem*.

Case History

On November 10, 1983, we received petitions from the United States Steel Corporation (U.S. Steel), Pittsburgh, Pennsylvania, filed on behalf of the hot-rolled and cold-rolled carbon steel sheet industries. The petition relating specifically to hot-rolled carbon steel sheet was subsequently withdrawn. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the remaining petition alleges that manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet receive directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on November 22, 1983, we initiated such an investigation (48 FR 55012). We stated we expected to issue a preliminary determination by February 3, 1984.

Argentina is not a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, section 303 of the Act applies to this investigation. The merchandise being investigated is dutiable. Therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Argentina in Washington, D.C., on December 16, 1983. On January 16, 1984, we received responses to the questionnaire.

Scope of Investigation

The product covered by this investigation is cold-rolled carbon steel sheet which is described in Appendix I to the notice of "Certain Carbon Steel Products from Mexico; Preliminary Affirmative Countervailing Duty Determinations" in this issue of the Federal Register.

There are two known producers and exporters in Argentina of cold-rolled carbon steel sheet to the United States. We have received information from the government of Argentina regarding Somisa-Sociedad Mixta Siderúrgica Argentina (Somisa) and Propulsora Siderúrgica Saic (Propulsora) which represented over 85 percent of exports of this product to the United States during the period for which we are measuring bounties or grants, July 1982 through June 1983.

Analysis of Programs

Throughout this notice, references are made to general principles applied by the Department of Commerce to the facts of the current investigation. These general principles are described in detail in Appendix II of the notice of "Certain Steel Products from Mexico; Preliminary Affirmative Countervailing Duty Determinations" in this issue of the **Federal Register** (Appendix II). For purposes of this preliminary determination, we are calculating a country-wide *ad valorem* rate for the estimated net bounty or grant. We allocated the benefits received by respondents between July 1982 and June 1983 over the total sales value or export value, as appropriate, of all respondents.

As described in Appendix II, several programs alleged by the petitioner—government provisions of equity capital, long-term loans and loan guarantees—require an assessment of the producers' creditworthiness before we can determine if, and in what magnitude, a countervailable benefit has been conferred.

We have consistently held that government provision of, or assistance in, obtaining capital or debt does not *per se* confer a subsidy. Government equity purchases or financial backing bestow a countervailable benefit only when they occur on terms inconsistent with commercial considerations. To determine if such action is commercially unsound, we review and assess financial data for the company in question. Because of time constraints, we were unable to thoroughly assess each company's financial situation for this preliminary determination. Before reaching our final determination, we will conduct a considerably more comprehensive review, and also consider more fully what factors are relevant to a determination of inconsistency with commercial considerations. For this preliminary determination only, we relied primarily on sales, cash flow, current, and debt-equity ratios to determine if government equity infusions, loans, and loan guarantees were not inconsistent with commercial considerations. For loans and loan guarantees, we determined whether the company was "creditworthy," and in making this determination we focused on cash flow and other measures of the ability of each company to meet its long-term debt obligations.

With regard to whether a company was a reasonable equity investment (a condition we have termed "equityworthiness"), we focused on profitability and the long-term

expectations for the company in question. Throughout the rest of this notice, we will use the term "creditworthiness" to refer to both a company's equityworthiness and creditworthiness, even though the two are not precisely the same.

In this preliminary determination, we assessed Propulsora's creditworthiness from 1979 through 1983 and Somisa's creditworthiness from 1974 through 1983. Before reaching our final determination, we will assess the two companies' creditworthiness in prior years to determine if residual benefits from those years accrue during the period of investigation. Propulsora's financial statements indicate that it remained creditworthy during the whole period. After reviewing financial ratios and other measurements derived from Somisa's financial statements, we preliminarily found the company to be uncreditworthy for the period 1976 through 1983.

In its response, the government of Argentina provided data for the applicable period including financial statements and debt information for both Somisa and Propulsora. In addition, Propulsora submitted a supplemental response containing information on Propulsora's use of the alleged programs. Based upon our analysis to date of the petition and the responses to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet under the following programs.

A. "Reembolso"—Tax Rebate on Exports

The reembolso program was established in 1971. It authorized a refund by cash payment on export, of taxes "that bear directly or indirectly" on exported products and/or their component raw materials for the purpose of promoting exports. The amount of the reimbursement is equal to a fixed percentage of the f.o.b. value of the exported merchandise. This percentage varies by product.

Under the Act, the non-excessive rebate of indirect taxes levied at the final stage, and of prior stage cumulative indirect taxes borne by inputs that are physically incorporated into the final product, is not considered a subsidy. With respect to such non-VAT rebates, in order to determine whether a cash payment on export is a bona fide rebate of indirect taxes, we examine whether:

(1) The program involved operates for the purpose of rebating indirect taxes; (2) whether there is a clear link between eligibility for payments on exports and indirect taxes paid; and (3) whether the government has reasonably calculated and documented the actual tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the rebate amount paid on export.

The reembolso program is designed to refund taxes that "bear directly or indirectly on export products." We view taxes borne by a product as indirect, and taxes on, for example, income and labor as direct.

Based on our review of the total tax incidence which the reembolso is designed to rebate, we are satisfied that the reembolso operates "for the purpose of rebating indirect taxes," and that it meets our first test.

Following a general reorganization of the reembolso program in 1976, the rate of reembolso on cold-rolled carbon steel sheet was set at five percent. At the time, the government of Argentina analyzed the steps of production and value added at each stage for each major sector of Argentine industry. The reembolso rate for each sector was then based on the estimated tax incidence derived from the analysis. This procedure provided the government of Argentina only a general model upon which the tax incidence for specific sectors could be estimated. Without more precise evidence of the indirect taxes levied on cold-rolled carbon steel sheet, we would not find the requisite link between indirect taxes actually paid and the reembolso payments (the second prerequisite for considering the reembolso not to be a bounty or grant).

In 1980, the Value Added Tax was established (Law 22.294/80) and in 1981, minor taxes were suspended (Law 22.374/81). As a result of these modifications to the Argentine tax system, the government reviewed the studies on the fiscal incidence of taxes in order to reevaluate the levels of the reembolso. This detailed review of specific taxes levied on cold-rolled carbon steel sheet. When considered in conjunction with the more general 1976 study, provides a sufficient basis for our preliminarily determining that the reembolso program meets the second test of a clear link between eligibility for the reembolso and indirect taxes paid.

In the questionnaire response, the government of Argentina provided us with data from its most recent analysis of the tax incidence on cold-rolled carbon steel sheet. This analysis shows that the taxes levied on cold-rolled

carbon steel sheet, which the reembolso is designed to rebate, total 16.14 percent of the f.o.b. value of the exports. Seven categories are included in the analysis: domestic raw material inputs, imported raw material inputs, variable costs, labor, indirect expenses, taxes paid directly, and export taxes.

The taxes on variable costs, labor and indirect expenses, which total 1.79 percent, do not meet our standard for physical incorporation into the final product. In addition, in its questionnaire response, the government of Argentina did not itemize certain taxes on domestic raw material inputs when calculating the indirect tax incidence. Since the taxes and their fiscal incidence on inputs are not itemized, we preliminarily determine that, for these taxes on domestic raw material inputs, our third test is not met; that is, the government has not reasonably calculated and documented the actual tax incidence borne by the product concerned and has not demonstrated a clear link between such tax incidence and the rebate paid on export. The incidence of these taxes on domestic raw materials equals 6.95 percent.

The other taxes itemized in the fiscal incidence calculation for domestic raw material inputs do meet our third test. In addition, the taxes in each of the three remaining categories—imported raw material inputs, taxes paid directly, and export taxes—meet our third test because they are itemized, and the rate of each tax and its incidence are calculated. These taxes, which include the stamp tax, the tax on transfer of foreign currency, insurance taxes, municipal taxes and the export contract stamp tax, are all indirect taxes.

Therefore, of the total 16.14 percent tax incidence claimed by the government of Argentina for cold-rolled carbon steel sheet, we have allowed 7.40 percent and disallowed 8.74 percent.

In order to determine whether the reembolso confers a bounty or grant on cold-rolled carbon steel sheet, we must compare what we have preliminarily determined as allowable to the reembolso rate currently in effect for cold-rolled carbon steel sheet. Since May 7, 1982, the reembolso for cold-rolled carbon steel sheet has been 10 percent (Resolution M.E. 8/82). In addition to the normal reembolso, the petitioner alleges the existence of bounties or grants through two additional reembolsos. Decree No. 1691 temporarily established an additional reembolso of 15 percent. This reembolso was abolished in April 1982 and, thus, was not in effect during the period for which we are measuring bounties or grants, July 1982 through June 1983.

Decree No. 2863/72 granted an additional reembolso of five percent for exports to new markets. In its response, the government of Argentina stated that this program, which was abolished in April 1983, was not used for exports of cold-rolled carbon steel sheet to the United States.

Therefore, only the 10 percent reembolso is currently received by Somisa and Propulsora. To calculate the bounty or grant, we use the amount by which the reembolso payment of 10 percent exceeds the total allowable indirect taxes of 7.40 percent. This results in a bounty or grant on exports of 2.60 percent *ad valorem*.

B. Post-Financing of Exports Under Circular OPRAC 1-9

On September 24, 1982, the Central Bank of Argentina established a post-financing program for exports under Circular OPRAC 1-9. OPRAC 1-9 loans are granted for up to 30 percent of the peso equivalent of the foreign currency in which the export transaction was paid. The term of the loan is 180 days. According to the response, the interest rate on OPRAC 1-9 loans is the indexed market rate used by the commercial banks as required under Central Bank Regulations. Both Somisa and Propulsora received OPRAC 1-9 loans.

Although Appendix II states that the benchmark for short-term loans is the national average commercial rate, we do not have sufficient information available to determine this rate for Argentina for purposes of this preliminary determination. Instead, we are using as the benchmark the unregulated interest rates for short-term commercial bank loans, which are published in the "Indicadores de Conyuntura" (Current Economic Indicators) by the Fundación de Investigaciones Económicas Latino-Americanas (FIEL). We are using the unregulated rates because we consider them a better reflection of average commercial rates than the regulated commercial bank rates. Using this benchmark, we calculate a bounty or grant on exports of 2.42 percent *ad valorem*.

C. Government Equity Infusions

Petitioner alleges that equity infusions into Somisa by the government of Argentina were on terms inconsistent with commercial considerations. In its response, the government of Argentina stated that, as a result of the June 1975 devaluation which negatively altered Somisa's financial structure, Somisa requested capital contributions from the government. An agreement was worked out in 1976 that provided, in effect, a capital infusion of U.S. \$80 million. The

terms of the agreement specified that Somisa would obtain long-term loans totalling U.S. \$80 million, and the government would pay the debt in exchange for stock issued at par value. Through June 1983, the government had contributed almost half the amount due Somisa under this agreement. This amount was authorized by Decrees 2.887/78 and 1.832/81.

We also received information from the government and directly from Propulsora concerning the government's equity participation in Propulsora. The Banco Nacional de Desarrollo (Banade), an entity controlled by the government of Argentina, participated in the original issuance of Propulsora's share capital in 1969. Propulsora bought out the bank's shares in 1980. The dollar price paid by Propulsora, which reflected an equivalent annual rate of return of 9.3 percent, took into account the cash dividends received by the bank and the alternative investment opportunities the bank could have undertaken.

In determining whether the government's equity participation in Somisa and Propulsora was on terms inconsistent with commercial considerations, we followed the guidelines outlined in Appendix II. After examining the financial ratios, operating profits or losses and other relevant data found in each company's annual reports, we preliminarily determine that Propulsora has been and continues to be a reasonable commercial investment. Although it is not directly relevant to our determination, we note the fact that the government-controlled bank received a 9.3 percent return on its investment, reinforcing our preliminary determination that the equity infusion into Propulsora was not on terms inconsistent with commercial considerations.

On the other hand, based on our review of Somisa's financial ratios, operating profits and losses and other relevant data, we preliminarily determine Somisa was not a reasonable commercial investment at the time of the 1976 agreement. We followed the methodology outlined in Appendix II for calculating the countervailable benefit from equity infusions made on terms inconsistent with commercial considerations when a firm's shares are not publicly traded, and calculated an estimated net bounty or grant of 0.34 percent *ad valorem*.

D. Loan Guarantees

Petitioner alleges the government of Argentina has guaranteed loans to the steel industry. In the responses, Propulsora indicated that, during the

period of review, one of its supplier credits was guaranteed by the banco Ciudad de Buenos Aires, a government-controlled institution. Propulsora paid a guarantee fee to Banco Ciudad de Buenos Aires that was higher than the guarantee fees it paid to private banks for comparable supplier credits. Therefore, we preliminarily determine that the loan guarantee to Propulsora does not confer a bounty or grant.

Somisa reported that the Secretary of Finance guaranteed a number of medium-term loans during the period we consider Somisa to have been uncreditworthy. For purposes of this preliminary determination, based upon our review of Somisa's financial statements, access to non-guaranteed private debt and relevant financial ratios, we are treating these guaranteed loans in the same manner as we treat loans to uncreditworthy companies (see Appendix II). Under the methodology outlined in Appendix II, we would compare the interest rate paid by the company to the sum of the highest interest rate commonly available in Argentina and the risk premium. However, all but one of these loans are denominated in U.S. dollars, and the interest rates are quoted as a percentage above the London Interbank Offered Rate (Libor). Because these are non-peso loans with non-Argentine interest rates, it would be inappropriate to apply Argentine interest rates in calculating the benefits. Therefore, for purposes of this preliminary determination, we are using the Libor rate in effect at the time the loan was awarded, plus the spread that prevailed in Argentina for medium-term loans denominated in U.S. dollars during that time, plus the risk premium. Using this rate as the benchmark, we calculated a net bounty or grant of 0.67 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Confer Bounties or Grants

We preliminarily determine bounties or grants are not being provided to manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet under the following programs.

A. Subsidized Purchases of Inputs From Somisa

The petitioner alleges that Somisa, a state-owned company, offers semi-finished products at special discounts to other Argentine steel producers, particularly Propulsora, who use them to manufacture finished steel products for export.

Our information indicates that Propulsora purchases approximately 50 percent of its input requirements for cold-rolled carbon steel sheet from

Somisa. These purchases were at prices comparable to those paid by Propulsora to its foreign suppliers. Furthermore, we have no indication that Propulsora receives special discounts on purchases of inputs intended for export production from Somisa. Consequently, we preliminarily determine that Propulsora receives no countervailable benefits through its purchases of inputs from Somisa.

B. Pre-Financing of Exports Through Dollar-Indexed Pesos

This program provides exporters with pre-export financing through peso loans denominated in U.S. dollars. The loans are given in pesos but denominated in U.S. dollars at the exchange rate prevailing at the time of the loan. Repayment must also be in pesos, but the peso amount is established by the exchange rate prevailing at the time of repayment. In addition to repaying the peso amount of the loan at the exchange rate prevailing at the time of repayment, the borrower must also pay a one percent interest rate.

The funds are drawn from the Central Bank of Argentina and then loaned through private commercial banks to individual corporate borrowers. The Central Bank currently limits these loans to 60 percent of the export's f.o.b. value. The maximum length of the loan is 120 days, but repayment must take place no later than 60 days from the effective export date. Prior to August 1981, the loans could be for 40 percent of the export's f.o.b. value and for up to 90 days.

The government of Argentina states that Somisa used this program to finance its exports during the period of review, while Propulsora did not. The government identified one loan to Somisa that was outstanding during the period for which we are measuring bounties or grants. When we compared what Somisa paid for this loan with what Somisa would have paid for the same loan, using as the benchmark, the unregulated rate for short-term commercial bank loans published by FIEL described *supra*, we found no benefit. Therefore, we preliminarily determine that this program does not confer a bounty or grant.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs listed in the notice of "Initiation of Countervailing Duty Investigation," were not used by the manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet.

A. Forgiveness or Assumption of Debt

Petitioner alleges there are indications that the Argentine government may have undertaken to pay the interest on at least a portion of debt. The responses indicate the government of Argentina has never forgiven or mandated, directly or indirectly, the forgiveness of any debt or interest on debt contracted by Somisa or Propulsora, except for the 1976 agreement with Somisa discussed in the section on "Government Equity infusions" *supra*. Therefore, we preliminarily determine that, except for the 1976 agreement with Somisa, neither Propulsora nor Somisa has received countervailable benefits as a result of direct or indirect government action to assume or forgive its debt.

B. Trade Promotion Programs

Petitioner alleges the Argentine steel industry receives countervailable benefits through export promotion programs conducted by the government. The response indicates neither Somisa nor Propulsora has participated in these programs.

C. Tax Incentives

Petitioner alleges the Argentine steel industry benefits from a variety of special tax incentives, including those provided under the Industrial Promotion Law of 1977, special treatment for state-owned enterprises, and certain exemptions available to firms locating in specified areas of Buenos Aires Province. The response indicates neither Somisa nor Propulsora has received benefits under these programs.

D. Pre-Financing of Exports Under Circular OPRAC 1-1

Circular OPRAC 1-1 instituted a pre-financing program for Argentine exports as an alternative to the Circular RF 153 program for pre-financing of exports through dollar indexed pesos described *supra*. This program was initiated on August 21, 1981, and terminated on March 31. Under Circular OPRAC 1-1, loans could not exceed one year, and firms receiving OPRAC 1-1 loans could not also receive Circular RF-153 loans. The government of Argentina has indicated that Propulsora used this program, but that no loans under Circular OPRAC 1-1 were outstanding during the period for which we are measuring bounties or grants. Somisa did not use this program.

E. Multiple Exchange Rate System

Petitioner asked us to investigate whether the Argentine system of multiple exchange rates operates to provide countervailable benefits based

on export performance to the steel industry.

In its response, the government of Argentina stated that a single exchange rate has been in effect since November 1, 1982. Therefore, we preliminarily find no bounty or grant.

F. Additional Programs Not Alleged

In the notice announcing the initiation of this investigation, we stated our intent to investigate whether certain programs not specifically alleged by petitioner are providing bounties or grants to manufacturers, producers or exporters in Argentina of cold-rolled carbon steel sheet. The programs in question are:

- Grants from the Government of Argentina.
- Benefits provided under the Anti-Pollution Law of 1979.
- Additional Reembolso for exports from southern ports.

Our decision to investigate these programs was prompted by experience developed in prior Argentine investigations and our view that they might be relevant to this investigation. After analyzing the questionnaire responses regarding these programs, we preliminarily determine that these programs were not used by respondents.

IV. Programs for Which we Need Additional Information

A. Medium- and Long-Term Loans on Terms Inconsistent With Commercial Considerations

Petitioner alleges that the Argentine steel industry, particularly Somisa, has benefited from government programs providing medium- and long-term loans on terms inconsistent with commercial considerations. It further alleges the Argentine Treasury and the state-controlled Banco Nacional de Desarrollo (Banade) are the primary sources of such loans and cites several decrees and laws as authorizing these programs.

The response indicates that neither Somisa nor Propulsora has received medium- or long-term loans related to any government regulations. In addition, the petition does not provide sufficiently detailed information to determine preliminarily that specific loans, on terms inconsistent with commercial considerations, were obtained under one of the programs cited by the petitioner. Consequently we will seek additional information regarding these programs.

B. Import Duty Exemptions

Petitioner alleges the Argentine steel industry benefits from preferential exemptions from import duties on

capital equipment and raw materials provided under the industrial Promotion Law of July 1977.

The response indicates that although Somisa and Propulsora received some exemptions from import duties, they did so on terms no different than for any other Argentine industrial firm or industry. Since the drawback of duties on imported capital goods or other items involved in the production but not physically incorporated in the exported merchandise is countervailable, we will seek additional information on this program before making our final determination.

C. Subsidized Inputs of Raw Materials and Capital Equipment

Petitioner alleges the Argentine steel industry receives indirect benefits as a result of subsidies provided by the government to suppliers of raw materials and capital equipment used by cold-rolled sheet producers. It specifically alleges that Decree 619 operates to direct benefits such as equity capital, loans, loan guarantees and tax deferrals to steel industry suppliers.

The response indicates that neither Somisa nor Propulsora purchases inputs from related suppliers and that all such purchases are made from independent domestic and foreign suppliers at prevailing market prices. We will seek additional information regarding this allegation.

D. Labor Wage Subsidies

Petitioner alleges that recent wage freezes for public employees imposed by the government of Argentina assure that state-owned firms like Somisa benefit from labor at subsidized wages.

As a privately owned company, Propulsora is not subject to a wage freeze for public employees. Somisa indicates that since it is governed by the laws and regulations applicable to corporations, it too falls outside the coverage of the wage freeze. We will seek additional information regarding Somisa's status with respect to laws and regulations governing wages paid public employees.

Verification

In accordance with section 776(a) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of cold-rolled carbon steel sheet from Argentina which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of this

merchandise in the amounts of 6.03 percent *ad valorem*.

This suspension will remain in effect until further notice.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on March 23, 1984, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., 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 March 20, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

February 3, 1984.

[FR Doc. 84-3701 Filed 2-9-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-009]

Tubes for Tires, Other Than for Bicycle Tires, From the Republic of Korea: Preliminary Determination of Sales at Not Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that tubes for tires, other than for bicycle tires, from the Republic of Korea (Korea) are not being, nor are likely to be, sold in the United States at less than fair value. In addition, since we have preliminarily determined that inner tubes have not been sold at less than fair value, the issue of "critical circumstances" is moot in this determination. We have notified the U.S. International Trade Commission (ITC) of our determination. If this investigation proceeds normally, we will

make a final determination by April 23, 1984.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377-1776 or 0161.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that tubes for tires, other than for bicycle tires (inner tubes) from Korea are not being, nor are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We have found either no margins, or *de minimis* margins on sales of inner tubes by all of the firms investigated. In addition, since we have preliminarily determined that inner tubes have not been sold at less than fair value, the issue of "critical circumstances" is moot in this case.

We have found that the foreign market value of inner tubes exceeded the United States price on less than 1 percent of the sales we compared. These margins ranged from 0.026 percent to 60.409 percent. The overall weighted-average margin on all sales compared is 0.041 percent. This margin is *de minimis*.

If this investigation proceeds normally, we will make our final determination by April 23, 1984.

Case History

On August 1, 1983, we received a petition filed by counsel for Carlisle Tire & Rubber Company; Cooper Tire & Rubber Company; Cupples Company, Manufacturers; The Firestone Tire & Rubber Company; The B. F. Goodrich Company; The Indianapolis Rubber Company; and the Robbins Tire & Rubber Company, on behalf of the U.S. industry producing inner tubes.

In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioners alleged that inner tubes from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening materially to injure, a U.S. industry. The petitioners also alleged that "critical circumstances" exist in this case.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an

antidumping investigation. We notified the ITC of our action and initiated such an investigation on August 1, 1983 (48 FR 36637). The ITC subsequently found, on August 25, 1983, that there is a reasonable indication that imports of inner tubes are materially injuring, or are threatening to materially injure, a United States industry.

The petitioner alleged that at least 18 Korean companies either produce for export, or export, inner tubes to the United States. However, we identified 2 producers whose exports account for approximately 90 percent of the exports of inner tubes to the United States. Questionnaires were presented in Korea to these producers and exporters on September 9, 1983.

Responses were received from Heung-Ah Tire Ind. Co., Ltd. (Heung-Ah) and Dong Ah Tire Ind. Co., Ltd. (Dong Ah) on October 24, 1983. In addition, Shin Hung Rubber Co., Ltd. (Shin Hung) and Hung-A Ind. Co., Ltd. (Hung-A) voluntarily submitted responses to the Department's questionnaire.

On November 18, 1983, we received a letter from counsel for petitioners requesting that the Department postpone its preliminary determination, pursuant to section 733(c)(1)(A); and on November 22, 1983, we postponed our preliminary determination until not later than February 6, 1984 (48 FR 53740).

On November 28, 1983, counsel for petitioners alleged that Heung-Ah and Dong Ah were selling the subject merchandise in the home market at less than the cost of production. On November 29, 1983, cost of production questionnaires were presented to Heung-Ah and Dong Ah and responses to the questionnaires were received on December 27, 1983. Verification of all information submitted to the Department was conducted in Pusan and Seoul, Korea during the period January 5-14, 1984.

Scope of Investigation

The merchandise covered by this investigation is all tubes of rubber or plastic for tires other than bicycle tires, currently classified under items 772.59 and 772.60 of the *Tariff Schedules of the United States* (1983) (TSUS).

Since the 4 respondents produced and exported approximately 90 percent of the inner tubes from Korea to the United States during the period of this investigation, we limited our investigation to them.

We investigated sales of inner tubes by these respondents during the period from February 1, 1983 to July 31, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price for each type of inner tube based on the C&F, CIF, or FOB, packed price to unrelated customers, for wharfage, brokerage and handling charges, foreign inland freight, marine insurance, U.S. customs duties, and U.S. inland freight. We made an addition for import duties and taxes, assessed upon the importation of materials used in the manufacture of inner tubes, which were later rebated by reason of the exportation of the merchandise to the United States, pursuant to section 772(d)(1)(B) of the Act.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market sales.

Petitioners alleged that sales in the home market by Heung-Ah and Dong Ah were at prices below the cost of production. After examining production costs which included all appropriate costs for materials, fabrication and general expenses, we found that sufficient sales of inner tubes were made at or above the cost of production to determine foreign market value. Therefore, we used those sales in making price-to-price comparisons with sales in the U.S. market.

We calculated the home market prices for each size of inner tube on the basis of delivered packed prices to unrelated purchasers. From these prices we deducted foreign inland freight and unloading charges, where appropriate. We made adjustments, where appropriate, for credit expenses, costs related to product liability insurance, advertising expenses, sales promotional activities, warranty and servicing expenses, and rebates, in accordance with § 353.15 of the Commerce Regulations. We also made adjustments, where appropriate, for the cost of materials, labor and direct factory overhead associated with differences in the merchandise in accordance with § 353.16 of the Commerce Regulations. An adjustment was also made, where

appropriate, for the differences between commissions on sales to the United States and indirect selling expenses in the home market used as an offset to U.S. commissions, in accordance with § 353.15(c) of the Commerce Regulations. We also deducted home market packing costs and added packing costs incurred on sales to the United States.

The following claims were disallowed in calculating foreign market value. Both Hung-A and Dong Ah requested a circumstance of sale adjustment for sales promotional expenses incurred in the home market. However, we did not make the adjustments because neither company provided sufficient information directly relating these expenses to the products under investigation. Dong Ah also requested a circumstance of sale adjustment for selling expenses incurred in the home market. However, we did not make the adjustment because the company did not provide sufficient information directly relating these expenses to home market sales of the products under investigation.

Allegation of "Critical Circumstances"

Petitioners alleged that imports of inner tubes present "critical circumstances", as defined by section 733(e) of the Act. Since we have preliminarily determined that inner tubes have not been sold in the United States at less than fair value, the issue of "critical circumstances" is moot in this determination.

Summary of Preliminary Findings

The weighted-average margins for the companies investigated are as follows:

Firm	Weighted-average margin percentage
Hung-Ah Tire Ind. Co., Ltd.	.024
Dong Ah Tire Ind. Co., Ltd.	.064
Shin Hung Rubber Co., Ltd.	.000
Hung-A Ind. Co., Ltd.	.000
All other producers/manufacturers, or exporters	.041

Verification

For purposes of this preliminary determination, we verified cost of production data, sales data, and information relative to adjustments claimed by the Korean producers of inner tubes by using standard verification procedures. This included on-site inspection of the manufacturers' operations and examination of accounting records and selected documents containing relevant information. In accordance with 776(a)

of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 773(f) of the Act, we will notify the ITC of our determination.

Public Comment

In accordance with 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on March 8, 1984, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., 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 March 1, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

February 3, 1984.

[FR Doc. 84-3699 Filed 2-9-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-021]

Certain Carbon Steel Products From Brazil; Preliminary Affirmative Countervailing Duty Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of certain carbon steel products. The estimated net subsidy is 27.42 percent *ad valorem*. Therefore, we have notified the United States International Trade Commission (ITC) of our determinations. We are directing the U.S. Customs Service to suspend liquidation of all entries of

certain carbon steel products from Brazil which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net subsidy.

If these investigations proceed normally, we will make our final determinations by April 18, 1984.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Alain Letort or Karen Nelson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, Telephone: (202) 377-2438, 377-5050, 377-0167.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of certain carbon steel products. For purposes of these investigations, the following programs are preliminarily found to confer subsidies:

- Government Provision of Equity Capital
- Government Assistance in Repaying Foreign Loans
- IPI Export Credit Premium
- Short-Term Financing (Resolution 674)
- Funding for Expansion through IPI Tax Rebates
- Resolution 68 (FINEX)
- Raw Materials (Iron Ore) Supplied at Government-Controlled Rates

We estimate the net subsidy to be 27.42 percent *ad valorem*.

Case History

On November 10, 1983, we received petitions from the United States Steel Corporation, Pittsburgh, Pennsylvania, on behalf of the U.S. industries producing hot- and cold-rolled carbon steel sheet, cut-to-length plate and plate in coils. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that manufacturers, producers, or exporters in Brazil of certain carbon steel products receive, directly or indirectly, benefits that constitute subsidies within the meaning of section 701 of the Act, and that these imports are materially injuring, or threatening to materially injure, a U.S.

industry. The petition submitted by U.S. Steel covering cut-to-length hot-rolled carbon steel plate was withdrawn.

We found that the remaining petitions contained sufficient grounds upon which to initiate countervailing duty investigations, and on November 30, 1983, we initiated such investigations (48 FR 55012). We stated that we expected to issue preliminary determinations by February 3, 1984.

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiations. On December 27, 1983, the ITC determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (49 FR 670).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C., on December 16, 1983. On January 16, 1984, we received responses to the questionnaire.

Scope of Investigations

The products covered by these investigations are hot-rolled carbon steel plate in coil, hot-rolled carbon steel sheet, and cold-rolled carbon steel sheet (certain carbon steel products), which are described in Appendix I to the notice of "Certain Carbon Steel Products from Mexico; Preliminary Affirmative Countervailing Duty Determinations" in this issue of the *Federal Register*.

There are three known producers and exporters in Brazil of certain carbon steel products to the United States. We have received information from the government of Brazil regarding Companhia Siderúrgica Paulista (COSIPA), Companhia Siderúrgica Nacional (CSN), and Usinas Siderúrgicas de Minas Gerais S.A. (USIMINAS), which represented over 85 percent of exports of these products to the United States during the period of review. For purposes of these preliminary determinations, our period of review is calendar 1982.

Analysis of Programs

Throughout this notice, references are made to general principles applied by the Department of Commerce to the facts of the current investigations. These principles are described in Appendix II to the notice of "Certain Carbon Steel Products from Mexico; Preliminary Countervailing Duty Determinations" in this issue of the *Federal Register* (Appendix II).

For purposes of these preliminary determinations, we are calculating a country-wide *ad valorem* subsidy rate. We allocated the benefits received by respondents in 1982 over the total sales value or export value, as appropriate, of all respondents.

Based on the reconsideration of methodology described in Appendix II, we have decided that it is appropriate to reconsider whether government equity purchases in COSIPA and USIMINAS from 1977-1981 confer subsidies, and whether these two companies were uncreditworthy during this period, because we previously made determinations on these issues in the 1982 investigation of carbon steel plate from Brazil (49 FR 2568). We have decided reconsideration is warranted since we have reexamined the methodology used in the 1982 investigation. By reconsidering the issues, we will be able more accurately to measure the net subsidy during the period of investigation and avoid any inconsistency in our treatment of CSN (a company that was not investigated in the 1982 plate case), USIMINAS and COSIPA.

We have consistently held that government provision of, or assistance in obtaining, capital or debt does not *per se* confer a subsidy. Government equity purchases or financial backing bestow a countervailable benefit only when it is on terms inconsistent with commercial considerations. To determine if such action is commercially unsound, we review and assess financial data for the company in question. Because of time constraints, we were unable to assess thoroughly each company's financial situation for these preliminary determinations. Before reaching our final determinations, we will conduct a considerably more comprehensive review, and also consider more fully what factors are relevant to a determination of inconsistency with commercial considerations. For these preliminary determinations only, we relied primarily on profit on sales, cash flow, current, and debt-equity ratios to determine if government equity infusions were inconsistent with commercial considerations. For loans and loan guarantees, we determined whether the company was "creditworthy." In making these determinations, we focused on cash flow and other measures of each company's ability to meet its long-term debt obligations.

With regard to whether a company was a reasonable equity investment (a condition we have termed "equityworthiness"), we focused on profitability and the long-term

expectations for the company in question. Throughout the rest of this notice, we will use the term "creditworthiness" to refer to both the company's equityworthiness and creditworthiness, even though the two are not precisely the same.

For these preliminary determinations we assessed COSIPA's, USIMINAS' and CSN's creditworthiness for the period 1977 through 1982. Based on the financial measurements outlined above, we preliminarily find COSIPA and USIMINAS to be creditworthy in 1977 and 1978 and uncreditworthy between 1979 and 1982. For CSN, we found the company to be creditworthy between 1977 and 1982.

Under section 771(6)(C) of the Act, the export tax imposed under the terms of the suspension agreement on carbon steel plate from Brazil may be an allowable offset. We are seeking additional information to determine specifically which of the products under investigation are subject to this tax. It appears that the tax is imposed on some forms of plate in coil. Until we so determine, we will not offset the gross subsidy amount by those taxes.

In its responses, the government of Brazil provided data for the applicable period, including financial statements and debt information for COSIPA, CSN, and USIMINAS.

Based upon our analysis to date of the petition and the responses to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined to Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil or certain carbon steel products under the following programs.

A. Government Provision of Equity Capital

Siderúrgica Brasileira S.A. (SIDERBRAS) is a government controlled corporation under the jurisdiction of the Ministry of Industry and Commerce. Pursuant to Decree Law No. 6159 of December 6, 1974, SIDERBRAS became the holding company for the federally owned steel corporations. SIDERBRAS is a major shareholder of nine Brazilian steel producers and a minor shareholder of one small Brazilian steel producer.

SIDERBRAS has assumed certain debts for each of the companies in return for equity. All funds provided to these companies are specifically for expansion projects and are not available for coverage of operating losses. The

sources of SIDERBRAS' funds include: long-term loans obtained in the domestic and external financial markets, direct investment provided by the National Treasury, and earnings remitted by its subsidiaries and related companies.

During 1977-1982, SIDERBRAS provided its steel firms with funds in the form of loans, grants or equity. The amounts received include the loans made to COSIPA, CSN, and USIMINAS by the Banco Nacional do Desenvolvimento Econômico e Social (National Bank for Economic and Social Development, or BNDES, formerly known as BNDE) and assumed by the Brazilian government through SIDERBRAS. These transactions are in effect debt-to-equity conversions by the government of Brazil.

As stated in the "Analysis of Programs" section of this notice, we have preliminarily determined that COSIPA and USIMINAS were uncreditworthy in certain years. Consequently, the action of the government in taking an equity position in these companies in those years is inconsistent with commercial considerations and confers a subsidy.

To calculate the benefit, we compared COSIPA's and USIMINAS' rates of return on equity with the average rate of return in Brazil for the year in question. "We then apply the rate of return" shortfall to all purchases of equity which we consider to be inconsistent with commercial considerations. For these preliminary determinations, we used the average change in the yield indices of the Rio de Janeiro and São Paulo stock exchanges over the past 5.75 years. We preliminarily determine the *ad valorem* benefit from this program to be 3.14 percent.

B. Government Assistance in Repaying Foreign Loans

The Banco Central do Brasil (BCB) is unable to supply Brazilian companies with sufficient hard currency to settle their international debts because of the shortage of dollars in that country. The Aviso GB-588 program provides that under certain circumstances the Brazilian government, through the BCB, will assume the obligations for hard currency debts of state-owned companies which have overseas debt. Those companies are then required to pay the BCB in cruzeiros. The cruzeiro amount is based upon the dollar exchange rate on the date of repayment, but until the BCB has renegotiated the national debt the terms of repayment are unknown. Private companies that negotiate their own debt restructuring directly with creditor banks are not included in this program.

COSIPA and CSN has some of their debt covered under this program during 1982 and 1983. USIMINAS participated in this program in 1983. To date, there are no payback requirements for this debt moratorium, and it is unknown whether the amount eventually repaid will be subject to indexing for inflation. Yet this debt is carried on the companies' books as a liability, indicating that an obligation exists to repay the debt as some future date. Since the terms of the moratorium are not yet known, we treated it as a zero-interest, short-term loan equal to the amount of principal and interest payable during the review period. For our commercial benchmark, we used the published prime rate in Brazil to calculate a benefit of 0.41 percent *ad valorem*.

C. IPI Export Credit Premium

Brazilian exporters of manufactured products are eligible for a tax credit on the Imposto sobre Produtos Industrializados (Tax on Manufactured Products, or IPI). The IPI export credit premium has been found to confer a benefit in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981, in accordance with Ministry of Finance "Portaria" (Notice) No. 270 (amended by Portaria No. 252 on November 29, 1982).

The IPI tax credit is a cash reimbursement from the government of Brazil to the exporter which is paid through the bank involved in the export transaction. The tax credit is based on the "adjusted" f.o.b. value of the exported merchandise, which is obtained by deducting from the invoice price of the merchandise any agent commissions, rebates or refunds resulting from quality deficiencies or damage during transit, contractual penalties, and the value of imported inputs. In order to receive the maximum export credit premium, the exporter must demonstrate that 75 percent of the added value of the merchandise originated in Brazil. If this condition is not met, the f.o.b. invoice price is reduced only by the value of the imported inputs when calculating the base upon which the IPI export credit premium is to be paid.

Subsequent to April 1, 1981, this credit premium was partially phased out according to a schedule negotiated between the United States and Brazil pursuant to Article 14 of the Subsidies Code. The government of Brazil reduced the benefit from 15 percent to 14 percent on March 31, 1982; from 14 percent to

12.5 percent on June 30, 1982; and from 12.5 percent to 11 percent on September 30, 1982. This program is scheduled to be eliminated by May 1, 1985.

In December 1983, we verified use of this program as part of the section 751 review of the countervailing duty suspension agreement involving carbon steel plate from Brazil. We verified information regarding the use of the IPI credit premium by COSIPA and USIMINAS on an earned basis (as opposed to a receipt basis) for 1982. The use rates verified in that proceeding covered the IPI credit premiums accrued on all steel exports, including the products under investigation. We calculated a use rate for CSN, which was not included in the section 751 review of carbon steel plate from Brazil, according to the same method used for COSIPA and USIMINAS.

To calculate the benefit from this program we multiplied the average annual credit premium by the respective utilization rates of the respondents to arrive at the effective credit premium rate for each respondent. We then weight-averaged these effective rates by the respondents' respective share of exports to the United States of the products under investigation, and calculated a net subsidy of 9.97 percent *ad valorem*.

D. Short-term Financing (Resolution 674)

Steel products are eligible for financing under Resolution 674 of the Banco do Brasil. Under this program, companies are declared eligible to receive working capital loans by the Carteira de Comercio Exterior (Foreign Trade Bureau, or CACEX) of the Banco do Brasil. These loans have a term of up to one year and are used to purchase inputs for the production of export goods. Resolution 674 provides financing for 12 to 40 percent of the net export value, depending on the product. The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports. In addition, any growth in the cruzeiro value of exports over the previous year will reduce the value of the benefit as a percentage of the current year's exports. All respondents have significant deductions which result in a reduction in the maximum amount of financing available.

In 1982, steel companies could obtain this financing for up to 20 percent of the net f.o.b. value of the previous year's exports, at interest rates below those available commercially. Use of this financing is not restricted or allocated by product. CACEX determines the maximum dollar eligibility of each exporter under this program; the dollar limit is stated on the "Certificado de Habilitação" issued to the recipient.

We preliminarily determine that such financing confers an export subsidy since it is contingent upon export performance. We allocate the benefit of these loans over the total value of all exports by the companies under investigation.

As in previous Brazilian countervailing duty cases, we used the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. We have used this comparison because information provided by the government of Brazil indicates that, within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. When these loans were granted, the nominal discount rate for accounts receivable was 59.6 percent, plus a 6.9 percent tax on financial transactions (Imposto sobre Operações Financeiras, or IOF). The subsidy is the difference between the effective interest rate actually received under Resolution 674 and the effective commercial rate of 85.55 percent (a nominal rate of 66.5 percent).

The interest rate on loans under Resolution 674 is approximately 40 percent with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. The Brazilian government provides an exemption from the IOF tax for these dollar loans. Therefore, the differential between these two types of financing is 41.55 percent (85.55 - 44.0). We calculated the benefit of 674 financing based on the date of replacement of the loan. The amount repaid is multiplied by the differential, 41.55 percent. This results in an export subsidy of 2.80 percent *ad valorem*.

E. Funding for Expansion Through IPI Tax Rebates

Decree Law 1547 (April 1977) provides funding for expanding the Brazilian steel industry through a rebate of the IPI, a value added tax imposed on sales at each stage of the production process. For steel products, the value added tax is 5 percent.

When it was originally enacted in 1977, the IPI tax applied to all domestic sales transactions. In 1979, the value added tax was eliminated for all producers except those in 14 product sectors, including tobacco, automobiles, spirits and alcohol, ceramics, rubber, and steel. The tax rate is different for each of the specified product sectors.

The full IPI tax is now paid by each respondent and none of the respondents receives any rebates. Under the new provision (Decree Law 1843 of December 1980), the rebates are made to SIDERBRAS as increases in capital. We do not consider funds received by SIDERBRAS to be subsidies to its subsidiaries unless these are passed on to them. The funds which were passed on are discussed elsewhere in this notice. We preliminarily determine that COSIPA, CSN and USIMINAS did not receive countervailable benefits under this program in 1982. However, to the extent that companies received countervailable benefits prior to 1981, we are including benefits from prior years which extend into the period of these investigations. Therefore, we calculate an *ad valorem* subsidy rate of 1.84 percent.

F. Resolution 68 (FINEX)

Resolution 68 of the Conselho Nacional do Comércio Exterior (National Council for Foreign Commerce, or CONCEX) provides that CACEX may grant subsidized export loans through the resources of the Fundo de Financiamento à Exportação (Export Finance Fund, or FINEX). Financing for a minimum of 180 days is available at a maximum level of 85 percent of the f.o.b. invoice price, plus freight and insurance. In order to obtain this financing, an exporter must demonstrate that the foreign purchaser has pre-paid 15 percent of the invoice price. The responses state that under this program, an exporter transfers the appropriately secured account receivable to the Banco do Brasil, or to a local bank, and discounts the value depending on the terms of payment. The payment on the account receivable is made directly to the bank in dollars. This type of financing is considered an advance on hard currency receivables and is not subject to the IOF tax.

The responses indicate that no FINEX loans were received on shipments to the United States. However, we verified in the recent antidumping investigations involving hot-rolled carbon steel plate and sheet from Brazil (49 FR 3102) that USIMINAS had received some FINEX financing on the products under investigation. For the purposes of these preliminary determinations we

determine that this program provides preferential financing on exports and, therefore, confers a countervailable benefit on the products under investigation.

We compare the rate at which the account receivable was discounted with the average commercial rate as found in Communication 331 for dollar-denominated loans. We use the short-term loan methodology to calculate the benefit which we then divided by the total value of exports to the United States and calculate an *ad valorem* subsidy of 0.02 percent.

G. Raw Materials (Iron Ore) Supplied at Government-Controlled Rates

Petitioner alleges that Brazilian steel producers benefit from government policies which maintain domestic iron-ore prices at levels substantially below international prices. Respondents reply that the price of iron ore is subject to government prices controls and that these prices apply to all transactions, regardless of whether the seller or buyer is a state enterprise or private sector company.

Although iron ore nominally is available to all industries on similar terms, we believe the steel industry is by far the dominant user of this input. Thus, in reality the price control on iron ore provides a benefit to "a specific enterprise or industry." This is unlike the situation discussed in our final determinations on softwood lumber from Canada (48 FR 24159) and anhydrous and aqua ammonia from Mexico (48 FR 28522). There we determined that the input concerned was not used solely by a "specific . . . group of enterprises or industries."

Since the benefit is used only by a specific industry, we then considered whether it was a countervailable domestic subsidy. We believe that a controlled price is the "provision of goods and services" (section 771(5)(B)(ii) of the Act). Thus, it is a subsidy if provided at "preferential rates." As recognized in footnote 3 of section II.A of our final determination in softwood lumber from Canada (48 FR 24159), the number of users of iron ore is so limited that the normal standard of preferentiality—more favorable to some users than to others within the jurisdiction—cannot be applied. This being so, we concluded that international prices for iron ore provided the appropriate benchmark for measuring the level of the subsidy. We preliminarily determine that this program confers a countervailable benefit. We calculate an *ad valorem* subsidy of 9.24 percent.

II. Programs Preliminary Determined Not To Confer Subsidies

We preliminarily determine subsidies are not being provided to manufacturers, producers, or exporters in Brazil of certain carbon steel products under the following programs.

A. BNDES Financing

Long-term financing for the purchase of capital equipment, and long-term loans for expansion projects, are available from BNDES. Loans are available to private as well as state-controlled enterprises for a maximum of 20 years, and require an analysis of the economic viability of the project and the ability of the borrower to service the debt. All BNDES loans must be secured to the level of at least 130 percent of the value of the loan.

For creditworthy companies, we have determined (as we have in past investigations and reviews) that fully-indexed BNDES loans bestow no benefit, because they are not given on terms inconsistent with commercial considerations.

We also find, for these preliminary determinations, that these loans confer no benefit upon uncreditworthy companies because of the required security, and because they are not given on terms inconsistent with commercial considerations. However, we will examine more fully the nature of the security and the terms of the loans at verification.

B. FINAME Loans

Long-term financing in cruzeiros is available in Brazil only through government-controlled financial institutions, such as BNDES and the Agência Especial do Financiamento Industrial (Special Agency for Industrial Financing, or FINAME), a subsidiary of BNDES. This financing is available for the purchase of capital equipment manufactured in Brazil.

Generally, these loans are fully indexed to the inflation rate in Brazil and are made at fixed real interest rates. The index used for these loans is the ratio established for the ORTN. FINAME loans are granted through commercial banks rather than directly from BNDES and carry higher real interest rates than BNDES loans.

In past Brazilian steel investigations, we determined that fully indexed FINAME loans are generally available since they are not provided to a specific industry or group of industries, or to companies in specific regions, and consequently do not confer a countervailable domestic subsidy. All FINAME loans provided to public

enterprises—including COSIPA, CSN, and USIMINAS—are fully indexed. Therefore, we preliminarily determine that these loans did not confer a subsidy upon the producers of products under investigation.

C. Government Loan Guarantees

In 1982, USIMINAS received a Brazilian government guarantee on a debenture issued on the Japanese market. The issuance was made in a period in which we consider USIMINAS to be uncreditworthy. To determine if a countervailable benefit was bestowed by the guarantee, we compared the terms of the debenture with the highest terms on a debenture issuance in Japan during 1982, plus the risk premium. Our preliminary analysis indicates that the terms of the yen debenture guaranteed by the Brazilian government were less favorable than our benchmark. However, before making our final determinations, we will investigate this Brazilian loan guarantee further.

D. Rail Rate Subsidies Based on Payment in Steel

Petitioners allege that Brazilian steel mills pay the Rede Ferroviária Federal (the federal railway or RFF) for rail freight charges with steel, and that RFF uses this steel to pay the state-owned PETROBRAS company for fuel. Petitioners also allege that Brazilian steel producers in general may receive preferential rates on steel shipments.

Respondents claim that RFF had accounts receivable outstanding from COSIPA and CSN, and also had accounts payable to PETROBRAS, the state-owned fuel company. They further claim that in settling its debt with PETROBRAS, RFF assigned the accounts receivable from COSIPA and CSN to PETROBRAS, and arranged for COSIPA and CSN to settle these accounts in the form of steel to INTERBRAS, the trading company of PETROBRAS. All parties involved signed a contract and the cost of the steel products, valued on the basis of list price, was offset against the assigned debt. The price charged for the steel is controlled by the fixed price for all commercial transactions, and the rail rates charged are published. PETROBRAS then resold the steel received in payment at the prevailing world market price. It appears that all companies involved in these transactions acted in accordance with normal commercial considerations.

The government of Brazil maintains that producers of certain carbon steel products do not receive any preferential treatment for use of rail facilities and that any barter agreements between

COSIPA, CSN, and USIMINAS and the RFF are based on the list prices of the merchandise being traded. It appears that the companies involved in this transaction acted in accordance with commercial considerations. No preference was mandated by the Brazilian government or provided by the individual companies. Therefore, we preliminarily determine that this program confers no countervailable benefit upon respondents.

E. Exemption of IPI Taxes and Duties on Imported Equipment

The Conselho do Desenvolvimento (Industrial Development Council, or CDI) provides, pursuant to Decree Law 1428, for the exemption of 80 to 100 percent of the customs duties and 80 to 100 percent of the IPI tax on certain imported machinery for projects approved by the CDI. The recipient must demonstrate that the machinery or equipment for which an exemption is sought was not available from a Brazilian producer. The investment project must be deemed to be feasible and the recipient must demonstrate that there is a need for added capacity in Brazil.

Decree Law 1726 repealed this program in 1979. Subsequently, no new projects were eligible for these benefits. However, companies whose projects were approved prior to repeal may still receive these benefits pending completion of the project.

In prior cases the Department found this program to be countervailable. However, based upon information obtained by the Department in its verification of other cases which indicates that this program is generally available, we now preliminarily determine that this program is not countervailable.

F. Export Financing Under CIC-CREGE 14-11

All exporters of manufactured products with production cycles of under 180 days are eligible to apply to the Banco do Brasil for export financing under the CIC-CREGE 14-11 program. The bank's eligibility criteria are based on the value of the applicant's exports in the previous year. For companies receiving loans under Resolution 674, the maximum financing available is 10 percent, and for all other companies the maximum is 15 percent of the value of the applicant's exports in the previous year.

In December 1983, we verified this program as part of the section 751 review of the countervailing duty suspension agreement involving carbon

steel plate from Brazil. Under this program, a company obtains a loan with the Banco do Brasil in return for agreeing to exchange a certain amount of U.S. currency with the Banco do Brasil, thus giving the bank a secure source of the foreign currency needed to meet reserve requirements. The Banco do Brasil charges a commission on these loans. Furthermore, the loans are secured with collateral up to at least 170 percent of the value of the loan. There is no fixed interest rate for loans under this program, and the bank has complete discretion in making these loans. The government of Brazil provides no resources to the bank to enable it to perform these operations, nor does it set the interest rates. In the absence of any government action or direction, we have preliminarily determined that no countervailable benefit is conferred.

In prior cases the Department found this program to be countervailable. However, based upon additional information obtained by the Department in its verification of other cases and upon further consideration, we now preliminarily determine that this program is not countervailable.

G. Supplier Credits

Petitioner alleges that payments to suppliers by state-owned companies in Brazil are not adjusted for inflation, and that such non-indexation of overdue accounts payable can constitute a substantial benefit in Brazil's highly inflationary economy. Respondents claim that the government of Brazil does not mandate or direct any preferential treatment for late payments by public sector companies. Instead, contracting parties may decide whether accounts payable are indexed. In the absence of any government action or direction, we have preliminarily determined that no countervailable benefits are bestowed through preferential buyer credits.

H. Simultaneous Devaluation and Imposition of Export Taxes

Petitioner alleges that early in 1983, the government of Brazil devalued the cruzeiro in order to stimulate exports, and concurrently imposed an export tax on a number of products in order to offset the benefits of the devaluation. Petitioner claims these joint actions constitute a selective devaluation designed to favor certain exports over others.

Although the government of Brazil announced a 30 percent "maxi-devaluation" on February 21, 1983, and subsequently adjusted several export taxes, we do not consider this to confer a countervailable benefit for two reasons.

First, in order for a selective devaluation to occur, there must be a multiple exchange rate system. There is no such system in Brazil. The devaluation included no provisions to protect certain industries or groups of industries from the effects of the devaluation.

Second, the presumption that the government applied an export tax selectively to confer a benefit requires evidence that it did so to deliberately favor the export of some products over others. Governments set tax rates for various reasons; e.g., to raise revenue, and to inhibit the export of certain goods in order to dampen upward pressure on domestic prices created by devaluation. Absent evidence that the government imposed selective export taxes to purposefully benefit non-taxed exports, we do not consider them to confer a countervailable subsidy.

I. Certain Labor Programs

Petitioner alleges that the government of Brazil has provided assistance for the training and career development of steel industry personnel.

The government of Brazil responds that it has not provided funds or other forms of assistance for the training and career development of steel industry personnel, other than income tax deductions for employee training and meals which were determined not to confer countervailable benefits in *Carbon Steel Plate from Brazil*, January 20, 1983 (48 FR 2568). Accordingly, we preliminarily determine that this program does not confer a subsidy.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that manufacturers, producers or exporters in Brazil of certain carbon steel products did not use the following programs, listed in the notice of "Initiation of Countervailing Duty Investigations."

A. Government Funds To Cover Operating Losses

Based on evidence currently on the record, the government of Brazil has not provided any funds to cover the operating losses of the companies in the SIDERBRAS group. Equity infusions by SIDERBRAS were provided for expansion and are addressed in section I.A., supra. Accordingly, we preliminarily determine this program was not used by respondents.

B. Local Tax Incentives/Special Tax Deductions for SIDERBRAS

In its response, the government of Brazil states that there are no local tax measures which benefit respondents. As

a result of a special concession by the government, CSN was allowed to use the losses of other companies in the SIDERBRAS group to offset its profits for income tax purposes in 1980. The government conceded this special dispensation to compensate for the fact that within the SIDERBRAS group, some companies consistently incur losses while others are profitable. However, such benefits received by CSN on its 1980 earnings, extended only through 1981. This concession was repealed shortly thereafter and this program no longer exists. Accordingly, we preliminarily determine that this program was not used by respondents during the period for which we are measuring subsidization.

C. Export Profits Exemption From Corporate Income Tax

Pursuant to Decree Laws 1158 and 1721, exporters of certain carbon steel products are eligible to participate in this program, under which some profits attributable to export revenue are exempt from income tax.

We preliminarily determine that none of the respondents have used this income tax exemption during the period of investigation.

D. Accelerated Depreciation for Equipment

Pursuant to Decree Law 1137, any company which purchases Brazilian-made capital equipment and has an expansion project approved by the CDI may depreciate this equipment at twice the rate normally permitted under tax laws.

We preliminarily determine that none of the respondents used the accelerated depreciation provisions of this program.

E. Resolution 330 of the BCB

BCB Resolution 330 provides financing for up to 80 percent of the value of the merchandise placed in a specified bonded warehouse and destined for export. Exporters of certain carbon steel products would be eligible for financing under this program. However, COSIPA, CSN, and USIMINAS did not use this program because each company produces export sales to order and their products are not placed in a warehouse. Accordingly, we preliminarily determine that respondents did not use this program during the period for which we are measuring subsidization.

F. The BEFIEX Program

The Comissão para a Concessão de Benefícios Fiscais a Programas Especiais de Exportação (Commission for the Granting of Fiscal Benefits to

Special Export Programs, or BEFIEX) is authorized by Decree Law 77065 to reduce by 70 to 90 percent import duties and the IPI tax on the import of machinery, equipment, apparatus, instruments, accessories and tools necessary for special export programs approved by the Ministry of Industry and Trade. Further, imports of components, raw materials and intermediary products may benefit from a reduction of 50 percent of import duties and IPI.

No respondent receives benefits through this program. Most of the merchandise produced by the respondents is sold in Brazil, and they are not able to make the required export commitments. Accordingly, we preliminarily determine that respondents did not use this program during the period for which we are measuring subsidization.

G. Apóio à Exportação (Proex)

Petitioner alleges that a new line of short-term credit for exports was established under the Apóio à Exportação (Proex) program of BNDES. Respondents state that none of the respondents have been declared eligible under this program. Therefore, we preliminarily determine that respondents did not use this program during the period for which we are measuring subsidization.

H. Incentives for Trading Companies

Petitioner alleges that CSN and USIMINAS distribute their export sales through such intermediaries as trading companies, and that under Resolution 643 of the BCB, trading companies can obtain export financing similar to that obtained by manufacturers under Resolution 674.

Respondents state that no benefits were received under this program by the exported products. Accordingly, we preliminarily determine that this program was not used by respondents for the period in which we are measuring subsidization.

I. Raw Materials (Charcoal and Slab) Supplied at Preferential Rates

1. Charcoal

Petitioner alleges that the government of Brazil has given fiscal incentives to encourage the expansion of charcoal production through reforestation. Respondents claim that the Brazilian steel industry does not use wood charcoal to produce steel.

2. Slab

Petitioner also alleges that Brazilian producers of hot- and cold-rolled sheet

and plate in coils will soon be using subsidized slab for SIDERBRAS' Tubarão mill. Respondents reply that neither COSIPA, CSN, nor USIMINAS purchased slab from the Tubarão mill during the period of investigation. Therefore, we preliminarily determine that respondents did not use subsidized charcoal or slab during the period of investigation.

J. Construction of Ports

Petitioner alleges that Brazil's Third National Development Plan (1980-85) provides for the construction of a port at Praia Mole designed mainly for the export of steel products and the import of coal. The government of Brazil denies this allegation. Therefore, we preliminarily determine that this program is not used by the respondents. However, we will seek additional information on the use of this port by other industries before making our final determinations.

K. Certain Labor Programs for Employees of State Enterprises

Petitioner alleges that the government of Brazil has restricted fringe benefits and pay levels of public employees, and that these restrictions confer a countervailable benefit on steel products manufactured in Brazil by state-owned companies.

We preliminarily determine that these programs were not used by respondents during the period for which we are measuring subsidization. Although Decree Laws 2036 and 2100 were not in effect during this period, we may examine them and other similar legislation in any annual reviews required under section 751 of the Act.

IV. Program for Which Additional Information is Needed

Fiscal Incentives, Donations and Grants

Petitioner alleges that CSN received a certain amount of "fiscal incentives, donations and grants" as stated in its 1981/82 Statement of Sources of Funds. In order to determine whether these funds were conferred under programs addressed above, additional information is required. We will seek this information from the government of Brazil and CSN during our verification.

Verification

In accordance with section 776(a) of the Act, we will verify the information used in making our final determinations.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain carbon steel

products from Brazil which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register and to require a cash deposit or bond for each such entry of this merchandise of 27.42 percent *ad valorem*.

This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determinations of whether these imports are materially injuring, or threatening to materially injure, a U.S. industry before the latter of 120 days after the Department makes its preliminary affirmative determinations or 45 days after the Department makes its final affirmative determinations.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10 a.m. on March 21, 1984, at the U.S. Department of Commerce, Room 3708, 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 March 16, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: February 3, 1984.

Alan F. Holmer,
Deputy Assistant Secretary for Import
Administration.

[FR Doc. 84-3703 Filed 2-9-84; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Control Levels for Certain Man-Made Fiber Textile Products From Taiwan

February 7, 1984.

AGENCY: Committee for the
Implementation of Textile Agreements.

ACTION: CITA is controlling imports of
man-made fiber luggage in Category 670
(only TSUSA Nos. 706.4144 and
706.44152), produced or manufactured in
Taiwan and exported during the year
which began on November 29, 1982.

A description of the textile categories in
terms of T.S.U.S.A. numbers was published in
the *Federal Register* on December 13, 1982 (47
FR 55709), as amended on April 7, 1983 (48 FR
15175), May 3, 1983 (48 FR 19924) and
December 14, 1983 (48 FR 55607), and
December 30, 1983 (48 FR 57584).

SUMMARY: During consultations held on
January 19 and 20, 1984, under Section
204 of the Agricultural Act of 1956, as
amended (7 U.S.C. 1854), concerning
man-made fiber Luggage from Taiwan,
no agreement was reached on a
mutually satisfactory level for Category
670 (only TSUSA Nos. 706.4144 and
706.4152), exported during the twelve-
month period which began on November
29, 1983. Notice of the intention to hold
these consultations was published in the
Federal Register on December 6, 1983.
The United States has decided to control
imports in this category at the hold level
of 58,004,491 pounds, pending the
conclusion of consultations.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT:
William Boyd, International Trade
Specialist, Office of Textiles and
Apparel, U.S. Department of Commerce,
Washington, D.C., (202/377-4212).

SUPPLEMENTARY INFORMATION: On
December 16, 1982 a letter from the
Chairman of the Committee for the
Implementation of Textile Agreements
to the Commissioner of Customs was
published in the *Federal Register* (48 FR
55895) which established levels of
restraint for certain cotton, wool and
man-made fiber textile products,
produced or manufactured in Taiwan
and exported during the twelve-month
period which began on January 1, 1984.

In the letter which follows this notice an
additional level is being established for
man-made fiber luggage in Category 670
(only TSUSA Nos. 706.4144 and
706.4152), during the twelve-month
period which began on November 29,
1983 and extends through November 28,
1984.

Walter C. Lenahan,
Chairman, Committee for the Implementation
of Textile Agreements

February 7, 1984

Committee for the Implementation of Textile
Agreements,
Commissioner of Customs, Department of the
Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive
further amends, but does not cancel, the
directive of December 13, 1983 concerning
cotton, wool and man-made fiber textile
products, produced or manufactured in
Taiwan and exported during 1984.

Effective on February 13, 1984, paragraph 1
of the directive of December 13, 1983 is
hereby further amended to include a level of
58,004,491 pounds¹ for man-made fiber textile
products in Category 670,² exported during
the twelve-month period which began on
November 29, 1983 and extends through
November 28, 1984.

Textile products in Category 670² which
have been exported to the United States prior
to November 29, 1983 shall not be subject to
this directive.

Textile products in Category 670² which
have been released from the custody of the
U.S. Customs Service under the provisions of
19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the
effective date of this directive shall not be
denied entry under this directive.

The Committee for Implementation of
Textile Agreements has determined that
these actions fall within the foreign affairs
exception to the rulemaking provisions of 5
U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation
of Textile Agreements

[FR Doc. 84-3700 Filed 2-9-84; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984 Additions

AGENCY: Committee for Purchase from
the Blind and Other Severely
Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to
Procurement List 1984 commodities to be

¹ The level of restraint has not been adjusted to
reflect any imports exported after November 28,
1983.

² In Category 670, only TSUSA Nos. 706.4144 and
706.4152.

produced by and a service to be
provided by workshops for the blind
and other severely handicapped.

EFFECTIVE DATE: February 10, 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: On
September 30, and October 28, 1983, the
Committee for Purchase from the Blind
and Other Severely Handicapped
published notices (48 FR 44877 and 48
FR 49905) of proposed additions to
Procurement List 1984, October 18, 1983
(48 FR 48415).

After consideration of the relevant
matter presented, the Committee has
determined that the commodities and
service listed below are suitable for
procurement by the Federal Government
under 41 U.S.C. 46-48c, 85 Stat. 77.

I certify that the following actions will
not have a significant impact on a
substantial number of small entities. The
major factors considered were:

a. The actions will not result in any
additional reporting, recordkeeping or
other compliance requirements.

b. The actions will not have a serious
economic impact on any contractors for
the commodities and service listed.

c. The action will result in authorizing
small entities to produce or provide
commodities and a service procured by
the Government.

Accordingly, the following
commodities and service are hereby
added to Procurement List 1984:

Class 7520

Box, Filing: 7520-00-139-3734, 7520-00-240-
4830, 7520-00-240-4831, 7520-00-139-3734,
7520-00-240-4839

Cashbox: 7520-00-281-5931

SIC 7349

Janitorial Service, Alamo Exchange Region,
Army and Air Force Exchange, 5315
Summit Parkway, San Antonio, Texas.

C. W. Fletcher,

Executive Director.

[FR Doc. 84-3729 Filed 2-9-84; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; Amendments to and Deletion of Notices for Systems of Records

AGENCY: Office of the Inspector General,
DoD.

ACTION: Amendments to and deletion of notices for system notices.

SUMMARY: The Office of the Inspector General, Department of Defense proposes to amend and update the notices for five systems of records and to delete the notice for one system of records subject to the Privacy Act of 1974. Essentially the changes are to consolidate the notices for the various activities combined into the Office of the Inspector General and to clearly indicate where the systems are maintained by the various Inspector General components. The systems notices are amended are set forth below.

DATES: The amendment will be effective on or before March 12, 1984, unless public comments are received which result in a contrary determination.

ADDRESS: Send comments to: Office of the Assistant Inspector General for Management, Department of Defense, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Mauri Hamilton at the above address or telephone: (202) 694-0493.

SUPPLEMENTARY INFORMATION: The Office of the Inspector General, DoD, has consolidated the system notices for the Defense Criminal Investigative Service and Defense Audit Agency into a single set of system notices and identified those activities within the Office of the Inspector General that will now be maintaining portions of the system. These changes will reflect to reflect the current structure of the Office of the Inspector General.

The current system identifiers and the former system identifiers are as follows:

Current Identifier	Former Identifier
CIG-01	CIS-01
CIG-02	CIS-02
CIG-03	CIS-03
CIG-04	CIS-04
CIG-06	CIS-06
CIG-07	DAS-01

The notice for system CIS-05 is cancelled as the Office of the Inspector General no longer maintains separate security files. Systems notices for the systems being changed have been previously published in the Federal Register. All of these systems of records are subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

None of the changes require an altered system report (5 U.S.C. 552a(o)).

February 7, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer,
Department of Defense.

System Name: Privacy Act and Freedom of Information Act Files

Reason: System redesignated as CIG-01.

CIS-02

System Name: Applicant Records
Reason: System redesignated as CIG-02.

CIS-03

System Name: Personnel Locator Cards
Reason: System redesignated as CIG-03.

CIS-04

System Name: Case control System
Reason: System redesignated as CIG-04 and system name changed to "Case Control System-Investigative".

CIS-05

System Name: Security Records
Reason: System cancelled as records no longer maintained by the Office of the Inspector General, DoD.

CIS-06

System Name: Investigative Files
Reason: System redesignated as CIG-06.

DAS-01

System Name: Defense Audit Management Information System (DAS/MIS)

Reason: System redesignated as CIG-07 and renamed "Case Control System-Audit, Audit Follow-up, and Audit Policy and Oversight".

CIG-01

SYSTEM NAME:

Privacy Act and Freedom of Information Act Files.

SYSTEM LOCATION:

Office of the Assistant Inspector General for Management, Department of Defense, The Pentagon, Washington, DC 20301.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Individuals who have submitted or were the subjects of request made under the Privacy Act of 1974 (5 U.S.C. 552a) or the Freedom of Information Act (5 U.S.C. 552).

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of all Privacy Act and Freedom of Information Act requests and the answers thereto. Correspondence pertaining to the requests, the

information released or withheld; summaries, logs of actions taken, and correspondence from and to other DoD and Federal agencies regarding specific requests of mutual interest. Documents pertaining to all appeals and legal actions concerning OIG actions in response to such requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the Inspector General Act of 1971, (Pub. L. 95-452), as amended, and DoD Directive 5106.1 (32 CFR Part 376) implementing that law, the DoD Inspector General is authorized to organize, direct and manage the Office of the Inspector General, to include the creation and maintenance of necessary records. See also 5 U.S.C. 552 and 5 U.S.C. 552a.

PURPOSES:

Records are used to respond individual requests for access to records made under either act and to respond to requests for amendment made under the Privacy Act, to document OIG actions in response to these requests, and any subsequent appeals regarding agency actions or litigation.

Records are used by OIG personnel to take and coordinate actions with other OIG, DoD, and Federal and state and agencies. OIG investigative, audit and inspection personnel when the release of the information requested may have an impact on these activities. Also, information may be provided to the appropriate OIG element when further action is needed to verify assertions of the requester or to obtain permission to release information obtained from sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from this system may be provided to other Federal agencies and state and local agencies when it is necessary to coordinate responses or denials.

See also the Blanket Routine uses for all OIG systems of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by surname of requester.

STORAGE:

Records are stored in locked security containers accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Privacy Act Records: Requests which are granted wholly, unappealed denials, and denials completely overruled on appeal by the appeal authority are destroyed two years after the reply or the final OIG, DoD action.

Denials and partial denials which are not overruled on appeal or are the subject of litigation are destroyed five years after the final OIG or judicial action, as appropriate.

Freedom of Information Act Records: Records of requests that are totally granted are destroyed two years after the date of the OIG reply. Records of all denials are destroyed five years after the OIG reply.

Records of appeals are destroyed four years after final OIG, DoD reply or three years after final adjudication by a court, whichever is sooner.

SYSTEM MANAGER AND ADDRESS:

Office of the Assistant Inspector General for Management, DoD, The Pentagon, Washington, DC 20301.

NOTIFICATION PROCEDURE:

Send your request to the System Manager. Please include full information regarding the previous request such as date, subject matter, and if available, copies of the previous OIG reply.

RECORD ACCESS PROCEDURE:

The OIG access procedures may be obtained from the System Manager.

CONTESTING RECORD PROCEDURE:

The OIG rules for contesting and appealing initial denials of amendment may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

From the individuals on whom records are maintained and official records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIG-02**SYSTEM NAME:**

Applicant Records.

SYSTEM LOCATION:

Primary Record: Office of the Assistant Inspector General for Management, Department of Defense, The Pentagon, Washington, D.C. 20301. Portion of this system may be temporarily maintained by other OIG offices.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Individuals who have submitted applications or other correspondence directly to OIG or its components indicating an interest in employment with the OIG or any of its components.

CATEGORIES OF RECORDS IN THE SYSTEM:

Temporary records of the applicant's interest in or qualifications for employment with the OIG.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the Inspector General Act of 1971 (Pub. L. 95-452), as amended, and DoD Directive 5106.1 (32 CFR Part 376) implementing that law, the DoD Inspector General is authorized to organize, direct and manage the Office of the Inspector General, to include the creation and maintenance of necessary records.

PURPOSES:

To identify applicants and determine their eligibility for positions with the OIG. Used by OIG personnel and supervisory personnel to select employees and to respond to requests for employment.

Information may be coordinated with other DoD activities for verification purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from this system may be provided to other Federal agencies when it is necessary to verify the information provided.

See also the Blanket Routine uses for all OIG systems of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by surname of applicant.

STORAGE:

Records are stored in locked security containers accessible only to authorized personnel. Offices are locked after duty hours and security guards are used.

RETENTION AND DISPOSAL:

Records are temporary and are destroyed as classified waste as soon as a final OIG determination is made regarding the hiring action.

SYSTEM MANAGER AND ADDRESS:

Office of the Assistant Inspector General for Management, DoD, The Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Send your request to the System Manager. Written request should contain the full name of the applicant, and the approximate date of the application.

RECORD ACCESS PROCEDURE:

The OIG access procedures may be obtained from the System Manager.

CONTESTING RECORD PROCEDURE:

The OIG rules for contesting and appealing initial denials of amendment may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

From the individuals on whom records are maintained and official records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIG-03**SYSTEM NAME:**

Personnel Locator Cards

SYSTEM LOCATION:

Primary Location: Office of the Assistant Inspector General for Management, Department of Defense, Washington, D.C. 20301.

Other Locations: The various components and activities of the Office of the Inspector General, DoD, maintain locator cards on personnel assigned to them.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Personnel assigned or attached to the OIG or its components, and certain formerly assigned or attached individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Locator cards reflecting the name location and telephone number of the assigned or attached individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the Inspector General Act of 1971, (Pub. L. 95-452), as amended, and DoD Directive 5106.1 (32 CFR Part 376) implementing that law, the DoD Inspector General is authorized to organize, direct and manage the Office of the Inspector General, to include the creation and maintenance of necessary records.

PURPOSES:

Records are used to locate individuals assigned or attached to OIG by OIG administrative and supervisory personnel at the OIG and in field activities. Records are used to aid in the

distribution of communications addressed to individuals, and to make and verify entries in personnel rosters, directories, and listings. Individuals are allowed to restrict the unofficial use of the information in the system. Locator information may be provided to agencies and individuals within DoD having a need for such information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Locator information regarding specific individuals may be provided to other agencies and individuals upon request subject to the limits established by the individual.

See also blanket routine uses for all OIG systems of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records consist of paper forms.

RETRIEVABILITY:

Filed alphabetically by surname.

STORAGE:

Records are stored in security containers and locked file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Retained in active file until departure of the individual and then placed in inactive file. Destroyed one year after departure. Records are destroyed as if classified waste.

SYSTEM MANAGER AND ADDRESS:

Office of the Assistant Inspector General for Management, OIG, DoD, The Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Send your name to the System Manager. You may wish to include the dates of your assignment to OIG and the OIG component to which assigned.

RECORD ACCESS PROCEDURE:

The OIG access procedures may be obtained from the System Manager.

CONTESTING RECORD PROCEDURE:

The OIG rules for contesting and appealing initial denials of amendment may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

From the individuals on whom records are maintained and official records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIG-04

SYSTEM NAME:

Case Control System—Investigative.

SYSTEM LOCATION:

Primary Location: Office of the Assistant Inspector General for Investigations (INV), Cameron Station, Alexandria, VA 22314, has primary control over the system. INV is a component of the Office of The Inspector General (OIG), Department of Defense (DoD).

Decentralized Locations: INV Regional Field Offices, Resident Agencies, and various INV Headquarters components have temporary control over portions of the records.

The Office of the Assistant Inspector General for Criminal Investigations and Policy and Oversight (CIPO) originates and has control over portions of the records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person or activity which is the subject of an on-going or recently completed OIG investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file is composed of records of investigations which are being or have been conducted by the OIG. Records contain the name or other personal identifying information on individuals who are investigated.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the Inspector General Act of 1978, (Pub. L. 95-452), as amended, and DoD Directive 5108.1 (32 CFR Part 376) implementing the law, the Inspector General, DoD, is authorized to organize, direct, and manage the Office of the Inspector General, to include creating and maintaining necessary records.

PURPOSES:

The file contains open and closed case listings used to manage investigations, to produce statistical reports, and to control various aspects of the investigative process.

Users are the Case Control Officers; OIG Project Officers, and other OIG officials.

Used to determine the existence, location, and status of cases, control workload, and to prepare statistical reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See blanket routine use for all OIG record systems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By name, Social Security Number, military service number or case control number.

SAFEGUARDS:

Files are maintained in locked cabinets accessible only to those with an official need-to-know.

RETENTION AND DISPOSAL:

Records are retained for one year and then disposed of as classified waste.

SYSTEM MANAGER AND ADDRESS:

Assistant Inspector General for Investigations, OIG, DoD, 8D490 Cameron Station, Alexandria, VA 22314.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager at the above address. Requester should provide the full name of the subject company or individual, and all maiden or alias names under which the file may be maintained. Personal identifiers which should be included are date and place of birth, Social Security Number, and the last four digits of a military service number. These assist in locating files and are helpful in conducting the search. However, furnishing of personal identifiers is voluntary. Searches will be limited to the data furnished.

The office listed above may be visited from 9:00 am to 3:30 pm, Monday through Friday. Requesters visiting the office should bring personal documents as proof of identity.

RECORD ACCESS PROCEDURES:

The OIG rules for access to records and appealing initial denials of access by individuals may be obtained by writing the System Manager.

CONTESTING RECORD PROCEDURES:

The OIG rules for contesting contents of the records and appealing initial denials of requests for amendment by the individual concerned may be obtained by writing the System Manager.

RECORD SOURCE CATEGORIES:

OIG Case Control Centers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552(j)(2) certain portions of the case control records may be exempted from the

provisions of 5 U.S.C. 552a(c) (3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g). Information from this system will be withheld only to the extent that its release would interfere with the investigative process. See 32 CFR Part 293.

CIS-06

SYSTEM NAME:

Investigative Files.

SYSTEM LOCATION:

Primary Location: Office of the Assistant Inspector General for Investigations (INV), Cameron Station, Alexandria, VA 22314, has primary control over the system. The INV is a component of the Office of the Inspector General (OIG), Department of Defense (DoD).

Decentralized Locations: INV Regional Field Offices, Resident Agencies, and various INV Headquarters staff elements originate and have temporary control over portions of the records.

The Office of the Assistant Inspector General for Criminal Investigations Policy and Oversight (CIPO) and Office of the Assistant Inspector General for Inspections originate and have control over portions of the records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD civilian personnel; members of the Armed Forces of the United States, Reserve components, and National Guard units; DoD contractors; individuals residing on, having authorized official access to, or contracting or operating any business or other functions at any DoD installation or facility; and individuals not affiliated with the Department of Defense when their activities have directly threatened the functions, property or personnel of the Department of Defense, or they have threatened any other high ranking government personnel who are provided protective service mandated by the Secretary of Defense, or they have engaged in, or are alleged to engage in criminal acts on DoD installations or directed at the Department of Defense, its personnel or functions; or individuals information regarding DoD activities falling under the purview of OIG responsibilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official Reports of Investigation (ROIs) including any attachments, prepared by OIG or other DoD Federal, state, or local official investigative activities;

Information Summary Reports (ISRs) which record unsolicited information of a criminal nature received by OIG concerning persons or incidents which are of direct interest to other DoD Components or Federal agencies;

Documents, information, and confidential source files which are not included in the ROIs, but which serve as the basis of investigations or which guide and facilitate investigative activities, including documents providing the data to open, direct, conduct, transfer and close cases;

OIG file administration and management documents accounting for disclosure, control, and access to a file; and

Grand Jury information not contained in reports, agent notes, fingerprint cards, duplicate files at the local level and other miscellaneous documents supporting the criminal investigation file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the Inspector General Act of 1978 (Pub. L. 95-452), as amended, and DoD Directive 5106.1 (32 CFR Part 376) implementing that law, the DoD Inspector General is authorized to organize, direct and manage the Office of the Inspector General, to include the creation of necessary records.

PURPOSES:

Investigative information is collected at the request of appropriate DoD officials or agencies to identify offenders, to provide facts and evidence upon which to base prosecution, to effect corrective administrative action and to recover money and property which has been wrongfully appropriated. Information contained in ISRs is disseminated to interested DoD Components. Information is collected during reciprocal investigations conducted for other DoD investigative elements for maintenance and use by the requesting DoD activity.

Users of OIG investigative information include: OIG personnel in the course of their official duties; other accredited DoD investigative elements, DoD agencies, elements of the military departments and representatives of the Secretary of Defense and the Joint Chiefs of Staff.

OIG investigative records are used: In criminal law enforcement investigations including statutory violations, counterintelligence as well as counterespionage and counterterrorist activities and other security matters; to provide information in contractor responsibility and suspension/

debarment determinations; to provide information in contractual actions; to make statistical evaluations of OIG investigative activities; to respond to Freedom of Information Act access requests; to determine loyalty, suitability, eligibility, and general trustworthiness of individuals for access to classified information and government facilities, for entry into, retention in and for personnel actions in the Armed Forces or federal employment; to provide information in response to Inspector General, Equal Employment, or other complaint investigations and congressional inquiries; to obtain relevant information from federal, state, local or foreign agencies; to obtain employment records, if necessary, from business enterprises; and to obtain information relevant to the on-going investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in ISR's is disseminated to interested Federal agencies. Information is collected during reciprocal investigations conducted for other Federal investigative elements (or in limited instances, for local or state law enforcement agencies) for maintenance and use by the requesting activity.

Users of OIG investigative information include: Accredited Federal criminal and civil law enforcement agencies; regulatory and licensing agencies; other accredited Federal agencies conducting investigations to evaluate suitability for employment or access to classified information; congressional committees; and the General Accounting Office.

OIG investigative records are used: In criminal law enforcement investigations including statutory violations; in counterintelligence as well as counterespionage and counterterrorist activities and other security matters conducted by other agencies; to assist agencies charged with the responsibility for investigating or prosecuting violations of laws, rules, regulations or orders; to provide information in judicial or adjudicative proceedings including litigation or in accordance with a court order; to determine loyalty, suitability, eligibility, and general trustworthiness of individuals for access to classified information and government facilities; by other Federal agencies in connection with hiring and retention of employees, issuance of security clearance, or other benefit by the requesting agency; to provide information pertinent to the protection of persons under the

provisions of 18 U.S.C. 3056; to obtain relevant information from federal, state, local or foreign agencies to obtain employment records, if necessary, from business enterprises; and to obtain information relevant to the on-going investigations. See also blanket routine uses set forth for all DoD systems (12 CFR Part 286a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on microfilm, and on supplementary index cards.

RETRIEVABILITY:

Investigations are centrally retrievable through the Defense Investigative Service (DIS) Case Control System DIS System, V5-04; or the Defense Central Index of Investigations (DCII), DIS System V5-02. Both systems are managed by DIS and have been described in the Federal Register.

SAFEGUARDS:

All OIG records are stored in locked safes and are accessible only to authorized personnel who have a need-to-know in conjunction with their official duties. Recipients of investigative information are responsible for safeguarding the information within the guidelines provided by OIG.

RETENTION AND DISPOSAL:

Retention of closed OIG investigative files is authorized for 25 years, except they may be offered to the National Archives after 15 years. Fraud prevention surveys are maintained for 10 years. General, ISRs are retained only 60 days. The partial duplicate records are retained for one year. All records are destroyed as if they were classified material.

SYSTEM MANAGER AND ADDRESS:

Assistant Inspector General for Investigations, DoD, 8D490 Cameron Station, Alexandria, VA 22314.

NOTIFICATION PROCEDURE:

Requests should be addressed to the System Manager at the address given above. Include in the request, the full name, date, and place of birth and Social Security Number, and any other pertinent data concerning the topic of the criminal investigation. These items are necessary for retrieval of information. The requester's signature should be notarized. More information may be required. Individuals may visit INV at Bldg. 8, Room D490, Cameron Station, Alexandria, VA, to make direct inquiries regarding this system. A check

of personal identification will be required of all visitors making such inquiries. Providing the personal data is voluntary. However, the record search will be limited to the data furnished.

RECORDS ACCESS PROCEDURES:

The OIG rule for access and appealing initial denials of access may be obtained by visiting or writing the System Manager.

CONTESTING RECORDS PROCEDURES:

The OIG rules for contesting and appealing initial denials of amendment may be obtained by writing or visiting the System Manager.

RECORD SOURCE CATEGORIES:

Subjects and suspects of OIG investigations.

Interview of witnesses, victims, and confidential sources.

All types of records and information maintained by all levels of government, private industry, and non-profit organizations reviewed during the course of the investigation or furnished the OIG.

Any other type of record deemed necessary to complete the OIG investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of this system of records, may fall within the scope of 5 U.S.C. 552a(j)(2) and are exempt from the provisions of 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g). Information from this system will be withheld only to the extent that its release would interfere with the investigative process. See 32 CFR Part 293.

CIG-07

SYSTEM NAME:

Case Control System—Audit, Audit Follow-Up, & Audit Policy and Oversight.

SYSTEM LOCATION:

Office of the Assistant Inspector General for Auditing (AUD); Planning, Resources, and Reports Division. AUD is a component of the Office of the Inspector General (OIG), Department of Defense (DoD).

Portions of this system may be temporarily maintained by other OIG offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active personnel employed by the OIG audit activities with historical data. Records on former employees are

maintained for two years after termination, reassignment or retirement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data on the individual's current position, current employment status, travel, audit experience training, and the following specific personal data: Name, Social Security Number (SSN), Date of Birth (DOB), Service Computation Date (SCD), career status, experience, address, assigned station, job series, clearance, education, and evaluation due date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the Inspector General Act of 1978, (Pub. L. 95-452), as amended, and DoD Directive 5106.1, (32 CFR Part 376) implementing the law, the Inspector General, DoD, is authorized to organize, direct, and manage the Office of the Inspector General, to include creating and maintaining necessary records.

PURPOSES:

Information is used for:

(1) Security clearance notification alert; provided to all audited activities in advance of visits by audit personnel. Information provided in notice is name, SSN, Office of Assignment, and the security clearance for each auditor.

(2) Time and attendance reporting; provided by all audit activities, to include regional offices in the United States and Overseas. Time and attendance reports are used by various managers to track temporary duty (TDY) travel frequency and duration, to accrue manhour data on assigned audit projects, to categorize indirect time for end of year reporting to provide time and attendance data to the centralized payroll system. Information included in time and attendance reports are SSN, name, grade, assigned office, hours present for duty, annual leave hours, sick leave hours, other leave hours and type, TDY location, and TDY duration.

(3) Planned annual leave reporting; utilized by various managers for workload planning and travel scheduling. Information included is name, assigned office, and dates of planned leave.

(4) Audit status and auditor assignment reporting; used by managers to control audits and auditors, and to maximize effectiveness of manpower resources. Included information is audit number, audit requestor code, title milestone dates, audit cost summary, personnel manhours expended.

(5) Other personnel reporting: Used by the staff manager to determine training

needs, promotional eligibility, education and background, professional organization participation, and performance evaluation. Information included is name, assigned offices, education, professional activities training history (course title, dates attended), performance evaluation, date of birth, and service computation data.

(6) Travel reporting: used by managers to control temporary duty travel, travel costs, and issuances of blanket travel orders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Blanket Routine Uses for all OIG record systems

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records are stored on immediate access disk and magnetic tape. Inactive records are maintained on magnetic tape. Hard copy records are stored in file cabinets.

RETRIVABILITY:

Records are internally stored by employee SSN and are selectively retrievable by all data elements as specified in the Categories of Records in the System.

SAFEGUARDS:

All records reside in a "private library" which is not accessible by any other user. All system files are backed up upon creation and upon any update action. A "Master ID" with unrestricted access to all records in the private library is available only by MIS management personnel. A "Subordinate ID" which has restricted access, only to pertinent records, is used by field offices. Password protection is afforded at the session and file level. All user ID's are protected by separate validation. Password validation initiates immediate "log-off". Physical controls include limiting password to only authorized personnel. Master ID is located in a secure environment, and access to the terminal facility is restricted to MIS management employees who work within the area. Access to records containing personnel data is restricted to those who require the records in the performance of their official duties and to the individual who is subject of the record (or his authorized representative). Tape files are maintained in an environmentally secure vault area when not in use. Computer Science Corporation has been

cleared to process personal data for Government agencies by General Services Administration on December 11, 1975.

RETENTION AND DISPOSAL:

Machine resident records are maintained for 2 years after they become inactive. All inactive records are afforded the same safeguards as active records and are maintained on magnetic tape within the computer center. Machine records are destroyed at the end of the 2 year period. Hard copy records are only retained until the records are replaced or become obsolete. Machine records are destroyed by erasure or overprinting. Paper records are destroyed as if classified waste.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Auditing, OIG, DoD, Suite 1200, Commonwealth Building, 1300 Wilson Boulevard, Arlington, VA 22209. Telephone: 202/697-9108.

NOTIFICATION PROCEDURE:

Written or personal request for information should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Procedures for gaining access by an employee/previous employee to his/her records may be obtained from the System Manager. Written request for information should contain the full name of the employee/past employee and SSN. For personal visits, the employee should be able to identify himself/herself with Social Security Card and one other corroborating personal identification.

The OIG rules for access and appealing initial denials of access may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The OIG rules for contesting contents and appealing initial denials of amendment may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Official Personnel Folder and other personnel documents, activity supervisors, applications and forms completed by the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-3682 Filed 2-9-84; 8:45 am]

BILLING CODE 3810-01-M

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 the amendment to notices for systems of records.

SUMMARY: The Department of the Army proposes to delete 4 and amend 1 system notices for systems of records subject to the Privacy Act of 1974. Following identification of changes, amendment notice is printed below in its entirety.

DATES: Actions shall be effective on or before March 12, 1984.

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: Army systems of records notices subject to the Privacy Act of 1974, as amended, Title 5, U.S.C. 552a, have been published previously in the Federal Register.

These actions do not require a report of an altered system pursuant to 5 U.S.C. 552a(o).

February 2, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer,
Department of Defense.

DELETIONS

A012.09aDASG

System name: House Staff Evaluation Report Files (48 FR 25738), June 6, 1983.

Reason: Records are covered by system notice A0708.08aDAPC, Career Management Individual Files.

A1012.11aDASG

System name: Continuing Medical Education Course (48 FR 25739), June 6, 1983.

Reason: Records are covered by system notice A0708.08aDAPC, Career Management Individual Files.

A1013.04DASG

System name: Residency, Subspecialty and Fellowship Training (48 FR 25741), June 6, 1983.

Reason: Records are covered by system notice A0708.08aDAPC, Career Management Individual Files.

A1013.05DASG

System name: US Army Graduate Medical Evaluation Trainee Card File (48 FR 25742), June 6, 1983.

Reason: Records are covered by system notice A0708.08aDAPC, Career Management Individual Files.

AMENDMENT**A0319.01DACA**

System name: Out-of-Service Accounts Receivables (49 FR 2006 and 3239), January 17 and 26, 1984.

Changes:**Disclosure to Consumer Reporting Agencies:**

Delete period and insert the following: "when an individual is responsible for a debt to the U.S. Army, provided the debt has been validated, is overdue, and the debtor has been advised of the disclosure and his rights to dispute, appeal or review the claim; and/or whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act. Claims of the United States may be compromised, terminated or suspended when warranted by information collected."

System A0319.01DACA reads as follows:

A0319.DACA**SYSTEM NAME:**

Out-of-Service Accounts Receivables

SYSTEM LOCATION:

U.S. Army Finance and Accounting Center, Ft. Benjamin Harrison, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Separated and retired military/civilian personnel and others indebted to the U.S. Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of current and former military members and civilian employees' pay accounts showing entitlements, deductions, payments made, and any indebtedness resulting from deductions and payments exceeding entitlements. These records include, but are not limited to:

a. Individual military pay records, substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account printouts from the Joint Uniform Pay System (JUMPS), records of travel payments, financial record data folders, miscellaneous vouchers, personal financial records, credit reports, promissory notes, individual financial statements, and correspondence;

b. Applications for waiver of erroneous payments or for remission of indebtedness with supporting documents, including, but not limited to statements of financial status (personal income and expenses), statements of commanders and/or accounting and finance officers, correspondence with members and employees;

c. Claims of individuals requesting additional payments for service rendered with supporting documents including, but not limited to, time and attendance reports, leave and earnings statements, travel orders and/or vouchers, and correspondence with members and employees;

d. Delinquent accounts receivable from field accounting and finance officers including, but not limited to, returned checks, medical services billings, collection records, and summaries of the Army Criminal Investigations Command and/or Federal Bureau of Investigation reports;

e. Reports from probate courts regarding estates of deceased debtors;

f. Reports from bankruptcy courts regarding claims of the United States against debtors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C., section 3711; 10 U.S.C., section 2774; and 12 U.S.C., section 1715.

PURPOSE:

To process, monitor, and post-audit accounts receivable, to administer the Federal Claims Collection Act, and to answer inquiries pertaining thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disclosed to: US Department of Justice-US Attorneys: For legal action and/or final disposition of the debt claims. The litigation briefs (comprehensive, written referral recommendations) will restructure the entire scope of the collection cases.

Internal Revenue Service: To obtain locator status for delinquent accounts receivables; (Automated controls exist to preclude redisclosure of solicited IRS address date); and/or to report write-off amounts as taxable income as pertains to amounts compromised and accounts barred from litigation due to age.

Private Collection Agencies: For collection action when the Army has exhausted its internal collection efforts.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures pursuant to 4 U.S.C. 552a(b)(12) may be made to

'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)) when an individual is responsible for a debt to the US Army, provided the debt has been validated, is overdue, and the debtor has been advised of the disclosure and his rights to dispute, appeal or review the claim; and/or whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act. Claims of the United States may be compromised, terminated or suspended when warranted by information collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper records in collection file folders and bulk storage; card files, computer magnetic tapes and printouts; microfiche.

RETRIEVABILITY:

By Social Security Number, name, and substantiating document number: conventional indexing is used to retrieve data.

SAFEGUARDS:

The US Army Finance and Accounting Center employs security guards. An employee badge and visitor registration system is in effect. Hard copy records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Computerized records are accessed by custodian of the records system and by persons responsible for servicing the records system in the performance of their official duties. Certifying finance and accounting officers of debts have access to debt information to confirm if the debt is valid and collection action is to be continued. Computer equipment and files are located in a separate secured area.

RETENTION AND DISPOSAL:

Individual military pay records and accounts receivables are converted to microfiche and retained for 6 years. Destruction is by shredding. Retention periods for other records vary according to category, but total retention does not exceed 56 years; these records are sent to the Federal Records Center, General Services Administration at Dayton, Ohio; destruction is by burning or salvage as waste paper.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether this system of records contains information about them should contact the System Manager, ATTN: FINCP-F, furnishing full name, Social Security Number, and military status or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records in this system pertaining to them should submit a written request as indicated in "Notification procedure" and furnish information required therein.

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:

Information is received from Department of Defense staff and field installations, Social Security Administration, Treasury Department, financial organizations, and automated system interface.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-3683 Filed 2-9-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates and Times of Meeting:

Tuesday, 28 February 1984—1300-1715 hours (Open)

Wednesday, 29 February 1984—0830-1700 hours (Open)

Thursday, 1 March 1984—0800-1100 hours (Open)

Place: Center for Leadership & Ethics, and Command and General Staff College, Fort Leavenworth, Kansas.

Agenda: The ASB Leadership Subpanel of the 1984 Summer Study on Leading and Manning Army 21 will meet for briefings and discussions on the leadership development system in the Army school system. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information please

contact Sally Warner, the ASB Administrative Officer, at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-3774 Filed 2-9-84; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION**Pell Grant Program; Deadline Dates**

AGENCY: Department of Education.

ACTION: Notice of deadline dates for receipt of applications, reports, and other documents under the Pell Grant Program for the 1983-84 award year.

SUMMARY: The Assistant Secretary for Postsecondary Education announces the deadline dates for the receipt of documents from persons applying for financial assistance under, and from institutions participating in, the Pell Grant Program during the 1983-84 award year.

SUPPLEMENTARY INFORMATION: The purpose of the Pell Grant Program is to assist students in the continuation of their training and education at the postsecondary level by providing financial aid to help pay for their educational costs. Authority for the Pell Grant Program is contained in section 411 of the Higher Education Act of 1965, as amended (20 U.S.C. 1070a). The regulations for the Pell Grant Program are codified in 34 CFR Part 690.

Determination of Expected Family Contribution

As a prerequisite to receiving a Pell Grant, each applicant is responsible for submitting to an institution of higher education—or to the Secretary of Education in the case of institutions under the Alternate Disbursement System (ADS)—a valid Student Aid Report (SAR) that states the amount of the student's expected family contribution (referred to on the SAR as a student aid index) and the information used in calculating that amount. Consequently, each applicant must first submit to an agency listed in Table I of this notice his or her application for determining the expected family contribution. That application—referred to in this notice as the original application—must be submitted on one of the forms shown in Table I and received by the designated agency at the agency's address no later than the deadline date, May 1, 1984, shown in Table I.

TABLE I.—DEADLINE DATE FOR RECEIPT OF APPLICATION FORMS FOR DETERMINING EXPECTED FAMILY CONTRIBUTION: MAY 1, 1984

Type of form	Address for submission
Application for Federal student aid (AFSA).	Federal Student Aid Programs, P.O. Box 92831, Los Angeles, CA 90009.
Special condition application for Federal student aid.	Federal Student Aid Programs, P.O. Box 92831, Los Angeles, CA 90009.
Family financial statement (FFS).	Act Student Need Analysis Services, P.O. Box 1000, Iowa City, IA 52243.
Financial aid form (FAF).....	College Scholarship Service, Box 2700, Princeton, NJ 08541, or College Scholarship Service, Box 380, Berkeley, CA 94701.
Pennsylvania Higher Education Assistance Agency (PHEAA).	Pennsylvania Higher Education Assistance Agency, P.O. Box 3157, Harrisburg, PA 17105.
Student aid application for California (SAAC).	College Scholarship Service, Box 70, Berkeley, CA 94701.

Other Documents

Once an applicant has filed his or her original application, additional information may be necessary. In some cases the agency receiving the original application may request the information. In other cases, the applicant is responsible for initiating a request that additional or alternative information be considered.

These other documents are listed in four categories in Table II of this notice. Each category designates an address to which the specified information or request must be sent, and the deadline date by which that information or request must be received at that address.

Category 1—If an original application is incomplete, the Secretary will send a correction application to the applicant. In addition, if an applicant has misreported his or her dependency status on the original application, the applicant has the responsibility for requesting a correction application. The correction application must be returned to the appropriate address listed in Table II and received at that address no later than the deadline date, July 16, 1984, shown in Table II.

Category 2—If an edit check causes the Secretary to return an SAR to an applicant for verification of correct information on the SAR, that SAR, with the verification statement checked—if appropriate—must be returned to the appropriate address listed in Table II and received at that address no later than the deadline date, July 16, 1984, shown in table II.

Note.—This verification of correct information is different from a request for validation, explained elsewhere in this notice.

Category 3—If an applicant wishes to have his or her student aid index recomputed—because of a clerical or arithmetic error or because of extraordinary circumstances as described in §§ 690.39(c) or 690.48(c) of the regulations for the Pell Grant Program—the applicant may request a recomputation of the index. In addition, if the applicant wishes to correct misreported data on the SAR he or she may do so. These requests must be on the SAR, sent to the appropriate address listed in Table II, and received no later than the deadline date, July 16, 1984, shown in Table II.

Category 4—If an applicant wishes to receive a duplicate SAR, the applicant must submit to the appropriate address listed in Table II a written request for that duplicate. The request must be received at that address no later than the deadline date, July 16, 1984, shown in Table II.

TABLE II.—DEADLINE DATE FOR RECEIPT OF OTHER DOCUMENTS: JULY 16, 1984

Type of form	Address for submission
Application for Federal student aid correction application (category 1).	Federal Student Aid Programs, P.O. Box 92842, Los Angeles, CA 90009.
Request for verification of correct information (category 2).	Federal Student Aid Programs, P.O. Box 92842, Los Angeles, CA 90009.
Request for: (1) Recomputation of a student aid index because of clerical or arithmetic errors, or because of extraordinary circumstances as described in §§ 690.39(c) and 690.48(c) of the Pell grant program regulations, (2) correction of misreported data (category 3).	Federal Student Aid Programs, P.O. Box 92842, Los Angeles, CA 90009.
Request in writing, for a duplicate SAR (category 4).	Federal Student Aid Programs, P.O. Box 92842, Los Angeles, CA 90009.

Students Enrolled in Institutions Under the Alternate Disbursement System (ADS)

In order to receive a Pell Grant payment, the applicant who attends an institution participating in the Pell Grant Program under the Alternate Disbursement System must submit a valid SAR and an ED Form 304, completed by the institution, to the appropriate address listed in Table III of this notice. The required documents must be received at that address no later than the appropriate deadline date specified in this notice.

If a student must submit an additional or corrected request for payment, that request must be made on ED Form 304-1, submitted to the appropriate address listed in Table III, and received at the address no later than the deadline date, August 20, 1984, shown in Table III.

TABLE III.—DEADLINE DATES FOR RECEIPT OF THE SAR AND ED FORMS UNDER THE ALTERNATE DISBURSEMENT SYSTEM

Deadline date	Form	Address for submission
June 11, 1984	Request for payment—SAR and ED form 304—for a student enrolled before May 1, 1984.	Federal Student Aid Programs, P.O. Box 92834, Los Angeles, CA 90009.
July 10, 1984	Request for payment—SAR and ED form 304—for a student enrolled on or after May 1, 1984.	Federal Student Aid Programs, P.O. Box 92834, Los Angeles, CA 90009.
Aug. 20, 1984	Additional and/or corrected request for payment—ED form 304-1.	Federal Student Aid Programs, P.O. Box 92838, Los Angeles, CA 90009.

Note.—Table III does not apply to students enrolled in institutions that participate in the Pell grant program under the regular disbursement system (RDS).

Validation Procedures and Deadline Dates

The information submitted on an application and included on an SAR may be subject to verification. In that case, in order to receive a Pell Grant award for the 1983-84 award year, the applicant—and his or her parents, if applicable—must submit the necessary verification documents in accordance with the following validation procedures. The documents must be received no later than the deadline date specified in these procedures.

This part of the notice applies to applicants undergoing validation and does not conflict with nor supersede the deadline dates specified in Tables I, II, and III of this notice.

Regular Disbursement System

Verification of Information on Application. If an applicant is selected to have the information on his or her application verified under the validation procedures, and if the applicant attends an institution that participates in the Pell Grant Program under the Regular Disbursement System (RDS), he or she must complete the entire validation procedure as noted below within 60 days from his or her last day of enrollment or August 15, 1984, whichever comes first.

In order to complete the validation process, the applicant must submit all requested verification documents to his or her institution. If after submission of these documents the SAR needs to be corrected, the applicant must—

- (1) make the correction on the SAR,
- (2) submit the corrected SAR to the Department of Education's processing center at the address indicated on the insert to the SAR, and;
- (3) resubmit the corrected/reprocessed SAR to the institution.

Alternate Disbursement System

Verification of information on application. If an applicant is selected to have the information on his or her application verified under the validation procedures and the applicant attends an institution that participates in the Pell Grant Program under the Alternate

Disbursement System (ADS), he or she must submit the requested documents as specified below. The documents must be received within 60 days from his or her last day of enrollment or August 15, 1984, whichever comes first.

If the ADS institution conducts the verification, the applicant must: (1) submit the requested documents along with the SAR to the institution, (2) correct any inaccurate information reported on the SAR, (3) sign and resubmit the SAR with corrections to the Department of Education's Processing Center in Los Angeles, California by the deadline date established for correcting a Student Aid Report, and (4) submit the corrected/reprocessed SAR received from Los Angeles to the institution.

If the Department of Education conducts the verification, the applicant must: (1) submit his or her SAR along with requested documents to: ADS Validation, P.O. Box 23967, Washington, D.C. 20026, (2) correct any inaccurate information reported on the SAR, if requested by the Secretary or the institution, (3) sign and resubmit the SAR with corrections for reprocessing to the Department of Education, Student Validation Branch, P.O. Box 23967, Washington, D.C. 20036, and (4) submit the corrected/reprocessed SAR received from the Department of Education to the institution.

Receipt of Payment. To receive a payment, the student whose SAR was selected for validation must submit the corrected/reprocessed SAR, along with ED Form 304 or 304-1, completed by the institution to: Federal Student Aid Program, P.O. Box 92834, Los Angeles, California 90009. The documents must be received no later than September 30, 1984.

Progress Reports and Student Validation Rosters

An institution participating in the Pell Grant Program is required to provide to the Secretary progress reports and a student validation roster. These documents must be received at the address specified in Table IV of this notice no later than the appropriate

deadline date shown in Table IV. Failure of an institution to comply with these requirements may result in the initiation of a proceeding to fine,

suspend, limit or terminate the institution in accordance with Subpart G of the Student Assistance General Provisions regulations in 34 CFR 668.

TABLE IV.—DEADLINE DATES FOR RECEIPT OF PROGRESS REPORTS AND THE STUDENT VALIDATION ROSTER

Deadline date	Type of form	Address for submission
Nov. 15	Oct. 31 progress report	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.
Mar. 15	Feb. 28 progress report	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.
July 15	June 30 progress report	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.
Six weeks after its receipt by an institution.	Student validation roster	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.

Application Forms and Information. Student aid application forms, correction application forms, and information brochures may be obtained from college and university financial aid administrators, high school counselors, Educational Opportunity Center counselors, or by writing to: Federal Student Aid Programs, P.O. Box 84, Washington, D.C. 20044.

Applicable Regulations. The regulations applicable to this program are the Pell Grant Program regulations in 34 CFR Part 690, and the Student Assistance General Provisions regulations in 34 CFR Part 668.

FOR FURTHER INFORMATION CONTACT: Ms. Gail L. Cornish, Pell Grant Program Specialist, Policy Section, Pell Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., (ROB-3, Room 4318), Washington, D.C. 20202. Telephone (202) 472-4300.

(Catalog of Federal Domestic Assistance No. 84.063, Pell Grant Program)

Dated: February 2, 1984.

Edward M. Elmendorf,
Assistant Secretary for Postsecondary Education.

(FR Doc. 84-3656 Filed 2-9-84; 8:45 am)

BILLING CODE 4000-01-M

National Advisory Committee on Accreditation and Institutional Eligibility; Meeting

AGENCY: Department of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a public meeting of the National Advisory Committee on Accreditation and Institutional Eligibility. It also describes the functions of the Committee. Notice of this meeting is required under Section

10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of its opportunity to attend and to participate.

DATES: March 6, 1984, 9:00 a.m. to 5:00 p.m., local time; March 7, 8:30 a.m. to 5:00 p.m.; and March 8, 8:30 a.m. to 3:00 p.m. Requests for oral presentations before the Committee must be received on or before February 21, 1984. Written comments may be submitted at any time prior to the meeting and will be considered by the Advisory Committee.

ADDRESS: Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Richard J. Rowe, Director, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3030 ROB-3), U.S. Department of Education, Washington, D.C. 20202 (202-245-9873).

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Accreditation and Institutional Eligibility is authorized by Section 1205 of the Higher Education Act as amended by Pub. L. 96-374 (20 U.S.C. 1145). The Committee advises the Secretary of Education regarding his responsibility to publish a list of nationally recognized accrediting agencies and associations, State agencies recognized for the approval of public postsecondary vocational education, and State agencies recognized for the approval of nurse education.

The Committee also advises the Secretary of Education regarding policy affecting both recognition of accrediting and approval bodies, and institutional eligibility for participation in Federal funding programs. The meeting on March 6-8 will be open to the public. The meeting will be held at the Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington,

Virginia. On March 6 and 7, the Advisory Committee will review policy issues; Items scheduled for discussion include such matters as:

Should the Secretary limit the scope of recognition of specialized accrediting agencies to only free-standing institutions and to units or programs that are not located within institutionally accredited institutions?

Should an accrediting agency be required to obtain recognition from the Council on Postsecondary Accreditation before seeking recognition by the Department in order to establish compliance with criterion (c)(1) of the Criteria for Recognition?

Should an agency seeking initial recognition receive a recognition period longer than two years? Discuss and recommend the circumstances, conditions, and degree of compliance or deficiency which would ordinarily result in recognition periods of one, two, three or four years.

Should the Department of Education propose broadening the scope of the "Mondale Amendment" to include recognition of State agencies for approval of private, as well as public, postsecondary vocational education?

Should the Department of Education require as a criterion for recognition that accrediting agencies examine the "fiscal responsibility" (capability to effectively administer Federal funds) of institutions or programs reviewed? If so, precisely how should the criterion be stated? What would be an effective process to determine compliance with this criterion?

To what extent can, or should, the Advisory Committee encourage the coordination of accreditation activities of both the regional and specialized agencies as these relate to individual institutions and their programs?

Should the "Special Procedure" for processing renewal petitions and reports be continued, modified, or discontinued? Review and discuss the present general procedures for the review of initial and renewal petitions.

Should the Eligibility and Agency Evaluation Staff return to using a "rating sheet" or some other means of clearly indicating the criteria with which an agency complies, does not comply, or is in potential compliance?

How should the Department of Education conduct future reviews of the Committee on Allied Health Education and Accreditation and its cooperating review committees?

Review the policy book.

On March 8, the Advisory Committee will review petitions by the following accrediting and State approval agencies relative to initial or continued recognition by the Secretary of Education. The Committee will also hear presentations by representatives of these petitioning agencies and interested third parties. The agencies having petitions pending before the Committee are:

Petitions for Recognition as Nationally Recognized Accrediting Agencies and Associations

A. Petition for Initial Recognition

Commission on Opticianry
Accreditation

B. Petitions for Continued Recognition

American Council on Pharmaceutical
Education
Foundation for Interior Design
Education Research, Committee on
Accreditation
Southern Association of Colleges and
Schools, Commission on Occupational
Education Institutions
Western Association of Schools and
Colleges, Accrediting Commission for
Senior Colleges and Universities

C. Interim Report

National Accrediting Commission of
Cosmetology Arts and Sciences

Petitions for Recognition as State
Agencies for the Approval of Public
Postsecondary Vocational Education

A. Petition for Initial Recognition

Washington State Board for Vocational
Technical Education

B. Petitions for Continued Recognition

Oklahoma State Board for Vocational
and Technical Education
Oklahoma State Regents for Higher
Education

Petitions for Recognition as a State
Agency for the Approval of Nurse
Education

A. Request for Voluntary Withdrawal from Recognition

California Board of Registered Nursing

A portion of this meeting will be used by the Advisory Committee to make final recommendations to the Secretary on agencies reviewed under a special procedure. The list of agencies reviewed under the special procedure and a description of the procedure were published in the Federal Register on January 1984.

Requests for oral presentations before the Committee should be submitted in writing to Richard J. Rowe (address above). Request should include the names of all persons seeking an appearance, the organization they represent, and the purpose for which the presentation is requested. Requests should be received on or before February 21, 1984. Time constraints may limit oral presentations. However, all written materials will be considered by the Advisory Committee.

A record will be made of the

proceedings of the meeting and will be available for public inspection at the office of the Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW., (Room 3030 ROB-3), U.S. Department of Education, Washington, D.C. 20202, (202-245-9873) from the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary
Education.

[FR Doc. 84-3770 Filed 2-9-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP84-179-000]

El Paso Natural Gas Co.; Request Under Blanket Authorization

February 7, 1984.

Take Notice that on January 6, 1984, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP84-179-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that El Paso proposes to install and operate a sales meter station in order to permit the delivery of natural gas to Southern Union Gas (SUG) for resale to consumers in the communities of Belen and Los Lunas, Valencia County, New Mexico, under its authorization issued in Docket No. CP82-435-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in its request on file with the Commission and open to public inspection.

El Paso states that it presently sells and delivers natural gas to SUG for distribution and resale to consumers situated in various communities and areas in New Mexico, pursuant to a service agreement dated February 1, 1970, between El Paso and SUG. El Paso states that it has received a written request from SUG for natural gas service at a new point on El Paso's existing 30-inch O.D. Permian—San Juan crossover line in Valencia County, New Mexico. In order to accommodate the subject request for natural gas service, El Paso proposes to install a sales meter station consisting of one 2½-inch O.D. tap and valve assembly, one 4½-inch O.D. standard orifice meter and one American 500B positive meter, with appurtenances, at a point on El Paso's existing 30-inch O.D. Permian—San Juan crossover line. SUG advises El Paso that

the natural gas would be utilized to serve residential and commercial space heating requirements of consumers in the communities of Belen and Los Lunas, New Mexico, and environs and that the annual and maximum peak day deliveries required to serve the communities are estimated to be 418,028 Mcf and 4,491 Mcf, respectively, during the third full year of service. Initial deliveries of said natural gas are expected to begin by the end of March 1984, it is submitted.

El Paso states that the requested authorization would not alter SUG's entitlements under El Paso's permanent allocation plan. In addition, El Paso states the proposed sale of natural gas is permitted by and consistent with the high priority load growth provisions set forth in the General Terms and Conditions contained in El Paso's FERC Gas Tariff, First Revised Volume No. 1. El Paso and SUG would shortly execute revised Exhibits A and B to the service agreement in order to reflect SUG's requirements of natural gas at the proposed meter station, it is explained. El Paso further states that such requirements would not cause any shift in the pattern of El Paso's existing sales and that it would file revised Exhibits A and B with the Commission pursuant to Part 154 of the Commission's Regulations. El Paso believes that the proposed meter station would have a negligible effect upon its peak day and annual deliveries.

The total cost of the proposed facilities is estimated to be \$75,000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3662 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-193-000]

Florida Gas Transmission Co.; Request Under Blanket Authorization

February 7, 1984.

Take notice that on January 16, 1984, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP84-193-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that FGT proposes to construct and operate one sales tap at the delivery point to the City of Homestead (Homestead), Dade County, Florida, under the authorization issued in Docket No. CP82-553-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT proposes to construct and operate a sales tap necessary to deliver additional volumes to Homestead. FGT states that it would construct approximately 8 miles of 6-inch pipeline from the 24-inch Turkey Point Lateral to the delivery point to Homestead, located at the end of the 4-inch Homestead Lateral. The 8-mile interconnection pipeline is an "eligible facility" within the meaning of § 157.202(b)(2), and since the project cost is within the automatic cost limit, it would be constructed and operated pursuant to Section 157.208(a). FGT asserts.

It is explained that Homestead uses gas to generate electricity and that the above-described additional facilities, which would be paid for by Homestead, would allow Homestead to increase its hourly takes of gas. FGT estimates that annually an additional 990 billion Btu would be sold to Homestead through the delivery point. The instant proposal would not affect Homestead's maximum annual contract quantity, it is submitted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for

filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3863 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-182-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

February 7, 1984.

Take notice that on January 9, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-182-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas with KN Energy, Inc. (KN), pursuant to the terms of a gas exchange agreement dated October 19, 1979, as amended, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the agreement provides for Northern and KN to gather, deliver, and exchange natural gas from acreage in Roger Mills County, Oklahoma. Northern explains that wells have been attached by the party having gathering facilities in the closest proximity in an effort to maximize utilization of gathering facilities. On June 30, 1980, the agreement was amended to add the #1-22 Abraham well in Roger Mills County and on December 8, 1982, the agreement was amended to correct the percent interest of three receipt points (No. 1 E.T. Gamble, No. 1 Spurlin, and No. 1-22 Abraham) in Roger Mills County, it is further stated.

Northern avers that the agreement provides that equal volumes of gas, on a thermal basis, are exchanged. If the gas received by one gathering party for the other gathering party's account are not equal, the agreement provides that Northern and KN use existing interconnections between their facilities in Kearny and Seward Counties, Kansas, as balancing points, it is further asserted. The use of these balancing points requires the use of jurisdictional pipeline facilities to conduct the exchange, it is explained. Northern avers that in the past exchanges pursuant to the agreement have taken place only within the field gathering systems. Currently, the exchange

volumes delivered by KN are not sufficient to maintain a balance with volumes delivered by Northern and it is now necessary for the parties to use the balancing points, it is further stated.

Northern requests authorization to transport and exchange natural gas with KN pursuant to the terms of an October 19, 1979, gas exchange agreement, as amended. It is further requested that the Commission certificate the existing interconnections between Northern and KN in Seward and Kearny Counties as balancing points. Finally, Northern requests that the Commission grant authority to add and delete wells or other delivery and balancing points as required from time to time and to report such additions and deletions annually on or before January 31 of each year.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3684 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-210-000]

**Texas Eastern Transmission Corp.;
Application**

February 7, 1984.

Take notice that on January 26, 1984, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP84-210-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Carnegie Natural Gas Company (Carnegie), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated January 12, 1984, Applicant proposes to transport up to 55,900 dt equivalent of natural gas per day for Carnegie from existing points of interconnection between Applicant and Carnegie located at either Applicant's meter station 1275 or meter station 008, both of which are located in Greene County, Pennsylvania. It is stated that equivalent volumes would be redelivered to Columbia Gas Transmission Corporation (Columbia), for the account of Carnegie, at existing delivery points between Applicant and Columbia under Applicant's currently effective DCQ-C contract with Columbia. Further, it is stated, these volumes would only be redelivered to Columbia at points upstream of the points of interconnection between Applicant and Carnegie. Applicant requests a term for the proposed transportation commencing upon the date of the initial delivery and terminating on February 13, 1985.

Applicant proposes to charge Carnegie the applicable, effective Rate Schedule TS-1 rate. Applicant also proposes to retain all revenues derived from the proposed transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3685 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-122-000]

**Texas Gas Transmission Corp.;
Petition for Waiver of Rule**

February 6, 1984.

Take notice that on February 3, 1984, Texas Gas Transmission Corporation (Petitioner), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP84-122-000 a petition for waiver of that part of § 157.209(e)(1) of the Regulations under the Natural Gas Act (18 CFR 157.209(e)(1)) which provides that service under the automatic authorization under said rule, under a certificate of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act, shall not exceed a single term of 120 days.

In Docket No. CP84-122-000 Petitioner filed pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a prior notice request on December 9, 1983, as amended on December 29, 1983, for authorization to

transport natural gas in interstate commerce on behalf of Armco Inc. under Petitioner's certificate of public convenience and necessity in Docket No. CP82-407-000. Service is said to have commenced October 14, 1983, and the 120-day period of automatic authorization will terminate February 13, 1984. Notice of the prior notice request for authorization was issued January 20, 1984, and the 45-day notice period will terminate March 5, 1984.

In its petition, Petitioner states that granting of a waiver would allow Armco Inc. to continue using low-cost gas in lieu of higher cost fuel. Further, it is stated, a waiver would benefit Petitioner's other customers since all transportation revenues in excess of one cent per Mcf and an added incentive charge of five cents per MMBtu are credited to Petitioner's customers. Petitioner requests that the rule be waived to permit service under the automatic authorization not only through the 45-day notice period but also through the 30-day reconciliation period provided by § 157.205(g) of the Regulations (18 CFR 157.205(g)), if necessary.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 10, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3686 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-183-000]

**Transcontinental Gas Pipe Line Corp.;
Application**

February 7, 1984.

Take Notice that on January 10, 1984, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP84-183-000 an application pursuant to section 7(b) of the Natural

Gas Act for permission and approval to abandon certain facilities related to purchases of natural gas from Valero Interstate Transmission Company (Vitco), and jurisdictional service, if any, rendered by means of such facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that pursuant to the terms of a gas purchase agreement between Transco, as buyer, and Vitco, as seller, Transco has notified Vitco of its election to terminate said gas purchase agreement. Transco states that it purchases natural gas from Vitco at the South Texas Falfurrias Exchange located in Jim Wells County, Texas and the South Texas LaSalle Meter Station located in LaSalle County, Texas. Transco proposes to abandon its tap and valve at the South Texas Falfurrias Exchange and the measuring and regulating facilities at the South Texas LaSalle Meter Station that relate to delivery of gas from Vitco.

Transco states that the price it is obligated to pay Vitco for gas purchased under said agreement exceeds its average purchased gas cost. It is further stated that approval of this abandonment would allow Transco to replace the purchases from Vitco with more market responsive purchases. Transco further states that it has sufficient current supply to replace the purchases from Vitco, and that approval of this abandonment would not result in the termination of service to any of Transco's customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before Feb. 28, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the

Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3066 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-146-000]

Union Electric Co.; Order Conditionally Accepting for Filing and Suspending Rates, Granting Summary Disposition in Part, Granting Waiver of Notice Requirements, Denying Waiver of Cost Support Requirements, Noting Intervention, and Establishing Procedures

Issued: February 6, 1984.

On December 9, 1983, Union Electric Company (Union) tendered for filing a proposed unexecuted Electric Service Agreement between Missouri Utilities Company (Missouri) and the City of Malden, Missouri (Malden).¹ The proposed agreement is intended to supersede an existing service agreement between Missouri and Malden. Union also tendered for filing two unexecuted service schedules. Service Schedule A provides for interruptible power sales to Malden, while Service Schedule B provides for transmission service. On December 13, 1983, Union submitted revenue comparisons under the old and the new agreements which, according to Union, were inadvertently omitted from its December 9, 1983 filing.

At the time of filing, Missouri was a wholly-owned subsidiary of Union. However, on December 19, 1983, the Commission issued an order approving the merger of Missouri and several other subsidiaries into Union. *Union Electric Company*, 25 FERC ¶ 61,394. We have since been advised that the merger did, in fact, take place, effective January 1, 1984. Thus, Missouri has ceased to exist as a separate public utility. Presumably because the two companies were still separate entities on the date of filing,

Union requested authorization to act as the designated representative of Missouri, pursuant to § 35.1(a) of the Commission's regulations, and to comply with sections 35.2(d) and 131.52 in the capacity of designated representative. These requests have been mooted by the merger.

Union asserts that the new service agreement is needed to reflect 1) the merger of Missouri with Union, and 2) Malden's desire for a transmission service agreement. Malden has been a wholesale partial requirements customer of Missouri taking service under Missouri's SFR-1 tariff. However, Malden has requested the transmission service in order to enable it to receive 5 MW of hydroelectric peaking power from the Southwestern Power Administration (SWPA).

Union states that the rates contained in this filing are based on cost of service information already on file with the Commission in Docket No. ER83-646-000. Union therefore requests that the filing requirements of sections 35.13(d), (e), and (h) be waived to the extent that new documents are required, and that the Commission incorporate by reference the cost of service submitted in Docket No. ER83-646-000 in support of the rates proposed here.² Union also requests waiver of the notice requirements, a suspension of no more than one day, and an effective date of January 1, 1984, on the grounds that Malden must have an effective transmission service agreement by that date in order to be eligible to receive the peaking power from SWPA.

Notice of Union's filing was published in the *Federal Register* with responses due by January 3, 1984. Malden filed a timely motion to intervene requesting acceptance of portions of the filing and rejection of others. In particular, Malden asked that the Commission: (1) Accept the Electric Service Agreement and Schedule B (transmission service) to be effective on January 1, 1984, as requested by Union, with the exceptions noted below; (2) reject Schedule A (interruptible service); (3) reject sections 0.5, 1.1, 1.3, 2.1, 3.2, 3.4, and 6.9 of the proposed Service Agreement; (4) set for hearing the justness and reasonableness of those portions of the filing that are not rejected; and (5) deny waiver of section 35.13(h) of the Commission's regulations.

Malden stated that it was requesting that the agreement and transmission

¹ See Attachment A for schedule designations.

² Docket No. ER83-646-000 involves a rate increase filing for service by Union to 14 wholesale customers, including those Union subsidiaries that have since been absorbed into Union by merger and Union's W-3 municipal full requirement customers.

schedule be accepted and suspended for no more than one day only because Malden cannot receive the SWPA power unless it has an effective arrangement for transmission service as of January 1, 1984. Malden does not, however, support the particular provisions of the Agreement or Schedule B, and in fact alleges that a number of provisions of both documents are unreasonable.³ In addition, Malden has raised a variety of issues with respect to Service Schedule A.⁴

On January 17, 1984, Malden filed a request to withdraw its motion to reject Service Schedule A and related sections of the Service Agreement, consistent with a stipulation entered into by Malden and Union. Malden states that it executed the stipulation after being informed that Union would otherwise withdraw its proposed wheeling rates.

On January 20, 1984, Union filed an answer to Malden's motion to intervene and its original motion to reject. Union does not oppose the request for intervention, but does oppose rejection based on its understanding, from settlement discussions, that Malden had agreed not to object to Union's proposal to implement Service Schedules A and B concurrently.⁵ Union also denies a number of Malden's allegations, without responding to the substance of the intervenor's claims, and objects to Malden's discussion of the parties' prior settlement negotiations.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.214), Malden's timely motion to intervene serves to make it a party to this proceeding.

We note that the cost support which Union asks the Commission to adopt in this case was filed in another proceeding prior to Commission approval of Union's merger proposal; it does not reflect the system costs or the capitalization of the post-merger company which will be providing the proposed services. Further, we have been provided with no rational grounds upon which to conclude that the cost of service in Docket No. ER 83-646-000 represents reliable cost support for the rates to be charged by the surviving company.⁶ Without proper support reflecting the costs of the utility providing service, the Commission will be unable to determine whether the currently proposed rates are just and reasonable. Therefore, Union's motion for waiver of sections 35.13 (d), (e), and (h) will be denied.

Typically, such a decision would cause the Commission to reject a utility's submittal. However, we note that Malden, the only affected customer, has specifically requested that Service Schedule B be accepted for filing and made effective promptly so that Malden may receive the SWPA peaking power. Malden has also withdrawn its motion to reject other portions of Union's filing in order to ensure its ability to secure wheeling service. Furthermore, we recognize that Union's submittal was tendered before its corporate merger was approved and that Union had no assurance as to whether or when the merger might be consummated. Thus, at the time of filing, Union arguably had little choice other than to rely upon its pre-merger costs. Under these narrow circumstances, we believe that an overly strict, after-the-fact approach to Union's filing would unduly penalize Union and unnecessarily complicate or jeopardize Malden's efforts to obtain the desired wheeling service. Accordingly, we shall accept Union's rates for filing, as set forth below, but we shall condition such acceptance on the requirement that Union provide appropriate cost support for the rates within 60 days of the date of this order.

⁶ As noted in our order approving the Union merger in Docket No. EC83-13-000, Union indicated that the merger was expected to reduce the overall cost of serving Missouri customers. Union also stated in that proceeding that it intended to ultimately file rates that, as nearly as possible, mirror the rate schedules of its present subsidiaries and preserve existing relationships.

Malden has requested summary disposition with respect to three provisions of the Service Agreement on unrelated grounds. First, Malden argues that Section 3.2 would impermissibly allow the company to automatically terminate service if three monthly bills are outstanding. We agree. The provision in question contravenes section 35.15 of the Commission's regulations, which requires that a company file an appropriate notice of cancellation, as required by section 205 of the Federal Power Act, before service may be terminated. *Central Illinois Public Service Co.*, 17 FERC ¶ 61,090, p. 61,187 (1981). Indeed, a similar provision in an earlier proposed service agreement between Missouri and Malden was summarily rejected. *Missouri Utilities Co.*, 14 FERC ¶ 61,108, p. 61,200 (1981).

Second, Malden argues that Section 3.4 would impermissibly allow the company to add to the net bill any taxes "not included in [the] Company's determination" of the rates under which the billing will occur. As Malden notes, it is our policy not to permit tax clauses to be a basis for automatic changes in rates. *Arkansas Power & Light Co.*, 16 FERC ¶ 61,150, p. 61,341 (1981). Consistent with Commission precedent, we shall not reject this clause but we take this opportunity to advise the company that implementation of the clause will require a timely rate change filing pursuant to section 205 of the Federal Power Act and section 35.13 of our regulations.

Third, Malden asserts that Section 6.6 of the agreement, which requires the written consent of the company before Malden may modify or extend any existing interchange contracts or enter into any new ones, is anticompetitive. This allegation appears to raise questions of law or fact most appropriately addressed in the course of the hearing to be convened pursuant to this order.

Our review of Union's filing indicates that it has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we shall accept the submittal for filing, subject to the condition and summary dispositions discussed above, and we shall suspend the rates as ordered below.

The Commission explained its suspension policy in *West Texas Utilities Company*, Docket No. ER82-223-000, 18 FERC ¶ 61,189 (1982), noting that rate filings would ordinarily be suspended for five months where preliminary review indicates that the proposed rates may be unjust and

³ Malden has raised the following issues based on provisions of the Service Agreement: The interruptible nature of the proposed transmission service; the lack of a commitment to secure Missouri's cooperation; a late payment provision; a provision for interest on disputed bills; the right of the customer to be present at meter readings; notice required before emergency termination of service; waiver of liability; and a save harmless clause. Malden's challenges to the terms of Schedule B include: references to use of distribution facilities; conditions required before transmission service may be requested; conditions under which the company may decline to wheel; lack of firm transmission service and low priority of Malden as a transmission customer; obligation to supply reactive power; maintenance provisions; yearly review of the contract; a penalty for amounts exceed 5 MW; and a requirement that Malden supply copies of all correspondence and information pertaining to transmission service under the schedule.

⁴ Malden has raised the following issues based on provisions of Schedule A: Discrimination; reasonableness of the demand charge; amortization of cancellation costs of Calloway Unit 2 revenue credit for a Westinghouse nuclear fuel settlement; price squeeze; effect of a minimum billing demand and penalty demand; lack of notice before a penalty demand is assessed; reasonableness of a supply facilities clause; reasonableness of the minimum monthly charge; and reasonableness of interruption of service provisions.

⁵ Union also asserts that there is adequate cost support for the proposed rates and rate design, but does not identify any such support.

unreasonable and may generate substantially excessive revenues, as defined in *West Texas*. In the absence of adequate post-merger cost support, we are not persuaded that Union's filing will not produce substantially excessive revenues. However, in light of the clear request by Malden for a January 1, 1984 effective date for Service Schedule B, and in order to make the proposed transmission service immediately available, we shall grant waiver of the notice requirements and suspend the Service Agreement, as modified by summary disposition, as well as Service Schedule B to become effective, subject to refund, on January 1, 1984. The Schedule A rates for interruptible service will be suspended for five months from 60 days after filing, to become effective, subject to refund, on July 8, 1984.⁷

The Commission Orders

(A) Union's requests to utilize its cost of service study filed in Docket No. ER83-646-000 in support of its currently proposed rates and for waiver of the provisions of section 35.13 of the Commission's regulations are hereby denied.

(B) Union's request for waiver of the notice requirements is hereby granted.

(C) Summary disposition is hereby granted, as discussed in the body of this order, with respect to section 3.2 of Union's proposed Service Agreement.

(D) The proposed Service Agreement, exclusive of the provisions identified above, as well as the proposed Service Schedule B, are hereby accepted for filing and suspended to become effective, on January 1, 1984, upon the condition that within sixty (60) days of the date of this order, Union shall file cost support for its proposed rates conforming with section 35.13 of the Commission's regulations. Subject to the same condition, the proposed Schedule A rates are accepted for filing and suspended for five months to become effective, subject to refund, on July 8, 1984.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections

205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the Union's rates.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding, to be held within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.
Kenneth F. Plumb,
Secretary.

Rate Schedule Designations

[Docket No. ER84-146-000]

Filed: December 8, 1983.

Effective: Conditional to Cost Support Filing: (1) and (3) January 1, 1984, and (2) July 8, 1984.

UNION ELECTRIC COMPANY

Designation	Description
(1) Rate Schedule, FERC No. 106.	Electric Service Agreement.
(2) Supplement No. 1 to Rate Schedule, FERC No. 106.	Service Schedule A—Interruptible Power Service.
(3) Supplement No. 2 to Rate Schedule, FERC No. 106.	Service Schedule B—Transmission Service.

[FR Doc. 84-3667 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-226-000]

Southwestern Electric Power Co.; Filing

February 7, 1984.

The filing Company submits the following:

Take notice that on January 27, 1984, Southwestern Electric Power Company (SWEPCO), tendered for filing a Letter Agreement between SWEPCO and the City of Lafayette, Louisiana (City), dated December 21, 1983, which provides for SWEPCO to furnish transmission service through its system for up to 12 megawatts of capacity and associated

energy from the Southwestern Power Administration (SWPA) that City has arranged to be transmitted by SWEPCO to SWEPCO's interconnection with Central Louisiana Electric Company. The duration of the service is intended to be from January 1, 1984 through December 31, 1984.

SWEPCO requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Arkansas Public Service Commission, Louisiana Public Service Commission, Public Utility Commission of Texas, Central Louisiana Electric Company, Southwestern Power Administration and the City of Lafayette, Louisiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 21, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3709 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6232-001]

Steve Miller; Surrender of Preliminary Permit

February 7, 1984.

Take notice that Steve Miller, Permittee for the proposed Gregg Creek Hydroelectric Power Project No. 6232, has requested that his preliminary permit be terminated. The preliminary permit was issued on September 15, 1982, and would have expired March 31, 1984. The project would have been located on Gregg Creek in Humboldt County, California.

The Permittee filed his request on December 20, 1983, and the surrender of the preliminary permit for Project No. 6232 is deemed accepted as of December

⁷ Malden alleges that the interruptible power rate may create a price squeeze but does not request that formal price squeeze proceedings be initiated. If Malden continues to have such concerns following Union's submittal of appropriate cost support, it should seek the initiation of price squeeze procedures at that time.

20, 1983, and effective 30 days after the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3710 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5229-001]

Tehama County Flood Control and Water Conservation District; Surrender of Preliminary Permit

February 7, 1984.

Take notice that Tehama County Flood Control and Water Conservation District (District), Permittee for the proposed Sulphur Creek Project No. 5229, has requested that its preliminary permit be terminated. The preliminary permit was issued on March 31, 1983, and would have expired on March 31, 1985. The project would have been located on Sulphur Creek in Tehama County, California. District cites that the project is not economically feasible for development.

District filed its request on December 27, 1983, and the surrender of its permit for Project No. 5229 is deemed accepted effective 30 days from the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3711 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

Alabama-Tennessee Natural Gas Co.; Interim Rate Filing

February 7, 1984.

Take notice that on February 1, 1984, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee); Post Office 918, Florence, Alabama 35631, tendered for filing First Substitute Alternate Forty-Third Revised Sheet No. 3-A superseding Alternate Forty-Third Revised Sheet No. 3-A to become effective January 1, 1984.

Alabama-Tennessee states that such revised tariff sheet is submitted in order to give its customers the benefit of substantial reductions in rates as provided for in rates as provided for in a Stipulation and Agreement filed concurrently with this tariff filing without awaiting Commission approval of such Stipulation and Agreement which has the unanimous approval of all the parties, including the Commission's Staff.

Such revised tariff sheet provides for the following rates:

Rate schedule	Rates after current adjustment
G-1:	
Demand:	
D ₁	\$ 6.60
D ₂	04.94¢
Commodity.....	312.83¢
SG-1: Commodity.....	365.99¢
I-1: Commodity.....	339.47¢

The above-stated rates are subject to the addition of a surcharge being added or to refund, in the event that the Commission disapproves the aforesaid Stipulation and Agreement. Alabama-Tennessee requests waiver of the notice or any other applicable provisions of the Commission's Regulations to permit the above-stated rates to become effective as of January 1, 1984.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3712 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5088-001]

California Lumber; Surrender of Preliminary Permit

February 7, 1984.

Take notice that California Lumber, Permittee for the Long Ravine Hydroelectric Project, FERC No. 5088, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5088 was issued on January 31, 1983, and would have expired on January 31, 1985. The project would have been located on West

Branch Feather River in Butte County, California.

California Lumber filed the request on November 7, 1983, and the surrender of the preliminary permit for Project No. 5088 is deemed accepted as of November 7, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3713 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6369-001]

Energenics Systems, Inc.; Surrender of Preliminary Permit

February 7, 1984.

Take notice that Energenics Systems, Inc. (ESI), Permittee for the Paint Creek Project No. 6369 located on Paint Creek in Highland County, Ohio has requested that its permit be terminated. The preliminary permit was issued on December 3, 1982, and would have expired on November 30, 1984.

ESI states that a lack of adequate head and flow at the proposed site has rendered the project infeasible.

ESI's request was dated January 6, 1984. The surrender of the permit is effective 30 days from the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3714 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-24-000]

Equitable Gas Co.; Proposed Change in Rates

February 7, 1984.

Take notice that Equitable Gas Company (Equitable) on February 2, 1984, tendered for filing with the Commission Eighth Revised Sheet No. 10-G to its FERC Gas Tariff, First Revised Volume No. 1, to become effective March 1, 1984. Equitable Gas Company states that the change in rates results from the application of the Purchased Gas Cost Rate Adjustment provision in Section 5 of Rate Schedule GS-2 of FERC Gas Tariff, Original Volume No. 1, approved by the Commission in Docket No. CP80-473.

Equitable states that a copy of its filing has been served upon the purchaser and interested state commissions (and upon each party on the service list of Docket No. CP80-473).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions and protests should be filed on or before February 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3715 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-227-000]

Iowa Power and Light Co.; Filing

February 7, 1984

The filing Company submits the following:

Take notice that on January 27, 1984, Iowa Power and Light Company (Iowa) tendered for filing a Transmission Service Agreement dated September 7, 1983 (Agreement) between Company and Waverly Municipal Electric Utility ("Waverly").

The Agreement provides for utilization by Waverly of 6.9 MW of transmission capacity along Company's existing 345 KV transmission system from Hills Substation near Hills, Iowa to Sycamore Substation near Des Moines, Iowa.

Iowa states that the purpose of the proposed rate is to compensate Company for ownership costs of facilities to be provided, for associated operation and maintenance, and for transmission losses.

Iowa requests an effective date of July 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon the affected party and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 21, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3716 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 7084-001]

Lassen Associates; Surrender of Preliminary Permit

February 7, 1984.

Take notice that Lassen Associates Permittee for the Lassen Project, FERC No. 7084, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 7084 was issued on July 29, 1983, and would have expired on December 31, 1984. The project would have been located on Parship Creek, in Lassen County, California.

Lassen Associates filed the request on November 18, 1983, and the surrender of the preliminary permit for Project No. 7084 is deemed accepted as of November 18, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3717 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP84-16-001]

Locust Ridge Gas Co.; Change in FERC Gas Tariff

February 7, 1984.

Take notice that on January 31, 1984, Locust Ridge Gas Company (Locust Ridge) tendered for filing the following revised sheets to its FERC Gas Tariff, as follows:

Original Volume No. 3—Substitute Fifteenth Revised Sheet No. 1A superceding Fifteenth Revised Sheet No. 1A.

Original Volume No. 1—Substitute Eighth Revised Sheet No. 1A superceding Eighth Revised Sheet No. 1A.

Locust Ridge states that copies have been sent to all parties of concern to this docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3718 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5934-001]

Michael Earl Springer and James Baynard Boulden; Surrender of Preliminary Permit

February 7, 1984.

Take notice that Michael Earl Springer and James Baynard Boulden, Permittee for the Leavitt Creek Hydro Power Project, FERC No. 5934, have requested that their preliminary permit be terminated. The preliminary permit for Project No. 5934 was issued on April 16, 1982, and would have expired on February 29, 1984. The project would have been located on Leavitt Creek, in Mono County, California.

Michael Earl Springer and James Baynard Boulden filed the request on January 5, 1984, and the surrender of the preliminary permit for Project No. 5934 is deemed accepted as of January 5, 1984.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3719 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-106-000]

Mid Louisiana Gas Co.; Informal Conference

February 7, 1984.

Take notice that an informal conference will be held to discuss the application filed by Mid Louisiana Gas Company on November 30, 1983 pursuant to § 157.209 of the Commission's Regulations for transport of natural gas under its blanket certificate issued in Docket No. CP82-539-000 to the Georgia Pacific Corporation.

The conference will be held February 10, 1984, at 10:00 a.m. in Rm 7312A at the offices of FERC, 825 North Capitol Street, NE., Washington, D.C. 20426. All interested parties are invited to

participate in the conference, and others may attend.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3720 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-207-000]

**Mississippi River Transmission Corp.;
Request Under Blanket Authorization**

February 7, 1984.

Take notice that on January 23, 1984, Mississippi River Transmission Corporation (MRTC), P.O. Box 14521, St. Louis, Missouri 63178, filed in Docket No. CP84-207-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that MRTC proposes to abandon natural gas service heretofore provided to Taracorp Industries, Inc. (Taracorp), at its plant located in Granite City, Illinois, and to abandon the facilities necessary to render such service under the authorization issued in Docket No. CP82-489-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

MRTC states that Taracorp has consented to the proposed abandonment. It is estimated that the present cost applicable to removal and abandonment of the facilities would be approximately \$4,000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3721 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-33-001]

**Mountain Fuel Resources, Inc.; Change
in FERC Gas Tariff**

February 7, 1984.

Take notice that on January 30, 1984, Mountain Fuel Resources, Inc. (Resources) tendered for filing the following revision to its FERC Gas Tariff, Original Volume No. 1:

Substitute Original Sheet No. 5 to Resources' FERC Gas Tariff, Original Volume No. 1.

Resources states that this revision is to be in compliance with the January 6, 1984, letter order in Docket No. RP84-33-000. Resources was directed by the letter order to file a revised tariff sheet, which the above revision seeks to accomplish.

The revision is to be effective January 12, 1984, and Resources requests a waiver of those rules or regulations that may be necessary to allow for such an effective date.

Resources states that a copy of their filing has been sent to Northwest Pipeline Corporation, Northern Natural Gas Company and Mountain Fuel Supply Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3722 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-126-005, CP80-78 and
CP80-160]

**Mountain Fuel Supply Co.; Proposed
Changes in FERC Gas Tariff**

February 7, 1984.

Take notice that on February 1, 1984, Mountain Fuel Supply Company (Mountain Fuel), tendered for filing and acceptance as part of its FERC Gas

Tariff, Original Volume No. 1, the following tariff sheets:

Thirteenth Revised Sheet No. 1
Third Substitute Original Sheet No. 2-A
Second Revised Sheet No. 445
Second Revised Sheet No. 600
Second Revised Sheet No. 660
Substitute Original Sheet No. 736
Second Revised Sheet No. 765

The proposed effective date of Sheet Nos. 1, 445, 600, 660 and 765 is June 1, 1983. Sheet No. 2-A is to be effective for the period February 1, 1983, through May 31, 1983, and Sheet No. 736 is to be effective November 1, 1983. Mountain Fuel states that these tariff sheets have been filed in accordance with the November 16, 1983, Commission acceptance and approval of a Stipulation and Agreement in Docket No. RP82-126-000. (25 FERC ¶ 61,276.)

In addition to the tariff sheets, Mountain Fuel has submitted a report of amounts refunded to its jurisdictional transportation customers in connection with the three captioned dockets. Mountain Fuel states that a total of \$1,935,842.74 was refunded and that \$232,054.48 of the refund is attributable to the Commission's order in Docket No. CP80-78 (15 FERC ¶ 61,139), paid to Northern Natural Gas Company, and \$160,135.82 of the refund is attributable to the Commission's order in Docket No. CP80-160 (15 FERC ¶ 61,241), paid to Natural Gas Pipeline Company of America. Mountain Fuel states that the amounts refunded include interest at rates that comport with section 154.67(c) of the Commission's Regulations.

Mountain Fuel states that it has provided a copy of this filing to its jurisdictional customers and affected state commissions pursuant to § 154.16(b) of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a motion or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3723 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP84-4-000 and CP82-355-000]

Natural Gas Pipeline Co. of America and Central Illinois Light Co.; Informal Conference

February 7, 1984.

Take notice that on February 16, 1984, an informal conference will be convened at the request of Natural Gas Pipeline Company of America and Central Illinois Light Company to discuss alleged differences in service proposed between the two companies in the above-captioned dockets. Said conference will be held in the offices of the Commission at 825 North Capitol Street, Washington, D.C., at 10:00 am, and all parties may at their option attend. Mere attendance will not serve to make one formally a party to either proceeding.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3724 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-27-000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

February 7, 1984.

Take notice that North Penn Gas Company (North Penn) on February 2, 1984, tendered for filing proposed changes to its FERC Gas Tariff, First Revised Volume No. 1 pursuant to its PGA Clause for rates to be effective March 1, 1984.

Specifically, North Penn has included in its semiannual PGA, to be effective March 1, 1984, the following:

1. An increase of 50.638¢ per Mcf to reflect changes in the cost of gas purchased.

North Penn Gas Company, effective June 21, 1983, invoked the *force majeure* clauses in its gas pipeline supplier tariffs. North Penn has not paid any costs associated with volumes of gas not taken under its contracts with Consolidated Gas Supply Corporation and Tennessee Gas Pipeline Company.

North Penn has accumulated all gas costs billed and attributable to those volumes of gas not taken during the period May, 1983 through December 31,

1983 (i.e., demand costs and Winter the nongas fixed costs pertaining to those volumes below minimum bill level and the associated late payment charges computed through March 1, 1984) and has included the jurisdictional portion of these accumulated and unpaid costs (\$3,099,480) as part of the current gas costs in this PGA filing.

2. A surcharge credit of 56.758¢ per Mcf (Appendix B) resulting from amounts accumulated in the Unrecovered Purchased Gas Cost Account for the period July 1, 1983 through December 31, 1983; the jurisdictional portion of supplier refunds received by North Penn for the same six-month period; carrying charges computed in accordance with the Federal Energy Regulatory Commission's (Commission) regulations; and a carry-over balance from the surcharge effective for the period March 1, 1983 through August 31, 1983.

As part of this filing, North Penn has also included Ninth Revised Sheet No. 15H which reflects no incremental pricing surcharges under Section 15 of the General Terms and Conditions of its tariff.

North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit this filing to become effective March 1, 1984 as proposed.

Copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3725 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP84-43-000]

Southwest Gas Corp. vs. Northwest Pipeline Corp.; Complaint

February 7, 1984.

Take notice that on January 31, 1984, Southwest Gas Corporation (Southwest) tendered for filing a Complaint against Northwest Pipeline Corporation (Northwest). This complaint requests refunds of wrongfully retained revenues from transportation services and further, for an order directing Northwest to treat future transportation revenues in accordance with the Stipulation and Agreement accepted by the Commission in *Northwest Pipeline Corporation*, 23 FERC ¶61,446, Docket No. RP82-56-000 (agreement) and Section 284.103(d) of the Commission's Regulations.

Southwest's argument is that Northwest's retention of certain transportation revenues is based upon using a definition of "representative level" that is borrowed from the agreement and applied to § 284.103(d) of the Commission's Regulations. The agreement spells out limitations concerning the representative level of services, but these limitations are not for the purpose of calculating the Part 284 credits to Account No. 191. By relying on the reduced definition supplied by the agreement, Northwest wrongfully decreased the credits and hence, wrongfully retained revenues.

This wrongful retention is in breach of the agreement and gives rise to Southwest's Complaint. In its Complaint, Southwest requests relief in the form of refunds and an order directing Northwest to discontinue its practice of reducing credits and retaining revenues.

The refunds are to be calculated by redefining the representation level of services using all Part 284 transactions and not the limited Part 284 transactions that were spelled out in the agreement. By looking at all Part 284 transactions, and redefining the representative level, Southwest feels that credits can be calculated and refunded, with interest, to all of Northwest's jurisdictional customers in a manner that will make them whole.

Furthermore, an order directing Northwest to discontinue its current practice has been requested by Southwest. Southwest requests that Northwest be directed to treat future transportation revenues in accordance with § 284.103(d) and the agreement, by taking into consideration all Part 284 transactions when defining the representative level of services.

Southwest states that its Complaint has been served upon Northwest and all

other persons designated on the official service list in Docket No. RP82-56-000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 8, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3726 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders, Period of December 19, 1983 Through January 20, 1984

During the period of December 19, 1983 through January 20, 1984, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of

objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: February 3, 1984.

George B. Breznay,
Director, Office of Hearings and Appeals.
Union Carbide Caribe, Inc., Phillips Petroleum Co., Phillips Puerto Rico Core, Inc., Commonwealth Oil Refining Company, Inc. HEE-0022, HEG-0015, HEE-0024, HEE-0025

Union Carbide Caribe, Inc., Phillips Petroleum Co., and Phillips Puerto Rico Core, Inc., and Commonwealth Oil Refining Co., Inc. filed Applications for Exception form the provisions of 10 CFR 211.67(d)(5)(iii). The

exception requests, if granted, would permit the firms to be excused from refund requirements set forth in a decision issued by the Economic Regulatory Administration on March 11, 1982. In that decision, the ERA stated that due to an error in calculating entitlements for the applicants, the applicants received excessive entitlement benefits during 1977 and 1978, and that they should refund the excess benefits. On January 18, 1984, the Department of Energy issued a Proposed Decision and Order which determined that the exception requests be granted.

[FR Doc. 84-3657 Filed 2-9-84; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed With the Office of Hearings and Appeals; Week of January 20 Through January 27, 1984

During the Week of January 20 through January 27, 1984, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: February 2, 1984.

George B. Breznay,
Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 20 through Jan. 27, 1984]

Date	Name and location of applicant	Case no.	Type of submission
Jan. 23, 1984	Consolidated Materials, Inc., New Orleans, Louisiana	HRH-0023	Request for Evidentiary Hearing If granted: An evidentiary hearing would be convened in connection with Statement of Objections submitted by Consolidated Materials, Inc. in response to the December 10, 1982 Proposed Remedial Order issued to the firm.
Jan. 23, 1984	Halliburton Company, Houston, Texas	HRR-0076	Request for Modification/Rescission If granted: The May 25, 1983 Decision and Order (Case No. HRO-0111) issued to Halliburton Company would be modified regarding Halliburton Company's liability for overcharges.
Jan. 26, 1984	The Tulsa Tribune, Tulsa, Oklahoma	HFA-0207	Appeal of an Information Request Denial If granted: The December 20, 1983, Freedom of Information Request Denial issued by the Inspector General of the DOE would be rescinded, and The Tulsa Tribune would receive access to records of DOE's investigation of alleged "bad oil" at the Strategic Petroleum Reserve.

REFUND APPLICATIONS RECEIVED

[Week of Jan. 20 through Jan. 27, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No.
Jan. 25, 1984	Amoco/Robert B. Wright	RF21-12266
Jan. 17, 1984	Amoco/Mateer Oil, Inc.	RF21-12267
Jan. 17, 1984	Amoco/Mateer Oil, Inc.	RF21-12268

[FR Doc. 84-3558 Filed 2-9-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2524-4]

Availability of Environmental Impact Statements Filed January 30 Through February 3, 1984 Pursuant to 40 CFR 1506.9

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 840038, Final, UAF, WY, NB, Peacekeeper in Minuteman Silos 90th Strategic Missile Wing, F.E. Warren Air Force Base, Due: Mar. 12, 1984.

EIS No. 840039, Final, USN, GU, Outer Apra Harbor Ammunition Wharf, Construction, Mariana Islands, Due: Mar. 12, 1984.

EIS No. 840040, Draft, FWS, AK, Kenai National Wildlife Refuge, Conservation Mgmt. Plan, Kenai Peninsula Borough, Due: Mar. 31, 1984.

EIS No. 840041, Draft, STA, TT, LEG, Palau, Compact of Free Association, Trusteeship Termination and Implementations, Due: Mar. 26, 1984.

EIS No. 840042, Final, COE, IL, Eldred and Spankey Drainage and Levee District Flood Control, Greene and Jersey Counties, Due: Mar. 12, 1984.

EIS No. 840043, Report, COE, CA, Acme Landfill-Dredged Material Expansion, Permit, Contra Costa County.

EIS No. 840044, Report, COE, LA, Terrebonne Parish-wide Forced Drainage System, Permit.

EIS No. 840045, Draft, FHW, TN, Appalachian Corridor B, TN-81/TN-36, Improvement, Sams Gap to Erwin Bypass Unicoi County, Due: Mar. 26, 1984.

EIS No. 840046 Final, DOE, NH, VT, New England/Hydro-Quebec 450 Kv Direct Current Transmission Line Interconnection, Permit, Due: Mar. 12, 1984.

EIS No. 840047, Draft, COE, NY, Newton Creek Navigation Project, Maintenance Dredging, Kings and Queens Cos., Due: Apr. 5, 1984.

EIS No. 840048, Final, EPA, MA,

Kingston Wastewater Collection and Treatment Facilities, Approval/Grant, Due: Mar. 12, 1984.

EIS No. 840049, Final, FHW, TX, TX-190, Construction, I-35E to TX-78, Dallas, Denton and Collin Cos., Due: Mar. 12, 1984.

EIS No. 840050, Final, UAF, OR, CA, WA, ID, West Coast Over-The-Horizon Backscatter Radar System, Construction/Operations, Due: Mar. 12, 1984.

Amended Notices:

EIS No. 840022, FSuppl, UPS, CT, US Postal Service General Mail Facility, Relocation, Fairfield County, Due: Feb. 27, 1984, Published FR 1-27-84 — Incorrect status.

EIS No. 770619, Draft, EPA, CA, Orange County Sanitation Districts Wastewater Management System, Improvement, Grant, Published FR 5-77 — Officially withdrawn.

EIS No. 840030, Draft, BLM, WY, UT, Powder River Coal Region, Round 2, Leasing, Due: Mar. 27, 1984. Published FR 02-03-84—Review extended.

Dated: February 7, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84-3739 Filed 2-9-84; 8:45 am]

BILLING CODE 6560-50-M

[PH-FRL 2517-6]

Pesticide Products; 2,4,5-T and Silvex Products; Filing of Objections To Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Filing of Objections and Requests for Hearing.

Notice is hereby given, pursuant to § 164.8 of the rules of practice (40 CFR § 164.8) issued under the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136 *et seq.*) that objections and requests for hearings were filed by registrants and users of herbicide products containing, 2,4,5-trichlorophenoxy-acetic acid (2,4,5-T) or 2-[2,4,5-trichlorophenoxy-propionic acid (silvex)] in connection with the Administrator's October 14, 1983, notice of intent to cancel registrations, 48 FR 48434 (October 18, 1983). These proceedings have been consolidated for hearing by order of the Chief Administrative Law Judge dated December 9, 1983.

Interested persons may refer to the dockets on file with the Hearing Clerk, U.S. Environmental Protection Agency

(Mail Code A-110), Room 3708, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460 (202-382-4865).

For Further Information Contact: Bessie Hammel (202) 382-4865.

Washington, D.C., January 25, 1984.

J. F. Greene,

Administrative Law Judge.

[FR Doc. 84-3690 Filed 2-9-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL 2524-7]

Pretreatment Implementation Review Task Force; Establishment

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the General Services Administration (GSA) and Office of Management and Budget, notice is hereby given that the Administrator of the Environmental Protection Agency is establishing the Pretreatment Implementation Review Task Force to provide advice and divergent views to the Administrator in the implementation of the national pretreatment program. It has been determined that establishment of this Task Force is in the public interest and will assist the Agency in performance of its duties as outlined by section 307 of the Federal Water Pollution Control Act, as amended.

In accordance with § 101-6.1015 of the GSA interim rule on Federal Advisory Committee Management, a waiver has been approved by GSA for good cause for publishing a notice less than 15 days prior to Congressional filing of the Charter. The Task Force's initial meeting will be held on February 14 and 15, in Conference Room S353, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., as previously published in the *Federal Register*. It is necessary for the Task Force to begin work immediately as it is expected to produce an interim report in May 1984.

For Further Information Contact: Mary Anne Beatty, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-382-5036.

Dated: February 5, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-3668 Filed 2-9-84; 8:45 am]

BILLING CODE 6560-50-M

(OPTS-44005; TSH-FRL 2524-8)

Alkyl Phthalates, Chlorinated Paraffins, 2-Chlorotoluene, Methyl Isobutyl Ketone, Formamide and Isophorone; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the data submissions from negotiated testing programs under section 4 of the Toxic Substances Control Act (TSCA) during the fourth quarter of 1983. These submissions include: (1) Results of a water solubility test for butyl 2-ethylhexyl phthalate; (2) reports on the teratogenic properties of an intermediate and a long-chain chlorinated paraffin, a 14-day dietary range-finding study of a short-chain chlorinated paraffin, a bioconcentration study of chlorinated paraffins, a dominant lethal study of a short-chain chlorinated paraffin, an *in vivo* cytogenetics study of a long-chain chlorinated paraffin, and environmental effects and environmental fate tests of various types of chlorinated paraffins; (3) a metabolism study of 2-chlorotoluene; (4) a 90-day inhalation study on methyl isobutyl ketone; (5) a 2-week range-finding study to assess dermal toxicity of formamide; and (6) an inhalation teratology probe study on isophorone.

FOR FURTHER INFORMATION CONTACT:

Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, 401 M Street SW., Washington, D.C. 20460, toll free: (800-424-9065), in Washington, D.C.: (554-1404), outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:**I. Alkyl Phthalates**

The Chemical Manufacturers Association (CMA), on behalf of the Phthalates Esters Program Panel, is conducting testing on the alkyl phthalates, alkyl diesters of 1,2-benzenedicarboxylic acid, which are primarily used as plasticizers. The CMA's proposal was accepted by the Agency in lieu of a test rule under section 4 of the Toxic Substances Control Act and is described in the Federal Register of October 30, 1981 (46 FR 53775).

CMA's program examines aquatic toxicity, environmental transport and fate, and biodegradation of the high production alkyl phthalates and benzyl butyl phthalate. The program also examines, in a more experimental

approach, potential oncogenic and mutagenic effects of selected alkyl phthalates and benzyl butyl phthalates. Basically, CMA's health effects testing program is a multi-stage test program consisting of two first-stage components: (1) A battery of short-term mutagenicity tests; and (2) a 21-day *in vivo* test with rats. CMA concurrently will be performing extensive metabolism work on di-2-ethylhexyl phthalate. Long-term tests, such as 2-year bioassays, will also be performed depending on the results of the short-term tests for other phthalates.

CMA submitted, as an addendum to their previous submission on water solubility of phthalate esters (48 FR 34119, July 27, 1983), the results of a water solubility test for butyl 2-ethylhexyl phthalate (BOP). BOP is a mixture of dibutyl, di-2-ethylhexyl, and butyl 2-ethylhexyl phthalates with different eluting times for each of the components. Solubility was measured using high performance liquid chromatography. A value of <4 parts per million (ppm) was calculated for the earliest eluting component and <1.2 ppm for the later eluting components of the compound. A theoretical water solubility value of 0.69 ppm was also calculated for BOP.

The studies submitted have been placed in the public file on alkyl phthalates and benzyl butyl phthalate (OPTS-42005).

II. Chlorinated paraffins

The Consortium of Chlorinated Paraffins Manufacturers is conducting a negotiated testing program on chlorinated paraffins, substances used primarily as flame retardants and plasticizers. This testing program, described in the Federal Register of January 8, 1982 (47 FR 1017), was accepted by the EPA in lieu of a chlorinated paraffins test rule under section 4 of TSCA. The negotiated testing program is a two-level testing scheme on four chlorinated paraffins of differing chain length and degree of chlorination. All four of the chlorinated paraffins have been tested in some of the lower-level tests, while other studies will test fewer. These lower-level tests included metabolism, teratology, and mutagenicity tests in bacteria and mammals, and subchronic toxicity tests in both mammals and aquatic organisms. The upper-level tests use the compound considered the most toxic in the lower-level tests, and will include a 2-generation reproductive study in rats and a number of specialized aquatic studies. The American members of the Consortium are also performing a reproductive study in mallard ducks

with the short-chain chlorinated paraffin of 58 percent chlorination.

The Consortium has recently submitted the following studies.

1. The final report of a study in which sheephead minnow embryos and larvae were exposed in a dynamic test system to the short-chain paraffin of 58 percent chlorination for a period of 28 days.

The authors reported that at the concentrations tested the chlorinated paraffin did not cause any significant effect on hatchability of embryos or on survival of larvae compared to the saline control. The highest concentration tested, 58.8 µg/l chlorinated paraffin, was considered to be a no-observed effect concentration (NOEC). An observed effect concentration (OEC) was not established in this study and a further study was initiated.

2. The final report of a study in which sheephead minnow embryos and larvae were again exposed in a dynamic test system to the short-chain paraffin of 58 percent chlorination but for a period of 32 days.

The authors reported that at the concentrations tested the chlorinated paraffin did not cause any significant effect on the hatchability of embryos or on survival of larvae compared with the saline or acetone control populations.

However, statistically significant differences were found between exposed larvae and those from the saline control at the end of the study with respect to length and weight.

The OEC of the chlorinated paraffin was 620.5 µg/l. The highest NOEC tested was 279.7 µg/l.

3. The final report of studies designed to determine the background levels of chlorinated paraffins in organisms, fish food used in studies, and dilution waters.

The results for background levels indicate less than 2 µg/l total chloroparaffin in dilution waters, a range of 0.6 to 2.7 µg/kg total chloroparaffins in assorted fish feeds, and 1.3 and 1.4 µg/kg for total chloroparaffins in mussels and trout.

4. The final report of a study in which mussels (*Mytilus edulis*) were exposed to two concentrations of the short-chain paraffin of 58 percent chlorination in seawater for 12 weeks, at a temperature of 15° C.

The author reported that at measured concentration of 9.3 µg/l, the chlorinated paraffin caused a reduction in the growth rate of the mussels, as measured by both shell length increase and the weight of the soft tissues at the end of the exposure, compared with both the saline control and acetone

control. There were no significant effects on the shell growth or tissue weight of mussels exposed to a measured concentration of 2.3 $\mu\text{g/l}$, and there were no mortalities of the mussels at either of the concentrations of chlorinated paraffin.

5. The final report of a bioconcentration study in which rainbow trout were exposed in a dynamic test system to the short-chain paraffin of 58 percent chlorination in freshwater at 12°C for a period of 168 days. From the analytical data, the approximate ranges of bioconcentration factors for chlorinated paraffin in the tissues and organs were 2,800–16,000 for liver, 11,700–15,500 for viscera, 1,300–1,600 for flesh, 3,400–5,000 for the carcass, and 3,600–5,300 for whole fish. (These factors relate to the mean maximum recorded during the exposure period and the mean level at the end of exposure.) Similarly, on depuration, elimination (expressed as half-life) was 9.9–11.6 days for the liver, 23.1–23.9 days for the viscera, 16.5–17.3 days for the flesh, 18.7–21.0 days for the carcass, and 18.7–19.8 days for the whole fish.

During the exposure period the chlorinated paraffin did not cause any significant mortality of the fish populations or any observed adverse physical effect; no behavioral differences were observed compared to controls.

6. The final report of a bioconcentration study in which common mussels were exposed in a dynamic test system to two concentrations (nominally 3 $\mu\text{g/l}$ and 15 $\mu\text{g/l}$) of the short-chain paraffin of 58 percent chlorination in seawater. The exposure period at the lower test concentration was 147 days followed by a depuration period in seawater for an additional 98 days. Corresponding periods at the higher test concentration were 91 days and 84 days, respectively.

The results obtained can be summarized as follows:

The concentration of chlorinated paraffin in the separate organs measured and the whole animal were considered to have reached a plateau level during the exposure phase of the study. The bioconcentration factor (BCF) at the plateau level in whole mussels (defined as concentration in the animal/mean measured concentration in the water) was 40.9×10^3 at the lower exposure concentration, while at the higher exposure concentration, the BCF was 24.8×10^3 . Of the individual tissues measured, the digestive gland showed the highest BCF with calculated values of 226×10^3 and 104×10^3 at the low and high exposure concentrations respectively, compared with 21.3×10^3

and 14.9×10^3 at the low and high exposure levels in the residual tissues. During depuration all mussel tissues rapidly lost the test substance, giving short half-lives of 9.2–9.9 days for mussels exposed to 10.1 $\mu\text{g/l}$ (a mean concentration for the 15 $\mu\text{g/l}$ does level) chlorinated paraffin and 13.1–19.8 days for mussels exposed to 2.35 $\mu\text{g/l}$ (mean for 3 $\mu\text{g/l}$) chlorinated paraffin.

During the course of the study, the authors noted that the higher exposure concentration of the chlorinated paraffin was exerting a toxic effect on the mussels.

7. The final report of a study on the acute and chronic toxicity of the short-chain paraffin of 58 percent chlorination in which mysid shrimp were investigated under continuous flow conditions in seawater of 20 percent salinity at a temperature of 25°C.

In the acute toxicity study, two separate test series were carried out. The 96-hour LC_{50} and 95 percent confidence limits (CL) for each were:

	96-hr LC_{50} ($\mu\text{g/l}$)	95% CL ($\mu\text{g/l}$)
Series 1	15.5	13.6–17.4
Series 2	14.1	12.0–16.3

These values were based on the measured concentrations of the test substance. The lowest measured concentration causing significant mortality of the mysids was 13.7 $\mu\text{g/l}$.

In the chronic toxicity (28-day) study there were no significant effects on the survival, sexual maturation, reproduction, or length of the mysid shrimp at the maximum measured concentration employed of 7.3 $\mu\text{g/l}$, compared with either the control or solvent control.

The "maximum acceptable toxicant concentration" was reported between 7.3 $\mu\text{g/l}$ and 13.7 $\mu\text{g/l}$, based on measured concentrations.

8. The final report of a series of further investigations carried out on aqueous samples of four radiolabeled chlorinated paraffins generated in a study designed to determine their water solubility.

Using two separate analytical procedures strong evidence was found or chemical changes in the molecular structure of 59 percent chlorinated *n*-undecane-6- ^{14}C when it was in contact with water for about 150 days. There was some evidence for less extensive chemical change in the molecules of chlorinated *n*-pentadecane and chlorinated *n*-pentacosane.

An attempt was made to determine the physical state of chlorinated *n*-undecane in the bulk water phase by

filtration of samples through membranes of defined pore size. From the results obtained it was considered that somewhat less than half of the ^{14}C was present on particulate matter or present in very small droplets. The remainder could have existed in true solution.

Chlorinated *n*-undecane-6- ^{14}C was used in admixture with a non-radiolabeled chlorinated paraffin in a series of aquatic toxicity tests. Using the same two analytical methods the compound was found to remain chemically stable for at least 14 days when in contact with water, thus according to the authors, demonstrating that the test animals had been exposed only to the intact chlorinated paraffin described in those studies.

9. The final report of a study in which rainbow trout were exposed in a dynamic test system to the short-chain paraffin of 58 percent chlorination for a period of 168 days (24 weeks).

At the concentrations tested, the chlorinated paraffin did not cause any significant mortality to the fish populations; no differences in behavior were observed compared with controls. The study also showed that there was no significant difference in growth of fish maintained in freshwater or in freshwater containing a solvent. Further, exposure of fish to 3.4 $\mu\text{g/l}$ and 17.2 $\mu\text{g/l}$ chlorinated paraffin did not inhibit growth. The authors reported that although there was an apparent enhancement of growth by exposure to 17.2 $\mu\text{g/l}$ chlorinated paraffin compared with controls (which was seen in conjunction with increased food intake), this effect was only marginally statistically significant.

10. A report of a study conducted to determine the biodegradability of the short-chain paraffin of 58 percent chlorination under anaerobic conditions over a 56-day period. The authors report that major problems were encountered because of the development of a partial vacuum in the prescribed test system, resulting in an inability to obtain valid experimental data after a 10–14 day period.

However, the authors reported that ethanol, the reference substance, was readily biodegraded in the test system, in most cases by at least 50 percent after 3 days incubation. The authors report that the chlorinated paraffin did not appear to degrade in up to 28 days, the maximum period over which results were obtained.

11. The final report of a study in which *daphnia magna* were exposed in a dynamic test system to the short-chain paraffin of 58 percent chlorination for a period of 21 days.

Total mortality of the parent *Daphnia* occurred at measured concentrations of 16.3 mg/l and above within 6 days. There were no mortalities of the parent *Daphnia* at a measured concentration of 8.9 mg/l, but 37 percent of the offspring produced at this concentration were dead when separated from the exposure vessels, compared with 6 to 9 percent in the freshwater control and solvent control, respectively. There were no observed effects on the survival, reproduction, and growth (length after 21 days) of *Daphnia* exposed to a measured concentration of 5.0 mg/l. Based on this study the "maximum acceptable toxicant concentration" (MATC) was between 5.0 mg/l and 8.9 mg/l.

12. The final report of a study in which Charles River rats were used to determine the dominant lethal mutation potential of the short-chain paraffin of 58 percent chlorination.

Oral dosing with chlorinated paraffin at dose levels of 250, 750 or 2,000 mg/kg/day over a period of 5 days did not produce biologically meaningful differences in measured uterine parameters when compared to those of negative controls during the ten matings of the study. The authors concluded that no mutagenic potential was indicated for this chlorinated paraffin in this assay. In contrast, a dominant lethal mutation affecting the postmeiotic stage of spermatogenesis was detected in positive control group males as evidenced by statistically significant increases in early fetal deaths with corresponding decreases in the mean number of viable embryos during the first 4 weeks of mating.

13. The final report of a study in which male Fischer 344 rats were used to determine the *in vivo* cytogenetics of the long-chain paraffin of 70 percent chlorination to bone marrow cells.

No mortalities occurred among animals of this study. Body weight gain was minimal for 5 out of 8 rats treated with this chlorinated paraffin at 5,000 mg/kg/day; two of the remaining rats, however, showed a loss of body weight over the treatment period. During the period of treatment with cyclophosphamide, a mean body weight loss was noted for the test group.

There were statistically significant increases in most types of chromosomal aberrations for the group receiving cyclophosphamide, compared to the control group.

When administered to sexually mature male Fischer 344 rats at dosage levels up to 5,000 mg/kg/day by oral gavage for 5 consecutive days, this chloroparaffin did not produce any increase in the frequency of

chromosome abnormalities, compared to control, and is described by the authors as not being clastogenic in this test system.

14. The final report of a range-finding teratology study in Charles River rats exposed to the long-chain paraffin of 70 percent chlorination from which exposure levels would be established for a teratology study.

The authors reported that there were no significant clinical or necropsy findings among the control or any treated group. Biologically meaningful differences were not found in mean maternal body weights and body weight changes for the 1,000 and 2,000 mg/kg/day dosage groups or in measured uterine parameters for any treated group when compared to those of the control group. Based on these results, dosage levels of 500, 2,000 and 5,000 mg/kg/day were selected for a teratology study in rats with this chlorinated paraffin.

15. The final report of a range-finding teratology study in Charles River rats exposed to the intermediate-chain paraffin of 52 percent chlorination from which exposure levels would be established for a teratology study.

The authors reported that survival was 100 percent in the control and 3,750 mg/kg/day groups. Treatment with chlorinated paraffin was associated with an increase in vaginal discharge and anogenital haircoat matting at the 5,000 mg/kg/day level only. No biologically meaningful differences in mean maternal body weight gain or measured uterine parameters were evident in the 3,750 or 5,000 mg/kg/day groups when compared to the control group. Based on these results, 5,000 mg/kg/day was selected as the highest dose level for a teratology study in rats with this chlorinated paraffin; the lower doses will be 500 and 2,000 mg/kg/day.

16. The final report of a teratology study in which Charles River rats were exposed to the long-chain paraffin of 43 percent chlorination. Dosage levels of 500, 2,000, and 5,000 mg/kg/day in corn oil were administered orally by gavage as a single daily dose on days 6 through 19 of gestation at a constant volume of 5 ml/kg.

No adverse treatment effects on maternal appearance, behavior, necropsy findings or mean body weight gain were observed. There were no dose-related or relevant statistically significant differences in the number and location of fetuses, resorptions, implantations, and corpora lutea, or the incidence of fetal malformations in the treated groups when compared to the control values.

This chlorinated paraffin was reported not to produce a teratogenic

response when administered orally to pregnant rats at dose levels up to and including 5,000 mg/kg/day.

17. The final report of a 14-day dietary range-finding study in which Fischer 344 rats were exposed to the short-chain paraffin of 58 percent chlorination at 300, 1,000 and 3,000 mg/kg/day.

The authors reported that when compared with the controls, a marked reduction in body weight and food (with compound) consumption was seen for males and females of the 3,000 mg/kg/day dosage group. This effect was most evident during the first week of treatment. Slight reductions in body weight gain were seen at 1,000 mg/kg/day (males and females), with food consumption slightly reduced during the first measurement interval (days 1-3).

At the termination of the study, hepatic microsomal Lowry protein, aminopyrine demethylase (APDM) activity and cytochrome P-450 values were determined. Definite dose related increases were evident throughout all dosage groups, though APDM activity decreased slightly among high dose rats, as compared to the next lower dosage level.

Changes were also evident in the liver in some rats of the 300, 1,000 and 3,000 mg/kg/day dose groups. An increase in the mean absolute and relative liver weights was seen at all dose levels, most of which achieved statistical significance compared with control values. Microscopically, a dose-related increase in incidence and severity of hepatocellular hypertrophy was present in all dose groups. Myocardial atrophy was noted for all animals of the highest dosage group and 9 of 10 rats of the 1,000 mg/kg/day, with increased severity at the highest dose level.

The Agency is evaluating these data and the conclusions that can be drawn from the data in regard to further testing under this program. These studies have been inserted in the public file on chlorinated paraffins (OPTS-42004).

III. 2-Chlorotoluene

Occidental Chemical Corporation is conducting a negotiated testing program on 2-chlorotoluene, a solvent for agricultural pesticides and a general solvent replacement for 1,2-dichlorobenzene. Occidental's testing program was accepted by the Agency and a negotiated testing agreement was initiated rather than rulemaking under section 4(a) of TSCA. This decision was published in the Federal Register of April 28, 1982 (47 FR 18172). The testing scheme is multi-level in approach, with the EPA participating at a number of decision points. The toxicological areas

being addressed by this program are metabolism, teratology, mutagenicity, chronic toxicity, and environmental toxicity. Occidental has submitted a report on metabolism of 2-chloro[U-ring-¹⁴C]toluene by rats dosed intravenously. Female rats were injected with ¹⁴C-labeled 2-chlorotoluene intravenously and excretion and tissue distribution patterns of radiolabel were studied. Within 4 days after injection of 0.7 mg/kg (in a 50 percent ethanolic solution) the rat eliminated 69–81 percent of the administered dose in the urine and 14–18 percent as expired volatiles. Less than 0.04 percent of the administered dose was expired as ¹⁴CO₂. Urinary metabolites included mercapturic acid (22–24 percent), glucuronide (13–20 percent), 2-chlorohippurate (7–11 percent), and an unknown polar metabolite (11 percent). Of the volatile ¹⁴C collected, 95 percent consisted of 2-chloro[¹⁴C]toluene. Within 4 days less than one percent labeled 2-chlorotoluene remained in the body tissue. The highest remaining concentration was found in the lungs (<4 ppb).

These studies have been inserted in the public file on 2-chlorotoluene (OPTS-42011A).

IV. Methyl Isobutyl Ketone

The Ketones Program Panel of the Chemical Manufacturers Association (CMA) is conducting a testing program on methyl isobutyl ketone (MIBK) and methyl ethyl ketone (MEK) to characterize their potential health effects. These two compounds are used as part of various mixed solvents in the coatings industry and in allied industrial applications (e.g., adhesives). The Ketones Program Panel testing program was accepted by the Agency and a negotiated testing agreement was initiated rather than rulemaking under section 4(a) of TSCA. Notice of that decision was published in the *Federal Register* of December 29, 1982 (47 FR 58027). The testing consists of five short-term tests on both compounds plus an inhalation teratology test and a 90-day subchronic study on MIBK. The short-term studies include the Ames test, mouse lymphoma assay, BALB/3T3 mouse embryo cell transformation, cytogenic study using mouse micronucleus *in vivo*, and unscheduled DNA synthesis.

The inhalation teratology test on MIBK will be conducted on two species, rat and mouse, and three dose levels along with a negative control. The 90-day subchronic study will be performed on male and female rats and mice using whole body inhalation exposure to MIBK vapor, 6 hours per day, 5 days per

week for 13 weeks at doses of 50, 250 and 1,000 ppm. A 90-day vapor inhalation range-finding study was completed June, 1982 and was included in a previous submission in response to the Proposed Negotiated Testing Agreement.

The Ketones Program Panel has submitted the results of a 90-day inhalation study conducted on rats and mice exposed to 1,000, 250 or 50 ppm of MIBK for 6 hours/day, 5 days/week for 14 weeks.

The Ketones panel reported that exposure of male rats and mice to 1000 ppm produced increases in liver weights of up to 11 percent from controls measured as both relative and absolute liver weights. Male mice at 260 ppm had increases in absolute liver weights only. No changes were reported in female liver weights at any dose level. There were no gross or microscopic lesions related to MIBK exposure. The CMA Ketones Program Panel stated that the only significant effects were the changes in liver weights. The Agency is reviewing and evaluating the study and the panel's conclusions.

The subchronic study has been placed in the public file on MIBK/MEK (OPTS-42017).

V. Formamide

BASF Wyandotte Corporation is conducting a negotiated testing program on formamide, a solvent and chemical intermediate. BASF's testing program was accepted by the Agency and a negotiated testing agreement was initiated rather than rulemaking under section 4(a) of TSCA. This decision was published in the *Federal Register* of December 29, 1983 (48 FR 57365).

The BASF Wyandotte Corporation testing program consists of a range-finding study followed by a 90-day subchronic study which is designed to characterize the potential subchronic effects of formamide. Because dermal exposure is the most common route of human exposure, the program is designed to clarify the doses at which formamide causes toxic effects after repeated exposure to intact skin over a prolonged period. The study will be performed in male and female Wistar rats, using dermal exposure for 6 hours/day and 5 days/week.

BASF Wyandotte Corporation has submitted the results of the 2-week range-finding study to assess the dermal toxicity of formamide in the rat. No marked toxic effects of formamide were found at any concentration up to 3000 mg/kg. No clinical signs or behavioral abnormalities were detected in this study. Based on these data, they are proposing a dose regimen of 300, 1,000

and 3,000 mg/kg body weight for the 90 day study.

This range-finding study has been placed in the public file on formamide (OPTS-42032).

VI. Isophorone

The Ketones Program Panel of the Chemical Manufacturers Association (CMA) is conducting teratology and mutagenicity tests on isophorone under a Negotiated Testing Agreement with EPA. A final notice of acceptance of this NTA was published on January 17, 1984 (49 FR 1012).

The panel has submitted a draft report of the isophorone inhalation teratology probe study in rats and mice. Groups of twelve mated female rats or mice were exposed to 0, 50, 100, or 150 parts per million (ppm) isophorone for six hours/day on days six through fifteen of gestation.

External physical observations on the test animals showed maternal toxicity in rats at 100 and 150 ppm but not at 50 ppm; in mice, maternal toxicity was not demonstrated at any dose level. No fetal effects were noted at 50 or 100 ppm in either species; at 150 ppm one rat and three mouse fetuses exhibited exencephaly. There were considerable difficulties with attaining and controlling the 150 ppm concentration in the test chamber. Based on these findings, dose levels of 0, 25, 50, and 115 ppm will be used in the inhalation teratology study.

These studies have been placed in the public file on isophorone (OPTS-42029).

VII. Public Record

EPA has established public records for the test data and other relevant actions pertaining to these chemicals. These records are available for public inspection in the OPTS Reading Room, Rm. E-107, 401 M St., SW., Washington, D.C. 20460, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The material may be copied for a nominal fee.

Dated: February 2, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

(FR Doc. 84-3685 Filed 2-9-84; 8:45 am)

BILLING CODE 5560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket: FEMA-REP-3-PA-2]

Receipt of Plans

AGENCY: Federal Emergency
Management Agency.

ACTION: Notice of Receipt of Plans.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has the responsibility for reviewing the State and local governments' plans, the Commonwealth of Pennsylvania has submitted radiological emergency plans to the FEMA Regional Office. These plans support nuclear power plants which impact on Pennsylvania and include the plans of Columbia and Luzerne Counties which are near the Pennsylvania Power and Light Company's Susquehanna Steam Electric Station located in Luzerne County, Pennsylvania.

Date Plans Received: December 20, 1983.

FOR FURTHER INFORMATION CONTACT:

Thomas M. Sherlock, Regional Director, FEMA Region III, 7th Floor, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

Notice: In support of the Federal requirement for emergency response plans, FEMA has established a Rule describing its procedures for review and approval of State and local governments' radiological emergency response plans. Pursuant to this FEMA Rule (44 CFR Part 350.8) "Review and Approval of State Radiological Emergency Plans and Preparedness," 48 FR 44338, the Commonwealth of Pennsylvania Disaster Operations Plan, Annex E was received by the Federal Emergency Management Agency Region III Office.

Included are the plans for Columbia and Luzerne Counties, 27 municipalities, 8 school districts, and 7 support Counties, which are fully or partially within the plume exposure pathway emergency planning zone of the nuclear plant.

Copies of the Plan are available for review at the FEMA Region III Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are 2,734 pages in the document, reproduction fees are \$.10 a page payable with the request for copy.

Comments on the Plan may be submitted in writing to Mr. Thomas M. Sherlock, Regional Director, at the

above address within thirty days of this Federal Register notice.

Thomas E. Hardy,
Deputy Regional Director.

[FR Doc. 84-3659 Filed 2-9-84; 8:45 am]

BILLING CODE 6710-01-M

FEDERAL HOME LOAN BANK BOARD**San Marino Savings and Loan Association San, Marino, California; Appointment of Conservator**

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for San Marino Savings and Loan Association, San Marino, California on February 3, 1984.

Dated: February 7, 1984.

J. J. Finn,
Secretary.

[FR Doc. 84-3698 Filed 2-9-84; 8:45 am]

BILLING CODE 6720-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Control No. 5-D-OH-743-D]

Record of Decision; Environmental Considerations; Conveyance of Certain Portions, Rickenbacker Air National Guard Base, Franklin and Pickaway Counties, Ohio

Decision: The General Services Administration (GSA) will convey certain portions of the above property to the Rickenbacker Port Authority (RPA) for airport purposes pursuant to Section 13g of the Surplus Property Act of 1944 (50 U.S.C. app. 1622(g)). This conveyance will be subject to a joint use agreement between the RPA and the Department of the Air Force governing the operation of the airport. This conveyance will require the RPA to use the property for airport and airport related revenue generating purposes. Certain southern portions of the property will be sold by GSA subject to noise and aviation easements.

Alternatives:

No Action. This alternative contemplates no disposal of the property which the Air Force authorized GSA to dispose of. This is the environmentally preferred alternative as no nighttime noise is generated.

Disposal of the Property Without Air Cargo Use. This is identified as Alternative Number Four in the

Environment Impact Statement (EIS). This alternative would also not create nighttime noise. However, it would deny the community the socio-economic benefits of the proposed action due to the much slower development of the property. As the property is being conveyed to the RPA subject to the joint use agreement, Air Force monitoring of airfield operations will continue.

Mitigations. The Air Force, through its joint use agreement, requires the RPA to prohibit all landings and takeoffs of civilian aircraft between the hours of 11 P.M. and 7 A.M. except for those civilian aircraft which do not exceed an 80 DBA noise level in Groveport at a point designated Point 1 in the Supplemental EIS. Point 1 is located at the intersection of Groveport and Delane Roads in the eastern part of Groveport.

Also, the RPA and the Village of Groveport are to agree on a noise mitigation plan before any noise above the 80 DBA level is permitted. In the event that no adequate plan is worked out and the property cannot be operated without serious noise impacts to the local communities, then the Secretary of the Air Force may take appropriate action and possibly revoke the joint use agreement with the Port Authority. If the Joint-Use Agreement is revoked by the Air Force, the Government, through the Federal Aviation Administration, may revert title of the property to the United States of America. This may be done in accordance with the terms of the application for Airport Property submitted by the RPA and with covenants which will appear in the deed covering this property to the RPA.

Proper noise and aviation easements will be retained over the portions of this property which are to be sold by GSA.

Authority: This Record of Decision was proposed in accordance with the Regulations of the Council on Environmental Quality for Implementing Provisions of the National Environmental Policy Act 40 CFR 1505.2.

Dated: January 27, 1984.

Robert M. Crouse,
Director, Disposal Division, Office of Public Buildings and Real Property, Region 5, General Services Administration.

[FR Doc. 84-3646 Filed 2-9-84; 8:45 am]

BILLING CODE 6820-23-M

GOVERNMENT PRINTING OFFICE**Depository Library Council to the Public Printer; Meeting**

The Depository Library Council to the Public Printer will meet during the period April 11-13, 1984, at the

Sheraton-Atlanta Hotel, Atlanta, Georgia.

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Anyone who wishes to attend should notify the Administrative Librarian, Library Programs Service, U.S. Government Printing Office, 5236 Eisenhower Avenue, Alexandria, Virginia 22304 (Telephone: (703) 557-3892).

General participation by members of the public, or questioning of Council members or other participants, shall be permitted with approval of the Chair.

Dated: February 2, 1984.

William J. Barrett,
Acting Public Printer.

[FR Doc. 84-3645 Filed 2-9-84; 8:45 am]

BILLING CODE 1505-01-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 February 3.

Public Health Service

Health Resources and Services Administration

Subject: Health Education Assistance Loan (HEAL) Borrower Status Form (0915-0033)—Extension/no change
Respondents: Lending institutions
Subject: Lender's Manifest for Health Education Assistance Loan (HEAL) Program (0915-0034)—Extension/no change
Respondents: Lending institutions

Subject: Health Education Assistance Loan (HEAL) Transfer Statement (0915-0035)—Extension/no change
Respondents: Lending institutions
OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Annual Established Populations for Epidemiologic Studies of the Elderly Telephone Followup Survey (0925-0191)—Revision
Respondents: Participants in the "Establishment of Population for Epidemiologic Studies of the Elderly"

OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: End Stage Renal Disease Medical Information System (0938-0064)—Extension/no change
Respondents: End Stage Renal Disease facilities
Subject: Statistical Report on Medical Care: Recipients, Payments, and Services (0938-0059)—Revision
Respondents: State Medicaid agencies
OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

Subject: Evaluating by Physical Examination the Health Status of Southeast Asian Refugees After Approximately 18 Months in the United States—New
Respondents: Southeast Asian refugees
OMB Desk Officer: Milo Sunderhauf

Social Security Administration

Subject: State Agency Statement of Financial Plan for Aid to Families with Dependent Children (AFDC) (0960-025)—Reinstatement
Respondents: State agencies administering AFDC
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: February 3, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-3681 Filed 2-9-84; 8:45 am]

BILLING CODE 4150-04-M

Office of the Assistant Secretary for Health

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the office of Health Technology Assessment (OHTA), announces that it is coordinating a reassessment of what is known of the safety and clinical effectiveness and use (indications) of photodensitometry (radiographic absorptiometry) for the determination of bone mineral density. Specifically, we

are interested in the clinical effectiveness and appropriate use of radiographic absorptiometry in the determination of bone mineral density for patients with end-stage renal disease and in other conditions where disease affecting bone mineralization is suspected, i.e., osteoporosis, osteomalacia, metabolic disorders of bone, etc. We are seeking specific advice concerning the frequency of performing radiographic absorptiometry as it relates to studying the progression of bone mineral density changes in end-stage renal disease patients, osteoporotic patients, and others.

For the purpose of this assessment, photodensitometry is of two types: (1) The conventional aluminum-equivalency method, and (2) the radiographic absorptiometry method. This assessment will consider both the radiographic absorptiometry method, which is a computer assisted densitometric measurement of the x-ray image of the bone as developed at the Wright State University Research Institute, as well as the conventional equivalency method.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sectors and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than May 30, 1984, or within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well-designed clinical studies and other information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology.

Written material should be submitted to: National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3-10, 5600 Fishers Lane, Rockville, Maryland 20857.

Further information is available from Mr. Martin Erlichman, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: January 30, 1984.

Enrique D. Carter, M.D.,
Acting Director, Office of Health Technology
Assessment, National Center for Health
Services Research.

[FR Doc. 84-3738 Filed 2-9-84; 8:45 am]
BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications; Los Angeles Zoo, et al.

The following applicants have applied
for permits to conduct certain activities
with endangered species. This notice is
provided pursuant to Section 10(c) of the
Endangered Species Act of 1973, as
amended (16 U.S.C. 1531, *et seq.*):

APP No. 583938

Applicant: Los Angeles Zoo, Los Angeles,
CA.

The applicant requests a permit to
import one (1) male marbled cat (*Felis
marmorata*) from Howletts and Port
Lympe Estates, Ltd., Kent, England, for
enhancement of propagation.

APP No. 586803

Applicant: John Sutterlin, Auburn, WA.

The applicant requests a permit to
import a pair of white-eared pheasants
(*Crossoptilon crossoptilon*) from Harry
Hardy, British Columbia, Canada, for
enhancement of propagation.

APP No. 616545

Applicant: University of Michigan Museum of
Zoology, Ann Arbor, MI.

The applicants request a permit to
import 46 frozen specimens of Puerto
Rico boa (*Epicrates inornatus*) and 116
frozen specimens of Jamaican boa (*E.
subflavus*), all born in captivity, from the
Reptile Breeding Foundation, Ticton,
Ontario, Canada, for scientific research.

APP No. 591775

Applicant: Zoological Society of San Diego;
San Diego, CA.

The applicant requests a permit to
import eight orangutans (*Pongo
pygmaeus*) from Gordon Mills,
Weybridge, England, for enhancement
of propagation.

PRT 2-11185

Applicant: International Animal Exchange,
Ferndale, MI.

The applicant requests a permit to
purchase in interstate commerce and
export one female ring-tailed lemur
(*Lemur catta*) from Busch Gardens,
Tampa, FL to Seoul Grand Park Zoo,
Seoul, Korea, for enhancement of
propagation.

APP No. 584476

Applicant: International Animal Exchange,
Ferndale, MI.

The applicant requests a permit to
export one male mongoose lemur
(*Lemur mongoz*) to Seoul Grand Park
Zoo, Seoul, Korea, for enhancement of
propagation. Applicant's request to
purchase this animal was published 1/
26/84.

APP No. 117053

Applicant: Sheila Conant, University of
Hawaii at Manoa, Honolulu, HI.

The applicant requests a permit to
capture, band and release Laysan
finches (*Telespyza cantans*) for
scientific research and enhancement of
propagation.

APP No. 586772

Applicant: Anthony F. Amos, Marine Science
Institute-Port Aransas, Port-Aransas, TX.

The applicants requests a permit to
take injured and dead specimens of the
following sea turtle species: Kemp's
Ridley (*Lepidochelys kempi*), green
(*Chelonia mydas*), leatherback
(*Dermochelys coriacea*), and hawksbill
(*Eretmochelys imbricata*), for
rehabilitation and research purposes
and enhancement of survival.

Documents and other information
submitted with these applications are
available to the public during normal
business hours (7:45 am to 4:15 pm) in
Room 601, 1000 North Glebe Road,
Arlington, Virginia, or by writing to the
Director, U.S. Fish and Wildlife Service,
P.O. Box 3654, Arlington, Virginia 22203.

Interested persons may comment on
any of these applications within 30 days
of the date of this publication by
submitting written views, arguments, of
data to the Director at the above
address. Please refer to the appropriate
PRT 2 No. or APP No. when submitting
comments.

Dated: February 7, 1984.

R. K. Robinson,
Federal Wildlife Permit Office, U.S. Fish and
Wildlife Service.

[FR Doc. 84-3733 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-07-M

Endangered Species Permit; Receipt of Applications; Memphis Zoo, et al.

The following applicants have applied
for permits to conduct certain activities
with endangered species. This notice is
provided pursuant to Section 10(c) of the
Endangered Species Act of 1973, as
amended (16 U.S.C. 1531, *et seq.*):

APP No. 146807

Applicant: Memphis Zoo & Aquarium,
Memphis, Tennessee.

APP No. 146810

Applicant: Columbus Zoo, Powell, Ohio.

APP No. 146809

Applicant: North Carolina Zoological Park,
Asheboro, North Carolina.

The above applicants request permits
to import a total of 7 (2 male and 5
female), lowland gorillas (*Gorilla
gorilla*), now in captivity in Cameroon,
for the enhancement of propagation at
their facilities.

Documents and other information
submitted with these applications are
available to the public during normal
business hours in Room 601, 1000 N.
Glebe Rd., Arlington, Virginia, or by
writing to the U.S. Fish & Wildlife
Service, WPO, P.O. Box 3654, Arlington,
VA 22203.

Interested persons may comment on
these applications within 30 days of the
date of this publication by submitting
written data, views or arguments to the
above address. Please refer to the file
number when submitting comments.

Dated: February 7, 1984.

R. K. Robinson,
Chief Permit Branch, Federal Wildlife Permit
Office, U.S. Fish & Wildlife Service.

[FR Doc. 84-3734 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-07-M

Texas; Application

AGENCY: U.S. Fish and Wildlife Service,
Department of the Interior.

ACTION: Public notice.

SUMMARY: Notice is hereby given that
section 28 of the Mineral Leasing Act of
1920 (30 U.S.C. 185), as amended by the
Act of November 16, 1973 (37 Stat. 576),
that Mantaray Pipeline Company, a
wholly-owned subsidiary of Panhandle
Eastern Corporation, has applied for a
right-of-way permit to construct,
operate, and maintain a 36-inch natural
gas pipeline across the Matagorda
Island State Park and Wildlife
Management area, A Unit of the
National Wildlife Refuge System in
Calhoun County, Texas.

This proposed pipeline will transport
natural gas from offshore to onshore and
thereby into interstate commerce. It is
necessary to cross refuge lands to get
onshore, to minimize pipeline length,
and to minimize environmental
disturbance by crossing an area
previously disturbed in the building of
the abandoned Air Force base. The
proposed pipeline will link Matagorda
Island Blocks 622, 624, and 568 with the
existing Trunkline Gas Company's,
another wholly-owned subsidiary of

Pandhandle Eastern Corporation, mainline near Enda, Texas.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with consideration of whether this application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so within thirty (30) days by sending their comments, with their name and address, to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

DATES: Comments must be submitted on or before March 12, 1984.

ADDRESSES: All written comments are to be submitted to: Regional Director, U.S. Fish and Wildlife Service (RE), P.O. Box 1306, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Mr. William B. Fisher, Realty Specialist, Division of Realty, U.S. Fish and Wildlife Service, 500 Gold Avenue S.W., Albuquerque, New Mexico 87103, Telephone: (505) 766-2174.

Jerry L. Stegman,
Acting Regional Director.

[FR Doc. 84-3555 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permits Issued for the Months of October, November, December 1983

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received according to section 10 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539. Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Additional information on these permit actions may be requested by contacting the Federal Wildlife Permit Office, Box 3654, Arlington, VA 22203, telephone (703/235-1903) or by appearing in person at the Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 605, Arlington, VA, between the hours of 9:00 a.m. and 3:00 p.m. weekdays.

October 1983

Gibon & Gallinaceous.....	X10907	Oct 03
Walter B. Sturgeon.....	X10921	Oct 03

Smithsonian Institute (National Museum of Natural History).....	X10916	Oct 11
Florida State Museum.....	X11024	Oct 11
Cheyenne Mountain Zoo Park.....	X10963	Oct 11
David Bechler.....	X10935	Oct 14
Knoxville Zoological Park.....	X10914	Oct 19
New York Zoological Society.....	X10995	Oct 21
San Francisco Zoo.....	X10941	Oct 21
International Animal Exchange.....	X11001	Oct 26
International Animal Exchange.....	X11002	Oct 26
International Animal Exchange.....	X10999	Oct 26
Miami Metrozoo.....	X10879	Oct 28

November 1983

Howard Shellhammer.....	X10740	Nov 01
University of Hawaii.....	X10746	Nov 01
Caldwell Schools, Inc.....	X11038	Nov 03
Gustavo Cott.....	X10696	Nov 03
Fish & Wildlife Service.....	X11076	Nov 08
Charles Sivillo.....	X10900	Nov 08
Game Conservation International.....	X10745	Nov 15
International Animal Exchange.....	X11187	Nov 16
New York Zoological Society.....	X10994	Nov 18
San Antonio Zoological Gardens.....	X11183	Nov 22
Detroit Zoological Park.....	X11149	Nov 23
Sedgwick County Zool. Society.....	X11094	Nov 23
Clarence H. Birr.....	X11189	Nov 25
Arian Vaughn.....	X11257	Nov 29
New York Zoological Society.....	X9965	Nov 30

December 1983

Southwick Animal Farm, Inc.....	X11008	Dec 07
New York Zoological Society.....	X11125	Dec 07
National Zoo.....	X11088	Dec 08
International Animal Exchange.....	X11188	Dec 09
Anthony L. Devroude.....	X10977	Dec 09
International Animal Exchange.....	X11235	Dec 12
Fort Wayne Childrens Zoo.....	X11259	Dec 15
Zoological Society of San Diego.....	X11229	Dec 15
International Animal Exchange.....	X11253	Dec 15
Greater Baton Rouge Zoo.....	X11291	Dec 15
Duke University Primate Center.....	X11276	Dec 23
Duke University Primate Center.....	X11304	Dec 23

Dated: January 30, 1984.

R. K. Robinson,
Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-3735 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Availability of Report

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: Notice is hereby given that the "Report on Public Involvement in Identification of the Issues for the Celeron/All American and the Getty Pipeline Projects" is available for public review and comment.

The report contains a summary of seven public scoping sessions held in November and December, 1983, at various points along the proposed pipeline route. The meetings were conducted jointly by the Bureau of Land Management, (California Desert District), Santa Barbara County, and the California State Lands Commission. The Issues identified by the meetings will be used to guide in the preparation of a joint Environmental Document

(Environmental Impact Report/Environmental Impact Statement—EIR/EIS). This document will meet the requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) which calls for an assessment of a project's impacts upon the human and natural environment. Other federal, state, and local agencies in California, Arizona, New Mexico, and Texas will be involved in the Environmental Document throughout its preparation and review.

The Public Involvement Report addresses the following subject:

1. Purpose and Need for the Action.
2. Geographic Setting.
3. Public Scoping Sessions.
4. Significant Resource Values and Issues Identified.
5. EIR/EIS Preparation Schedule.
6. Future Public Participation.

Comments are being accepted from the public for 30 days following the date of this notice.

Dated: January 30, 1984.

Gerald E. Hillier,
District Manager.

[FR Doc. 84-3840 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-40-M

Montana; North Dakota Grazing Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior Department.

ACTION: Notice of availability of draft grazing environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for livestock grazing upon the public lands in North Dakota. The EIS details four alternative livestock grazing levels on nearly 68,000 acres of public land within BLM's Dickinson District. The alternatives examined are: (1) Rangeland improvement; (2) No action, continue present management; (3) Reduced livestock use; (4) No grazing.

PUBLIC PARTICIPATION: Copies of the Draft Grazing EIS are available from the Dickinson District Office, P.O. Box 1229, 204 Sims Street, Dickinson, North Dakota 58602, phone (701) 225-9148. Public reading copies will be available for review at the following locations:

Office of Public Affairs, Location Building, 18th and C Streets NW., Washington, D.C. 20240
Bureau of Land Management, Montana State Office, Public Affairs Office, 222

N. 32nd Street, Billings, Montana 59101.

Written comments on the Draft Grazing EIS should be submitted between February 10 and April 13 (60-day comment period) to: Project Manager, Bureau of Land Management, P.O. Box 1229, Dickinson, North Dakota 58602. Written or oral comments concerning the adequacy of the Draft Grazing EIS will be considered in the preparation of the final Grazing EIS for the Dickinson District.

FOR FURTHER INFORMATION CONTACT: Project Manager, (701) 225-9148.

Dated: January 17, 1984.

Michael J. Penfold,
State Director.

[FR Doc. 84-2008 Filed 1-24-84; 8:45 am]
BILLING CODE 4310-DN-M

[N-38097, N-38097-A, N-38098 and N-38098-A]

Nevada Conveyance

Notice is hereby given that, pursuant to the Act of December 23, 1980 (94 Stat. 3381; 43 U.S.C. 1701) and Section 209(b) of the Act of October 21, 1976 (90 Stat. 2757; 43 U.S.C. 1719), Steven S. Miller, Inc. of Las Vegas, Nevada, purchased, by competitive sale, public lands in Clark County described as:

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 27, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ N
E $\frac{1}{4}$ NW $\frac{1}{4}$;

Containing 15 acres.

The purpose of this notice is to inform the public and interested State and local government officials of the issuance of a conveyance document to Steven S. Miller, Inc.

Wm. J. Malenick,
Deputy State Director, Operations.

[FR Doc. 84-3639 Filed 2-9-84; 8:45 am]
BILLING CODE 4310-HC-M

Oregon; Notice of Realty Action; Exchange of Public Land For Private Land in Harney County, Oregon

The following described public lands have been examined and determined to be suitable for transfer out of Federal ownership by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756; 43 USC 1716):

Willamette Meridian

T. 33 S., R. 31 E.
Sec. 20: All;
Sec. 28: All;
Sec. 29: All;
Sec. 32: SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$;

Sec. 34: N $\frac{1}{2}$ SE $\frac{1}{4}$.

The area described aggregates approximately 2760.00(±) acres in Harney County.

In exchange for all or some of these lands the United States will acquire the following described private land from Rex Clemens Ranch, Inc., an Oregon Corporation.

Willamette Meridian

T. 33 S., R. 32 $\frac{1}{2}$ E., W.M.
Sec. 35: SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 36: S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 34 S., R. 32 $\frac{1}{2}$ E., W.M.
Sec. 1: Lots 3 & 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 2: Lot 1, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 33 S., R. 33 E., W.M.
Sec. 20: E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$.

The area described aggregates approximately 881.30 acres in Harney County.

The purpose of the exchange is to facilitate the resource management program of the Bureau of Land Management. The private lands being offered have very important values for recreation, wildlife habitat, watershed, and livestock grazing. The public interest will be highly served by making this exchange.

This proposal is consistent with Bureau planning for the lands involved in that those plans have identified the Federal lands for disposal and have also identified the offered private lands as having a very high priority for acquisition through land exchange.

The comparative values per acre of the lands to be exchanged are unequal so acreage adjustments may be made if required to equalize the values, based upon the final appraisal of the lands. The monetary adjustment will be for no more than 25% of the appraised value of the Federal lands involved.

The exchange will be subject to:

(1) A reservation to the United States of a right-of-way for ditches or canals under the Act of August 30, 1890.

(2) Valid, existing rights including but not limited to any right-of-way, easement, or lease of record.

Publication of this notice has the effect of segregating all of the above described Federal land from appropriation, under the public land laws and these lands are further segregated from appropriation under the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years from the date of the publication of this notice, whichever occurs first.

Detailed information concerning the exchange is available for review at the

Burns District Office of the Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720.

For a period of 45 days, interested parties may submit comments to the Burns District Manager at the above address. Any adverse comments will be evaluated by the Oregon State Director, BLM, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: February 3, 1984.

Joshua L. Warburton,
District Manager.

[FR Doc. 84-3637 Filed 2-9-84; 8:45 am]
BILLING CODE 4370-33-M

[W-80250 A]

Wyoming; Conveyance Sale of Public Land in Lincoln County, Wyoming

Notice is hereby given that pursuant to Section 203 of the Federal Land Policy and Management Act of 1976; 43 U.S.C. 1713 (1976), John Kovach has purchased and received a patent for the following described public land in Lincoln County, Wyoming:

Sixth Principal Meridian, Wyoming

T. 22 N., R. 116 W.,
Lot 4, 9, and 20 of Segregated Lot 57;
Lot 21 of Segregated Lot 62.
Containing 4.06 acres.

James L. Edlefsen,
Chief, Branch of Land Resources.

[FR Doc. 84-3638 Filed 2-9-84; 8:45 am]
BILLING CODE 4310-22-M

Kingman Resource Area C Phoenix District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Phoenix District, Interior.

ACTION: Notice is hereby given in accordance with Pub. L. 92-463 of a meeting of the Kingman Resource Area (Phoenix District) Grazing Advisory Board.

DATE: Tuesday, March 13, 1984 at 9:00 a.m.

ADDRESS: 2475 Beverly Avenue, Kingman, Arizona 86041; BLM Conference Room.

SUMMARY: The agenda for the meeting will include:

1. Status of the Bureau's Land Exchange Program
2. Water Rights Acquisition
3. Threatened and Endangered

- Species Program
4. Policy Review of the Distribution of 8100 Funds
 5. Range Program Update Report
 6. Cooperative Management Agreements
 7. Arrangements for Future Meetings

The meeting is open to the public.

Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: February 3, 1984.

Marlyn V. Jones,
District Manager.

[FR Doc. 84-3040 Filed 2-9-84; 8:45 am]
BILLING CODE 4310-32-M

Phoenix/Lower Gila Resource area (Phoenix District) Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Phoenix District, Interior.

ACTION: Notice is hereby given in accordance with Pub. L. 92-463 of a meeting of the Phoenix/Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board.

DATE: Thursday, March 15, 1984 at 9:00 a.m.

ADDRESS: 2015 West Deer Valley Road, Phoenix, AZ 85027; BLM Conference Room.

SUMMARY: The agenda for the meeting will include:

1. Status of the Bureau's Land Exchange Program
2. Water Rights Acquisition
3. Threatened and Endangered Species Program
4. Wildlife/Livestock Management Interrelationships
5. Policy Review of the Distribution of 8100 Funds
6. Range Program Update Report
7. Cooperative Management Agreements
8. Arrangements for Future Meetings

The meeting is open to the public.

Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the

District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: February 3, 1984.

Marlyn V. Jones,
District Manager.

[FR Doc. 84-3041 Filed 2-9-84; 8:45 am]
BILLING CODE 4310-32-M

National Park Service

Statue of Liberty-Ellis Island Centennial Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), as amended, that a meeting of the Statue of Liberty-Ellis Island Centennial Commission will be held from 10:00 a.m. to 12 Noon on Friday, February 24, 1984, at Manufacturers Hanover Trust Company, 270 Park Avenue, 11th Floor Auditorium, New York, New York. The meeting is for the purpose of reviewing plans for rehabilitation of the Statue of Liberty and Ellis Island.

Further information concerning this meeting may be obtained from Garnet Chapin, National Park Service, Department of the Interior, 18th and C Streets NW, Washington, D.C. 20240 (202-343-3884).

Dated: February 6, 1984.

David G. Wright,
Associate Director, Planning and Development, National Park Service.

[FR Doc. 84-3732 Filed 2-9-84; 8:45 am]
BILLING CODE 4310-70-M

Crater Lake National Park; Public Meetings

Notice is hereby given that public meetings will be held concerning the Draft Development Concept Plan and Environmental Assessment of the Rim Village Area of Crater Lake National Park. The purpose of these meetings is to discuss alternatives for providing lodging within the park, improving the camping experience, and implementing actions for the improvement of interpretive programs and enhancement of the Rim Village Area environment. The final document will serve as an amendment to the current *General Management Plan* (dated December 1977).

The meetings will be held at the following times and places:

1. Klamath Falls, Oregon—March 20, 1984, 7:30 p.m., City Council Chambers (lower level of the City Administration Building), 500 Klamath Avenue.

2. Medford, Oregon—March 21, 1984, 7:30 p.m., City Hall, Municipal Court Room (second floor), 411 West Eighth Street.

3. Roseburg, Oregon—March 22, 1984, 7:30 p.m., Umpqua Community College, Science Building, Room 10.

4. Salem, Oregon—March 23, 1984, 7:30 p.m., Transportation Building, Conference Room 122 (East Summer and Center Streets; entrance off of Capitol Street).

Copies of the document may be obtained by writing: Regional Director, Pacific Northwest Region, National Park Service, 2001 Sixth Avenue, Westin Building, Room 1920, Seattle, Washington 98121 or Superintendent, Crater Lake National Park, P.O. Box 7, Crater Lake, Oregon 97604; or by calling Connie Campbell-Blumen, Environmental Protection Specialist, at 206-442-5366.

Comments will be accepted until April 23, 1984.

Dated: January 31, 1984.

William J. Briggles,
Acting Regional Director, Pacific Northwest Region.

[FR Doc. 84-3731 Filed 2-9-84; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30379]

Graham County Railroad, Inc.; Exemption, Discontinuance of Operations—Graham County, NC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et. seq.*, by Graham County Railroad, Inc. the discontinuance of operations over a 12.5-mile line segment in Graham County, NC.

DATES: This exemption shall be effective on March 12, 1984. Petitions for reconsideration must be filed by March 1, 1984. Petitions to stay must be filed by February 21, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30379 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
- (2) Petitioner's representative: Andrew P. Goldstein, 706 Ring Building, 1200 Eighteenth Street, N.W., Washington, DC 20036.

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.

Decided: February 3, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,
Acting Secretary.

[FR Doc. 84-3676 Filed 2-9-84; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-31 (Sub-8)]

Grand Trunk Western Railroad Company; Abandonment in Montcalm and Gratiot Counties, MI; Findings

The Commission has found that the public convenience and necessity permit the Grand Trunk Western Railroad Company to abandon a 19.3 mile line of railroad located in Montcalm and Gratiot Counties, MI, between milepost 39.8 near Carson City, MI, and milepost 20.5 at Ashley, MI. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section AB-OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,
Acting Secretary.

[FR Doc. 84-3679 Filed 2-9-84; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-31 (Sub-No. 18)]

Grand Trunk Western Railroad Co.; Abandonment in Oakland County, MI; Findings

The Commission has issued a certificate authorizing the Grand Trunk

Western Railroad Company to abandon its line of railroad known as the Jackson Subdivision, extending from milepost 50.7 near Wixom, to the end of its line at milepost 60.3 near South Lyon, MI, a total distance of approximately 9.6 miles, and 0.5 miles of side tracks, all in Oakland County, MI. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

James H. Bayne,
Acting Secretary.

[FR Doc. 84-3680 Filed 2-9-84; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-108)]

Illinois Central Gulf Railroad Co.; Abandonment in Orleans Parish, LA; Findings

The Commission has issued a certificate authorizing Illinois Central Gulf Railroad Company to abandon .54 miles of rail line between milepost 909.98 near Carrollton Avenue and milepost 910.52 near Jefferson Davis Parkway in the City of New Orleans, Orleans Parish, LA.

The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously

made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,
Acting Secretary.

[FR Doc. 84-3675 Filed 2-9-84; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-107)]

Illinois Central Gulf Railroad Co.; Abandonment in Orleans Parish, LA; Findings

The Commission has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon a portion of railroad extending between milepost 913.18 at Front Street and milepost 915.58 near Louisiana Avenue, a distance of 2.4 miles in New Orleans, Orleans Parish, LA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,
Acting Secretary.

[FR Doc. 84-3678 Filed 2-9-84; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-12 (Sub-72)]

Southern Pacific Transportation Co.; Abandonment in Jim Wells and Brooks Counties, TX; Findings

The Commission has issued a certificate authorizing the Southern Pacific Transportation Company to abandon its line of railroad between milepost 40.9 at Alice to milepost 80.2 at Falfurrias, a total distance of 39.3 miles, in Jim Wells and Brooks Counties, TX. The abandonment certificate will

become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,
Acting Secretary.

[FR Doc. 84-3677 Filed 2-9-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

All Items Consumer Price Index for All Urban Consumers United States City Average

Pursuant to Section 112 of the 1976 amendments to the Federal Election Campaign Act (Pub. L. 94-283, 2 U.S.C. 441a), the Secretary of Labor has

certified to the Chairman of the Federal Election Commission and publishes this notice in the **Federal Register** that the United States City Average All Items Consumer Price Index for All Urban Consumers (1967=100) increased 102.0 percent from its 1974 annual average of 147.7 to its 1983 annual average of 298.4. Using 1974 as a base (1974=100), I certify that the United States City Average All Items Consumer Price Index for All Urban Consumers thus increased 102.0 percent from its 1974 annual average of 100 to its 1983 annual average of 202.0.

Signed at Washington, D.C., on the 2nd day of February 1984.

Raymond J. Donovan,
Secretary of Labor.

[FR Doc. 84-3746 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; E&R Packaging, Inc., 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 February 21, 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 February 21, 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, N.W., Washington, D.C. 20213.

Signed at Washington, D.C., this 31st day of January 1984.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
E&R Packaging, Inc. (UAW)	Warren, MI	1/24/84	1/16/84	TA-W-15, 184	Final assembly & metal finishing, auto trim, aluminum & stainless steel moulding.
Harnischfeger Corp. (UAW)	No. Escanaba, MI	1/23/84	1/16/84	TA-W-15, 185	Construction equipment—trucks, crawlers, cranes, etc.
Jones & Laughlin Steel Corp., Cold Finished, Bar Div. (USWA)	Hammond, IN	1/25/84	1/10/84	TA-W-15, 186	Cold finished steel bars.
Kitt Energy Corp. (workers)	Philippi, WV	1/17/84	1/14/84	TA-W-15, 187	Metallurgical coal mine.
Marposh Gauges (workers)	Madison Hts, MI	1/18/84	1/12/84	TA-W-15, 188	Amplifiers for inprocess gauging.
Do	Troy, MI	1/18/84	1/12/84	TA-W-15, 189	Do.
Melville Footwear Mfg., Inc. (workers)	Hot Springs, NC	1/23/84	1/18/84	TA-W-15, 190	Men's, boy's & women's dress & casual shoes.
Mississippi Chemical, Corp. (workers)	Carlsbad, NM	1/24/84	1/19/84	TA-W-15, 191	Potash.
Slimmetry, Inc. (ILGWU)	Newark, NJ	1/12/84	1/4/84	TA-W-15, 192	Ladies' undergarments.
Tygart Industries, Inc. (Shopmen's Union)	McKeesrock, PA	1/24/84	1/20/84	TA-W-15, 193	Plate warehouse (cuts & ship), counter weights for cranes, hi-lifts, elevators, etc.
Republic Steel Corp., Union Drawn Div. (USWA)	Beaver Falls, PA	1/24/84	1/18/84	TA-W-15, 194	Cold finished carbon & alloy steel bars.
Bucyrus-Erie Co. (USWA)	Erie, PA	1/30/84	1/23/84	TA-W-15, 195	Construction equipment—front end loaders, hydraulic backhoes & cranes.
Carole Manufacturing Corp. (ILGWU)	E. Newark, NJ	1/30/84	1/18/84	TA-W-15, 196	Contractor of ladies' suits.
Gregory Galvanizing & Metal Processing, Inc. (USWA)	Canton, OH	1/30/84	1/23/84	TA-W-15, 197	Cyclone fencing & galvanizing for various other companies.
Melville Footwear Mfg., Inc. (workers)	Wilkesboro, NC	1/30/84	1/25/84	TA-W-15, 198	Men's dress and casual shoes.
Young Squire, Togs Plant (company)	Hookerton, NC	1/24/84	1/20/84	TA-W-15, 199	Men's & boy's coats, slacks & vests, ladies' skirts & vests.
FirstMiss, Inc. (workers)	Ft. Madison, Iowa	1/16/84	1/9/84	TA-W-15, 200	Anhydrous ammonia, phos. acid, sulfuric acid, diammonium phosphate.
Felmot Oil Corp. (company)	Olean, NY	1/27/84	1/24/84	TA-W-15, 201	Ammonia.
Banner Iron Works, Steel Fabrication Div. (workers)	St. Louis, MO	1/31/84	1/25/84	TA-W-15, 202	Steel fabrication.
Livonne Fashions (ILGWU)	Newark, NJ	10/13/83	10/11/83	TA-W-15, 203	Ladies' coats, raincoats, sport coats & car coats.

[FR Doc. 84-3749 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Louisiana; Additions to Annual List

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the annual list are effective on February 1, 1984.

SUMMARY: The purpose of this notice is to announce changes to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service (Attention: TEEPA) 601 D Street, NW., Washington, D.C. 20213. Telephone: 202-376-6700.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the

Assistant Secretary of Labor published the annual list of labor surplus areas on September 29, 1983 (48 FR 44676).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and are added to the annual list of labor surplus areas, effective February 1, 1984. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C., on January 30, 1984.

Patrick J. O'Keefe,

Acting Deputy Assistant Secretary of Labor.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS

(Feb. 1, 1984)

Labor surplus area	Civil jurisdiction included
Louisiana:	
Lafourche Parish.....	Lafourche Parish.
Terrebonne Parish.....	Terrebonne Parish.

[FR Doc. 84-3750 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-30-M

Native American Programs; Proposed Allocations, Allocation Formula, and Implementation Schedule for Program Year 1984 Regular Program and Calendar Year 1984 Summer Youth Employment and Training Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This Notice publishes the proposed Native American allocation, distribution formula and rationale, and individual grantee planning estimates for Program Year 1984 for programs funded under Title IV, Section 401 and for Calendar Year 1984 for programs funded under Title II, Part B, of the Job

Training Partnership Act (JTPA), (Pub. L. 97-300) of October 13, 1982.

DATES: Comments on this proposal must be submitted on or before April 1, 1984.

FOR FURTHER INFORMATION CONTACT: Paul A. Mayrand, Acting Director, Office of Special Targeted Programs, 601 D Street, NW., Room 6122, Washington, D.C. 20213 Phone (202) 376-6225.

SUPPLEMENTARY INFORMATION: Pursuant to Section 162 of JTPA, the allocations and distribution formula for Native American grantees to be funded under Title IV, Section 401 and Title II, Part B, are published below for review and comment. The amount to be distributed is \$62,243,000, for Title IV, Section 401 and \$13,176,511 for Title II, Part B, for the Summer Youth Employment and Training Programs (SYEP) for the Summer of Calendar Year 1984.

The formula for Title IV, Section 401 provides that 25% of the funding will be based on the number of unemployed Native Americans in the grantee's area, and 75% will be based on the number of poverty level Native Americans in the grantee's area. Furthermore, for Program Year 1984 no grantee will receive less than 80% of the annualized funding level it received for the period October 1, 1983 through June 30, 1984, unless its territory to be served was increased or decreased. The rationale for the formula is that unemployment and poverty in an area are good indications of the need for employment and training programs.

The formula for allocating Title II, Part B, SYEP funds divides the funds among eligible recipients based on the proportion that the number of youths in their area bears to the total number of youths in all eligible areas. Further, in Calendar Year 1984 each grantee is guaranteed it will receive at least 80% of the SYEP funds it received in Fiscal Year 1983. The rationale for using the number of youths in the formula is that they are the program beneficiaries.

Statistics on youth, unemployed and poverty level Native Americans are derived from the Decennial Census of the Population, 1980. Subject to Congressional appropriation actions, the Department proposes to use a similar methodology for one more year for the Title IV, Section 401 program and two more years for the SYEP, and thereafter allocate to each grantee the amount it

would receive by a direct application of the 1980 Census data without a hold harmless provision.

The following is the planned schedule of activities leading to Program Year 1984 implementation:

February 13, 1984—Department issues Program Year 1984 Grant Planning and Performance Standards instructions

March 21, 1984—Grantees submit Summer Planning Modification to the Department

March 31, 1984—Grantees submit Master Plans to the Department

April 13, 1984—Grantees submit Program Year 1984 Comprehensive Annual Plans to the Department

July 1, 1984—Department issues approved Program Year 1984 notices of obligation to the grantees

This schedule is being provided to assist grantees with program planning and management.

Following are the proposed allocations for designated grantees.

Signed at Washington, D.C., this 31st day of January 1984.

Paul Mayrand,

Acting Director, Office of Special Targeted Programs.

BILLING CODE 4510-30-M

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS
FY 1984 JTPA NATIVE AMERICAN PLANNING ESTIMATES
1/23/84

CREEK NATION EAST OF MISS. INC.
ROUTE 3, BOX 243A
ATMONT, ALABAMA
35002

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	203,072	0
COST POOL	50,768	0
TOTAL	253,840	0

ALEUTIAN/PRIIBILIF ISLANDS ASSOC.
1689 C STREET
ANCHORAGE, ALASKA
99501

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	71,298	31,229
COST POOL	17,824	7,807
TOTAL	89,122	39,036

ASSOC. OF VILLAGE COUNCIL PRESIDENTS
P.O. BOX 219
BETHEL, ALASKA
99559

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	497,579	255,471
COST POOL	124,395	63,898
TOTAL	621,974	319,369

BRISTOL BAY NATIVE ASSOCIATION
P.O. BOX 189
DILLINGHAM, ALASKA
99575

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	118,051	84,662
COST POOL	29,513	21,166
TOTAL	147,564	105,828

CINK INLET NATIVE ASSOCIATION
570 WEST FINEWEEDE LANE
ANCHORAGE, ALASKA
99503

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	295,537	170,746
COST POOL	73,884	44,187
TOTAL	369,421	220,933

INUPIAT COMMUNITY OF THE ARTIC SLOPE
P.O. BOX 927
BARROW, ALASKA
99723

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	86,035	59,014
COST POOL	21,509	14,754
TOTAL	107,545	73,768

KANEKAK INCORPORATED
P.O. BOX 982
NOME, ALASKA
99762

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	185,545	104,383
COST POOL	40,646	26,221
TOTAL	233,232	131,104

KENAITZE INDIAN TRIBE
P.O. BOX 400
KENAI, ALASKA
99541

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	57,986	15,793
COST POOL	14,496	3,948
TOTAL	72,482	19,741

KULIAK AREA NATIVE ASSOCIATION
DUMREY 1277
KULIAK, ALASKA
99615

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	56,923	77,350
COST POOL	14,231	19,388
TOTAL	71,154	96,738

MAHNELIK AANGOMEK
P.O. BOX 725
KOTzebue, ALASKA
99752

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	141,905	82,159
COST POOL	35,252	20,542
TOTAL	177,157	102,701

NEFLAKATLA INDIAN COMMUNITY
P.O. BOX 8
NEFLAKATLA, ALASKA
99726

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	79,414	15,496
COST POOL	19,854	3,874
TOTAL	99,268	19,370

NORTH PACIFIC RIM
903 N. NORTHERN LIGHTS BLVD., SUITE 203
ANCHORAGE, ALASKA
99503

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	70,117	27,455
COST POOL	17,529	5,917
TOTAL	87,646	33,372

SITKA COMMUNITY ASSOCIATION
P.O. BOX 4360
MT. EDGEWATER, ALASKA
99835

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	35,325	32,092
COST POOL	8,031	8,023
TOTAL	44,157	40,115

TANANA CHIEFS CONFERENCE, INC.
201 FIRST AVENUE - DOYON BLDG.
FAIRBANKS, ALASKA
99701

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	265,443	142,133
COST POOL	65,361	35,533
TOTAL	331,804	177,666

TLINGIT AND HAIDA COUNCIL
ONE SEALASKA PLAZA, SUITE 200
JUNEAU, ALASKA
99801

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	229,175	192,360
COST POOL	57,449	48,090
TOTAL	286,624	240,450

AFFILIATION OF ARIZONA IND. CTRKS. INC.
2721 NORTH CENTRAL AVE., SUITE 910
PHOENIX, ARIZONA
85004

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	354,118	0
COST POOL	191,529	0
TOTAL	545,647	0

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS
FY 1984 JIPA NATIVE AMERICAN PLANNING ESTIMATES
1/23/84

AMERICAN INDIAN ASSOC. OF TUCSON
22 WEST SIAPSON ST.
TUCSON, ARIZONA
85701

COLORADO RIVER INDIAN TRIBES
ROUTE 1, BOX 23-B
PARKER, ARIZONA
85344

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	301,713	9,187
COST POOL	75,428	2,297
TOTAL	377,141	11,484

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	65,273	30,932
COST POOL	18,298	1,133
TOTAL	82,641	38,965

GILA RIVER INDIAN COMMUNITY
BOX 97
SACATON, ARIZONA
85247

HOPKI TRIBAL COUNCIL
BOX 123
KYKOTSMOVI, ARIZONA
86039

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	396,254	113,874
COST POOL	99,056	28,468
TOTAL	495,330	142,342

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	310,520	90,522
COST POOL	77,630	22,495
TOTAL	388,150	113,277

INDIAN DEV. DIST. OF ARIZONA, INC.
1777 N. CAMELBACK ROAD, SUITE A-108
PHOENIX, ARIZONA
85015

NATIVE AMERICANS FOR COMMUNITY ACTION
15 NORTH SAN FRANCISCO STREET
P.O. BOX 572
FLAGSTAFF, ARIZONA 86002

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	87,044	41,818
COST POOL	21,761	10,404
TOTAL	108,805	52,222

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	202,555	0
COST POOL	50,639	0
TOTAL	253,194	0

NAVAJO TRIBE OF INDIANS
P.O. BOX 1889
HINDON HUCK, ARIZONA
85515

THE PAPAGO TRIBE OF ARIZONA
P.O. BOX 837
SELLS, ARIZONA
85034

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	5,503,330	1,998,385
COST POOL	1,372,833	499,571
TOTAL	6,876,163	2,497,957

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	34,402	151,230
COST POOL	80,150	39,308
TOTAL	431,752	190,538

PHOENIX INDIAN CENTER, INC.
3302 N 7TH STREET
PHOENIX, ARIZONA
85014-3481

SALT RIVER PIMA-MAHICOPA IND. COMM.
ROUTE 1, BOX 216
SCOTTSDALE, ARIZONA
85226

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	491,672	0
COST POOL	122,918	0
TOTAL	614,590	0

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	77,410	39,511
COST POOL	12,368	9,394
TOTAL	95,438	49,111

SAN CARLOS APACHE TRIBE
P.O. BOX "0"
SAN CARLOS, ARIZONA
85050

WHITE MOUNTAIN APACHE TRIBE
P.O. BOX 100
WHITE RIVER, ARIZONA
85941

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	252,741	99,520
COST POOL	63,185	24,905
TOTAL	315,926	124,425

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	208,435	111,124
COST POOL	67,179	27,941
TOTAL	339,244	139,905

A4. INDIAN CENTER OF ARKANSAS, INC.
4318 WEST MARKHAM ST.
LITTLE ROCK, ARKANSAS
72205

CALIFORNIA INDIAN MANPOWER CSRT,
4441 AUBURN BOULEVARD, SUITE J
SACRAMENTO, CALIFORNIA
95841

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	159,810	0
COST POOL	39,953	0
TOTAL	199,763	0

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	2,592,511	208,366
COST POOL	548,169	52,392
TOTAL	3,247,640	260,758

CANJALARIA AMERICAN INDIAN COUNCIL
922 HUNTER A STREET
OAKLAND, CALIFORNIA
94612

CSRT. OF UNITED INDIAN NATIONS
1404 FRANKLIN STREET, SUITE 420
OAKLAND, CALIFORNIA
94612

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	255,972	0
COST POOL	73,993	0
TOTAL	329,965	0

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	519,745	0
COST POOL	129,587	0
TOTAL	649,332	0

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PRESNO AMERICAN INDIAN COUNCIL
2120 N. 6TH STREET SUITE 152-159
PRESNO, CALIFORNIA
93710

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	226,873	0
COST POOL	56,718	0
TOTAL	283,591	0

MOOPA VALLEY BUSINESS COUNCIL
P.O. BOX 812
MOOPA, CALIFORNIA
93540

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	57,910	35,622
COST POOL	12,727	8,906
TOTAL	63,637	44,528

INDIAN CENTERS, INC.
1111 N. WASHINGTON BLVD.
LOS ANGELES, CALIFORNIA
90012

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	1,350,082	0
COST POOL	337,520	0
TOTAL	1,687,602	0

INDIAN CENTER OF SAN JOSE, INC.
3485 EAST HILLS DRIVE
SAN JOSE, CALIFORNIA
95127

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	191,013	0
COST POOL	47,753	0
TOTAL	238,766	0

NORTHERN CALIF. IND. DEV. COUNCIL, INC.
2411 F STREET
EMERY, CALIFORNIA
95021

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	262,406	7,184
COST POOL	65,602	1,196
TOTAL	328,008	8,380

ORANGE COUNTY INDIAN CENTER, INC.
13129 BROOKHURST STREET, SUITE #1
GARDEN GROVE, CALIFORNIA
92643

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	258,922	0
COST POOL	64,553	0
TOTAL	323,475	0

ULE RIVER TRIBE
DUANE COUNTY DEPT. OF HEALTH, SAFETY & WELFARE
P.O. BOX 589
MONTICELLO, CALIFORNIA 93258

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	107,930	5,182
COST POOL	26,983	1,446
TOTAL	134,913	6,628

YA-KA-AMA INDIAN EDUC. AND DEV., INC.
6215 EASTSIDE ROAD
HEALDSBURG, CALIFORNIA
95448

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	107,848	0
COST POOL	27,712	0
TOTAL	135,560	0

DEWEY NATIVE AMERICANS UNITED
4407 HARRISON ROAD
DENVER, COLORADO
80219

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	498,303	0
COST POOL	124,575	0
TOTAL	622,878	0

NATIONAL URBAN INDIAN COUNCIL, INC.
2256 SOUTH BROADWAY
DENVER, COLORADO
80210

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	321,908	521
COST POOL	80,252	130
TOTAL	402,160	651

SOUTHERN UTE INDIAN TRIBE
P.O. BOX 137
GALICIA, COLORADO
81137

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	40,099	15,257
COST POOL	11,525	4,057
TOTAL	51,624	19,314

UTE MOUNTAIN UTE TRIBE
P.O. BOX 30
TOMBAC, COLORADO
81334

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	55,582	19,414
COST POOL	13,896	4,854
TOTAL	69,478	24,268

AMERICAN INDIANS FOR DEVELOPMENT, INC.
21 COOKE AVENUE
P.O. BOX 117
MENDEN, CONNECTICUT 06450

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	155,192	0
COST POOL	38,798	0
TOTAL	193,990	0

DEPARTMENT OF LABOR, STATE OF DELAWARE
OFFICE OF CETA PLANNING AND ADMIN.
701 SHIPLEY STREET
WILMINGTON, DELAWARE 19801

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	32,053	0
COST POOL	5,013	0
TOTAL	37,066	0

FLA. GOVERNORS COUNCIL ON IND. AFFAIRS
521 E. COLLEGE AVENUE
TALLAHASSEE, FLORIDA
32301

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	388,952	0
COST POOL	97,238	0
TOTAL	486,190	0

WICUSUSKE CORPORATION
P.O. BOX 440321, TAMPA41 STATION
TAMPA, FLORIDA
33644

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	98,125	10,461
COST POOL	24,581	2,115
TOTAL	122,706	12,576

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SEMINOLE TRIBE OF FLORIDA
DETA DEPARTMENT
6073 STELLING ROAD
HOLLYWOOD, FLORIDA 33024

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	55,001	30,105
COST POOL	13,900	9,345
TOTAL	69,501	47,132

DEPARTMENT OF ARCHIVES AND HISTORY
OFFICE OF INDIAN HERITAGE
330 CAPITAL AVE., S.E.
ATLANTA, GEORGIA 30334

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	145,718	0
COST POOL	37,179	0
TOTAL	185,897	0

ALU LIKE, INC.
401 KANAKEE ST. - 3RD FLOOR
HONOLULU, HAWAII
96814

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	2,047,797	184,807
COST POOL	511,949	46,202
TOTAL	2,559,746	231,009

HAWAII COUNCIL OF AM. INDIAN NATIONS
810 NORTH VINEYARD BOULEVARD
HONOLULU, HAWAII
96817

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	63,345	0
COST POOL	15,836	0
TOTAL	79,182	0

IDAHO INTER-TRIBAL POLICY BOARD
P.O. BOX 405
FORT HALL, IDAHO
83203

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	198,515	5,459
COST POOL	49,629	1,616
TOTAL	248,144	8,302

NEZ PERCE TRIBE
P.O. BOX 365
LAPWAI, IDAHO
83540-0365

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	61,993	20,998
COST POOL	15,998	5,225
TOTAL	79,991	26,123

SIOUXIANE-BANNOCK TRIBES
FORT HALL INDIAN RESERVATION
P.O. BOX 306
FORT HALL, IDAHO 83203

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	110,503	34,950
COST POOL	27,626	8,713
TOTAL	138,129	43,663

AM. INDI. RES. ASSN. TRNG. AND EMPL. PRNG.
1630 WEST WILSON AVE.
CHICAGO, ILLINOIS
60640

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	965,122	0
COST POOL	211,690	0
TOTAL	1,183,432	0

KICKAPOO TRIBAL COUNCIL
ROUTE 1, BOX 157A
HURTON, KANSAS
65439

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	51,082	11,755
COST POOL	12,711	2,992
TOTAL	63,853	14,958

MID AMERICA ALL INDIAN CENTER, INC.
660 N. SENECA
WICHITA, KANSAS
67203

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	133,852	0
COST POOL	33,455	0
TOTAL	167,328	0

UNITED TRIBES OF KANSAS AND S.E. NEB.
P.O. BOX 29
HURTON, KANSAS
66439

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	403,708	21,421
COST POOL	100,927	5,355
TOTAL	504,635	26,776

INTER-TRIBAL COUNCIL OF LOUISIANA, INC.
9141 INTERLINE DRIVE
SUITE 4102
BATON ROUGE, LOUISIANA 70809

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	370,956	7,745
COST POOL	92,739	1,236
TOTAL	463,695	9,082

CENTRAL MAINE INDIAN ASSOCIATION, INC.
95 MAIN STREET
ORONO, MAINE
04473

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	60,295	0
COST POOL	15,074	0
TOTAL	75,370	0

TRIBAL GOVERNORS, INC.
93 MAIN STREET
ORONO, MAINE
04473

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	86,902	22,520
COST POOL	21,725	5,555
TOTAL	108,628	28,075

CITY OF BALTIMORE
701 ST. PAUL STREET
BALTIMORE, MARYLAND
21202

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	261,195	0
COST POOL	65,299	0
TOTAL	326,495	0

BOSTON INDIAN COUNCIL, INC.
105 S. HUNTINGTON AVENUE
JAMAICA PLAIN, MASSACHUSETTS
02130

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	195,643	0
COST POOL	49,161	0
TOTAL	245,804	0

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WASHPEE-WAMPABAG INDIAN TRIBAL COUNCIL
P.O. BOX 1040
WASHPEE, MASSACHUSETTS
02649

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	68,583	0
COST POOL	17,146	0
TOTAL	85,729	0

GRAND RAPIDS INTER-TRIBAL COUNCIL
45 LEXINGTON AVE. N.E.
GRAND RAPIDS, MICHIGAN
49504

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	98,150	0
COST POOL	24,531	0
TOTAL	122,581	0

GRAND TRAVERSE BAND OF OJIBWA AND CHIPPEWA INDIANS
ROUTE 1 BOX 135
50 THOMAS WAY, MICHIGAN
49882

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	45,472	18,761
COST POOL	11,368	4,690
TOTAL	56,840	23,451

INTER-TRIBAL COUNCIL OF MICHIGAN, INC.
4105 EAST EASTENDAY AVENUE
SAULT STE. MARIE, MICHIGAN
49783

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	60,973	29,330
COST POOL	19,243	1,332
TOTAL	79,215	30,662

MICHIGAN INDIAN MANPOWER INC.
3415 SOUTH CEDAR STREET
LANSING, MICHIGAN
48210

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	593,422	0
COST POOL	148,356	0
TOTAL	741,778	0

NORTH AMERICAN INDIAN ASSOC. OF DETROIT
350 JOHN ROAD
DETROIT, MICHIGAN
48226

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	330,708	0
COST POOL	82,677	0
TOTAL	413,385	0

SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS
200 GREENOUGH STREET
SAULT STE. MARIE, MICHIGAN
49783

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	112,750	35,074
COST POOL	28,187	9,018
TOTAL	140,937	44,092

SOUTHEASTERN MICHIGAN INDIANS, INC.
P.O. BOX 851
HANNEN, MICHIGAN
48040

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	27,752	0
COST POOL	7,253	0
TOTAL	35,005	0

AMERICAN INDIAN FELLOWSHIP ASSN.
2 E. SECOND STREET
DULUTH, MINNESOTA
55802

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	112,217	5,343
COST POOL	28,054	1,336
TOTAL	140,271	6,679

AMERICAN INDIAN OPPORTUNITIES CTR.
2301 CEDAR AVE. SOUTH
MINNEAPOLIS, MINNESOTA
55404

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	431,117	0
COST POOL	107,847	0
TOTAL	538,964	0

JOE'S FORTE N. B. C.
P.O. BOX 698
RETT LAKE, MINNESOTA
55772

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	32,045	14,011
COST POOL	8,011	3,503
TOTAL	40,056	17,514

FOND DU LAC N.B.C.
105 UNIVERSITY ROAD
CLUQUET, MINNESOTA
55720

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	52,242	11,596
COST POOL	13,070	2,424
TOTAL	65,312	14,020

LEECH LAKE N.B.C.
BOX 308
CASS LAKE, MINNESOTA
55933

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	159,804	41,738
COST POOL	39,216	10,434
TOTAL	199,020	52,172

MILLE LACS N.B.C.
STAR HOMES-BOX 194
OWATONIA, MINNESOTA
56359

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	30,069	11,043
COST POOL	7,517	2,761
TOTAL	37,586	13,804

MINNEAPOLIS AMERICAN INDIAN CENTER
1930 EAST FRANKLIN AVENUE
MINNEAPOLIS, MINNESOTA
55404

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	252,507	12,942
COST POOL	63,147	3,256
TOTAL	315,654	16,198

RED LAKE TRIBAL COUNCIL
RED LAKE, MINNESOTA
55711

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	118,550	53,274
COST POOL	29,638	13,318
TOTAL	148,188	66,592

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WHITE EARTH N.B.C.
BOX 418
WHITE EARTH, MINNESOTA
56251

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	132,105	87,928
COST POOL	33,176	21,982
TOTAL	165,881	109,910

MISSISSIPPI BAND OF CHICKASAW INDIANS
ROUTE 7, BOX 21
PHILADELPHIA, MISSISSIPPI
39350

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	303,781	43,878
COST POOL	75,945	10,769
TOTAL	379,726	54,647

REGION VII AMERICAN INDIAN COUNCIL, INC.
310 ARADON ROAD, SUITE 205
KANSAS CITY, MISSOURI
64116

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	423,930	0
COST POOL	105,982	0
TOTAL	529,912	0

FORT PECK INDIAN RESERVATION
P.O. BOX 37
POPLAR, MONTANA
59255

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	193,747	73,301
COST POOL	48,437	18,325
TOTAL	242,184	91,626

BLACKFEET TRIBAL BUSINESS COUNCIL
P.O. BOX 1090
BROWNING, MONTANA
59411

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	294,400	132,512
COST POOL	73,600	33,153
TOTAL	368,000	165,665

CHIPPENAW CREE TRIBE, ROCKY BOYS RESERV.
ROCKY BOY MOUNT
BOX ELDER, MONTANA
59521

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	82,774	43,524
COST POOL	21,693	10,881
TOTAL	104,467	54,405

CONFEDERATED SALISH & KOOTENAI TRIBES
P.O. BOX 278
PAULIN, MONTANA
59855

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	208,115	70,430
COST POOL	52,029	17,308
TOTAL	260,145	87,738

CROW INDIAN TRIBE
P.O. BOX 550
CROW AGENCY, MONTANA
59022

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	174,795	73,140
COST POOL	41,699	18,295
TOTAL	216,494	91,435

FT. BELKNAP AGENCY
BOX 249
HARLEM, MONTANA
59526

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	80,405	57,262
COST POOL	20,101	14,320
TOTAL	100,506	71,582

MONTANA UNITED INDIAN ASSOCIATION
435 NORTH LAST CHANCE RULCH SUITE 2-A
HELENA, MONTANA
59601

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	358,983	0
COST POOL	89,721	0
TOTAL	448,704	0

NORTHERN CHEYENNE TRIBE
P.O. BOX 368
LAME DEER, MONTANA
59343

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	138,509	59,248
COST POOL	4,756	4,112
TOTAL	143,265	63,360

LINCOLN INDIAN CENTER, INC.
1100 MILITARY ROAD
LINCOLN, NEBRASKA
68508

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	109,274	0
COST POOL	27,318	0
TOTAL	136,592	0

NEBRASKA INDIAN INTER-TRIBAL DEV. CORP.
ROUTE 1 - BOX 66-A
WINNEBAGO, NEBRASKA
68371

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	188,730	32,145
COST POOL	47,182	8,335
TOTAL	235,912	40,481

SANTE SIOUX TRIBE OF NEBRASKA
ROUTE 2 SANTE
WINDHAR, NEBRASKA
68760

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	23,752	11,502
COST POOL	5,940	2,875
TOTAL	29,692	14,377

UNITED INDIANS OF NEBRASKA
1402 SOUTH 78TH ST.
OMAHA, NEBRASKA
68124

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	53,898	0
COST POOL	13,475	0
TOTAL	67,373	0

INTER-TRIBAL COUNCIL OF NEVADA
P.O. BOX 7440
RENO, NEVADA
89510

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	281,755	68,226
COST POOL	70,416	17,056
TOTAL	352,171	85,282

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NATIONAL AMERICAN INDIAN CENTER, INC.
418 HOOVER AVE., ROOM ONE
LAS VEGAS, NEVADA
89101

SHOSHONE PAIUTE TRIBES
P.O. BOX 219
ORFIRE, NEVADA
89832

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984		TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	62,594	0	PROGRAM	52,781	19,890
COST POOL	15,648	0	COST POOL	13,195	4,912
TOTAL	78,242	0	TOTAL	65,976	24,802

POMHATAN WENAPE NATION
P.O. BOX 629
41. HOLLY, NEW JERSEY
08060

ALAMO NAVAJO SCHOOL BOARD
P.O. BOX 907
MAGDALENA, NEW MEXICO
87825

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984		TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	246,195	0	PROGRAM	55,700	28,735
COST POOL	61,549	0	COST POOL	13,925	7,184
TOTAL	307,744	0	TOTAL	69,625	35,919

ALL INDIAN PUEBLO COUNCIL
P.O. BOX 9507-STAT. B
1015 INDIAN SCHOOL ROAD, N.W.
ALBUQUERQUE, NEW MEXICO 87117

EIGHT NORTHERN INDIAN PUEBLO COUNCIL
P.O. BOX 969
SAN JUAN PUEBLO, NEW MEXICO
87505

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984		TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	278,574	124,704	PROGRAM	48,484	28,252
COST POOL	69,644	31,175	COST POOL	12,121	7,063
TOTAL	348,218	155,880	TOTAL	60,605	35,315

JICARILLA APACHE TRIBE
P.O. BOX 507
DULCE, NEW MEXICO
87528

MESCALEERO APACHE TRIBE
P.O. BOX 176
MESCALEERO, NEW MEXICO
86340

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984		TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	55,862	26,358	PROGRAM	78,527	40,939
COST POOL	13,966	6,590	COST POOL	19,432	10,235
TOTAL	69,828	32,948	TOTAL	97,959	51,174

NATIONAL INDIAN YOUTH COUNCIL
201 HERMOSA DRIVE, N.E.
ALBUQUERQUE, NEW MEXICO
87106

PUEBLO DE ACOMA
P.O. BOX 469
PUEBLO DE ACOMA, NEW MEXICO
87034

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984		TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	595,602	0	PROGRAM	84,992	34,958
COST POOL	148,901	0	COST POOL	21,248	8,740
TOTAL	744,503	0	TOTAL	106,240	43,698

PUEBLO DE LAGUNA
P.O. BOX 194
LAGUNA, NEW MEXICO
87026

PUEBLO DE TAOS
P.O. BOX 1846
TAOS, NEW MEXICO
87571

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984		TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	109,656	76,409	PROGRAM	39,701	27,429
COST POOL	27,414	19,117	COST POOL	8,925	5,857
TOTAL	137,070	95,526	TOTAL	48,626	33,286

PUEBLO DE ZUNI
ZUNI TRIBAL COUNCIL
P.O. BOX 339
ZUNI, NEW MEXICO 87327

RAMAH NAVAJO SCHOOL BOARD, INC.
DWAYNE G
PINE HILL, NEW MEXICO
87321

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984		TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	241,502	108,220	PROGRAM	77,112	28,291
COST POOL	60,375	27,355	COST POOL	19,278	7,345
TOTAL	301,877	135,575	TOTAL	96,390	35,636

SANTA CLARA INDIAN PUEBLO
P.O. BOX 580
ESPANOLA, NEW MEXICO
87532

SANTO DOMINGO TRIBE
GENERAL DELIVERY
SANTO DOMINGO, NEW MEXICO
87052

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984		TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	22,030	4,178	PROGRAM	105,126	34,998
COST POOL	5,508	1,194	COST POOL	25,281	11,740
TOTAL	27,538	5,372	TOTAL	131,407	46,738

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AMERICAN INDIAN COMMUNITY HOUSE, INC.
842 BROADWAY, 8TH FLOOR
NEW YORK CITY, NEW YORK
10003

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	644,731	5,620
COST POOL	161,163	1,455
TOTAL	805,894	7,075

NATIVE AMERICAN RANPOWEN PROGRAMS, INC.
1047 GRANT STREET (NEAR)
BUFFALO, NEW YORK
14207

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	174,026	0
COST POOL	43,506	0
TOTAL	217,532	0

THE NORTH AM. IND. CLUB OF SYRACUSE AND VICINITY, INC.
P.O. BOX 851
SYRACUSE, NEW YORK
13201

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	236,769	6,132
COST POOL	59,191	1,533
TOTAL	295,960	7,665

ST. REGIS MOHAWK TRIBE
COMMUNITY BUILDING
HOGANSBURG, NEW YORK
13655

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	86,696	28,498
COST POOL	21,674	7,124
TOTAL	108,370	35,622

SENECA NATION OF INDIANS
P.O. BOX 344
SALAMANCA, NEW YORK
14779

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	336,440	115,891
COST POOL	84,110	28,973
TOTAL	420,550	144,864

CUMBERLAND COUNTY ASSOC. FOR IND. PEOPLE
102 INDIAN DRIVE
FAYETTEVILLE, NORTH CAROLINA
28301

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	104,242	0
COST POOL	26,060	0
TOTAL	130,302	0

EASTERN BAND OF CHEROKEE INDIANS
P.O. BOX 455
CHEROKEE, NORTH CAROLINA
28719

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	235,234	73,320
COST POOL	56,809	18,330
TOTAL	292,043	91,650

GUILFORD NATIVE AMERICAN ASSOC.
P.O. BOX 5523
400 PRESCOTT STREET
GREENSBORO, NORTH CAROLINA 27403

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	79,234	0
COST POOL	19,809	0
TOTAL	99,043	0

LUMBER REG. DEV. ASSOC.
P.O. BOX 68
PETERSBURG, NORTH CAROLINA
26372

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	1,337,312	0
COST POOL	334,328	0
TOTAL	1,671,640	0

METROLINA NATIVE AMERICAN ASSN.
800 BRIAN CREEK ROAD
CHARLOTTE, NORTH CAROLINA
28205

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	80,982	0
COST POOL	20,245	0
TOTAL	101,227	0

NORTH CAROLINA COMM. OF IND. AFFAIRS
P.O. BOX 27228
RALEIGH, NORTH CAROLINA
27611

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	319,213	0
COST POOL	79,803	0
TOTAL	399,016	0

DEVILS LAKE SIOUX TRIBE
P.O. BOX 300
FORT TOTTEN, NORTH DAKOTA
58335

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	113,290	40,194
COST POOL	28,323	10,348
TOTAL	141,613	50,542

STANDING ROCK SIOUX TRIBE
GENERAL DELIVERY
FORT TATES, NORTH DAKOTA
58538

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	206,459	12,815
COST POOL	51,617	31,704
TOTAL	258,076	44,519

THREE AFFILIATED TRIBES
BOX 597
NEW TOWN, NORTH DAKOTA
58763

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	112,855	49,378
COST POOL	28,216	12,345
TOTAL	141,071	61,723

TURTLE MOUNTAIN BAND OF CHIPPEWA IND.
TURTLE MOUNTAIN TRIBAL COUNCIL
RELCOURT, NORTH DAKOTA
58519

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	285,292	91,975
COST POOL	71,323	22,974
TOTAL	356,615	114,949

UNITED TRIBES - ED. TECH. CNTR.
3315 S. AIRPORT ROAD
BISMARCK, NORTH DAKOTA
58501

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	151,214	0
COST POOL	42,054	0
TOTAL	193,268	0

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OHIO INDIAN JOB TRAINING PARTNERSHIP AGENCY
5530 LAHAIN AVENUE
CLEVELAND, OHIO
44102

CAHOKI TRIBE
P.O. BOX 487
BIGHAM, OKLAHOMA
73099

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	455,105	0
COST POOL	113,925	0
TOTAL	569,031	0

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	61,877	11,626
COST POOL	15,469	2,906
TOTAL	77,346	14,532

CENTRAL TRIBES OF THE SHANNEE AREA, INC.
624 HUKTHI BROADWAY
SHANNEE, OKLAHOMA
74801

CHEWOKEE NATION OF OKLAHOMA
P.O. BOX 948
TAHLEQUAH, OKLAHOMA
74464

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	64,045	29,065
COST POOL	16,011	1,266
TOTAL	80,056	30,332

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	1,270,892	622,730
COST POOL	317,723	155,682
TOTAL	1,588,615	778,412

CHEYENNE-ARAPAH0 TRIBES
P.O. BOX 67
CONCHO, OKLAHOMA
73022

CHICKASAW NATION OF OKLAHOMA
P.O. BOX 1548
ADA, OKLAHOMA
74820

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	170,177	114,970
COST POOL	42,544	28,743
TOTAL	212,721	143,713

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	312,849	159,662
COST POOL	78,212	39,716
TOTAL	391,061	199,378

CHICKASAW NATION OF OKLAHOMA
P.O. BOX 1210
JURAH, OKLAHOMA
74701

CITIZENS BAND POTAWATOMI IND. OF OKLA.
RT. 5, BOX 151
SHANNEE, OKLAHOMA
74801

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	625,142	277,438
COST POOL	150,205	99,359
TOTAL	775,347	376,797

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	134,913	79,725
COST POOL	34,976	24,400
TOTAL	169,889	104,125

COMANCHE TRIBE OF OKLAHOMA
P.O. BOX 908
LAWTON, OKLAHOMA
73502

CHICK NATION OF OKLAHOMA
P.O. BOX 500
OKMULGEE, OKLAHOMA
74447

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	170,369	99,540
COST POOL	42,592	24,710
TOTAL	212,961	124,250

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	562,986	265,319
COST POOL	140,572	66,330
TOTAL	703,558	331,649

FOUR TRIBES CONSORTIUM OF OKLAHOMA
P.O. BOX 1193
AHADANKO, OKLAHOMA
74005

INTER-TRIBAL COUNCIL OF T.E. OKLAHOMA
P.O. BOX 1308
MIAMI, OKLAHOMA
74335

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	59,560	31,295
COST POOL	14,890	7,824
TOTAL	74,450	39,119

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	98,394	30,419
COST POOL	17,098	7,605
TOTAL	115,492	38,024

KAN TRIBE OF OKLAHOMA
P.O. BOX 50
KAN CITY, OKLAHOMA
74041

KICKAPOO TRIBES OF OKLAHOMA
P.O. BOX 58
MCLOUD, OKLAHOMA
74051

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	23,864	6,412
COST POOL	5,965	1,503
TOTAL	29,829	7,915

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	10,162	12,502
COST POOL	2,540	3,126
TOTAL	12,702	15,628

KIOWA TRIBE OF OKLAHOMA
P.O. BOX 361
CARNEGIE, OKLAHOMA
73015

OKLAHOMA TRIBAL ASSISTANCE PROGRAM, INC.
P.O. BOX 2841
TULSA, OKLAHOMA
74101

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	196,717	72,226
COST POOL	42,179	18,057
TOTAL	238,896	90,283

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	312,613	0
COST POOL	71,153	0
TOTAL	383,766	0

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OSAGE TRIBAL COUNCIL
P.O. BOX 147 - OSAGE AGENCY CAMPUS
PAWBUKA, OKLAHOMA
74056

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	110,838	61,194
COST POOL	27,719	15,449
TOTAL	138,549	76,643

OTIE-MISSOURIA INDIAN TRIBE OF OKLA.
P.O. BOX 68
RED ROCK, OKLAHOMA
74051

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	29,845	17,578
COST POOL	1,452	4,420
TOTAL	31,308	22,098

PAWNEE TRIBE OF OKLAHOMA
P.O. BOX 470
PAWNEE, OKLAHOMA
74058

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	16,977	22,858
COST POOL	4,244	5,714
TOTAL	21,221	28,572

PONCA TRIBE OF INDIANS
WHITE EAGLE - BOX 11
PONCA CITY, OKLAHOMA.
74601

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	44,764	40,592
COST POOL	11,191	10,173
TOTAL	55,955	50,765

SEMINOLE NATION OF OKLAHOMA
P.O. BOX 745
MEMPHIS, OKLAHOMA
74864

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	124,238	56,098
COST POOL	31,090	14,174
TOTAL	155,298	70,272

TOKKANA TRIBE OF OKLAHOMA
P.O. BOX 70
TOKKANA, OKLAHOMA
74653

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	38,725	38,701
COST POOL	9,681	9,575
TOTAL	48,406	48,276

UNITED URBAN INDIAN COUNCIL
2900 SOUTH HARVEY
OKLAHOMA CITY, OKLAHOMA
73109

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	352,362	0
COST POOL	88,071	0
TOTAL	440,433	0

CONFED. TRIBES OF SILETZ INDIANS
P.O. BOX 549
101 E. BUFORD ST.
SILETZ, OREGON 97130

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	25,380	1,804
COST POOL	64,030	1,251
TOTAL	89,410	3,055

CONFED. TRIBES OF THE UMATILLA IND. RES.
P.O. BOX 638
PENDLETON, OREGON
97051

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	36,989	18,583
COST POOL	9,172	4,646
TOTAL	46,161	23,229

CONFEDERATE TRIBES OF WAKA SPRINGS
P.O. BOX C
WAKA SPRINGS, OREGON
97761

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	71,426	34,738
COST POOL	19,356	8,584
TOTAL	90,782	43,322

ORGANIZATION OF FORGOTTEN AMERICANS
3949 SO. 6TH STREET
KLAMATH FALLS, OREGON
97601

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	360,106	6,709
COST POOL	90,026	1,677
TOTAL	450,132	8,386

URBAN INDIAN COUNCIL
P.O. BOX 3198, 1634 S.W. ALDER
PORTLAND, OREGON
97208

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	232,626	0
COST POOL	58,157	0
TOTAL	290,783	0

COUNCIL OF THREE RIVERS
200 CHARLES STREET
PITTSBURGH, PENNSYLVANIA
15236

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	250,887	0
COST POOL	62,722	0
TOTAL	313,609	0

UNITED AM. INDIANS OF THE DEL. VALLEY
225 CHESTNUT STREET
PHILADELPHIA, PENNSYLVANIA
19106

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	163,451	0
COST POOL	40,863	0
TOTAL	204,314	0

RHODE ISLAND INDIAN COUNCIL
444 FRIENDSHIP ST.
ROOM 300
PROVIDENCE, RHODE ISLAND 02907

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	119,357	0
COST POOL	29,839	0
TOTAL	149,196	0

OFFICE OF THE GOVERNOR OF SOUTH CAROLINA
1800 ST. JULIAN PLACE
COLUMBIA, SOUTH CAROLINA
29204

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	191,452	0
COST POOL	47,866	0
TOTAL	239,318	0

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CHEYENNE RIVER SIOUX TRIBE
P.O. BOX 768
SAULE BUTTE, SOUTH DAKOTA
57522

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	186,797	84,894
COST POOL	46,699	21,224
TOTAL	233,496	106,118

CHOW CREEK SIOUX TRIBE
P.O. BOX 658
FORT THOMPSON, SOUTH DAKOTA
57339

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	84,859	32,011
COST POOL	21,215	8,703
TOTAL	106,074	40,714

LOWER BRULE SIOUX TRIBE
P.O. BOX 313
LOWER BRULE, SOUTH DAKOTA
57546

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	47,339	16,482
COST POOL	11,835	4,120
TOTAL	59,174	20,602

OGLALA SIOUX TRIBE
P.O. BOX 0
PINE RIDGE, SOUTH DAKOTA
57770

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	589,517	329,852
COST POOL	147,379	82,466
TOTAL	736,896	412,318

ROSEBUD SIOUX TRIBE
BOX 38
ROSEBUD, SOUTH DAKOTA
57570

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	349,190	143,142
COST POOL	87,297	35,786
TOTAL	436,487	178,928

SISSETON-WAHPETON SIOUX TRIBE
P.O. BOX 262
SISSETON, SOUTH DAKOTA
57292

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	135,002	42,331
COST POOL	34,001	10,583
TOTAL	170,003	52,914

UNITED SIOUX TRIBES DEV. CORP.
P.O. BOX 1193
PIERRE, SOUTH DAKOTA
57501

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	475,570	55,214
COST POOL	118,892	13,604
TOTAL	594,462	68,818

USEET INCORPORATED
1101 KERMIT DRIVE
SUITE 800
NASHVILLE, TENNESSEE 37217

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	293,633	0
COST POOL	73,405	0
TOTAL	367,038	0

ALABAMA-COUSHATTA INDIAN RESERVATION
P.O. BOX 1141
LIVINGSTON, TEXAS
75301

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	490,839	5,268
COST POOL	122,710	1,317
TOTAL	613,549	6,585

DALLAS INTER-TRIBAL CENTER
CENTER PLAZA
209 EAST JEFFERSON BLVD.
DALLAS, TEXAS 75201

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	246,322	0
COST POOL	61,580	0
TOTAL	307,902	0

ITZA INDIAN TRIBE
P.O. BOX 1579 - YSLETA STATION
EL PASO, TEXAS
79917

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	305,677	9,954
COST POOL	75,419	2,459
TOTAL	382,096	12,413

UTE INDIAN TRIBE
P.O. BOX 190
FORT DUCHESNE, UTAH
84025

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	72,175	53,173
COST POOL	13,094	13,293
TOTAL	85,269	66,466

AGENAKI SELF-HELP ASSN./N.H.IND. COUNC.
BOX 276
SAWTON, VERMONT
05488

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	40,045	0
COST POOL	10,152	0
TOTAL	50,197	0

MATTAPONI PAMUNKEY MONACAN CONSORTIUM
P.O. BOX 771
PRINCE WILLIAM, VIRGINIA
23066

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	195,134	3,205
COST POOL	49,034	401
TOTAL	244,168	3,606

AMERICAN INDIAN COMMUNITY CENTER
1007 N. COLUMBUS STREET
SPOKANE, WASHINGTON
99202

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	167,222	0
COST POOL	41,875	0
TOTAL	209,097	0

CHE-HO-QUI-SHO
P.O. BOX 397
ROCHESTER, MASSACHUSETTS
01509

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	27,037	13,477
COST POOL	6,509	3,169
TOTAL	33,546	16,646

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CULVILLE CONFEDERATED TRIBES
P.O. BOX 150
WESPELEM, WASHINGTON
99159

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	165,429	94,934
COST POOL	41,357	23,133
TOTAL	206,786	118,067

EASTERN WASHINGTON INDIAN CONSORTIUM
P.O. BOX 223
WELLPOINT, WASHINGTON
99040

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	479,055	186,186
COST POOL	111,514	45,547
TOTAL	587,569	232,733

LUMMI INDIAN BUSINESS COUNCIL
2616 KWIHA ROAD
BELLINGHAM, WASHINGTON
98225

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	36,297	42,628
COST POOL	9,014	10,657
TOTAL	45,311	53,285

N.W. INTER-TRIBAL COUNCIL
P.O. BOX 115
NEAR-BAY, WASHINGTON
98357

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	59,477	27,871
COST POOL	11,844	5,998
TOTAL	69,221	34,869

POYALLUP TRIBE
2002 EAST 26TH ST.
TACOMA, WASHINGTON
98404

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	133,559	64,595
COST POOL	33,390	16,149
TOTAL	166,949	80,744

QUINALT INDIAN NATION
P.O. BOX 247
TAHOOLA, WASHINGTON
98587

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	45,406	21,102
COST POOL	11,802	5,276
TOTAL	58,208	26,378

SEATTLE INDIAN CENTER
121 STEWART STREET
SEATTLE, WASHINGTON
98101

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	349,084	0
COST POOL	87,411	0
TOTAL	437,395	0

WESTERN WASH. IND. EMPL. AND TRNG. PROG.
11006 PACIFIC AVENUE, SUITE 1 & 2
KELLEN PROFESSIONAL BUILDING
TACOMA, WASHINGTON 98444

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	555,284	103,945
COST POOL	155,321	27,236
TOTAL	831,605	131,181

LAC COURTE OUELLES TRIBAL GOVERNING BOARD
ROUTE 2
MAYNARD, WISCONSIN
54843

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	65,439	21,555
COST POOL	16,360	6,917
TOTAL	81,799	28,472

LAC DU FLAMBEAU CONSORTIUM
P.O. BOX 24
LAC DU FLAMBEAU, WISCONSIN
54538

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	47,537	21,293
COST POOL	11,984	5,323
TOTAL	59,521	26,616

NEQUINNE INDIAN TRIBE OF WISCONSIN
P.O. BOX 397
KESHENA, WISCONSIN
54135-0397

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	100,305	40,771
COST POOL	25,076	10,193
TOTAL	125,381	50,964

MILWAUKEE AREA AM. IND. MANPOWER COM. C.
3121 W. WISCONSIN AVE.
MILWAUKEE, WISCONSIN
53208

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	187,731	0
COST POOL	45,933	0
TOTAL	234,664	0

ONEIDA TRIBE OF INDIANS OF WIS., INC.
P.O. BOX 305
ONEIDA, WISCONSIN
54115

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	166,425	26,995
COST POOL	41,606	6,749
TOTAL	208,031	33,744

ST. CROIX TRIBAL COUNCIL
STAR ROUTE
WEBSTER, WISCONSIN
54893

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	31,530	22,323
COST POOL	7,883	5,581
TOTAL	39,413	27,904

STOCKBRIDGE-MUNSEE COMMUNITY
ROUTE 1
DUALIN, WISCONSIN
54410

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	50,582	14,361
COST POOL	12,646	3,592
TOTAL	63,228	17,953

WISCONSIN INDIAN CONSORTIUM
P.O. BOX 439
ASHLAND, WISCONSIN
54805

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	89,180	40,788
COST POOL	21,319	10,197
TOTAL	109,499	50,985

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS
FY 1984 JTPA NATIVE AMERICAN PLANNING ESTIMATES
1/23/84

WISCONSIN-MILWAUKEE BUSINESS COMMITTEE
RT 1 CREAMERY RD
KEKOSHA, WISCONSIN
54421

SINISHONE/ARAPAHOE TRIBES
P.O. BOX 217
FORT WASHAKIE, WYOMING
82514

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984		TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	161,446	35,305	PROGRAM	229,178	85,046
COST POOL	40,361	8,845	COST POOL	57,145	21,261
TOTAL	201,807	44,231	TOTAL	286,323	106,307

NATIONAL TOTAL

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	49,194,403	10,541,207
COST POOL	12,448,597	2,635,304
TOTAL	62,243,000	13,176,511

[FR Doc. 84-3738 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-30-C

Mine Safety and Health Administration

[Docket No. M-83-31-C]

American Gilsonite Co.; Petition for Modification of Application of Mandatory Safety Standard

American Gilsonite Company, Bonanza, Utah 84008 has filed a petition to modify the application of 30 CFR 57.19-71 (transporting persons in skips or buckets) to its E-30 Mine (I.D. No. 42-01781), E-14 and 15 Mine (I.D. No. 42-01782), I-9 Mine (I.D. No. 42-01783), I-24 Mine (I.D. No. 42-01784), I-16 Mine (I.D. No. 42-01785), and its I-15 Mine (I.D. No. 42-01817), all located in Uintah County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that persons not ride in skips or buckets with muck, supplies, materials, or tools other than small hand tools.

2. Mining is done by two persons in a working area. There is no electrical, diesel, or gasoline-powered equipment used in the underground areas; all materials and supplies must be handled by the miners manually.

3. Petitioner states that some materials are too awkward for one person to safely handle alone. Both miners exit the mine together to obtain timbers, air pipe, air lift pipe, and other materials.

4. As an alternate method, petitioner proposes that the miners be allowed to ride in the cage with the materials secured with a chain. The materials will be placed so that they cannot strike the outside of the cage onto shaft timbers. The cages would be long enough to allow the bonnet to be closed over the materials and supplies.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,
Director, Office of Standards, Regulations
and Variances.

[FR Doc. 84-3759 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-165-C]

Bullion Hollow Enterprises, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Bullion Hollow Enterprises, Inc., Route 1, Box 1090, Wise, Virginia 24293 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 22 Mine (I.D. No. 44-05097) located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges in height from 38 to 72 inches, with an average height of 54 inches. Humps and rolls are present throughout the mine's bottom.

3. Petitioner states that the installation of canopies on the mine's electric face equipment would result in a diminution of safety because the canopies restrict the equipment operator's visibility, forcing the operator to lean out from the canopy to see, exposing body parts to potential injury. The canopies can also strike and dislodge roof supports, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,
Director, Office of Standards, Regulations
and Variances.

[FR Doc. 84-3754 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-157-C]

Eastern Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Coal Corporation, P.O. Box 219, Stone, Kentucky 41567 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Stone No. 4 Mine (I.D. No. 15-02096) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Section 001-0 has experienced extreme adverse roof conditions in all four entries. A roof fall occurred in the number four return entry. This fall is from rib to rib and about 20 feet high. This airway is not part of the mine's escapeway system and the primary and secondary escapeways are travelable.

3. Petitioner states that clean-up of the fall and subsequent resupporting of this area would expose the miners affected to hazardous conditions, resulting in a diminution of safety.

4. As an alternate method, petitioner proposes to install mandrels in the stoppings on the inby and outby sides of the fall. Evaluation points will be established at two strategic locations on the inby and outby sides of the fall. Weekly checks for methane and direction and velocity of air will be made by a certified person. The results of these tests will be recorded on a date board at each location. A map showing the direction of the airflow will be posted at each evaluation point.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3761 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-38-M]

Homestake Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Homestake Mining Company, P.O. Box 875, Lead, SD 57754 has filed a petition to modify the application of 30 CFR 57.6-8 (blasting agents) to its Homestake Mine (I.D. No. 39-00055) located in Lawrence County, South Dakota. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that ammonium nitrate-fuel oil blasting agents be physically separated from other explosives, safety fuses, or detonating cord stored in the same magazine and in such a manner that oil does not contaminate the other explosives, safety fuse, or detonating cord.

2. As an alternate method, petitioner proposes that "Tovex" water gels be excluded from the requirements of the standard. In support of this request, petitioner states that the Tovex is an ammonium nitrate water gel with commercial sensitizer. Because of the covering film, there is no danger of oil entering the mixture. The six percent oil added to the product is "Corvus Oil", instead of fuel oil. Unlike fuel oil, the Corvus Oil is a more viscous product and does not migrate through the prills when transported over long distance in a warm environment. Very little of the oil appears on the outside of the bag container. If a small amount of oil did enter the water gel, it would have no effect on the product except for a small imbalance of fuel that might slightly increase the production of carbon monoxide which would be no worse than oil contamination from one bag of blasting agent to another.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or

received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3760 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-154-C]

Jewell Smokeless Coal Corporation; Petition for Modification of Application of Mandatory Safety Standard

Jewell Smokeless Coal Corporation, P.O. Box 70, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles; general) to its Harper's Branch Refuse Facility (I.D. No. 1211-VA5-00022-01A) located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that refuse piles be located in areas which are a safe distance from all underground mine airshafts, preparation plants, tipples, or other surface installations, and that such piles not be located over abandoned openings or steamlines.

2. As an alternative method, petitioner proposes to construct a refuse embankment in an area containing eight abandoned mines in the Kennedy seam. No water seepage has been observed from any of these mine openings. Petitioner has obtained the mineral rights under lease to the Kennedy seam within the area. The company does not plan to reopen any of the abandoned mines for mining purposes. In addition, no plans exist for cutting into any of these mines from other areas in the future.

3. Petitioner proposes that each mine opening to be covered with refuse material will be backfilled as follows:

a. Any material covering the opening will be removed approximately 10 to 12 feet from the highwall and 10 to 12 feet to the left and right of the entry. The overburden material will be removed down to solid rock;

b. The material used for the backfill will consist of the most impervious, incombustible material reasonably available having enough fines to ensure an air tight seal. The material will be placed in lifts not to exceed two feet and will be compacted to a 90 percent of the standard proctor maximum dry density;

c. The material will be placed to a minimum of four feet above the coal seam. If a system of cracks is present above the entry which appears to be connected to the entry, the highwall will be backfilled to approximately four feet above the series of cracks.

4. Petitioner states that this plan for covering the abandoned mine entries will be incorporated into the mine's plan for the continued use of the refuse area.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: January 30, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3748 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-160-C]

KM&K Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

KM&K Coal Company, Box 40, Spring Glen, Pennsylvania 17978 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 14 Vein Slope (I.D. No. 36-07244) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if a "makeshift" safety device were installed it would be activated on knuckles and curves, when no emergency existed, and cause a tumbling effect on the conveyance which would increase rather than decrease the hazard to the miners.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, which have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,
Director, Office of Standards, Regulations
and Variances.

[FR Doc. 84-3782 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-155-C]

Kermit Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Kermit Coal Company, P.O. Box 198, Kermit, West Virginia 25674 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 1 Mine (I.D. No. 46-01602) located in Mingo County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that at least one entry of each return aircourse be examined in its entirety on a weekly basis.

2. Petitioner states that massive roof falls in several return aircourses have rendered these areas impassable.

3. As an alternate method, petitioner proposes to establish and maintain four measuring stations at specified locations and to take measurements as follows:

a. Weekly, or as required, examinations for methane and air velocity will be made by a certified person at each station in lieu of traveling the affected returns;

b. A date board or record book will be placed at each measuring station to record the results of the examinations;

c. A diagram showing the direction of air flow in the affected areas will be posted at the measuring stations and at other necessary and strategic locations;

d. Dangerous quantities of methane will not be allowed to accumulate at anytime in the affected aircourses;

e. Each miner working in the affected area will be provided one-hour self rescue devices in accordance with petitioner's storage plan;

f. Telephone communication will be established at intake locations near each of the four measuring stations; and

g. All personnel will be instructed to call the surface if there is any noticeable change in air velocity or methane concentration at any of the measuring stations.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,
Director, Office of Standards, Regulations
and Variances.

[FR Doc. 84-3758 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-175-C]

Pyro Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Pyro Mining Company, P.O. Box 267, Sturgis, Kentucky 42459 has filed a petition to modify the application of 30 CFR 75.1103 (automatic fire warning devices) to its No. 9 Wheatcroft Mine (I.D. No. 15-13920) located in Webster

County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that devices be installed on all belts which will give a warning automatically when a fire occurs on or near such belt.

2. As an alternate method, petitioner proposes to use the Scada system, which incorporates carbon monoxide (CO) detectors (Transducers) in lieu of point-type heat sensors. The system will be used in conjunction with a booster-belt system, which allows for a continuous belt, 20,000 feet in length, eliminating the need for headers at previously required intervals of approximately 3,000 feet. This eliminates transfer points and reduces respirable dust. Booster drives will be installed at intervals not to exceed 4,500 feet, and a CO monitor will be located at the main drive, each booster drive, and at the tailpiece. The contaminant travel velocity in the entry will be maintained to at least 200 feet per minute.

3. In support of this proposed alternate method, petitioner states that the CO transducer operates in the 0-100 parts per million (ppm) range. The alarm level is set at 10 ppm. The alarm will be received at the central computer station on the surface, identifying the belt flight. The alarm can also be received at satellite stations underground. Each remote station will be housed in a Nema 12 enclosure. The CO monitor will be calibrated weekly for the first month and monthly thereafter according to manufacturer's specifications.

4. Petitioner further states that the system has the capability of giving warning of a fire for four hours after the source of power has been removed. The CO monitor requires 24-hour warm-up time on the initial installment and further warm-up time is not required as long as the battery backup system remains operational. Should the CO detectors become inoperable, each belt flight will be continuously patrolled while persons are in the mine. In the event of a partial or total system malfunction, spot checks with an approved handheld CO instrument will be made on that portion of the affected beltway. The procedures to be followed in the event of alarm activation will be included in the mine's Fire and Evacuation Plan. In the event of a main fan outage, the power will be cut off in a timely manner according to the approved preestablished Fan Stoppage Plan. The area of the data station and

sensors will be examined prior to the restoration of power.

5. For these reasons, petitioner requests modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3757 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-146-C]

Turris Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Elkhart Mine (I.D. No. 11-02664) located in Logan County, Illinois, and its Vanderrick Mine (I.D. No. 12-01677) located in Vanderburgh County, Indiana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure screw caps in place on plugs of battery-powered machinery.

2. Petitioner states that there is an element of danger in having plugs locked together in the event of an emergency or short circuit on the affected equipment because the keys can be lost or misplaced.

3. As an alternative method, petitioner proposes that a harness snap device be used, in lieu of a padlock.

4. Petitioner states that the proposed alternate method will provide the same measure of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office

of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3755 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-173-C]

Zapata Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Zapata Coal Corporation, c/o Sharples Coal Corporation, P.O. Box D, Sharples, West Virginia 25183 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Buffalo Creek No. 4 Mine (I.D. No. 46-03749) located in Logan County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that massive roof falls approximately 300 feet in by the intake drift have made it impossible to travel the intake airway in its entirety. These roof falls cover an area about 600 feet in length; rehabilitation of this airway would expose miners to hazardous conditions.

3. As an alternate method, petitioner proposes to establish evaluation points on each side of the fall area and examine these points once every 24 hours. Examinations will include air readings, methane tests, and tests for oxygen deficiency with an approved flame safety lamp. These tests will be made by a certified person and the results recorded in the mine's pre-shift examination book.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson

Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3756 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section (7)(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on February 29, 1984 in the Elizabethan Room, the St. Francis Hotel, 335 Powell Street, San Francisco, California. The meeting is open to the public and will begin at 9:00 a.m.

The agenda for this meeting will include a discussion of fall protection, a discussion of OSHA's use of data on accidents, a discussion of voluntary protection programs, and a general discussion of construction safety and health matters.

Written data, views of comments may be submitted preferably with 20 copies, of the Division of Consumer Affairs. Any such submission received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman depending on the extent to which time permits. Communications may be mailed to Kenneth Hunt, Committee Management Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 202-523-7177.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 6th day of February 1984.

Thorne G. Auchter,
Assistant Secretary.

[FR Doc. 84-3751 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-26-M

Advisory Committee on Construction Safety and Health; Request for Nomination of Members

The Assistant Secretary of Labor for Occupational Safety and Health requests nominations for the Advisory Committee on Construction Safety and Health. The function of the Committee is to advise the Assistant Secretary on occupational safety and health in construction. Nominations will be accepted in all categories which include: Five Employee Representatives, five Employer Representatives, two State Representatives, two Public Representatives, and a Federal Representative. The term of office is two years.

Nominees must have specific experience and be actively engaged in work related to occupational safety or health in the construction industry. No member of the Committee (other than representatives of the employers and employees) shall have an economic interest in any proposed rule. The category of membership for which the candidate is qualified should be specified in the nomination letter which should come from an organization representative of that particular category. A résumé of the nominee's background, experience and qualifications with current address and telephone number should be included with the letter. In addition, the nomination letter shall state that the nominee is aware of the nomination, is willing to serve as a Committee member, and appears to have no conflict of interest that would preclude Committee membership.

Nominations should be submitted to Kenneth Hunt, OSHA Division of Consumer Affairs, Room N-3662, U.S. Department of Labor, Washington, D.C. 20210, no later than April 2, 1984.

Signed at Washington, D.C., this 6th day of February 1984.

Thorne G. Auchter,
Assistant Secretary.

[FR Doc. 84-3753 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-26-M

National Advisory Committee on Occupational Safety and Health; Request for Nomination of Members

Nominations are requested for membership on the National Advisory Committee on Occupational Safety and Health. The Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act.

The terms of 6 members of the 12 member committee will expire on June 30, 1984. Nominations will be accepted for the vacancies occurring in the following categories: Three public representatives, one management representative, one labor representative, and one safety representative.

Any interested person or organization may nominate one or more qualified persons for membership. Nominees should be identified by name, occupation or position, address, and telephone number. The category which the candidate would represent should be specified and a resume of the nominee's background, experience, and qualifications included. In addition, the nomination should state that the nominee is aware of the nomination and is willing to serve as a committee member.

Nominations should be submitted to Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3662, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, no later than April 2, 1984.

Signed at Washington, D.C., this 6th day of February 1984.

Thorne G. Auchter,
Assistant Secretary.

[FR Doc. 84-3752 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84-4; Exemption Application No. D-3964 et al.]

Grant of Individual Exemptions; the Profit Sharing Plan for Employees of Hexter-Fair Title Company, Inc. et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains

exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Profit Sharing Plan for Employees of Hexter-Fair Title Company, Inc. (the Profit Sharing Plan) and the Hexter-Fair Title Company Pension Plan (the Pension Plan; collectively, the Plans) Located in Dallas, Texas

[Prohibited Transaction Exemption 84-4; Exemption Application Nos. D-3964 and D-3965]

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 past contribution of a certain parcel of Property (the Property) to the Profit Sharing Plan and to the Pension Plan by the Hexter-Fair Title Company, Inc. (the Employer), the sponsor of the Plans and the past contribution by the Employer to the Pension Plan of certain expenses related to the acquisition by the Pension Plan of certain leasehold interests (the Leasehold Interests, collectively, the Contribution) provided that (a) the value of the Property used in the Contribution was at least the fair market value of the Property on the date of the Contribution and (b) the amount used by the Employer for its federal tax deduction for the Contribution was not greater than the fair market value of the Property plus the Employer's expenses related to the acquisition by the Pension Plan of the Leasehold Interests on the date of Contribution; and

(2) The past sale by the Pension Plan to the Profit Sharing Plan of the Pension Plan's interest in the Property, provided the sales price was at least the fair market value of the Pension Plan's interest in the Property at the time of the sale; and (3) the proposed sale of the Property and the Leasehold Interests by the Profit Sharing Plan to the Employer, provided the sales price is at least the fair market value of the Property and Leasehold Interests at the time of the sale.

Effective Dates: The effective dates of this exemption are: (1) February 15, 1980 for the Contribution; (2) December 1, 1980 for the sale by the Pension Plan to the Profit Sharing Plan of the Pension Plan's interest in the Property; and (3) the date the grant of this exemption is published in the *Federal Register* for the proposed sale of the Property and the Leasehold Interests.

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 December 19, 1983 at 48 FR 56118.

For Further Information Contact: Louis Campagna of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Pioneer Hi-Bred International, Inc., Savings Plan (the Plan) Located in Des Moines, Iowa

[Prohibited Transaction Exemption 84-5; Exemption Application No. D-4010]

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 reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the making of past and prospective loans (the Loans) by Pioneer Hi-Bred International, Inc. to the Plan, provided the terms and conditions of the Loans are at least as favorable to the Plan as those obtainable in arm's length transactions with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 22, 1983 at 48 FR 33566.

Effective Date: This exemption is effective as of October 7, 1982.

Temporary Nature of Exemption

This exemption is temporary in nature and will expire on July 1, 1991.

Notification of Participants, Comments and Hearing Requests

Despite two efforts (August 24, 1983 and September 16, 1983) by the applicant to provide notice of the proposed exemption to Plan participants, the Department determined that notice had not been given in a timely manner and that the content of the notice was inappropriate. On November 23, 1983, the applicant disseminated a revised notice in which participants were invited to send the Department written comments or requests for a public hearing before December 23, 1983. The Department received no written comments or hearing requests within the comment period.

For Further Information Contact: Ms. Jan D. Broady of the Department,

telephone (202) 523-8971. (This is not a toll-free number.)

Lowe-H'Doubler-Giffin Keogh Plan (the Plan) Located in Springfield, Missouri

[Prohibited Transaction Exemption 84-6; Application No. D-4172]

Exemption

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 cash purchase of a certain partnership interest (the Interest) from Dr. Peter H'Doubler (Dr. H'Doubler), a disqualified person with respect to the Plan, by Dr. H'Doubler's individually directed account in the Plan, provided that the purchase price does not exceed the fair market value of such Interest on the date of purchase.

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 December 28, 1983 at 48 FR 57176.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

Petry Television, Inc. Profit Sharing Plan (the Plan) Located in New York, New York

[Prohibited Transaction Exemption 84-7; Exemption Application No. D-4189]

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 reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the extension of credit by the Plan to Petry Television, Inc. (the Employer) in connection with the Employer's acquisition of certain common stock from the Plan, provided the terms and conditions of the transaction are as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 19, 1983 at 48 FR 56120.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Robino, Incorporated Pension Plan (the Plan) Located in Seattle, Washington

[Prohibited Transaction Exemption 84-8;
Exemption Application No. D-4599]

Exemption

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, for a five year period, to the proposed sale of certain mortgage loans (the Loans) to the Plan by Juanita Bay, Inc., a disqualified person with respect to the Plan, provided that the terms of each sale are no less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party; and provided that the total value of all Loans sold to the Plan does not at any time constitute more than 25% of the total value of the Plan's assets.

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 December 28, 1983 at 48 FR 57179.

Temporary Nature of the Exemption: This exemption will be temporary in nature, and will only apply to sales executed within 5 years from the date of this grant.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and

transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 7th day of February 1984.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 84-3695 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**President's Committee on the Arts and Humanities; Meeting**

There will be a meeting at 2:00 p.m. on February 22, 1984, at the Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, D.C., to review the tax proposal developed by the President's Committee on the Arts and the Humanities with the Treasury Department. If you wish your name to appear on the access list, please call our Washington, D.C. office (202) 682-5409 or our New York office (212) 883-6764.

Dated: February 6, 1984.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-3616 Filed 2-9-84; 8:45 am]

BILLING CODE 7537-01-M

President's Committee on the Arts and Humanities; Meeting

Plenary Meeting V of the President's Committee on the Arts and the Humanities will convene at 9:00 a.m. on Thursday, February 23, 1984 in the Council Room, Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. Reservations for this meeting, open to the public on a space available basis, may be made by sending a post card with your full name, address and telephone number (so that you may be notified in the event of a schedule change) to The President's Committee on the Arts and the Humanities, 1100 Pennsylvania Avenue, NW., Rm. 526, Washington, D.C. 20506. Or you may call 202/682-5409 or 212/

883-6764. Individuals wishing to attend should request reservations not later than February 15.

This meeting is scheduled to review committee activities, and to report progress. The Committee is charged with considering ways in which to increase private sector support for the arts and the humanities, to consider appropriate Federal involvement in the arts and the humanities, and to make recommendations to the chairmen of the National Endowments for the Arts and for the Humanities, as well as to the President of the United States.

The agenda will largely reflect the Committee's recent work in the humanities. Reports will be made on New Alliances for Secondary Schools; Partnership of Presidents; National Clearinghouse for Shared Resources; the Regional Meetings Program, including plans for a Symposium on Public Benefits of the Arts and the Humanities; Humanities Recognition; Tax Proposals; National Medal of Arts; Resource Potential Pilot Study; Media and the Humanities; Presidential International Cultural Initiatives; and Community Foundations.

There will be a lunch break after which the meeting may resume at a time to be announced by the Chairman. The meeting will conclude not later than mid-afternoon.

Dated: February 2, 1984.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-3617 Filed 2-9-84; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-70-OLR, ASLBP No. 83-481-01 OLR]

General Electric Co. (GETR Vallecitos); Notice

February 8, 1984.

Please take notice that a Prehearing Conference in the above captioned proceeding will take place on Tuesday, March 6, 1984, 9:30 A.M. to 5:00 P.M., at the U.S. Court of Appeals, Courtroom 3, 7th and Mission Streets, San Francisco, California 94101.

At the Prehearing Conference the Board wishes to hear the response at Petitioner Jack Turk to the arguments raised by the General Electric Company and the NRC Staff concerning his contentions.

For the Atomic Safety and Licensing Board.

Bethesda, Maryland.

John H. Frye III,

Chairman, Administrative Judge.

[FR Doc. 84-3874 Filed 2-9-84; 8:45 am]

BILLING CODE 7560-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 20623; SR-CBOE-84-1]

Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

February 8, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 28, 1984, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Van Buren, Chicago, IL 60605, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would clarify that CBOE's general rules pertaining to variation in the conduct of trading rotations are also applicable to trading rotations for index options. These general rules pertain to, among other matters, the sequence in which options series are opened and the initiation of a rotation at times other than the opening of trading. CBOE states that it intends by its proposal to emphasize the interrelation between index opening rotations and the general trading rotations rule (including the interpretations of that rule). CBOE thereby intends to clarify that it has the same flexibility in index option rotations as in others. CBOE believes its proposal conforms with the objectives of section 6(b)(5) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the *Federal Register*. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR-CBOE-84-1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed

rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the rule merely clarifies the relationship of existing CBOE rules to one another and generally reflects the manner in which they are presently administered.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84-3741 Filed 2-9-84; 8:45 am]

BILLING CODE 8010-01-M

[Release Nos. 20619; SR-CBOE-83-31]

Chicago Board Options Exchange, Inc.; Amended Filing and Order Granting Accelerated Approval of Proposed Rule Change

February 6, 1984.

The Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Van Buren, Chicago, IL, 60604, submitted on November 7 and November 29, 1983, copies of amendments to a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to provide for margin purposes a means of "covering" short call positions in broad-based stock index options. The rule change proposal was initially filed September 6, 1983, and notice thereof published in *Securities Exchange Act Release No. 20188* (September 16, 1983), 48 FR 43469 (September 23, 1983).

Under the CBOE's amended proposal, no margin would be required for short positions in broad-based index call

options, provided the customer has furnished an appropriate escrow receipt from a bank or trust company. Such an escrow receipt would (a) certify that for each call written the bank was holding securities of at least 10 different issuers, having a total market value equalling or exceeding, at the time the call was written, the current index value times the index multiplier; and (b) contain a commitment by the bank to pay the exercise settlement amount in the event of exercise. None of the 10 or more escrow securities by itself could represent more than 15 percent of the collateral. Each also would be required to be an equity security either traded on a national securities exchange and substantially meeting the listing requirements of the New York or American Stock Exchange (or actually traded on one of those two exchanges); or traded over-the-counter and included on the Federal Reserve Board's list of Over-the-Counter Margin Stocks.

The proposed standards do not require directly that the value of the securities deposited with the bank issuing the escrow receipt track changes in the index value with any specified degree of precision. This deviates somewhat from traditional concepts of cover, in which the instrument deposited as cover is required to be deliverable upon exercise of the options contract, thereby ensuring that the cover will always be adequate to satisfy the option writer's obligations under the options contract.

The Commission does not believe, however, that this should impede approval of the proposal. First, since the proposal requires that the deposited securities be equal to the current index value times the index multiplier, except in the most unusual circumstances this should assure that their value will remain far greater than the obligation of a call option writer to deliver upon exercise the difference between the current index value (times the index multiplier) and the exercise price of the option. This is particularly the case because the proposal relates solely to options on broad-based stock indices which, by their nature, are likely to be less volatile than indices relating to only a sector or small segment of the securities market. The proposal also requires that securities of 10 different issuers be deposited, with none of those securities representing more than 15 percent of the collateral. This should assure that even substantial decreases in the price of one or two of the deposited securities should not endanger the sufficiency of the collateral. In any event, since the

deposited securities must equal the underlying index value at the time the option is written, the proposal should ensure that escrow receipts are not used to obtain increased leverage or to otherwise evade exchange and Federal Reserve Board margin requirements.

Second, the bank pledged under the escrow receipt to pay the exercise settlement amount, like the member firm who is responsible for paying that amount to the Options Clearing Corporation, has a financial interest of its own in assuring that the securities deposited are adequate to secure that obligation. In the absence of experience to the contrary, it appears preferable to rely on the oversight of the pledging bank rather than to impose on the industry a rigid set of guidelines that might insure adequate cover but only at substantial expense and inconvenience to the industry. Practical experience with a system of index cover will provide indications of what, if any, further refinements are necessary to assure the adequacy of the securities deposited as collateral under the escrow receipt. In this regard, the Commission expects to work with the CBOE and any other exchange adopting index cover rules to monitor the functioning of the rule in the months ahead.

Finally, we note that the rule as presently proposed has been considered by the staff of the Federal Reserve Board which has stated that, in its view, an escrow agreement in the form provided for in the CBOE proposal could be used as cover in a cash account under Section 220.8(a)(4)(i) of Regulation T, 12 CFR 220.8(a)(4)(i).¹

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR-CBOE-83-31.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5

U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the CBOE.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of amendment of the filing thereof, in that the public has had before it for more than four months the fundamental issue of covering index options by means of bank escrow receipts based on securities having a value matching that underlying the option contract. No member of the public submitted a comment on the initial rule proposal, and the Commission's concerns, largely of a technical nature, have been addressed by the amendments noticed herewith. Under these circumstances, additional delay in establishing a concept of cover for cash-settled index call options would not be justified.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84-3742 Filed 2-9-84; 8:45 am]

BILLING CODE 8010-01-M

[Release Nos. 23216; 70-6946]

Proposed Issuance and Sale of Notes to Banks and Commercial Paper to Dealers; Notes to Holding Co.; Capital Contributions to Subsidiaries; Exception From Competitive Bidding; the Southern Co., et al.

February 6, 1984.

In the matter of The Southern Co., 64 Perimeter Center East, Atlanta, Georgia 30346; Alabama Power Co., 600 North 18th Street, Birmingham, Alabama 35291; Georgia Power Co., 33 Piedmont Avenue, NE., Atlanta, Georgia 30308; Gulf Power Co., 75 North Pace Boulevard, Pensacola, Florida 32520; Mississippi Power Co., 2992 West Beach, Gulfport, Mississippi 39501; Southern Electric International, Inc., 3500 Piedmont Road, NE., Suite 500, Atlanta, Georgia 30305.

The Southern Company ("Southern"), a registered holding company, and five of its subsidiaries, Alabama Power Company ("Alabama"), Georgia Power Company ("Georgia"), Gulf Power Company ("Gulf"), Mississippi Power Company ("Mississippi"), and Southern Electric International, Inc. ("SEI"), have filed an application-declaration with this Commission pursuant to Sections 6(a), 6(b), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) promulgated thereunder.

Southern, Alabama, Georgia, Gulf, and Mississippi propose to issue and sell, from time to time prior to April 1, 1985, short-term notes to banks and commercial paper to dealers up to the aggregate principal amounts at any one time outstanding of \$100 million for Southern, \$210 million for Alabama, \$70 million for Georgia, \$70 million for Gulf, and \$101 million for Mississippi. The maximum short-term debt authorized for Alabama, Georgia, Gulf, and Mississippi will be reduced by the amount of net-cash proceeds that these companies receive from the sale of long-term debt and/or preferred stock from April 1, 1984 to March 31, 1985.

Southern has obtained commitments aggregating \$100 million, consisting of \$40 million from Barclays Bank International Limited and \$20 million each from Credit Suisse, Swiss Bank Corporation, and Union Bank of Switzerland. A commitment fee of ¼ percent per annum on undrawn amounts is payable for each commitment. At Southern's option, borrowings will bear interest at an effective rate of (a) ½ percent per annum over the lender's floating prime rate or (b) a margin over the London Interbank Offered Rate ("LIBOR"). Swiss Bank Corporation also offers borrowings at ½ percent per annum over its prime rate on the date of the advance, fixed for 90 days. Borrowings under option (a) are prepayable by Southern at any time, without premium or penalty. In connection with option (b), advances from Credit Suisse and Union Bank of Switzerland are not prepayable and advances from Barclays Bank International Limited and Swiss Bank Corporation are prepayable only if amounts prepaid are accompanied by an amount equal to any loss or expense which either bank has sustained as a consequence of such prepayment. Except in the case of Swiss Bank Corporation, advances bearing interest at a rate related to the lender's floating prime rate may be for any term provided that they mature no later than the earlier of one year or the then current

¹ See letter of January 27, 1984, from Laura Homer, Securities Credit Officer, Board of Governors of the Federal Reserve System, to Richard Ketchum, Associate Director, Division of Market Regulation.

expiration date for the commitment. Advances by Swiss Bank Corporation based on its floating prime rate are to mature within 180 days but in any event no later than the date of expiration of the commitment. Assuming 50 percent usage of the commitment of each bank, a prevailing prime interest rate of 11 percent, and a LIBOR of 9.75 percent, the effective cost of borrowings (including commitment fees) would be 11.75 percent from each bank under option (a) and, under option (b), 10.50 percent from Union Bank of Switzerland and 10.75 percent from the other banks.

Alabama has obtained separate commitments with ten banks located outside its territorial service area providing for revolving credits aggregating \$200 million through April 30, 1987. Each borrowing by Alabama under a revolving credit will be evidenced by a "grid" promissory note, to be dated the date of the initial borrowing and the date of each borrowing thereafter at a time when a "grid" promissory note is not outstanding, and will mature not more than 270 days (but not later than the expiration of the lending bank's commitment) after the date of issue. The revolving credits have been separately negotiated with each of the several banks, and consequently the interest rates and fees payable by Alabama in respect of each commitment vary as is reflected in the several Agreements. Under each Agreement, Alabama is obligated to pay a commitment fee based upon the unused portion of the bank's commitment. The fee is determined by multiplying the unused portion of the bank's commitment by a specified fraction or fractions of a percent (generally $\frac{1}{2}$ percent). Assuming a prevailing 11 percent per annum prime rate, a prevailing 9.25 percent per annum certificate of deposit rate and 3 percent reserve requirements, and a LIBOR of 9.75 percent per annum and 3 percent reserve requirements, the effective cost, assuming full usage, of Base Borrowings, CD Borrowings, and Eurodollar Borrowings by Alabama would not exceed 11.125 percent, 10.286 percent, and 10.677 percent, respectively.

Georgia has entered into separate commitment agreements with ten banks located outside, and with one bank inside, its territorial service area under which such banks have agreed to lend to Georgia, through December 31, 1990, on a short-term, unsecured, revolving credit/term-loan basis, up to an aggregate of \$1,565,000,000 in principal amount at any one time outstanding. Each short-term borrowing by Georgia under a revolving credit commitment

will be evidenced by a "grid" promissory note, to be dated the date of the initial short-term borrowing and the date of each short-term borrowing thereafter at a time when a "grid" promissory note is not outstanding, and will mature not more than 270 days after the date of issue. The revolving credit commitments have been separately negotiated with each of the several banks, and consequently the pricing terms, interest rates, and fees payable by Georgia in respect of each bank's commitment vary as is reflected in the several Agreements. Under each Agreement Georgia is obligated to pay a commitment fee based upon the unused portion of the bank's commitment. The fee is determined by multiplying the unused portion of the bank's commitment by a specified fraction or fractions of a percent which vary with usage under four of the Agreements. Assuming a prevailing 11 percent per annum prime rate, a prevailing 9.25 percent per annum certificate of deposit rate and 3 percent reserve requirements, and a LIBOR of 9.75 percent per annum and 3 percent reserve requirements, the effective cost of the revolving credit commitments for Georgia, assuming full usage, would not exceed 11.201 percent, 10.737 percent, and 11.09 percent, respectively.

In addition to the specific bank borrowing arrangements as described above, Alabama, Georgia, Gulf, and Mississippi propose to borrow from other banks up to such amounts as will be indicated on the lists of such banks to be filed by amendment. These bank borrowings will be evidenced by notes to be dated as of the date of such borrowings and to mature in not more than nine months after the date of issue, or by "grid" notes evidencing all outstanding borrowings from each bank to be dated as of the date of the initial borrowing and to mature in not more than nine months after the date of issue. Borrowings from the listed banks will be prepayable in whole or in part, without penalty or premium, and will be at the lending bank's prevailing rate offered to corporate borrowers of similar quality or, (i) a margin over LIBOR, (ii) a margin over certificate of deposit rates, or (iii) the prime rate, plus the maintenance of compensating balances of up to 10 percent of undrawn amounts and up to 20 percent of amounts borrowed (or comparable fees in lieu of balances). The maximum effective cost of amounts so borrowed would be 13.75 percent, assuming a prevailing interest rate of 11 percent.

The proposed commercial paper will be in the form of promissory notes with

varying maturities not to exceed 270 days. Actual maturities will be determined by market conditions, the effective interest costs, and the applicant's anticipated cash flow, including the proceeds of bank borrowings, at the time of issuance. The commercial paper notes will be issued in denominations of not less than \$50,000 and not more than \$5 million and will not by their terms be prepayable prior to maturity. The commercial paper will be sold directly to or through a dealer ("the dealer"). The discount rate (or the interest rate in the case of interest bearing notes) including any commissions will not be in excess of the discount rate per annum (or equivalent interest rate) prevailing at the date of issuance for prime commercial paper of comparable quality; provided, however, no commercial paper notes will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which the issuer could borrow from banks in an amount at least equal to the principal amount of such commercial paper. The commercial paper of each company will be offered by the dealer to not more than 200 customers of the dealer identified and designated in a nonpublic list prepared in advance by the dealer.

SEI proposes to issue and sell unsecured notes to Southern from time to time prior to April 1, 1985, with maturities of no later than December 31, 1999, in the aggregate principal amount not to exceed \$1 million at any one time outstanding for the purpose of meeting its working capital requirements. Such notes shall bear interest at a rate not to exceed 125 percent of the prime rate in effect on the date of issuance at a bank designated by Southern. Assuming a prime rate of 11 percent, the effective interest cost to SEI would not exceed 13 $\frac{1}{2}$ percent.

Southern also proposes to make additional equity investments in the form of capital contributions to Alabama, Georgia, Gulf, and Mississippi for the period April 1, 1984, through March 31, 1985, in amounts not to exceed the following: Alabama—\$120 million; Georgia—\$430 million; Gulf—\$35 million; and Mississippi—\$65 million.

It is stated that proceeds from short-term borrowings will be used by Alabama, Georgia, Gulf, and Mississippi for lawful corporate purposes, including the financing in part of their future construction programs.

The application-declaration and any amendments thereto are available for public inspection through the

Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 7, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84-3743 Filed 2-9-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/711]

Shipping Coordinating Committee; National Committee for the Prevention of Marine Pollution; Meeting

The National Committee for the Prevention of Marine Pollution of the Shipping Coordinating Committee will conduct an open meeting at 0930 on March 6, 1984, in Room 3201, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. Work Groups may be established at the meeting to convene prior to a subsequent meeting of the Committee, to be announced at a later date.

The purpose of the Committee meeting is to prepare position documents in preparation for an International Conference on Liability and Compensation for Damage in Connection with the Carriage of Certain Substances by Sea. The Conference will be held at the Headquarters of the International Maritime Organization, London, England during the period April 30-May 25, 1984. The Conference will consider:

A Draft Protocol to the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC),

A Draft Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (FUND), and,

Draft Articles for a Convention on Liability and Compensation in

Connection with the Carriage of Noxious and Hazardous Substances by Sea (HNS).

In particular the Committee will discuss, for CLC and FUND, the following topics:

- Ships to be Covered by the Conventions
- Oils to be Covered by the Conventions
- Pre-spill Preventive Measures
- Definition of Pollution Damage
- Limitation of Liability; levels in general
- Indemnification of Shipowner
- Treaty Law Matters (transition from current Conventions to the revised Conventions)

for HNS:

- Liability: Shipowner only or Shipowner and Shipper
- Types of Cargoes to be Covered
- Definition of Shipowner and Shipper
- Limits of Liability of Shipowner and Shipper Supplemental Coverage
- Cargo Insurance
- and for both CLC/FUND and HNS:
- Geographical Scope of the Conventions
- Limitation of Liability; Updating Limitation Amounts
- Limitation of Liability; Standard of Breaking
- Channeling, Recourse, and the Position of the Charterer
- Aids to Navigation Defense.

Members of the public may attend up to the seating capacity of the room.

For further information, including work group meetings, contact Captain Charles R. Corbett, U.S. Coast Guard Headquarters (G-WER), 2100 Second Street, S.W., Washington, D.C. 20593. Telephone: (202) 426-2010.

Dated: January 30, 1984.

Gordon S. Brown,
Chairman, Shipping Coordinating Committee.

[FR Doc. 84-3647 Filed 2-9-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 156—Potential Interference to Aircraft Electronic Equipment From Devices Carried Aboard; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 156 on Potential Interference to Aircraft Electronic Equipment from Devices Carried Aboard to be held on February 28-29, 1984, in the RTCA Conference Room, One McPherson

Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the First Meeting Held on December 1-2, 1983; (3) Report of FAA's Aviation Safety Reporting System (ASRS) Data; (4) Report on Data Derived from Path Loss Tests Run by Airlines, Aircraft Manufacturers and FAA; (5) Discussion on Adequacy of RTCA Document DO-160 (Environmental Conditions and Test Procedures for Airborne Equipment) for Testing Carry-on Devices; (6) Report on Computing Devices Spurious Emissions Test Programs; (7) Report on the National Bureau of Standards Test Methodology; (8) Report on the Australian Department of Aviation Activities; (9) Assignment of Tasks; and (10) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 27, 1984.

Karl F. Bierach,
Designated Officer.

[FR Doc. 84-3620 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 3, 1984.

On February 3, 1984, the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, N.W., Washington, D.C. 20220

Internal Revenue Service

OMB Number: 1545-0002

Form No.: CT-2

Type of Review: Extension

Title: Employee Representative's

Quarterly Railroad Retirement Tax Return

OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy Thomas,

Departmental Reports, Management Office.

[FR Doc. 84-3691 Filed 2-9-84; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION**Information Collections Under OMB Review**

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans' Administration has submitted for review the following collections of information requirements and requests under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). These collections of information are proposed to be included in the Veterans' Administration Acquisition Regulations. For information collection requests (forms) the following information is listed: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Public Law 96-511 applies. For information collection requirements (regulations) the following information is listed: (1) The regulation containing the collection of information requirement; (2) The subject of the information collection requirement; and (3) Who will be required or asked to report or record information.

ADDRESSES: Copies of the proposed information collections may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans' Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389-2146. Comments and questions about the items on this list should be directed to the Veterans' Administration's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395-6880.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

By direction of the Administrator.

Dated: February 6, 1984.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

VAAR 809

- (1) 48 CFR 809.16, 809.206, 809.406, 809.407, and 809.508
- (2) Conditions for pre-award surveys; Acquiring qualified products; Debarment procedures; Suspension procedures; Organizational conflicts of interest
- (3) Individuals or households; Businesses or other for-profit; Small businesses or organizations

VAAR 812

- (1) 48 CFR 812.2
- (2) Liquidated damages
- (3) Individuals or households; Businesses or other for-profit

VAAR 813

- (1) Office of Procurement and Supply
- (2) Orders for Supplies and Services
- (3) VA forms 90-2138 and 90-2139
- (4) On occasion
- (5) Individuals or households; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
- (6) 2,607; 783 respondents
- (7) 1,346; 764 hours
- (8) Not applicable

- (1) Office of Procurement and Supply
- (2) Authorization and Invoice for Medical and Hospital Services
- (3) VA Forms 10-1078 and 10-1079
- (4) On occasion
- (5) Individuals or households; Businesses or other for-profit; Small businesses or organizations
- (6) 252,500 responses
- (7) 10,100 hours
- (8) Not applicable

- (1) Office of Procurement and Supply
- (2) Dental Record Authorization and Invoice for Outpatient Services
- (3) VA Form 10-2570d
- (4) Once—recurring
- (5) Individuals or households; Small businesses or organizations
- (6) 52,770 responses
- (7) 17,590 hours
- (8) Not applicable

- (1) Office of Procurement and Supply
- (2) Authority and Invoice for Travel by Ambulance or Other Hired Vehicle
- (3) VA Form 10-2511

- (4) On occasion
- (5) Individuals or households; Businesses or other for-profit; Small businesses or organizations
- (6) 122,500 responses
- (7) 4,900 hours
- (8) Not applicable

- (1) Office of Procurement and Supply
- (2) Authority and Invoice for Travel by Ambulance or Other Hired Vehicle
- (3) VA Form 10-2421
- (4) On occasion
- (5) Individuals or households; Businesses or other for-profit; Small businesses or organizations
- (6) 400,000 respondents
- (7) 28,000 hours
- (8) Not applicable

VAAR 815

- (1) Office of Procurement and Supply
- (2) Application for Furnishing Nursing Home Care to Beneficiaries of the Veterans Administration
- (3) VA Form 10-1170
- (4) On occasion
- (5) Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
- (6) 1,600 responses
- (7) 533 hours
- (8) Not applicable

VAAR 828

- (1) 48 CFR 828.306-70
- (2) Evidence of Satisfactory Insurance Coverage
- (3) Individuals or households; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations

VAAR 846

- (1) 48 CFR 846.408
- (2) Inspection of Subsistence
- (3) Individuals or households; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations

VAAR 871

- (1) 48 CFR 871.102 (d) and (e)
- (2) Authorization for Repairs to Properties
- (3) State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations

- (1) 48 CFR 871.103
- (2) Repair Specifications
- (3) State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations

- (1) 48 CFR 871.106
- (2) Lien Waivers
- (3) State or local governments;
Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
- * * *

- (1) 48 CFR 871.209
- (2) Records and Reports
- (3) State or local governments;
Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
- * * *

- (1) Office of Procurement and Supply
- (2) Compliance Inspection Report
- (3) VA Form 26-1839
- (4) On occasion
- (5) Individuals or households
- (6) 431,000 responses
- (7) 107,750 hours
- (8) Not applicable
- * * *

- (1) Office of Procurement & Supply
- (2) Invitation, Bid, and/or Acceptance or Authorization
- (3) VA Forms 26-6724 and 26-6724-1
- (4) On occasion
- (5) Businesses or other for-profit
- (6) 312,000 responses
- (7) 156,000 hours
- (8) Not applicable
- * * *

- (1) Office of Procurement & Supply

- (2) State Approving Agency (SAA) Reimbursement Contract and Schedules 1 and 2
- (3) VA Forms 22-1982; 22-2982c; and 22-1982e
- (4) Annually
- (5) State or local governments
- (6) 76 responses
- (7) 76 hours
- (8) Not applicable
- * * *

- (1) Office of Procurement & Supply
- (2) Quarterly Report of State Approving Agency Activities
- (3) VA Form 22-7398
- (4) Quarterly
- (5) State or local governments
- (6) 76 responses
- (7) 304 hours
- (8) Not applicable
- * * *

- (1) Office of Procurement & Supply
- (2) Contract for Services Relating to Vocational Counseling; Contract for Education and Training
- (3) VA Forms 22-1903 and 22-1931
- (4) Annually
- (5) State or local governments
- (6) For 22-1903—200 responses; for 22-1931—23 responses
- (7) For 22-1903—100 hours; for 22-1931—69 hours
- (8) Not applicable
- * * *

- (1) Office of Procurement & Supply

- (2) Certification of Entrance Into Training or Trainee Status
- (3) VA Form 22-1905
- (4) On occasion
- (5) Schools and Training establishments
- (6) 11,250 responses
- (7) 2,813 hours
- (8) Not applicable

VAAR 836 and 852

- (1) Office of Procurement & Supply
- (2) Construction Progress Report
- (3) VA Forms 08-6159
- (4) On occasion
- (5) Businesses or other for-profit
- (6) 500 responses
- (7) 125 hours
- (8) Not applicable
- * * *

- (1) Office of Procurement & Supply
- (2) Architect-Engineer Fee Proposal
- (3) VA Forms 08-6298
- (4) On occasion
- (5) Businesses or other for-profit
- (6) 200 responses
- (7) 800 hours
- (8) Not applicable
- * * *

- (1) 48 CFR 836.606-2; 852.236-72(b); 852.236-79; 852.236-81 through 236-85; and 852.236-88.
- (2) Construction and Architect-Engineer Contracts
- (3) Business or other for-profit; Small businesses or organizations

[FR Doc. 84-3671 Filed 2-9-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 49, No. 29

Friday, February 10, 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).

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1

FARM CREDIT ADMINISTRATION

Federal Farm Credit Board; Special Meeting

DATES AND TIMES: The special meeting is scheduled to start at 9 a.m., Monday, February 26 and continue to 12 noon on Thursday, March 1.

ADDRESS: Federal Farm Credit Board Special Meeting, the Cloisters, Sea Island, Georgia.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Federal Farm Credit Board, 490 L'Enfant Plaza, SW., Farm Credit Administration, Washington, DC 20578, (202-755-2174).

SUPPLEMENTARY INFORMATION: A special meeting of the Federal Farm Credit Board to discuss planning matters is scheduled to be held at Sea Island, Georgia, from February 26 to March 1, 1984.

Dated: February 13, 1984.

Donald E. Wilkinson,
Governor.

[FR Doc. 84-3904 Filed 2-9-84; 11:53 am].

BILLING CODE 6705-01-M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m.—February 15, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreements Nos. 57-125, 57-126 and 57-128: Modifications of the Pacific Westbound Conference Agreement to authorize uniform practices with respect to unaffiliated

container operations and change sundry voting procedures.

2. Agreements Nos. 10485, 10117-8 and 10261-13: Proposed new U.S. Atlantic Ports/Italy, France and Spain Freight Conference Agreement, and modifications of the U.S. North Atlantic Spain Rate Agreement and the U.S. South Atlantic Spanish, Portuguese & Mediterranean Rate Agreement to comport with the new agreement.

3. Docket No. 81-50: Per Container Rates—Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States—Notice seeking further comment.

Portion closed to the public:

1. Agreement No. 10066-4: Extension and revision of the U.S. East and West Coast Colombia Equal Access Agreement.

2. Docket No. 83-52: In the Matter of the Status of Matson Agencies, Inc. and Matson Freight Agencies, Inc.—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

Francis C. Hurney,
Secretary.

[FR Doc. 84-3795 Filed 2-8-84; 10:08 am]

BILLING CODE 6730-01-M

3

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 10 a.m., Wednesday, February 15, 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 Board policy statement on financial institutions' practices regarding delayed availability of funds.

2. Proposed criteria for selecting high dollar group sort institutions. (Proposed earlier for public comment; Docket No. R-0464)

3. Proposed Board policy statement on delayed disbursement practices.

4. 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: February 8, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3821 Filed 2-8-84; 12:17 pm]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM: (Board of Governors).

TIME AND DATE: Approximately 11 a.m., Wednesday, February 15, 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 employees.

2. Building expansion proposals for the Charlotte Branch of the Federal Reserve Bank of Richmond.

3. 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: February 8, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3822 Filed 2-8-84; 12:17 pm]

BILLING CODE 6210-01-M

5

NEIGHBORHOOD REINVESTMENT CORPORATION

TIME AND DATE: 3 p.m., Wednesday, February 15, 1984.

PLACE: Neighborhood Reinvestment Corporation, 1850 K Street, NW., Suite 400, Washington, D.C. 20006.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE

INFORMATION: Timothy S. McCarthy, Associate Director, Communications, 202-653-2705.

AGENDA:

- I. Call to Order and Remarks of the Chairman
- II. Approval of Minutes, November 23, 1983
- III. Executive Director's Report
- IV. NHSA Report
- V. Treasurer's Report

VI. Audit Committee Report
 VII. Budget Committee Report
 VIII. Personnel Committee Report
 Resolution: Technical Amendments of
 Neighborhood Reinvestment Corporation
 Group Pension Plan
 No. 32, February 8, 1984.

Carol J. McCabe,
 Secretary.

[FR Doc. 84-3846 Filed 2-8-84; 3:53 pm]

BILLING CODE 0000-00-M

6

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF
 PREVIOUS ANNOUNCEMENTS: (49 FR 3293
 January 26, 1984)

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW.,
 Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday,
 January 23, 1984.

CHANGE IN THE MEETING: Deletion/
 addition.

The following item was not
 considered at a closed meeting
 scheduled for Thursday, February 2, 1984,
 following the 2:30 p.m. open meeting.

Regulatory matter bearing enforcement
 implications.

The following item was considered at
 a closed meeting scheduled for
 Thursday, February 2, 1984, following
 the 2:30 p.m. open meeting.

Legislative matter bearing enforcement
 implications.

Chairman Shad and Commissioners
 Treadway and Cox determined that
 Commission business required the
 above changes and that no earlier notice
 thereof was possible.

At times, changes in Commission
 priorities require alterations in the
 scheduling of meeting items. For further
 information and to ascertain what, if
 any, matters have been added, deleted
 or postponed, please contact: Jerry
 Marlatt at (202) 272-2092.

George A. Fitzsimmons,
 Secretary.

February 7, 1984.

[FR Doc. 84-3744 Filed 2-7-84; 4:32 p.m.]

BILLING CODE 8010-01-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the
 provisions of the Government in the
 Sunshine Act, Pub. L. 94-409, that the
 Securities and Exchange Commission
 will hold the following meetings during
 the week of February 13, 1984, at 450
 Fifth Street, NW., Washington, D.C.

A closed meeting will be held on
 Tuesday, February 14, 1984, 9:30 a.m. An
 open meeting will be held on
 Wednesday, February 15, 1984, at 9:30
 a.m., in Room 1C30.

The Commissioners, Counsel to the
 Commissioners, the Secretary of the
 Commission, and recording secretaries
 will attend the closed meeting. Certain
 staff members who are responsible for
 the calendared matters may be present.

The General Counsel of the
 Commission, or his designee, has
 certified that, in his opinion, the items to
 be considered as the closed meeting
 may be considered pursuant to one or
 more of the exemptions set forth in 5
 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and
 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners
 Treadway and Cox voted to consider
 the items listed for the closed meeting in
 closed session.

The subject matter of the closed
 meeting scheduled for Tuesday,
 February 14, 1984, 9:30 a.m., will be:

Formal order of investigation.
 Settlement of administrative proceeding of
 an enforcement nature.
 Institution of administrative proceedings of
 an enforcement nature.
 Institution of injunctive actions.

The subject matter of the open
 meeting scheduled for Wednesday,
 February 15, 1984, at 9:30 a.m., will be:

1. Consideration of whether to propose for
 public comment amendments to Rule 15c3-3
 under Section 15(c)(3) of the Securities
 Exchange Act of 1934. The effect of the
 proposed amendments will be to require that
 greater deposits be made in the Reserve Bank
 Accounts of some broker-dealers. This will
 be accomplished by excluding the margin
 debit balances of certain persons who are
 related to principals of a broker-dealer or
 affiliated in a certain way with a broker-
 dealer from the Reserve Formula. It is further
 proposed to exclude from the debit items the
 amount by which a broker-dealer's margin
 accounts receivable with a single customer
 exceed ten percent of the aggregate of all

such receivables with all customers of the
 broker-dealer. For further information, please
 contact Steven J. Gray at (202) 272-3113.

2. Consideration of whether to issue two
 releases related to the processing of
 disclosure filings of registered investment
 companies. The first release announces (i)
 that the Division will institute new
 procedures for the selective review of
 investment company registration statements
 and certain post-effective amendments to
 them, and (ii) that, except in certain cases, an
 investment company whose preliminary
 proxy statement or information statement has
 been on file for the required ten day period
 may mail such materials to shareholders. The
 second release proposed amendments to
 Rules 485 and 486 under the Securities Act of
 1933 that would make automatically effective
 upon filing post-effective amendments filed
 solely to include unaudited financial
 statements within four to six months after the
 effective date of an investment company's
 Securities Act registration statement. For
 further information, please contact Larry L.
 Greene at (202) 272-7320.

3. Consideration of whether to propose for
 public comment an amendment to rule 204-2
 under the Investment Company Act of 1940 to
 permit investment advisers to maintain
 records on microfilm without having to retain
 hard copies for two years. For further
 information, please contact Mary S. Podesta
 at (202) 272-2039.

4. Consideration of whether to issue a
 release requesting comments on a proposed
 industry guide and on proposed rules relating
 to disclosures about reserves and reserving
 practices of property casualty insurance
 underwriters. For further information, please
 contact Jeremiah Harrington at (202) 272-
 2156.

5. Consideration of whether to issue a
 release (1) proposing amendments to its
 requirements for interim financial
 information and management's discussion
 and analysis and (2) providing advance
 notice of possible rulemaking about other
 financial reporting matters. For further
 information, please contact Robert K.
 Herdman at (202) 272-2141.

At times changes in Commission
 priorities require alterations in the
 scheduling of meeting items. For further
 information and to ascertain what, if
 any, matters have been added, deleted
 or postponed, please contact: Bruce
 Kohn at (202) 272-3195.

George A. Fitzsimmons,
 Secretary.

February 7, 1984.

[FR Doc. 84-3745 Filed 2-7-84; 4:32 am]

BILLING CODE 8010-01-M

Estimate Federal Register

Friday
February 10, 1984

Part II

Small Business Administration

13 CFR Part 107

Accounting Standards and Financial
Reporting Requirements for Small
Business Investment Companies;
Advance Notice of Proposed Rulemaking

SMALL BUSINESS ADMINISTRATION**13 CFR Part 107****Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies****AGENCY:** Small Business Administration.**ACTION:** Advance notice of proposed rulemaking.

SUMMARY: By this publication, SBA is giving advance notice of its intention to replace Appendices A, B and C of Part 107 of its regulations which deal with accounting standards and financial reporting requirements for Small Business Investment Companies. This is primarily to address the accounting requirements of Limited Partnership Small Business Investment Companies, an area on which they are currently silent.

DATES: Comments should be received on or before April 10, 1984.

ADDRESS: Written comments should be directed to Mr. Thomas C. Bresnan, Staff Accountant, Small Business Administration, Office of Finance and Investment, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas C. Bresnan, telephone (202) 653-6389.

SUPPLEMENTARY INFORMATION: By this publication, SBA is giving advance notice to the public of its intent to revise Appendices A, B and C to Part 107 of its regulations which deal with accounting standards and reporting requirements for Small Business Investment Companies (SBIC's).

The appendices to Part 107 of SBA regulations presently consist of:

- Appendix A—Audit Guide for Small Business Investment Companies
- Appendix B—Guide for the Preparation of the Annual Report
- Appendix C—System of Account Classification for Small Business Investment Companies

These appendices are being revised primarily to address the accounting requirements of Limited Partnership small Business Investment Companies,

an area on which they are currently silent.

As a result of the Agency's effort to revise the appendices to include Limited Partnership (LP) guidelines; revisions, corrections, clarifications, and eliminations were made which affect all Small Business Investment Companies (SBIC's). In addition, the (SBIC) Annual Report, SBA Form 468, was reviewed and condensed substantially. Therefore, the Agency intends by this publication to provide the public with an opportunity to comment on the revised appendices before they are proposed for incorporation into Part 107.

The major areas of change contained in this revision are:

1. Accounting regulations for Limited Partnership SBIC's;
2. Annual Report, SBA Form 468, for Limited Partnership SBIC's;
3. Revised Annual Report, SBA Form 468, for Corporate SBIC's;
4. Elimination of Appendices A, B and C and issuance of Appendices I and II;
5. Revised recommended Accountant's Opinion; and
6. General edit of Appendices A, B and C to eliminate ambiguities and clarify specific points.

The nature of each of these major changes is:

1. Prior to this revision, there existed no accounting guidance for Limited Partnership SBIC's in regard to their particular problems. They were forced to attempt to modify corporate guidelines to fit partnership situations. This revision incorporates a full treatment of accounting matters relating to Limited Partnerships and their special needs. In particular, this revision establishes equity accounts for Limited Partnerships, explains in detail the preparation of financial statements, and provides discussion of Limited Partnership regulatory concerns. As these SBIC's are regulated by SBA, their equity accounts must be maintained in greater detail than is generally the case with unregulated partnerships.

2. Heretofore the only annual report forms (SBA Form 468) available for SBIC's were designed for corporate entities, and as such had little relation to the reporting requirements of partnerships. With this revision, a complete set of annual financial statements for partnerships has been

designed. The new forms correspond to the GPO requirement that no forms exceed 8½ x 11 inches.

In addition, whereas corporate financial statements provide for capital stock, paid in surplus, retained earnings, and taxes, Limited Partnership financial statements provide only for partnership equities. Additionally, Limited Partnerships differentiate between general partner and limited partner equity interests. Finally, as Limited Partnership SBIC's are regulated investment companies, the financial statements provide for unrealized gain/losses and non-cash gains/losses. This revision accommodates all of these differences by providing annual report forms which take them into consideration.

3. A revised annual financial statement has been designed for corporations. This form also corresponds to the GPO directive that no form exceed 8½ inches. Previously, the annual financial statement consisted of two parts and included numerous supporting statements; the revised forms have been substantially shortened and combined into a single part. The number of pages included in SBA Form 468 has been reduced from 33 to 19. This has been accomplished by eliminating schedules of marginal importance, combining the statements, and generally overhauling the statements to capture all the important data in a concise straightforward manner.

The current SBA Form 468 consists of Parts I and II. Part I consists of Standard Financial Statements. Part II is a Management Report consisting of numerous schedules describing various aspects of the company's portfolio, funds maintained, and principal owners. A number of these required schedules were found to be burdensome to licensees and easily combined with others. This revision reduces the number of different schedules significantly, and simplifies the ones remaining.

4. The current accounting guidelines, Appendices A, B and C have evolved over the years with numerous changes, additions, and corrections being incorporated as each arose. Additionally, each of the appendices tended to overlap the others particularly in the sections which treated policy and procedures. In this overlap, ambiguities

if not contradictions, have arisen. For example, in the current appendices unrealized depreciation is discussed 11 times in relation to allowances for losses. In some cases, the two appear synonymous, in others the allowance is only one part of unrealized depreciation.

This revision has attempted to rectify these problems, eliminate the overlap, and to combine and condense the present three appendices into two guides. Appendices A and B have been combined into the new Appendix I and the number of total pages reduced from 138 to 98. Actually, as 26 additional pages have been added to described the new Partnership accounts and forms, the real reduction is quite significant. The current Appendix C has been reviewed, clarified, and expanded to include Partnership accounts and is proposed as Appendix II.

5. The sample Accountant's Opinion has been updated for changes that are recommended by the AICPA.

6. The current Appendices A, B, and C have been reviewed in their entirety for accuracy and clarity. Where corrections or improvements were indicated, they were made. It is hoped that this revision will be more understandable, concise, and useful to all Small Business Investment Companies and their accountants.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs—businesses, Reporting and recordkeeping requirements, Small businesses.

Accordingly, pursuant to section 308(c) of the Small Business Investment Act, 15 U.S.C. 687(c), SBA hereby proposes the following advance notice of proposed rules.

Dated: January 30, 1984.

Heriberto Herrera,
Acting Administrator.

A Note of Caution to All SBIC's Legal Counsel, Accountants, and Tax Advisors

The appendices refer to Securities and Exchange Commission Rules and Regulations, American Institute of Certified Public Accountant's publications, and the Internal Revenue Code in various places. The references are current at this time but can be changed at some future time. It is the responsibility of the licensee and its advisors to be knowledgeable of any change and its effect on the SBIC.

Distributions to stockholders or partners are permitted only to the extent that undistributed net realized earnings exist. Under certain circumstances this could create a hardship on stockholders in Subchapter S Licensees or partners in Limited Partnership Licensees.

PART 107—[AMENDED]

Appendices A—C [Removed]

Part 107 of Title 13 is amended by removing Appendices A, B, and C and adding new Appendices I and II to read as follows:

Appendix I—Amended Guide for SBIC's and Preparation of the Annual Report

I. Introduction

A. Purpose of the Guide

The Small Business Administration (SBA) Audit Guide has been written primarily to: (1) Inform the licensee and (2) assist the auditors of Small Business Investment Companies (SBICs) in performing their financial examination by focusing on matters that are unique to the SBIC program and the venture capital industry. It should be noted that this Guide is not intended to be a substitute for the accountant's judgment as to the work required to meet generally accepted auditing standards.

The report (SBA Form 468) and related schedules have been designed to provide standard reporting in such form that will insure that uniform and comparable data will be received by SBA from all licensees. The licensee is responsible for the preparation of the report. The independent public accountant is required to audit the licensees' records and express an opinion.

B. Definitions

(1) "Licensee" means any corporation or limited partnership that has been licensed by the SBA as a Small Business Investment Company.

(2) "Directors" means any director of a corporation or any person performing similar functions with respect to any licensee whether incorporated or unincorporated.

(3) "Executive Officer" means the president, vice president, secretary or treasurer of the licensee or any other person who performs similar policy making functions for the licensee whether incorporated or unincorporated.

(4) "Advisory Board" means a board, whether elected or appointed, which is distinct from the board of directors or board of trustees, or the licensee, and which is composed solely of persons who do not serve such licensee in any other capacity, whether or not the functions of such board are such as to render its members "directors" within the definition of that term, which board has advisory functions as to investments but has no power to determine that any security or other investment shall be purchased or sold by such licensee.

(5) See § 107.3 for other "definition of terms."

II. Selection and Qualification of the Auditor

A. Selection of the Auditor

The responsibility for selecting the independent public accountant is vested in the licensee's Board of Directors/General Partner(s). Any accountant qualifying as an independent public accountant, as explained in Paragraph C may be considered as having SBA approval to perform the annual audit (financial examination) upon selection by the Board of Directors/General Partner(s), and the filing with SBA by such accountant of an executed IPA Certification, CO Form 112 (XX-XX) certifying as to his qualification and independence, unless advised otherwise by SBA.

It is strongly recommended that the Board of Directors/General Partner(s) give thorough consideration each year to the matter of selecting the public accountant to perform that year's audit. The Board/General Partner(s) under this policy selects an accountant with whom it agrees as to the scope of the engagement and basis of compensation. Notification of the Board's selection will be furnished to the Staff Accountant, Investment Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416. Notification to SBA is not necessary when the same accountant or accountants are retained for successive years.

B. Qualification of Accountants

Any public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, who is independent and who is duly authorized to practice as a public accountant, and is in good standing under the laws of the State or other comparable authority in which so authorized, may be considered qualified to render an opinion as an independent public accountant on behalf of a licensee whose office is located in such State or Authority.

C. Independence

Accountants approved by SBA as auditors of a licensee are to follow the code of professional ethics adopted by the American Institute of Certified Public Accountants (AICPA). In determining whether an accountant may in fact be not independent with respect to a particular licensee, SBA will give appropriate consideration to all relevant circumstances, including evidence bearing on relationships between the

accountant and such licensee or any affiliate thereof.

Accordingly, an accountant or a firm of which he is a partner or shareholder shall not express an opinion of financial statements of a licensee unless he and his firm are independent with respect to such licensee. Independence will be considered to be impaired if, for example:

1. During the period of his professional engagement, or at the time of expressing his opinion he or his firm,

- Had or was committed to acquire any direct or indirect financial interest in the licensee;

- Had any joint closely held business investment with the licensee or any officer, director or principal stockholder, or partner, general or limited, thereof which was material in relation to his or his firm's net worth; or

- Had any loan to or from the licensee or any officer, director or principal stockholder thereof.

2. During the period covered by the financial statements, during the period of the professional engagement or at the time of expressing an opinion, he or his firm,

- Was connected with the licensee as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee;

- Was a trustee of any trust or executor or administrator of any estate if such trust or estate had a direct or material indirect financial interest in the licensee; or was a trustee for any pension or profit-sharing trust of the licensee; or

- The independent accountant should familiarize himself with Section 600 "Matters Relating to Independent Accountants" of the "Codification of Financial Reporting Policies" of the Securities and Exchange Commission (SEC) which the SBA follows in most matters relating to the independence of accountants.

IPA Certification

Staff Accountant
Investment Division
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Gentlemen: I (we) have been selected by the Board of Directors of (Name of Licensed Small Business Investment Company) (License Number Address of Licensee's Principal Office) (License Number) to conduct an annual examination of the licensee's financial statements as of _____, 19—. In accordance with provisions of Paragraph II, B of Appendix I, (Check One):

☐ Independent* Certified Public Accountant (or firm of CPAs).

☐ Independent* Licensed Public Account (or firm of Licensed PAs).

I certify that this accountant (or firm of public accountants) is authorized to practice in, and is in good standing under the laws of, the state or other jurisdiction in which the principal office of the Licensee is located, and accordingly, qualifies to perform the annual audit of the above named Licensee.

(Date) _____
(Signature of Individual Practitioner or Principal, if applicable) _____

(Date) _____
(Signature of Partner of Accounting Firm, if applicable) _____

Type name under which individual practitioner or accounting firm is doing business) —
(Business Address) _____
(Zip Code) _____

Independent within the meaning of this term as used by the Small Business Administration. SBA will not recognize any public accountant as independent who is not fact independent. For example, an accountant will be considered not independent with respect to any small business investment company with which he has, or had during the period covered by the audit (financial examination), any direct financial interest or any material indirect financial interest; or with which he is, or was during such period, connected as a promoter, underwriter, voting trustee, investment adviser, director, officer, or employee.

CO Form 122 (XX/XX) Previous Editions are Obsolete.

Accountants Opinion

To the Board of Directors and Shareholders of, or
To the General Partners and Limited Partners of
XYZ Investment Company,
A Small Business Investment Company
licensed by the SBA.

We have examined the statement of (Consolidated or combined, if applicable) financial condition of XYZ Investment Company including the portfolio of investments as of (insert date for close of fiscal period), and the related statement of operations for the year then ended, the statement of changes in financial position, and the supplementary schedules and information required by SBA Form 468. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. Securities owned at (insert date), except securities purchased but not received, were confirmed to us by the custodian (or "counted" if such was the audit procedure). As to securities purchased but not received, we requested confirmation from the (brokers/sellers as applicable), and where replies were not received, we carried out other appropriate auditing procedures.

The company presents its financial statements in conformity with accounting practices prescribed by the Small Business Administration, which provide for specific allocations of certain types of income to specific capital accounts. As discussed more fully in note (identify the note or notes) to the

financial statements, securities amounting to \$_____ (—% of the net assets) have been valued at fair value as determined by the (board of directors/general partners, as applicable). We have reviewed the procedures applied by the (directors/partners) in valuing such securities and have inspected the underlying documentation; while in the circumstances the procedures appear to be reasonable and the documentation appropriate, determination involves subjective judgment which is not susceptible to substantiation by auditing procedures.

In our opinion, subject to the possible effect on the financial statements of the valuation of securities determined by the (board of directors/general partners) as described in the preceding paragraph, the aforementioned financial statements present fairly the net assets of XYZ Investment Company at (insert date), and the results of its operations, change in financial position, and supplementary information for the year then ended, in conformity with generally accepted accounting principles, as modified by the Small Business Administration, applied on a consistent basis.

We consent to the use of this opinion in connection with the filing of the report of XYZ Investment Company with the Small Business Administration on SBA Form 468.

(Signed) Independent Auditor
Anytown, U.S.A.
(Insert Date)

Note.—The accountant will comment on any other exceptions in Paragraph 2 prior to the comments on valuation.

III. Scope of Audit

The independent public accountant's audit is to be an examination of the licensee's financial statements in accordance with generally accepted auditing standards as expressed by the American Institute of Certified Public Accountants. The auditor is to make an examination of the licensee's financial statements with the view of expressing an opinion as to whether the financial statements present fairly the financial position, changes in financial position, and results of operations in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Management is responsible for the preparation of the Annual Report, SBA Form 468. The statements and supporting schedules will be the basis for the auditor's opinion. It is expected that all audit adjustments will be recorded in the licensee's records before completion of the audit report so that financial statements accompanying the report will agree with the books as adjusted as of the statement date, giving consideration to reclassifications of account balances for report purposes. If the adjustments are not so recorded on the licensee's books, a statement should

be made by the independent accountant to this effect.

The independent public accountant is expected to satisfy himself as to the reasonableness of the basis used by the licensee's Board of Directors/General Partner(s) in determining the valuation of loans and investments. Accordingly, the auditor should comment in his report as to reasonableness of procedures used and adequacy of documentation.

IV. Accounting Policies and Practices

A. General

As a general rule, accounting policies followed by licensees are those expressed by the American Institute of CPA's as generally accepted accounting principles and practices. Certain of these principles and practices are prescribed in the AICPA's Audit Guide. The System of Accounts Classification (Appendix II) in item II identifies particular accounting policies and practices licensees are required to follow.

B. Reporting Entity

The auditor should bear in mind that the reporting entity being audited is the licensee. Those securities and assets that are held for investments are to be reported on the fair value basis.

A corporate licensee may hold an investment in a 301(d) licensee and/or have a wholly owned management consulting subsidiary. A limited partnership licensee may hold an investment in a 301(d) licensee and/or own 100 percent of outstanding stock of a management consulting company. Such securities would not be considered held for investment but are considered held for long-term operating purposes.

1. Equity Method of Accounting for Investments in Common Stock

"Equity" method of accounting for investments in common stock is not to be confused with the "fair value" method of reporting portfolio securities. Under the equity method, an investor initially records an investment in the stock at cost, and adjusts the carrying amount of the investment to recognize the investor's share of the earnings or losses of the investee after the date of acquisition. The amount of the adjustment is included in the determination of net income by the investor. Dividends received from an investee reduce the carrying amount of the investment. Accounting Principles Board Opinion No. 18 issued in March 1971, by the AICPA specifically does not apply to licensees whether or not registered under the Investment

Company Act of 1940, as explained in Paragraph 2 of that Opinion.

The AICPA Audit Guide states that investments in other than portfolio securities which meet the criteria of APB Opinion No. 18 should be carried on the equity basis. As applied to licensees, this would only apply to investments in Section 301(d) licensees, investments in unincorporated entities and/or management consulting investments. In those cases where a 301(d) licensee is a subsidiary of another licensee, such subsidiary should be reported as an unconsolidated subsidiary by the corporate parent licensee.

2. Policy on Consolidated Financial Statements

Consolidated Financial Statements are to be filed with SBA only where the corporate licensee has a management consulting subsidiary. Combined Financial statements are to be filed with SBA only where the limited partnership licensee has an investment in a management company. Under SBA Regulations, management consulting companies are to be a wholly owned and are to be consolidated or combined with the licensee.

Under certain circumstances, a licensee may temporarily own more than a 50 percent equity position in a financed concern. Such investments are to be reported on the fair value basis and classified as loans and investments rather than being reported on a consolidated basis with the licensee.

V. Reporting Requirements—General

A. Annual Financial Report

The Small Business Administration, under authority granted by the Small Business Investment Act of 1958, as amended, (1958 Act) requires licensees to have their financial statements examined annually by independent public accountants approved by SBA. The annual audit shall be performed as of the close of the licensee's fiscal year.

Three copies of the accountant's report including the Financial Report prepared on forms constituting SBA Form 468 and supporting schedules, shall be submitted to SBA by the licensee as soon as practicable after completion and no later than the last day of the third month following the close of the period covered by the audit. Attached to the inside of the back cover of each copy of the audit report should be a copy of any transmittal letter, special reports, or similar communications furnished to the licensee by the auditor. If adjusting entries are furnished to the licensee with the report, the should be submitted to SBA.

B. Reporting Irregularities

The independent public accountant shall promptly inform a responsible official of the licensee and the Deputy Associate Administrator for Investment, Investment Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, concerning any apparent defalcation or other financial irregularities that may come to his attention in connection with his examination. Based on available information, he will indicate the nature and extent of such defalcations or other irregularities.

C. Regulated Investment Companies

Concerning licensees that are registered with the Securities and Exchange Commission, additional reports are required by SEC which are identified in Chapter 1 of the AICPA's Audit Guide. It should be noted that any report submitted by a licensee to the SEC shall also be submitted to the Investment Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

D. Special Management Reports

Frequently, the independent public accountant will render special reports to the licensee's management. Examples are reports on evaluation of internal control or evaluation of specific portfolio concerns. A copy of such reports shall also be promptly submitted by the Licensee to the Investment Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Licensee will also submit to SBA any reports prepared for the licensee by outside consultants on any matters pertaining to the operation of the SBIC or any of its portfolio investments. Partnership tax returns will not be considered special reports under this paragraph and need not be routinely furnished SBA.

Upon request, licensees will submit to SBA either, the complete SBA Form 468 or a part thereof. Such reports are considered interim in that they cover less than a full year of operations and the financial report is not audited by the licensee's independent accountant. Accordingly, such reports are in addition to, not in lieu of, the annual report.

E. Investment Objectives & Policies

The composition of a licensee's loans and investments varies from one licensee to another and reflects the licensee's policies and objectives of investing that are being followed in practice. Such objects may emphasize equity investments, loans or a balance

between loans and equity investments. The portfolio may also be widely diversified or specialized as to industry or geographical area. In addition, the licensee may choose to be "301(d) licensee" that is organized to be a profit or non-profit corporation with an investment policy limited to providing financing solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages. Such licensees were formerly designated by the acronym "MESBIC."

The basic investment objectives adopted by management can be found in the licensee's proposal to operate, as amended.

F. Federal Income Tax Provisions Affecting Investment Accounts

Licensees which elect to qualify as Regulated Investment Companies under Subchapter M of the Internal Revenue Code must meet the various requirements set forth therein which are summarized in Chapter 5 of the AICPA's Audit Guide. Also Item VI. B. of this Guide summarizes the special income tax provisions that may apply to licensees.

G. Recordkeeping Requirements Relating to Investment Activity

No specific recordkeeping system for investment activity is required other than that provided in the SBA's System of Account Classification. However, the licensee is to develop systems and maintain records sufficient to properly account for transactions and valuation of individual loans and investments.

Section 107.1002 of the SBA Rules and Regulations specifies the records and documents which must be maintained and preserved by all licensees. In addition, licensees registered under the Investment Company Act of 1940 are required to maintain and preserve those records specified in such Act and the Rules and Regulations thereunder.

H. Custody of Securities

A licensee's management is expected to assume responsibility for the custody of securities. Accordingly, there is to be safekeeping for securities, usually a safe deposit box at a bank or other custodian with such safekeeping facilities, and dual control over withdrawal of securities from safekeeping is required (Section 107.1003 of the SBA Regulations.)

I. Valuation of Securities

The general practice in the investment company industry is to disclose, in one form or another, valuation of securities at quoted market values or, in the absence of quoted values, at fair values determined by the company's Board of Directors or General Partner(s) in good faith.

Ordinarily, little difficulty should be experienced in valuing securities traded on a recognized securities exchange since the prices of transactions are published daily. If a security was traded on the valuation date, the last quoted sales price generally is used. However, if there were no sales on the exchange on the valuation date but published closing bid and asked prices are available, the valuation should be within the range of these quoted prices. Where quotations appear questionable, consideration should be given to valuing the securities at fair value as determined in good faith by the Board of Directors or General Partner(s).

Quotations are available from various sources for most unlisted securities traded regularly in the over-the-counter market. Ordinarily, quotations for an over-the-counter security should be obtained from more than one broker/dealer unless available from an established market-maker for that security. Quotations for several days should be used and the valuation should be within the range of these quotations.

The Board of Directors or General Partner(s) when valuing securities must consider the effect of factors having a bearing on the value of such securities even when they are traded on a recognized exchange where market quotations are available. Examples of such factors are a thin market, large holdings by the licensee that would adversely affect the market price if traded, or securities that are restricted.

Regarding securities that are not publicly traded, it is incumbent upon the Board of Directors or General Partner(s) to satisfy themselves that all appropriate factors relevant to the value of securities for which market quotations are not readily available have been considered and to determine the method of arriving at the fair value of each security.

To the extent considered necessary, the Board of Directors or General Partner(s) may appoint persons to assist it in the determination of such value. However, the Board of Directors or General Partner(s) must review continuously the appropriateness of the method used in valuing each loan and investment in the licensee's portfolio.

It should be noted that the investments of licensees usually are venture-type investments that complicate the determination of value. The investee, in such cases, is usually a closely held, immature Small Business Concern whose stock is not publicly traded.

In addition, there may be weaknesses in the Concern's management. For these and other reasons, cost may be the most appropriate measure of value of venture-type securities until sufficient evidential matter is available to the licensee's Board of Directors or General Partner(s) to form a basis for valuing the securities at other than cost.

As stated in Accounting Series Release No. 118 of SEC (404.03 Codification of Financial Reporting Policies) no single standard for determining fair value in good faith can be laid down, since fair value depends upon the circumstances of each individual case. SBA has set forth guidelines in SBA Policy and Procedural Release No. 2006 to assist the directors of licensees in valuing their securities. The auditor should satisfy himself that the valuation guidelines issued by SBA, or other reasonable methods, are used in valuing securities.

Additional guidance for the valuation of securities is given in Chapter 3 of the AICPA Audit Guide and in Accounting Series Releases 113 (404.04 Codification of Financial Reporting Policies) and 118 issued by the SEC.

J. Audit Procedures

The auditing procedures relating to the investment accounts of investment companies require greater attention than those of a commercial enterprise because of the relative significance of such assets. In either case, the independent auditor should evaluate the internal accounting controls as a basis for determining the extent of his examination. The auditing procedures outlined in the AICPA's Audit Guide should be followed to the extent appropriate. Concerning valuation of securities: *THE LICENSEE'S OF DIRECTOR'S OR GENERAL PARTNER(S) HAS (HAVE) THE SOLE RESPONSIBILITY FOR VALUING SECURITIES IN GOOD FAITH.*

The auditor is not to be an appraiser in the sense that he is to determine the value of the licensee's securities. He is, however, expected to review the methods and evidential matter used by the Board of Directors or General Partner(s) in their determinations of fair value. He is further expected to comment in his report on the

reasonableness of such practices and adequacy of such information.

K. 3 Percent Cumulative Preferred Stock

As part of the leverage fund provided to a 301(d) licensee, SBA may purchase 3 percent cumulative preferred stock, which while considered to be part of equity, is not considered paid-in capital or paid-in surplus for leverage or regulatory purposes.

The rights of the preferred stockholder (SBA) are set forth in § 107.203 of the SBA Regulations.

L. Unrealized Gain (Loss) on Securities Held

Unrealized Gain (Loss) on Securities Held represent the estimated net gain (loss) after tax effect, if any, that the licensee would realize if the loans and investment were sold at the statement date, but as if in the normal course of business.

1. *Unrealized Appreciation on Securities Held*—This is the amount by which fair value of the licensee's loans and investment exceed cost.

2. *Unrealized Depreciation of Securities Held*—This is the amount by which fair value of the licensee's loans and investments is less than cost. Included in unrealized depreciation are items such as allowances for losses, temporary declines, and mortgage discounts.

3. Estimated Income Taxes

a. *Corporate licenses*—This is a provision for taxes on the net amount of unrealized appreciation or (depreciation) and the offset being a deferred credit or deferred charge.

b. *Limited Partnership licenses*—No provision for estimated income taxes is necessary since partnerships do not pay income taxes.

The auditor should recognize that Unrealized Gain (Loss) on Securities Held results from valuation of loans and Investments by the licensee's Board of Directors. Such valuation usually is a judgemental estimate which involves uncertainties that are difficult to quantify. Accordingly, the reliability of the unrealized gain (loss) on securities held will not be as great as realized gain (loss) on sale of securities because the latter is based on transactions that are objectively measurable.

M. Undistributed Realized Earnings

Undistributed Realized Earnings is the cumulative balance of periodic net investment income including realized gain (loss) on securities sold.

1. *Corporate Licensees*—less dividend distributions whether cash, stock or dividends in kind. Included are non-cash

gains on securities sold, i.e. notes, securities or other assets received.

2. *Limited Partnership Licensees*—less distributions to partners, general or limited, whether cash or property in kind. Included are non-cash gains on securities sold, i.e. notes, securities or other assets received. Such non-cash gains will not be available for capitalization or dividends until such assets are converted to cash. Accordingly, undistributed realized earnings will be reflected in two capital accounts: (1) Non-Cash Gains-Income; and (2) Undistributed Net Realized Earnings.

3. Non-cash income from the following sources is to be reported on the equity method:

- (a) Corporate Licensee from a
 - (i) Parent and/or
 - (ii) Subsidiary
- (b) Partnership Licensee from
 - (i) Partner (general or limited) and/or
 - (ii) Wholly owned investment or management company which results in an unpaid receivable.

VI. Other Matters

The independent auditor shall satisfy himself that investment company accounts not specifically mentioned in this audit guide or the AICPA Audit Guide are maintained in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards for other commercial enterprises.

A. Compensating Balances

In those instances where idle funds are encumbered or are being used as "compensating balances," the nature and extent of such encumbrance will be disclosed in a note to the financial statements.

If the compensating balance is a formal arrangement, the funds should be reclassified to either other current assets or other assets, whichever would be appropriate.

B. Taxes

Licensees receive special tax treatment in a number of areas. The effect is to allow certain exclusions or additional deductions without the limitations prescribed for other corporations.

A licensee operating under the 1958 Act is allowed a 100 percent dividends received deduction for dividends received by it from a taxable domestic corporation. To claim this 100 percent deduction the licensee must file with its return a statement that it was a Federal licensee under the 1958 Act at that time of the receipt of the dividends.

An ordinary loss, rather than a capital loss, can be taken on the sale or exchange of security investments in convertible debentures or stocks acquired pursuant to the conversion privileges of such debentures. Capital losses on other investments receive no special treatment. A licensee must submit with its tax return a statement that it is a Federal licensee under the 1958 Act setting forth the name and address of the small business concern with respect to whose securities the loss was sustained, the number of shares of stock or the number or denomination of bonds, the basis and selling price, and the respective dates of purchase and sale or the reason for their worthlessness and the approximate date thereof.

Special provisions are provided for reserve for losses on loans of licensees and they may obtain special treatment for net operating losses and may be excluded from the definition of a personal holding company. The independent auditor should assure himself that he is familiar with the most recent changes in the IR Code concerning the operating losses or other matters affecting the licensee.

A shareholder in a licensee may treat a loss on stock as an ordinary loss and in the case of a noncorporate shareholder such loss is considered a loss from a trade or business.

Finally, there is no excess accumulated earnings tax assessed to a licensee provided it utilizes such earnings and profits for additional loans and investments.

IRS has recently changed the rules on Subchapter S Corporations. Licensees should seek knowledgeable tax counsel prior to any decision.

C. Notes and Debentures Payable to or Guaranteed by SBA

A primary advantage of the SBIC program is the ability of licensees to acquire long-term leverage funds from SBA. Usually the terms and conditions set forth in § 107.203(b) of SBA Rules and Regulations are incorporated in the debenture as covenants to the agreement.

Section 107.203(b)(1)(iii) provides that the entire indebtedness of the licensee may be declared immediately due and payable for:

* * * Failure of the licensee, as determined by SBA, to comply with any one or more of the provisions of the Act or Regulations promulgated thereunder, as they may be amended from time to time * * *

Demand in such cases will be made in a letter from SBA specifying the violations that have occurred and that

funds owed the SBA are due and payable in accordance with the acceleration provisions of the debentures. The violations which cause demand to be made are usually those which are significant and include such areas as conflicts of interest, control of small business concerns by the licensee, overline investments and any other such major acts which might be determined by SBA to be contrary to the Act and Regulations. It should be noted that in such cases demand is viewed as a means to protect the SBA's position as a creditor usually after other efforts have been unsuccessful.

In those instances where the licensee fails to maintain either the capital requirement or the investment ratio (See Section 303(b)(2) of the Act or §§ 107.203(b)(6) and 107.203(d) of the Regulations) SBA may, in its discretion, upon written notice consider part or all of the licensee's long-term debt to be due and payable. Written notice is not required, however, for the long-term debt to be considered due and payable when any of the four conditions set forth in § 107.203(b)(2) exist.

Should the auditor have difficulty in determining whether demand has been or is about to be made on such long-term indebtedness, he may consider requesting a positive confirmation from the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, as to whether the licensee is in violation of the Act or regulation as of the statement date and as a result whether demand is being made by SBA on the long-term debt.

D. Licensees Regulated Under the Investment Company Act of 1940

Licensees that are regulated by SEC under the Investment Company Act of 1940, shall also comply with the Fidelity Bond requirements set forth in Section 270.17g-1 of the SEC Rules and Regulations. Therefore, SBICs that are regulated by SEC under the 1940 Act are to comply with such requirements.

VII. Reporting Requirements—Specifics

A. General

The financial statements of Licensees are directed to the presentation of financial position, changes in financial position, results of operations and supporting schedules. Such statements and schedules constitute the Financial Report, SBA Form 468, and are required to be presented in the prescribed format.

The financial statements required for Licensees differ in certain respects from those suggested in the AICPA's Audit Guide. Such deviations are not at variance with generally accepted accounting principles and reporting

practices. The opening paragraphs of Chapter 7 of the AICPA's Guide support this view:

"The financial statements illustrated in this chapter are for typical open-end management investment companies and may need to be modified to fit the requirements of other types of investment companies."

"In all instances, the management of investment companies and the auditor should be cognizant of the need for reporting in a manner which properly highlights significant information of shareholders and other interested parties. Content and format of reports required by regulatory authorities, e.g., the Securities and Exchange Commission and Small Business Administration, are, of course, governed by the requirements of the applicable form and related rules, regulations, and instructions."

The Financial Report (SBA Form 468) with supporting schedules, is designed to present the licensee's financial statements as audited by the independent public accountant. Accordingly, the statements are based on the transactions recorded in the accounts.

The Financial Report contains standard statements and schedules. Therefore, when a particular statement or schedule does not apply to the licensee's operations, it should be omitted. For example, if the licensee did not sell securities during the period, the Statement of Realized Gain (Loss) on Sale of Securities would be omitted. The Financial Report, therefore, should be "tailored" to fit the licensee's given situation.

Such tailoring, however, does not include deviating from accounting and reporting practices prescribed in the Audit Guide or System of Account Classification.

B. Financial Report Heading

Set forth in the appropriate spaces the information called for representing the identification and the principal office address of the licensee. As to the employer identification number, enter the number assigned to the licensee by the U.S. Treasury Department. If such number has not yet been assigned, an Application for Employer Identification Number, Form SS-4, shall be submitted to the U.S. Director of Internal Revenue for the area in which the licensee's principal office is located.

The preparer of this report should keep in mind that amounts are to be rounded to the nearest dollar.

The following is a detailed discussion as to how the statements are prepared.

Overview of Licensee's Operations

The "overview" is intended to be a summary of the licensee's operations for the period completed viewed from the standpoint of the licensee's management. It should highlight significant events affecting the licensee's operations that would assist the reader in understanding the data contained in the report.

It should be limited to information not otherwise made available to SBA and contain interpretive analysis of specific data contained elsewhere in the report.

The overview is intended to be a brief narrative summary of the licensee's operations during the year recently completed. It should summarize activities involving such things as applications for funding received from small business concerns, financings made, management assistance provided, etc.

In those instances where the licensee has assets acquired in liquidation, progress toward disposing of such assets should be summarized. The overview should include comment on matters relating to SBA Regulations and other matters of interest considered appropriate.

It is also contemplated that the overview will include success stories where they occur, have been accomplished, and can be measured.

Regarding the coming year, significant events expected to occur and that will affect the licensee's operations in the coming year should be highlighted.

C. Statement of Financial Position

This statement is designed to measure the licensee's financial position as of the statement date in a conventional balance sheet format. Because of their significance, loans and investments are presented before current or other assets. Likewise, long-term debt is shown before current or other liabilities.

1. *Assets*—are grouped according to Loans and Investments, Investment in 301(d) Licensee, Current Assets and Other Assets.

a. *Loans and Investments* as grouped into four categories:

(1) *Portfolio Securities*—are those securities of small business concerns obtained through providing financing.

(2) *Assets Acquired in Liquidation of Portfolio Securities*—are those securities or other assets the licensee has acquired by taking action to protect its investment. Such assets are grouped according to receivables from debtors, and other assets acquired.

(3) *Operating Concerns Acquired*—represents the total investment in

portfolio concerns where action was necessary to protect the licensee's investment. This will include only operating concerns over which the licensee has acquired control or has the power to control either individually or in concert with other licensees.

(4) *Other Securities*—are those securities the licensee holds that did not result from providing financing to small business concerns. Other securities will result when portfolio securities or assets acquired are sold and part of the net sales price is notes, or other securities. Also, dividends in kind from portfolio concerns would be classified as other securities.

Loans and investments are shown at cost and through adjustments for unrealized appreciation and unrealized depreciation arrive at their value.

b. *Investment in 301(d) Licensee*—is a unique investment in that the nature and purpose of the investee is similar to that of the investors. Also, the investor actively participates in the management of the investee. For those and other reasons, investments in 301(d) licensees are not classified as Loans and Investments but are shown as a separate asset group on the Statement of Financial Position. Such investments will be carried on the equity method of accounting.

c. *Current Assets*—are those assets that are cash, expected to be converted to cash or are expected to be expensed in the next operating business cycle; i.e., one year from the statement date. While current assets are not grouped as such for other investment companies, regulatory purposes require such a grouping for SBICs.

d. *Other Assets*—are those assets that are not otherwise explained above. Included are furniture and equipment, deferred charges, funds in escrow and other items.

e. *Memorandum Assets*—are worthless investments, each of which has been written down to \$1.00 and a corresponding allowance for loss of \$1.00 has been established. The independent accountant will comment in the audit report, by a footnote on the disposal of any security in this category.

2. *Liabilities*—are classified according to long-term debt, current liabilities and other liabilities.

a. *Long-Term Debt*—includes debt of the licensee net of current maturities. Such debt is grouped according to that which is payable to or guaranteed by SBA and that which is payable to others.

b. *Current Liabilities*—are those liabilities requiring the payment of cash during the next business cycle; i.e., 12 months from the statement date.

Included are accounts payable, accrued interest and taxes payable, current maturities on long-term debt, dividends payable, distributions payable to partners and other current items.

Other Liabilities—are those liabilities not otherwise classified and include trust receipts, deferred credits and other items.

3. *Corporate Capital Accounts*—are grouped according to paid-in capital and surplus, 3 percent preferred stock sold to SBA, unrealized gain (loss) on securities held and undistributed realized earnings.

a. *Capital Stock and Paid-In Surplus*—represents the licensee's capital which is the first component used to compute the licensee's regulatory capital for leverage and overline purposes.

b. *3% Preferred Stock Issued to SBA*—while such preferred stock by the nature of the instrument is equity, it is not considered paid-in capital and paid-in surplus; rather it is a part of the leverage funds obtained by a 301(d) licensee from SBA.

c. *Unrealized Gain (Loss) on Securities Held*—is the net unrealized appreciation on securities held after an allowance for taxes as of the statement date. This is the amount in column 2 line 13, on the Statement of Unrealized Gain (Loss) on Securities Held if a corporation or the amount of column 2 line 11 of a partnership.

d. *Undistributed Realized Earnings*—represents the cumulative balance of periodic net investment income and realized gain (loss) on securities sold, less dividend or distributions. Undistributed realized earnings is composed of:

(1) *Non-Cash Gains/Income*—which represent notes, securities or other assets received as part of the net sale price when securities are sold and, non-cash income from investments reported on the equity method of accounting.

(2) *Undistributed Net Earnings Realized*—which represents undistributed earnings realized net of: (a) Non-cash gains on sale of securities; (b) non-cash income from investments reported on the Equity Method of Accounting.

4. *Retained Earnings Computation*—in note form above the Statement of Undistributed Realized Earnings is designed to set forth "retained earnings" on the same basis and in the same manner as it was reviewed on the cost basis. Such Retained Earnings will be the basis for dividend declaration (whether cash or stock) or the basis for capitalizing earnings by corporate resolution.

"Retained Earnings" is Undistributed Net Realized Earnings reduced by allowances for losses that have been established on Loans and Investments. The allowance for loss should not be less than the net amount by which unrealized depreciation exceeds the unrealized appreciation.

Treasury Stock is a restriction on the amount of Retained Earnings available for distribution.

5. *Partnership Capital Accounts*—are grouped according to Partner's Permanent Capital Contribution (paid-in cash and capitalized retained earnings), Unrealized Gain (Loss) on securities held, non-cash on sale of securities and undistributed net-realized earnings.

a. *Partners Permanent Capital Contribution*—represents cash paid in to acquire a partnership interest plus any undistributed net realized earnings transferred to partner's permanent capital contribution which is the basis for leverage and other regulatory purposes.

b. *Unrealized Gain (Loss) on Securities Held*—is the net unrealized appreciation on securities held as of the statement date. This is the amount in column 2, line 11, on the Statement of Unrealized Gain (Loss) on Securities Held.

c. *Non-Cash Gains/Income*—which represent notes, securities or other assets received as part of the net sale price when securities are sold, and non-cash income from investments reported on the equity method of accounting.

d. *Undistributed Net Realized Earnings (Earned Capital)*—represents the cumulative balance of periodic net investment income and realized gain (loss) on securities sold less partnership distributions.

6. *Partners Earned Capital Computation*—in note form above the statement of undistributed realized earnings is designed to set forth "retained earnings" on the same basis and in the same manner as it was viewed on the cost basis. Such "Earned Capital" will be the basis for partnership distributions (whether cash or in kind) or the basis for capitalizing earnings by agreement of the partners in accordance with the partnership agreement.

"Retained Earnings" is Undistributed Net Realized Earnings reduced by allowances for losses that have been established on Loans and Investments

General Discussion of Partnership Capital Accounts Regulatory Problems

Regulations governing SBICs create very special and unique requirements for the accounting of Partners' Capital

Accounts. Normal partnership accounting requires only one capital account for each partner. Depending on the partnership agreement there may be additional accounts for partner's salaries interest on partners' capital invested, and/or partners' drawing accounts. At the end of the fiscal year all of the partner's other accounts are closed to the partner's capital account in addition to the partners' share of the results of operations for the year.

Some limited partnership agreements divide the partnership capital between: (1) Partnership Permanent Capital; and (2) Partnership Earned Capital.

SBICs, who have adopted the limited partnership form of organization, must, because of regulatory requirements, keep the partners' capital accounts divided into four subsections. Each subsection and the legal reason requiring the subsection will be discussed separately. The four subsections are: (1) Partner's Permanent Capital Contribution; (2) Partner's Unrealized Gain on Securities Held; (3) Partners Non-cash Gain/Income (restricted capital); and (4) Partners Undistributed Net Realized Earnings (Earned Capital). The sum of these four accounts is the equivalent of the partnership capital account of a non-SBIC partnership. The SBIC must also keep the general partners and limited partners shares of each of the four capital accounts separate which creates eight capital accounts as control accounts. The SBIC will, either by subsidiary or memorandum accounts, keep a record for each partner, general or limited.

Partners' Permanent Capital Contribution

The balances shown in these accounts are the amount of cash contributed by each partner to the partnership less any reductions to permanent capital. Any reductions of permanent capital in excess of two percent in any fiscal year must receive prior approval from SBA. These balances after the adjustments required by regulation then constitute "Regulatory Capital" for first, the amount of capital that will be leveraged by SBA and second, the amount of capital that determines the legal maximum amount of any investment in a small business concern without requiring SBA approval for an "Overline". Partners' Permanent Capital Contribution performs the same function for the partnership as "Capital Stock" and "Capital Surplus Contributed in Excess of Par Value" perform in a corporation.

Partners' Net Realized Gains and Partners Non-Cash Gains Income

A limited partnership which was not subject to the legal requirements of an SBIC would have a single account titled "Earned Capital". Distributions to either general or limited partners would be charged to this account. SBA rules and regulations, however, permit distributions to be made only from gains realized in cash or cash income from investments reported on the equity method of accounting. "Earned Capital" is therefore divided into two accounts;

1. Partners' Net Realized Gain, and
2. Partners' Non-cash Gains/Income.

Distributions may only be made to partners to the extent that Partners' Net Realized Gains has a credit balance.

Partners' Unrealized Gains on Securities Held

Investment companies report on the value basis rather than on the cost basis for their investments. This account has many of the characteristics of either appraisal surplus for a corporation or recognized goodwill on the admission of a new partner in a non-investment partnership. Normal practice, in a non-investment partnership, for the

admission of a new partner by investment in the partnership or the withdrawal of a partner from the partnership requires agreement by all parties on the current market value of the assets to determine the proper price to be paid by a new partner for admission or to the partner who is withdrawing.

Example of a non-investment partnership where the earnings have been closed to the partners' capital accounts: A and B's capital accounts are \$15,000 and \$10,000. They share in the net asset and gains and losses 60% and 40%. C wishes to be admitted to the partnership with an interest in the net assets and gains and losses equal to A. C is willing to pay \$18,000 for this interest. If A's 60% share of the "goodwill" (unrealized profits) is \$3,000 then B's share is equal to \$2,000, i.e., $[(\$3,000 \div .60) \times .40]$. Recognition of the goodwill on the books of the partnership and the admission of C would require the following entries:

1. Dr. Goodwill.....	\$5,000
CR. A. Capital.....	\$3,000
CR. B. Capital.....	\$2,000
2. Dr. Cash.....	\$18,000
CR. C. Capital.....	\$18,000

Entries	Goodwill	Net other assets	Capital section		
			A	B	C
Prior to the Admission of C.....		\$25,000	\$15,000	\$10,000	
Entry 1.....	\$5,000		3,000	2,000	
Entry 2.....		18,000			\$18,000
After the Admission of C.....	5,000	43,000	18,000	12,000	18,000

In an investment company the use of value accounting under the same conditions would be shown as follows:

Entries	Net	Unrealized appreciation	Capital section		
			A	B	C
Prior to the Admission of C Assets at Cost.....	\$25,000				
Unrealized Appreciation.....	5,000				
Assets at Value.....	30,000	\$5,000	\$15,000	\$10,000	
Admission of C.....	18,000				\$18,000
After the Admission of.....	48,000	5,000	15,000	10,000	18,000

The unrealized appreciation, which in some ways corresponds to goodwill, is a permanent capital account in the capital section of an SBIC and the investments on the asset side are shown at value rather than cost. The admission of a new partner or the withdrawal of an existing partner may result in an adjustment to one or more investments

which would require an adjustment to the asset and an offsetting adjustment to either Unrealized Gain (Loss) on Securities Held or Non-cash Gains/Income.

In the example of the difference between reporting on a cost basis, a value basis and a basis required by SBA Regulation it was assumed that the

general partners and limited partners split all gains, income and losses 20% and 80% respectively.

On the cost basis "Earned Capital" of \$35,000 is split between general and limited partners \$7,000 and \$28,000. On the value basis a new account "Unrealized Appreciation and Securities Held" of \$40,000 appears which is split between general and limited partners \$8,000 and \$32,000. Since SBA will not permit non-cash gains/income to be distributed the account "Earned Capital" is replaced by two accounts labeled: (1) "Partners Non-cash Gains/Income"; and (2) "Partners Net Realized Gain." In the example the "Earned Capital" of \$35,000 consisted of \$15,000 of "Non-Cash Gains/Income" and \$20,000 of "Net Realized Gain." The \$15,000 of Non-cash Gain/Income is divided \$3,000 and \$12,000 to the general and limited partners and the \$20,000 is pro-rated to the general and limited partners in the amounts of \$4,000 and \$16,000.

**BALANCE SHEET OF THE LIMITED PARTNERSHIP
AT THE END OF THE YEAR 1 AS DETERMINED
BY THREE DIFFERENT BASIS OF ACCOUNTING**

Balance sheet	Cost basis	Value basis	SBA regulatory basis
Cash	\$11,000	\$11,000	\$11,000
Investments	40,000	80,000	80,000
Notes Receivable	15,000	15,000	15,000
Total Assets	66,000	106,000	106,000
Liabilities	5,000	5,000	5,000
Capital Section:			
General Partners' Permanent Capital	1,000	1,000	1,000
General Partners' Unrealized Gain on Securities Held		8,000	8,000
General Partners' Non-cash Gains/Income			3,000
General Partners' Net Realized Gain			4,000
General Partners' Earned Capital	7,000	7,000	
Total General Partners' Capital	8,000	16,000	16,000
Limited Partners' Permanent Capital	25,000	25,000	25,000
Limited Partners' Unrealized Gain on Securities Held		32,000	32,000
Limited Partners' Non-cash Gain/Income			12,000
Limited Partners' Net Realized Gain			16,000
Limited Partners' Earned Capital	26,000	26,000	
Total Limited Partners' Capital	53,000	85,000	85,000
Total Partners' Capital	61,000	101,000	101,000
Total Liabilities and Partners' Capital	66,000	106,000	106,000

Description by Line Item—The following is a description by line item as to how the amounts shown on this statement are developed.

Item 1, Loans—In column 1, show the balance of account 170 less the balance

of account 173. In column 2, show the balance of account 172. In column 3, show the balance of account 171.

Item 2, Debt Securities—In column 1, show the aggregate of balances in accounts 180 and 184 less account 188. In column 2, show the balance of account 187. In column 3, show the balance of account 186.

Item 3, Equity Interests—In column 1, show the aggregate of balances in accounts 190, 191, 194 and 197. In column 2, show the aggregate of balances in account 193, 196, and 199. In column 3, show the aggregate of balances in account 192, 195, and 198.

Item 4, Total—Show the total of Items 1, 2, and 3 which represents the total of portfolio securities.

Item 5, Receivables from Debtors on Sale of Assets Acquired—Show in column 1 the balance of account 200 and in column 2 the balance of account 203.

Item 6, Assets Acquired—In column 1, show the balance in account 204. In column 2, show the balance in account 206 and in column 3, show the balance of account 205.

Item 7, Total—State the aggregate of Items 5 and 6 which represents the total of assets acquired in liquidation to portfolio securities.

Item 8, Operating Concerns Acquired—Show in column 1 the balance of account 210, in column 2 the balance of account 212 and in column 3 the balance of account 211.

Item 9, Notes and Other Securities Received—Show in column 1 the aggregate of balances in accounts 220 and 221. In column 2, show the balance in account 223 and in column 3 show the balance of account 222.

Item 10, Total Loans and Investments—State the aggregate of Items 4, 7, 8, and 9 which represents the total of loans and investments.

Item 11, Less Current Maturities—Show the aggregate of balances in accounts 150 through 154.

Item 12, Loans and Investments Net of Current Maturities—Show the amount stated in Item 10, column 4 less the amount shown in Item 11.

Item 13, Investment in 301(d) Licensee—When a licensee has an investment in a 301(d) licensee, the name and license number of the investee should be shown in the space provided, the balance shown in account 160 should be shown.

Item 14, Cash—Show the aggregate of accounts 100 through 120.

Item 15, Invested Idle Funds—Show the aggregate of accounts 130 through 138.

Item 16, Interest and Dividends Receivable—Show the aggregate of balances in accounts 143 and 145.

Item 17, Notes, Accounts Receivables, and Receivables from Parent—Show the aggregate of balances in accounts 140, 141 and 146.

Item 18, Less: Allowance for Losses—Show the aggregate of balances in accounts 142 and 144.

Item 19, Current Maturities of Portfolio Securities—Show the balance of account 150.

Item 20, Current Maturities of Operating Concerns Acquired—Show the balance of account 152.

Item 21, Current Maturities of Operating Concerns Acquired—Show the balance of account 153.

Item 22, Current Maturities of Other Securities—Show the balance of account 154.

Item 23, Other Current Assets—Show the balance of account 156.

Item 24, (a), Furniture & Equipment—Show the balance of account 240.

Item 24, (b), Less: Accumulated Depreciation—Show the balance of account 241.

Item 25, Other—Show the aggregate of balances of accounts 230, 231, 250, 251, 252, 265 through 269.

Item 26, Total Assets—Show the aggregate of Items 12, 13 and 14 through 25.

Memorandum Accounts (A and B):

A. Show an amount equal to \$1 for each account written off but not physically disposed of.

B. Show an allowance for loss equal to "A."

Corporations

Item 27, Notes and Debentures Payable to or Guaranteed by SBA—Show the aggregate of balances in accounts 300, 301 and 310.

Item 28, Notes and Debentures Payable to Other—Show the aggregate of balances in accounts 311, 312, 313 and 320.

Item 29, Total—Show the aggregate of Items 27 and 28.

Item 30, Accounts Payable and Accounts Payable Due Parent—Show the balance of account 340 and 341.

Item 31, Accrued Interest Payable—Show the balance of account 350.

Item 32, Accrued Taxes Payable—Show the aggregate of balances in accounts 351 and 354.

Item 33(a), Current Maturities of Line 27—Show the balance of account 330.

Item 33(b), Current Maturities of Line 28—Show the balance of account 331.

Item 34 for Corporations, Dividends Payable—Show the aggregate of balances in accounts 360 through 364.

Item 35, Other Current Liabilities—Show the balance of account 358.

Item 36, Total—Show the aggregate of Items 30 through 35.

Item 37, Trust Receipts—Show the aggregate of balances in accounts 370, 374, and 378.

Item 38, Deferred Credits—Show the balances of accounts 380 and 383.

Item 39, Other Liabilities—Show the balance of account 390.

Item 40, Total Liabilities—Show the aggregate of Items 29 and 36 through 39.

The following accounts are applicable only to corporate licensees and are to be reported on the Statement of Financial Position for corporations.

Item 41, Capital Stock—Show the aggregate of balances in accounts 400 through 414.

Item 42, Paid-in Surplus—Show balance of account 420.

Item 43, Paid-In Capital Stock and Surplus—Show the aggregate of items 41 and 42.

Item 44, 3% Preferred Stock Issued to SBA (301(d) Licensee's Only)—Show the balance of account 430.

Item 45, Unrealized Gain (Loss) on Securities Held—Show the aggregate of balances of account 440 less 445 and 448.

Item 46, Non-Cash Gain/Income—Show the balance of account 450 and 463.

Item 47, Undistributed Net Realized Earnings—Undistributed Net Realized Earnings is the amount of realized earnings minus the amount of non-cash gains and non-cash income from investments reported on the equity method of accounting. This will be the amount of account 451. Treasury Stock is a restriction on the amount of earnings available for distributions to stockholders. Capitalization of retained earnings by a credit to Capital Stock and/or Paid-in Surplus is a distribution to stockholders.

Item 47(a), Restricted-Equal to Cost of Treasury Stock—Show the aggregate of the balances in accounts 415 through 419.

Item 47(b), Free—This is the amount of undistributed net realized earnings available for distribution if there is a restriction due to the presence of Treasury Stock. The amount to be shown as Item 47(b) is the difference between Account Number 451 and the amount shown as Item 47(a). If Account Number 451 has a debit balance do not report the cost of Treasury Stock as Item 47(a). If the licensee does not have Treasury Stock Item 47(b) and Item 47(c) will be identical. In such instance it will be necessary to complete both Item 47(b) and 47(c) since Item 47(b) is

required for other computations on the Form 468.

Item 47(c), Subtotal—This is the sum of Items 47(a) and 47(b).

Item 48, Undistributed Realized Earnings—Show the aggregate of Items 46 and 47.

Item 49, Total—Show the aggregate of Items 43, 44, 45 and 48.

Item 50, Less Cost of Treasury Stock—Show the sum of the balances in Account Numbers 415 through 419.

Item 51, Total Capital—Subtract Item 50 from Item 49.

Item 52, Total Liabilities and Capital—Add Item 40 and Item 51.

D. Statement of Undistributed Realized Earnings (Page 5 Corp.)—This statement is designed to analyze the activity in undistributed realized earnings by non-cash gains/income and undistributed net earnings realized. The ending balances of this statement are the same as items 46 through 48 on the Statement of Financial Position.

Column 1: Non-Cash Gains activity can be determined by reviewing account 450 and 463.

Column 2: Undistributed Net Earnings activity can be determined by reviewing account 451.

1. **Beginning Balance**—In column 1, show the beginning balances of accounts 450 and 463 and in column 2, show the beginning balances of account 451. These amounts should agree with the ending balances shown on the statement for the prior period.

2. (a) **Net Investment Income**—State as Non-cash income undistributed net earnings a applicable that amount shown as item 33 on the Statement of Operations Realize.

(b) **Realized Gain (Loss) on Sale of Securities**—Show the balances in accounts 461 and 462.

(c) **Non-cash Gains on Distributions In Kind**—In column 1 report the amount of unrealized gains on any distributions in kind during the period covered by this report.

3. **Adjustments: Collections of Non-Cash Gains**—Will be a decrease in column 1 "Non-Cash Gains" and will be an increase in column 2 "Undistributed Net Earnings." There will be no effect on column 3, "Total."

4. **Total**—Aggregate of lines 1, 2, and 3.

5. **Deductions:**

(a) and (b)—Are to be paid out of undistributed net earnings only. Therefore, dividends will be entered in column 2.

(c) **Dividends in Kind**—Column 1 show the amount of non-cash gain reported in column 1 item 2(c). In column 2 show the cost of the asset being distributed. The total shown in

column 3 is the value as reported for the asset on the SBA Form 468 immediately prior to the distribution.

6. **Ending Balance**—is determined by subtracting 5(e) "Total Deductions" from item 4 which represents the beginning balance plus additions.

E. Statement of Operations Realized—Corporation

This statement is designed to measure separately Net Investment Income (Loss) and Realized Gain (Loss) on Sale of Securities. Such measurement is of realized operations only and is on the accrual basis of accounting.

1. **Net Investment Income**—is the result of measuring revenue and expense associated with investment and management assistance activities of a licensee other than realized gain (loss) on securities sold. Revenue is organized by source; i.e., from portfolio, from services provided, or from other sources.

Provision for taxes is the final measurement prior to determination of Net Investment Income.

2. **Realized Gain (Loss) on Sale of Securities**—is a function of operations that is measured separately from Net Investment Income. While the Statement of Realized Gain (Loss) on Sale of Securities provides a detailed analysis of realized gain or losses, the Statement of Operations shows in the aggregate, net sales price of securities sold during the period, the cost of such securities sold and a provision for taxes on the resulting gain. The remainder becomes net realized gain (loss) on sale of securities.

Although an allowance for loss on securities may be established for valuation and in some cases tax purposes, such allowances when provided are not reflected as an expense in measuring investment income. Rather, they are measured in the Statement of Unrealized Gain (Loss) on Securities Held as a component of unrealized depreciation which is an offset against unrealized appreciation. For this reason, the entire loss is reported in this statement when realized and the allowance for loss on the security is reduced by the amount of allowance previously established.

3. **Description by Line Item**—The following is a description by line item as to how the amounts shown on the Statement of Operations Realized are developed.

a. **Investment Income**—the amounts shown in items 1 through 33 of this statement are derived primarily from the general ledger accounts as follows.

Item 1, Interest on Loans and Debt Securities—Show the aggregate of balances in accounts 512, 516 and 541.

Item 2, Dividend Income—Show the balance of account 540.

Item 3, Income from Investments Reported on The Equity Method of Accounting—Show the balance of Account 542.

Item 4, Management Services—Show the balance of account 532.

Item 5, Application and Other Fees—Show the aggregate of balances in accounts 500, 534 and 536.

Item 6, Interest on Invested Idle Funds—Show the balance of account 510.

Item 7, Income from Assets Acquired in Liquidation of Portfolio Securities—Show the balance of account 582 net of the balance of account 710. Also, show the balance of account 710 parenthetically.

Item 8, Other Income—Show the aggregate of balances in accounts 520 and 584.

Item 9, Gross Investment Income—Show the aggregate of items 1 through 8.

Item 10, Interest on Long-term Debt—Show the aggregate of balances in accounts 610 and 622.

Item 11, Commitment Fees—Show the balance of account 600.

Item 12, Other Financial Costs—Show the balance of account 642.

Item 13, Officer Salaries—Show the balance of account 663-1.

Item 14, Employee Salaries—Show the balance of account 663-2.

Item 15, Employee Benefits—Show the balance of account 670.

Item 16, Investment Advisory and Management Service—Show the balance of accounts 659 and 660.

Item 17, Director's and Stockholder's Meetings—Show the balance of account 657-1.

Item 18, Advertising and Promotion—Show the balance of account 650.

Item 19, Appraisal and Investigation—Show the balance of account 651.

Item 20, Communication—Show the balance of account 653.

Item 21, Legal Fees—Show the balance of account 661.

Item 22, Travel Expense—Show the balance of account 665.

Item 23, Cost of Space Occupied—Show the balance of account 654.

Item 24, Depreciation & Amortization Expense—Show the aggregate of balances in accounts 655 and 656.

Item 25, Audit and Examination Fees—Show the balance of account 652.

Item 26, Insurance Expense—Show the balance of account 658.

Item 27, Taxes Expense (Excluding Income Taxes)—Show the balance of account 664.

Item 28, Provision for Losses on Receivables—Show the balance of account 680.

Item 29, Miscellaneous Expenses—Show the aggregate of balances in accounts 672, 679, and 715.

Item 30, Total Expenses—Show the aggregate of items 10 through 29.

Item 31, Net Investment Income Before Provision for Income Taxes—Show the balance of amount of item 9 less item 30.

Item 32, Provision for Income Taxes—Show the balance of account 720.

Item 33, Net Investment Income (Loss)—Item 31 minus Item 32.

Item 34, Net Sales Price—Show net sales price.

Item 35, Cost of Securities Sold—Show cost.

Item 36, Net Prior to Income Tax Provision—Line 34 minus line 35.

Item 37, Provisions for Income Taxes—Show amount of Income Taxes, if any, applicable to Gains on sale of securities.

Item 38, Realized Gain (Loss) on Sale of Securities—Item 36 minus Item 37.

Analysis of Capital Stock, Paid-in Surplus and Computation of Regulatory Capital—

Line 1 Enter the amount shown on Form 468 as the balance at the end of the prior fiscal period.

Line 2(a) Capital Stock Issued for Cash—In column 1 enter the amount of par value or stated value of the stock issued. In column 2 enter the amount of cash received in excess of par or stated value. In column 3 enter the total of columns 1 and 2.

Line 2(b) Stock Dividends Issued for Capitalized Free Undistributed Net Realized Earnings—In column 1 enter the amount of par value or stated value of the stock issued. In column 2 enter the amount of fair market value of the stock in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2. This amount will be the amount charged against retained earnings.

Line 2(c) Capital Stock Issued for Services Rendered—In column 1 enter the amount of par or stated value of the stock issued. In column 2 enter the amount of fair market value of the services rendered in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2.

Line 2(d) Capital Stock Issued for Assets Other than Cash or Services—In column 1 enter the amount of par or stated value of the stock issued. In column 2 enter the amount of fair market value of the asset in excess of

the par or stated value of the stock. In column 3 enter the total of columns 1 and 2.

Line 2(e) Gain on Sale of Treasury Stock—Enter the amount of gain on the sale of treasury stock in columns 2 and 3.

Line 2(f) Other Credits—Enter the amount of the credit in either column 1 or 2 or both and column 3.

Line 3 Total Additions—Enter the total of lines 2(a) through 2(f) of columns 1, 2, and 3.

Line 4 Subtotal—The total of line 1 and lines for columns 1, 2 and 3.

Line 5(a) Retirement of Capital Stock—In column 1 enter the amount of par or stated value of the stock being retired. In column 2 enter the amount appropriate to the particular circumstances. In column 3 enter the total of columns 1 and 2.

Line 5(b) Loss on Sale of Treasury Stock—Enter the amount of loss in columns 2 and 3 but not in excess of the balance of Paid-in Surplus.

Line 5(c) Distributions in Partial Liquidation—Enter the amount of the partial liquidation in either column 1 or 2 or both, appropriate to the facts and in column 3.

Line 5(d) Other Debits—Enter the amount of the debit in either column 1 or 2 or both and column 3.

Line 6 Total Deductions—Enter the total of lines 5(a) through 5(d) of columns 1, 2 and 3.

Line 7 Balance at the End of the Fiscal Period—Subtract line 6 from line 4 for columns 1, 2 and 3.

Line 8(a) Organization Expense—Enter the amount of organization expense whether or not amortized.

Line 8(b) Capital Stock Issued for Services—Enter the amount credited to both Capital Stock and Paid-in Surplus for services since date of organization.

Line 8(c) Capital Stock Issued for Assets Other than Cash or Services—Enter the amount credited to both Capital Stock and Paid-in Surplus for assets other than cash or services since date of organization. At such time as the asset is converted to cash the amount of cash received may be considered to have been for stock issued. An adjustment to Paid-in Surplus may be necessary when the asset is converted to cash.

Line 8(d) Other Non-monetary Items—Enter the amount of other non-monetary items credited to either Capital Stock or Paid-in Surplus or both since date of organization.

Line 8(e) Investment in 301(d) Licensee—Enter the amount of investment in 301(d) licensee.

Line 8(f) Treasury Stock at Cost—Enter the cost of Treasury Stock.

Line 8(g) Other—Enter any other necessary adjustments.

Line 9 Total Regulatory Adjustments—Enter the sum of lines 8(a) through 8(f).

Line 10 Regulatory Capital for Leverage Purposes—Subtract line 9 from line 7 and enter.

Line 11 Net unrealized gains as defined by § 107.301(b)—Go to Note 5 prepare the necessary information and enter the result here.

Line 12 Regulatory Capital for Overline Purposes—Add line 1 to line 10 and enter.

F. Statement of Change in Financial Position for Corporations

The Statement of Change in Financial Position is to be inclusive of all changes in financial position resulting from transactions. However, the statement does not include changes in unrealized gains (loss) on securities held which are based on subjective determinations by the Board of Directors and not based on transactions. The objectives of this statement are: (1) To summarize the extent to which the licensee has generated cash and invested idle funds; and (2) to complete the disclosure of changes in financial position during the period.

The following description by line item explains how the amounts on the Statement of Changes in Financial Position are developed.

Item 1, Beginning Cash and Invested Funds Position—The total of line item 14, Cash, and line item 15, Invested Idle Funds Assets, as reported on Form 463 at the end of the prior fiscal period.

Funds were Provided From:

Item 2, Net Investment Income (Loss)—Enter the amount shown on line 33 of the Statement of Operations Realized.

Item 3, Depreciation, Amortization, Provision for Loss on Receivables—Enter the total of amounts shown in line items 24 and 28 of the Statement of Operations Realized and the amount of account 672 included in Item 29 of the Statement of Operations Realized.

Item 4, Realized Gain (Loss) on Sale of Securities—Enter the amount shown on line 38 of the Statement of Operations Realized.

Item 5, Decrease in Portfolio Securities—Enter the amount of net change in Item 4, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 6, Decrease in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of

Financial Position if that amount is a decrease during the period.

Item 7, Decrease in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 8, Decrease in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 9, Decrease in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23 of the Statement of Financial Position if that amount is a decrease during the period.

Item 10, Decrease in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is a decrease during the period.

Item 11, Increase in Current Liabilities—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is an increase during the period.

Item 12, Increase in Other Liabilities—Enter the amount of net change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(a), Due to or Guaranteed by SBA—Enter the amount of net change in Item 27 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(b), Due Others—Enter the amount of net change in Item 28 of the Statement of Financial Position if that amount is an increase during the period.

Item 14, Sale of Licensee's Stock—Enter the amount of net change in Items 41 through 44 of the Statement of Financial Position if that amount is an increase during the period and the licensee is a corporation.

Item 15, Total Funds Provided—Enter the total of Items 2 through 14 of the Statement of Change in Financial Position.

Item 16, Total Funds Available—Enter the total of Items 1 and 16 of the Statement of Change in Financial Position.

Item 17, Increase in Portfolio Securities—Enter the amount of net change in Item 4 of the Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 18, Increase in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 19, Increase in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 20, Increase in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 21, Increase in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23, of the Statement of Financial Position if that amount is an increase during the period.

Item 22, Increase in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is an increase during the period.

Item 23, Decrease in Current Liabilities (Excluding Dividends)—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is a decrease during the period.

Item 24, Decrease in Other Liabilities—Enter the net amount of change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(a), Due or Guaranteed by SBA—Enter the net amount of change in Item 27 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(b), Due Others—Enter the net amount of change in Item 28 of the Statement of Financial Position if that amount is a decrease during the period.

Item 26, Payment of Dividends—Enter the amounts shown in accounts 360 through 364.

Item 27, Redemption of Stock—Enter the amount of net change in Items 41 through 44 of the Statement of Financial Position if that amount is a decrease during the period.

Item 28, Total Funds Used—Enter the sum of Items 17 through 27 of the Statement of Change in Financial Position.

Item 29, Ending Cash and Invested Idle Funds Position—Subtract Item 28 from Item 16. The balance will equal the sum of Items 14 plus 15 of the Statement of Financial Position.

G. Statement of Unrealized Gain (Loss) on Securities Held

This statement summarizes the results of the valuation process of securities held as of the statement date as compared to the previous statement date and discloses the net change in the

Unrealized Gain (Loss) on Securities Held.

The types of securities held are the primary groupings of loans and investments as set forth in items 1 through 10 of the Statement of Financial Position and are: (1) Portfolio Securities; (2) Assets Acquired in Liquidation of Portfolio Securities; (3) Operating concerns acquired; and (4) other securities.

In arriving at net unrealized gain (loss) on securities held, consideration must be given to unrealized appreciation (valuation above cost) and unrealized depreciation (valuation below cost) of such securities. After adjusting the net unrealized appreciation (depreciation) for the appropriate tax effect, the remaining amount will represent unrealized gain (loss) on securities held.

Items 1 through 11 are without the estimated tax effect.

Item 1—the amount shown in column 3 Item 4 of the Statement of Financial Position.

Item 2—the amount shown in column 3 Item 7 of the Statement of Financial Position.

Item 3—the amount shown in column 3 Item 8 of the Statement of Financial Position.

Item 4—the amount shown in column 3 Item 9 of the Statement of Financial Position.

Item 5—the amount shown in column 3 Item 10 of the Statement of Financial Position.

Item 6—the amount shown in column 2 Item 4 of the Statement of Financial Position.

Item 7—the amount shown in column 2 Item 7 of the Statement of Financial Position.

Item 8—the amount shown in column 2 Item 8 of the Statement of Financial Position.

Item 9—the amount shown in column 2 Item 9 of the Statement of Financial Position.

Item 10—the amount shown in column 2 Item 10 of the Statement of Financial Position.

Item 11—Item 5 minus Item 10.

Item 12 will be the estimated taxes that would be due.

Actual Loss Experience on Receivable, Loans, and Investments.

Furnish in this schedule by categories shown, the amount of loss experienced on loans and investments as well as receivables resulting from income realization. The loss experience will be the actual loss experience during the current period. The amounts shall be rounded to the nearest thousand.

This portion of statement is the basis for determining the loss experience of the industry.

Partnerships

Item 27, Notes and Debentures Payable to or Guaranteed by SBA—Show the aggregate of balances in accounts 300, 301 and 310.

Item 28, Notes and Debentures Payable to Other—Show the aggregate of balances in accounts 311, 312, 313 and 320.

Item 29, Total—Show the aggregate of Items 27 and 28.

Item 30, Accounts Payable—Show the balance of account 340.

Item 31, Accrued Interest Payable—Show the balance of account 350.

Item 32, Accrued Taxes Payable—Show the aggregate of balances in accounts 351 and 354.

Item 33(a), Current Maturities of Line 27—Show the balance of account 330.

Item 33(b), Current Maturities of Line 28—Show the balance of account 331.

Item 34 for Partnerships, Partnership Distributions Payable and Accounts Payable Due Partners—Show the aggregate of balances 365 through 369.

Item 35, Other Current Liabilities—Show the balance of account 358.

Item 36, Total—Show the aggregate of Items 30 through 35.

Item 37, Trust Receipts—Show the aggregate of balances in accounts 370, 374 and 378.

Item 38, Deferred Credits—Show the balances of accounts 380 and 383.

Item 39, Other Liabilities—Show the balance of account 390.

Item 40, Total Liabilities—Show the aggregate of Items 29 and 36 through 39.

The following accounts are applicable only to partnership licensees and are to be reported on the Statement of Financial Position for partnerships.

Item 41, Partner's Permanent Capital Contributions—Show the balances in accounts 470 through 476.

Item 42, Unrealized Gain (Loss) on Securities Held—Show the aggregate of balances of accounts 440 less 445.

Item 43, Non-Cash Gain/Income—Show the balance of account 450 and 468.

Item 44, Undistributed Net Realized Earnings—Show the balances in accounts 493 through 496.

Item 45, Total Partners Capital—Show the totals of Item 41 through 44.

Item 46, Total Liabilities and Capital—Show the total of Item 40 plus Item 45.

H. Statement of Undistributed Realized Earnings (Part.)

This statement is designed to analyze the activity in undistributed realized earnings by non-cash gains on sale of securities and undistributed net earnings realized. The ending balances of this

statement are the same as items 43 and 44 on the Statement of Financial Position.

Column 1: Non-Cash Gains activity can be determined by reviewing account 450.

Column 2: Undistributed Net Earnings activity can be determined by reviewing account 451.

1. *Beginning Balance*—In column 1, show the beginning balances of accounts 450 and 468 in column 2, show the beginning balance of account 451. These accounts should agree with the ending balances shown on the statement for the prior period.

2. (a) *Net Investment Income*—State as undistributed net earnings that amount shown as item 31 on the Statement of Operations Realized.

(b) *Realized Gain (Loss) on Sale of Securities*—Show the balances in accounts 466 and 467.

(c) *Non-cash Gains on Distributions In Kind*—In column 1 report the amount of unrealized gains on any distributions in kind during the period covered by this report.

3. *Adjustments: Collections of Non-Cash Gains*—Will be a decrease in column 1 "Non-Cash Gains" and will be an increase in column 2 "Undistributed Net Earnings."

4. *Total*—Aggregate of lines 1, 2, and 3.

5. Deductions:

(a) *Distributions to Partners*—are to be paid out of undistributed earnings only. Therefore, distributions will be entered in column 2.

(b) *Dividends In Kind*—Column 1 show the amount of non-cash gain reported in column 1 Item 2(c). In column 2 show the cost of the asset being distributed. The total is the value as reported for the asset on the SBA Form 468 immediately prior to the distribution.

6. *Ending Balance*—is determined by subtracting 5(d) "Total Deductions" from item 4 which represents the beginning balance plus additions.

I. Statement of Operations Realized—Partnerships

This statement is designed to measure separately Net Investment Income and Realized Gain (Loss) on Sale of Securities. Such measurement is of realized operations only and is on the accrual basis of accounting.

1. *Net Investment Income*—is the result of measuring revenue and expense associated with investment and management assistance activities of a licensee other than realized gain (loss) on securities sold. Revenue is organized

by source; i.e., from portfolio, from services provided, or from other sources.

2. Realized Gain (Loss) on Sale of Securities—is a function of operations that is measured separately from Net Investment Income. While the Statement of Realized Gain (Loss) on Sale of Securities provides a detailed analysis of realized gain or losses, the Statement of Operations shows in the aggregate, net sales price of securities sold during the period, the cost of such securities sold, the remainder becomes net realized gain (loss) on sale of securities.

Although an allowance for loss on securities may be established for valuation and in some cases tax purposes, such allowances when provided are not reflected as an expense in measuring investment income. Rather, they are measured in the Statement of Unrealized Gain (Loss) on Securities Held as a component of unrealized depreciation which is an offset against unrealized appreciation. For this reason, the entire loss is reported in this statement when realized and the allowance for loss on the security is reduced by the amount of allowance previously established.

3. Description by Line Item—The following is a description by line item as to how the amounts shown on the Statement of Operations Realized are developed.

a. Investment Income—the amounts shown in items 1 through 35 of this statement are derived primarily from the general ledger accounts as follows.

Item 1, Interest on Loans and Debt Securities—Show the aggregate of balances in accounts 512, 516 and 541.

Item 2, Dividend Income—Show balance of account 540.

Item 3, Income from Investments Reported The Equity Method of Accounting—Show the balance of account 542.

Item 4, Management Services—Show the balance of account 532.

Item 5, Application and Other Fees—Show the aggregate of balances in accounts 500, 534 and 536.

Item 6, Interest on Invested Idle Funds—Show the balance of account 510.

Item 7, Income from Assets Acquired in Liquidation of Portfolio Securities—Show the balance of account 582 net of the balance of account 710. Also, show the balance of account 710 parenthetically.

Item 8, Other Income—Show the aggregate of balances in accounts 520 and 584.

Item 9, Gross Investment Income—Show the aggregate of Items 1 through 8.

Item 10, Interest on Long-term Debt—Show the aggregate of balances in accounts 610 and 622.

Item 11, Commitment Fees—Show the balance of account 600.

Item 12, Other Financial Costs—Show the balance of account 642.

Item 13, Partners Salaries—Show the balance of account 663-1.

Item 14, Employee Salaries—Show the balance of account 663-2.

Item 15, Employee Benefits—Show the balance of account 670.

Item 16, Investment Advisory and Management Services—Show the balance of account 659 and 660.

Item 17, General and Limited Partners' Meetings—Show the balance of account 657-2.

Item 18, Advertising and Promotion—Show the balance of account 650.

Item 19, Appraisal and Investigation—Show the balance of account 651.

Item 20, Communication—Show the balance of account 653.

Item 21, Legal Fees—Show the balance of account 661.

Item 22, Travel Expense—Show the balance of account 665.

Item 23, Cost of Space Occupied—Show the balance of account 654.

Item 24, Depreciation & Amortization Expense—Show the aggregate balances in accounts 655 and 656.

Item 25, Audit and Examination Fees—Show the balance of account 652.

Item 26, Insurance Expense—Show the balance of account 658.

Item 27, Taxes Expense (Excluding Income Taxes)—Show the balance of account 664.

Item 28, Provision for Losses on Receivables—Show the balance of account 680.

Item 29, Miscellaneous Expenses—Show the aggregate of balances in accounts 672, 679 and 715.

Item 30, Total Expenses—Show the aggregate of Items 10 through 29.

Item 31, Net Investment Income—Show the balance of amount of Item 9 less Item 10.

b. Realized Gain (Loss) on Sale of Securities—

Item 32, Net Sales Price—Show Net Sales Price.

Item 33, Cost of Securities Sold—Show cost.

Item 34, Net Realized Gain (Loss) on Sale of Securities—Line 32 minus 33.

Analysis of Partners' Permanent Capital Contributions and Computation of Regulatory Capital

Line 1 Enter the amount shown on Form 468 as the balance at the end of the prior fiscal period.

Line 2(a) Cash Contributions—Enter the amount of cash contributed to Permanent Capital during the year.

Line 2(b) Undistributed Net Realized Earnings Contributed to Permanent Capital—Enter the amount transferred from Undistributed Net Realized Earnings to Permanent Capital during the year.

Line 2(c) Permanent Capital Contributed for Services Rendered—Enter the amount of services rendered which was credited to permanent capital.

Line 2(d) Permanent Capital Contributed for Other than Cash or Services—Enter the amount credited to permanent capital and explain in detail by a footnote.

Line 3 Total Additions—Enter the total of lines 2(a) through 2(e).

Line 4 Subtotal—Enter the sum of lines 1 and 3.

Line 5(a) Complete Liquidation of Partner's Interest—Enter the amount of the interest of the partner whose capital is being liquidated.

Line 5(b) Partial Liquidation of Partner's Interest—Enter the amount of interest of the partner whose permanent capital is being partially liquidated.

Line 5(c) Partial Liquidation of All Partners' Interests—Enter the amount of interest of all partners that is being liquidated. In a footnote state whether SBA has approved of the partial liquidation and whether the liquidation is one of a series leading to a complete liquidation. This line should be used when there is a pro-rata liquidation of "all" partners' interests. All means "substantially all" in terms of dollar value of the partners' Permanent Capital by class.

Line 5(d) Other Debits—Enter the amount of the other debits.

Line 6 Total Deductions—Enter the total of lines 5(a) through 5(d).

Line 7 Balance at the End of Fiscal Year—Subtract line 6 from line 4.

Line 8(a) Organization Expense—Enter the amount of organization expense whether or not amortized.

Line 8(b) Permanent Capital Contributed for Services—Enter the amount credited to Permanent Capital for Services since date of organization.

Line 8(c) Permanent Capital Contributed for Other than Cash or Services—Enter the amount credited to Permanent Capital for assets other than cash or services since date organization. At such time as the asset is converted to cash, the amount of cash received maybe considered to be a cash contribution to Permanent Capital. An adjustment to Permanent Capital may

be necessary when the asset is converted to cash.

Line 8(d) Other Non-monetary Items—Enter the amount of other non-monetary items credited to Permanent Capital since date of organization.

Line 8(e) Investment in 301(d) Licensee—Enter the amount of investment in 301(d) licensee.

Line 8(f) Other—Enter the amount of other credits to Permanent Capital since date of organization.

Line 9 Total Regulatory Deductions—Enter the sum of lines 8(a) through 8(f).

Line 10 Regulatory Capital for Leverage Purposes—Subtract line 9 from line 7.

Line 11 Net Unrealized Gains as defined by Section 107.301(b)—Go to Note 3, prepare the necessary information and enter the result here.

Line 12 Regulatory Capital for Overline Purposes—Add line 11 to line 10 and enter.

J. Statement of Change in Financial Position for Partnership

The Statement of Change in Financial Position is to be inclusive of all changes in financial position resulting from transactions. However, the statement does not include changes in unrealized gains (loss) on securities held which are based on subjective determinations by the General Partner(s) and not based on transactions. The objectives of this statement are: (1) To summarize the extent to which the licensee has generated cash and invested idle funds; and (2) to complete the disclosure of changes in financial position during the period.

The following description by line item explains how the amounts on the Statement of Changes in Financial Position are developed.

Item 1, Beginning Cash and Invested Funds Position—The total of line item 14, Cash, and line item 15, Invested Idle Funds Assets, as reported on Form 468 at the end of the prior fiscal period.

Funds were Provided From:

Item 2, Net Investment Income (Loss)—Enter the amount shown on line 31 of the Statement of Operations Realized.

Item 3, Depreciation, Amortization, Provision for Loss on Receivables—Enter the total of amounts shown in line items 24 and 28 of the Statement of Operations Realized and the amount of account 672 included in Item 29 of the Statement of Operations Realized.

Item 4, Realized Gain (Loss) on Sale of Securities—Enter the amount shown on line 33 of the Statement of Operations Realized.

Item 5, Decrease in Portfolio Securities—Enter the amount of net change in Item 4, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 6, Decrease in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 7, Decrease in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 8, Decrease in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 9, Decrease in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23 of the Statement of Financial Position if that amount is a decrease during the period.

Item 10, Decrease in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is a decrease during the period.

Item 11, Increase in Current Liabilities—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is an increase during the period.

Item 12, Increase in Other Liabilities—Enter the amount of net change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(a), Due to or Guaranteed by SBA—Enter the amount of net change in Item 27 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(b), Due Others—Enter the amount of net change in Item 28 of the Statement of Financial Position if that amount is an increase during the period.

Item 14, Sale of Additional Partnership Interests—Enter the amount of net change in Item 41 of the Statement of Financial Position if that amount is an increase during the period and the licensee is a partnership.

Item 15, Total Funds Provided—Enter the total of Items 2 through 14 of the Statement of Change in Financial Position.

Item 16, Total Funds Available—Enter the total of Items 1 and 15 of the Statement of Change in Financial Position.

Item 17, Increase in Portfolio Securities—Enter the amount of net change in Item 4 of the Cost column of the Statement of Financial Position if

that amount is an increase during the period.

Item 18, Increase in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 19, Increase in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 20, Increase in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 21, Increase in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23, of the Statement of Financial Position if that amount is an increase during the period.

Item 22, Increase in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is an increase during the period.

Item 23, Decrease in Current Liabilities (Excluding Distributions to Partners)—Enter the amount of net change in Items 30 through 33 and Item 35 of the Statement of Financial Position if that amount is a decrease during the period.

Item 24, Decrease in Other Liabilities—Enter the net amount of change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(a), Due or Guaranteed by SBA—Enter the net amount of change in Item 27 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(b), Due Others—Enter the net amount of change in Item 28 of the Statement of Financial Position if that amount is a decrease during the period.

Item 26, Distribution to Partners—Enter the amount shown in accounts 365 through 369 of the Statement of Financial Position if that amount is a decrease during the period.

Item 27, Redemption of a Partnership Interests—Enter the amount of Item 41 of the Statement of Financial Position if that amount is a decrease during the period.

Item 28, Total Funds Used—Enter the sum of Items 17 through 27 of the Statement of Change in Financial Position.

Item 29, Ending Cash and Invested Idle Funds Position—Subtract Item 28 from Item 16. The balance will equal the

sum of Items 14 plus 15 of the Statement of Financial Position.

K. Statement of Unrealized Gain (Loss) on Securities Held

This statement summarizes the results of the valuation process of securities held as of the statement date as compared to the previous statement date and discloses the net change in the Unrealized Gain (Loss) on securities Held.

The types of securities held are the primary groupings of loans and investments as set forth in items 1 through 10 of the Statement of Financial Position and are: (1) Portfolio Securities; (2) Assets Acquired in Liquidation of Portfolio Securities; (3) Operating concerns acquired and (4) other securities.

In arriving at net unrealized gain (loss) on securities held, consideration must be given to unrealized appreciation (valuation above cost) and unrealized depreciation (valuation below cost) of such securities. After adjusting the net unrealized appreciation (depreciation) for the appropriate tax effect, the remaining amount will represent unrealized gain (loss) on securities held.

Items 1 through 11 are without the estimated tax effect.

Item 1—the amount shown in column 3 Item 4 of the State of Financial Position.

Item 2—the amount shown in column 3 Item 7 of the State of Financial Position.

Item 3—the amount shown in column 3 Item 8 of the State of Financial Position.

Item 4—the amount shown in column 3 Item 9 of the State of Financial Position.

Item 5—the amount shown in column 3 Item 10 of the State of Financial Position.

Item 6—the amount shown in column 2 Item 4 of the State of Financial Position.

Item 7—the amount shown in column 2 Item 7 of the State of Financial Position.

Item 8—the amount shown in column 2 Item 8 of the State of Financial Position.

Item 9—the amount shown in column 2 Item 9 of the State of Financial Position.

Item 10—the amount shown in column 2 Item 10 of the State of Financial Position.

Item 11—Item 5 minus Item 10.

Corporations and Partnerships

L. Statement of Commitments and Guarantees

This statement provides a schedule of outstanding commitments of the licensee to provide funds to small business concern. It also shows by small business concern the amount of such concern's debt to a third party the licensee has guaranteed. Such amounts will be shown according to Portfolio Securities, Assets Acquired in Liquidation of Portfolio Securities, or operating concerns acquired.

The statement is completed as follows:

(a) Under Commitments of Funding, show the small business concerns to whom the funds are committed. The amounts shown as commitments are derived from memorandum account CL-15.

(b) Under Guarantees to Others, show the name of the small business concern. The amounts shown as guarantees are derived from memorandum account CL-16.

Schedule of Investments—Schedule 1.

The Schedule of Investments will be prepared to show each investment by the licensee in each small business concern. A description of each column follows:

Column 1. Show each investment giving the following details:

Loans:

Date of Loan

Amount of Original Loan

Interest Rate

Maturity Date

Repayment Terms

Collateral

If regular repayments are scheduled give details

Debt:

Date of Initial Investment

Amount of Investment

Interest Rate

Maturity Date

Repayment Terms

Equity Features (Include percent of ownership or potential ownership)

Stock:

Date of Initial Investment

Amount of Investment

Type of Investment—i.e., common, preferred, common with warrants/options

Percent of Ownership

Equity Interest of Unincorporated SEC:

Date of Initial Investment

Amount of Involvement

Percent of Ownership

How Share of Profit (Loss) Determined

Warrants, Options and Other Rights:

Date of Initial Investment or Acquisition Cost (if any)

Percent of Ownership Represented Additional Cost to Exercise

Column 2:

Opposite each investment the appropriate letter should appear:

L—Loan

D—Debt

E—Equity

Column 3:

Opposite each investment the appropriate letter(s) should appear:

P—Public Traded

PR—Public Traded Restricted

N—Non-public

NR—Non-public—Restricted

V—Venture Capital

SD—Special Discretionary Portfolio

Column 4:

Opposite each investment the appropriate letter should appear:

DP—Delinquent as to Principal

DI—Delinquent as to Interest

DPI—Delinquent as to Principal and Interest

If the small business concern is delinquent in one or more of the licensee's investments an identification number should be assigned to the investment for identification on Schedule 2.

Details of delinquent investments should be shown on Schedule 2, Schedule of Delinquencies

Column 5:

Principal Balance at Beginning of Period. Show balance at cost at beginning official period.

Column 6:

Additions (Deductions) During Period: Show change during fiscal period Details of changes, except for regularly scheduled repayments of loans or debt should be explained by footnote

Column 7:

Principal Balance at Close of Period: Show balance at close of period.

Column 8:

Market or Fair Value as Determined by Board of Directors/General Partners.

Column 9:

Unrealized Appreciation (Depreciation): Column 9 minus Column 8.

The total of all investments in any small business concern appearing in column, 5, 6, 7, 8, and 9 should be shown, a line drawn and the investments in the next SBC shown.

Schedule of Delinquencies—Schedule 2.

The schedule will give complete details of all investments reported as delinquent on Schedule 1, (Schedule of Investments, A separate line should be

used to report an investment delinquent as to principal and interest in column 5, 6 and 7.

Column 1. Give name of small business concern.

Column 2. Give balance of investment at beginning of fiscal period.

Column 3. Give balance of investment at end of fiscal period.

Column 4. Insert P for principal and/or I for interest if investment is delinquent as to both principal and interest use separate lines in columns 5, 6, and 7.

Column 5. Show the amount of delinquency at end of fiscal period.

Column 6. Show date of last payment.

Column 7. Show numbers of payments delinquent.

Column 8. If investment is collateralized describe collateral in sufficient detail for SBA to evaluate the fair market value of collateral.

Column 9. Show the fair market value of the collateral as determined by the Board of Director/General Manager.

Schedule of Changes in Operating Concerns Acquired—Schedule 3.

A schedule 3 should be prepared for each small business concern acquired in which changes occurred.

Participations and Joint Financings—Schedule 4.

Show in this schedule the financings in which the reporting licensee participated as well as financings made jointly by the reporting licensee and one or more other lenders or investors during the period or which were outstanding at any time during such period. Identify each item in column (1) name of the financed small business concern; indicate by appropriate letter in column (2) the type of financing (loan, debt security, stock, warrants, and options).

In column (3) show the original total amount contributed by all parties in the participation or joint financing. The name of such participating or joint financing entities (including the name of the reporting licensee) shall be shown in column (4) with appropriate indication as to which is the initiating (sponsoring) entity.

Show in columns (5), (6), and (7), as appropriate, the reporting licensee's outstanding principal balance, or other cost, of participation purchased, participation sold, or joint financing, as of the close of the period covered in the report. Enter in column (8) a description of collateral pertaining to each financing, together with information as to the percentage applicable to each party and as to any preferences agreed upon.

Cash and Invested Idle Funds—Schedule 5.

Cash will be reported on Schedule 5(a) and Invested Idle Funds will be reported on Schedule 5(b).

Cash—Schedule 5(a).

Show cash on hand and in general funds demand deposits; funds in imprest bank accounts. Demand deposits are balances subject to withdrawal without notice and shall be in commercial banks which are members of the Federal Deposit Insurance Corporation. Cash items in process of collection represent those cash items which have been placed with banks for collection. Petty cash shall represent the full amount of the petty cash imprest fund. The amount shown on line 11 should be the same amount reported on line 14 of the Statement of Financial Position.

Invested Idle Funds—Schedule 5(b).

Show in Schedule 5b(1) securities owned which have been issued or guaranteed by the U.S. Government, showing the name of the issuer and the title of each issue. Other required data, such as interest rate, call date, maturity date, and principal amount at par of bonds and notes, may be obtained by inspection of the securities or from records of securities pledged. The cost of the securities shall be shown in column (6) and the current market value thereof in column (7).

Show in Schedule 5b(2) funds invested in insured savings accounts and funds on time deposit evidenced by time certificates of deposit. Savings accounts shall be with institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. Time deposits shall include all time certificates of deposit held by the company in commercial banks which are members of the Federal Deposit Insurance Corporation.

The amount shown in Schedule 5(b)(2) line 19 represents invested idle funds and should be the same amount as shown on line 15 of the Statement of Financial Position.

The amounts contained in this schedule can be obtained from the accounts as follows:

In Schedule 5(a), item 1 is based on accounts 100 through 108, item 2 is based on accounts 110 through 112, item 3 is based on account 118, and item 4 is based on account 120.

Schedule 5(b)(1) is based on account 130.

In Schedule 5(b)(2), columns 1 and 4 are based on accounts 131 through 134, and column 2 and 5 are based on accounts 135 through 137.

In Column 3 enter the rate of interest.

Average Cash and Invested Idle Funds Balances on a Monthly Basis—Schedule 6.

This schedule is designed to measure cash or cash items available for investment and is a basis for measuring the licensee's level of activity.

A monthly average is to be computed which fairly represents cash and invested idle funds available during the month. The average amount of cash available can usually be obtained from the licensee's bank statements. The average of invested idle funds is to be a "simple" average based on the number of days in the month and giving consideration to the liquidation value of such short-term securities.

The schedule is to include the 12-month period prior to the statement date. Should there be cash or idle funds that are encumbered or restricted (compensating balances, pledged funds, etc.), such amounts will be eliminated.

The amounts contained in the schedule can be obtained from the accounts as follows:

Column 1, cash, is based on accounts 100 through 120.

Column 2, idle funds, is based on accounts 130 through 138.

Shareholders, Officers, and Directors of the Licensee—Schedule 7.

Furnish in this schedule the information as required by the form regarding equity securities issued by the licensee and regarding the licensee's officers, directors and manager.

In column (1) list:

(a) Each person or company directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting securities of the company.

(b) Each person or company owning of record or being known to own beneficially more than 10 percent of any other class of equity securities of the company.

(c) Each officer, director, or manager of the licensee. (List and identify officers and directors, and manager regardless of whether or not they own any equity securities of the company.)

Show in column (2) whether each natural person listed in column (1) is an officer, director, manager of the licensee or specific combination of any of the three and the total remuneration for the period received by each from the licensee. Column (3) shall show the title of each class of stock owned by any person or company and column (4) shall indicate whether the securities of the specific class are owned both of record and beneficially, of record only, or beneficially only.

In columns (5), (6), and (7), respectively, show the number of shares of each class owned by each listed person or company, the total par or

stated value of such shares, and the percentage of the total number of shares of this class outstanding which is represented by the shares owned by the particular person or company.

Summarize the foregoing information by class of equity security at the bottom of the schedule.

General Partners, Limited Partners and Advisory Directors of the Licensee—Schedule 7.

Furnish in this schedule the information as required regarding the partnership interests of the licensee and licensees partners. The definitions of Director and Executive Officer should be reviewed to insure that the Schedule is complete.

In Column 1 list:

(a) Each person or company directly or indirectly owning or controlling a 5 percent or more partnership interest.

(b) Each officer, director or manager of the licensee whether or not they own any partnership interest.

Show in column 2 whether any person listed in column 1 is an officer, director, manager of the licensee or specific combination of any of the three and the total remuneration for the period received by each from the licensee.

Column 3 shall show the type of partnership interest (general or limited) of each listed person.

Column 4 shall indicate whether the partnership interest is owned both of record and beneficially, of record only or beneficially only.

Column 5 will show the percent of total partnership interest owned.

Column 6 will show the total dollars of Partner's capital contribution.

Column 7 will show the percent owned of the total general partnership interest or the percent of the total limited partnership interests.

Management Certification

The certification of the Annual Report, SBA Form 468, shall bear the signature of the chief financial officer of the licensee, or other officer authorized by the board of directors* to sign in the event the chief financial officer is unavailable. The Corporate Secretary* of the licensee shall attest by signature to the fact that the minutes of a meeting of the board of directors* show that the Annual Report, SBA Form 468, has been reviewed and approved by the board by directors*. The date on which each signature is affixed shall be shown. All signatures on all copies of the Annual Report, SBA Form 468, submitted to SBA shall be original signatures in ink.

*See Definitions in Introduction.

Appendix II—Chart of Accounts for SBICs

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I. Introduction

A. Statement of Policy

Small Business Investment Companies (SBICs) licensed by the Small Business Administration (SBA) including 301(d) licensees are to maintain their books of account in accordance with the system of account classification and accounting policies herein prescribed. Accounting principles and practices set forth herein are in accordance with generally accepted accounting principles for investment companies as set forth by the American Institute of Certified Public Accountants.

The system of account classification is adaptable to manual or machine accounting procedures employing the double-entry method of accounting, and is otherwise designed to meet the specific needs of companies licensed in accordance with the provisions of the Small Business Investment Act of 1958, as amended.

Nothing contained in this system of account classification can/or is intended to authorize or approve any operation or action by a licensee, or any other action, not authorized or approved by the Small Business Investment Act of 1958, as

amended, or the Rules and Regulations promulgated thereunder.

This system of Account Classification was prepared by the SBA. Any inquiries or comments relating to the system should be directed to the Staff Accountant, Investment Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

B. Purpose of the System

This system has been prescribed to insure that standard books of account are maintained by licensees and that uniform accounting policies are followed. By design, the system is basic and may be expanded by a licensee if necessary.

C. Maintenance and Retention of Records

The licensee's books and records shall be maintained at its principal place of business. Books and records shall include its books of account, and other records, and memoranda which support the entries in its books of account. These supporting records shall be maintained in such manner as to be able readily to furnish information on any item included in any account. The books and records referred to herein include not only accounting records in a limited technical sense, but other records, such as minute books, capital stock records, reports, correspondence, and memoranda which may be useful in developing the history of, or facts regarding, any transaction.

Memorandum Accounts are included in the chart of accounts to facilitate record keeping of nominal assets, contingent liabilities, commitments to provide future financing (directly or through participations) and guarantees.

Section 107.1002 of SBA Rules and Regulations specifies the time period licensee's records are to be maintained.

II. Accounting Policies and Practices

As a general rule, accounting policies followed by licensees are those promulgated by the American Institute of CPA's as generally accepted accounting principles. Certain of these principles and practices are prescribed in the AICPA's Audit Guide for Investment Companies.

The significant accounting policies licensees are to follow are summarized below. The summary is intended to highlight the more important accounting policies and practices rather than being an all inclusive statement.

A. Accrual Basis of Accounting

Books of account shall be maintained on an accrual basis and, at the end of

each month, transactions shall be posted to the General Ledger. Entering in the records and posting to the General Ledger of accruals applicable to each month is optional but all accruals are to be entered in the records and posted at the end of the fiscal year, and as of such other dates as mark the close of periods to be covered by interim or special financial reports required to be furnished to SBA.

B. Accounting and Reporting Loans & Investments on the Value Basis

Loans and investments will be recorded at cost. However, unrealized appreciation or depreciation of such securities will be recognized in the accounts and as such will result in fair accounting for loans and investments.

The practice of valuing loans and investments and reflecting in the accounts the resulting unrealized gain (loss) on such securities held has been expressed by the American Institute of CPA's as being a generally accepted accounting practice for investment companies. Accordingly, this practice has been adopted for SBICs.

The adoption of this practice causes unrealized appreciation on loans and investments to be recognized in the accounts. Unrealized depreciation, essentially allowance for losses, has always been recognized. An appropriate tax provision will be established for net unrealized appreciation or depreciation on securities held for all corporate SBICs. No provision for taxes is necessary for limited partnership SBICs.

C. Equity Method of Accounting

The carrying value of equity interests in unincorporated concerns will be determined by the equity method of accounting. However, for valuation purposes, the fair value basis of accounting will be used for the equity interest in unincorporated concerns.

The equity method of accounting will also apply to the investment in 301(d) licensees. Accordingly, an SBIC's investment account will be adjusted for its proportionate share of net income (loss) of such investee as well as dividends paid by the investee. The result will be an investment carried at the book value of such stock.

Income reported on the equity method of accounting will be reported as a non-cash item of income.

D. 1. Management Consulting Subsidiary for Corporate SBICs

According to Section 107.501(c) of SBA Regulations, consolidated financial statements are to be submitted to SBA when a licensee has a management consulting subsidiary, books of account

are to be maintained for the subsidiary so as to properly account for its financial position and result of operations. Such accounts should also be compatible with this system of accounts.

Consolidated statements will include only the licensee and the management consulting subsidiary. Other subsidiaries are not to be reported on a consolidated basis.

2. Management Consulting Company Investment of Limited Partnership SBICs

Limited partnerships, legally and technically, do not have subsidiaries. A limited partnership SBIC may have an investment in a management consulting company. It is required that in such cases the limited partnership SBIC will own 100 percent of the stock of the management consulting company. The investment in the management consulting company will be accounted for on the records of the limited partnership by the equity method. A combined balance sheet and statement of operations for the limited partnership SBIC and the management consulting company will be filed with SBA in addition to the annual report on SBA Form 468 and supporting schedules required for the limited partnership SBIC.

E. Tax Allocation Policy

Tax allocation policies as set forth in Accounting Principals Board Opinion No. 11, *Accounting for Income Taxes*, effective December 31, 1967, will be followed by licensees in accounting for income taxes.

A difference between the amount of gain or loss recognized for tax purposes and that recognized for accounting purposes may constitute a timing difference to be accounted for according to APB Opinion No. 11.

Such differences will result in either deferred credits or deferred charges to future income taxes.

The licensee and its accountant should also follow the current amendments to APB 11 which include FASB 37, FASB Interpretation 29 and FASB Technical Bulletin 82-1.

F. Accounting for Dividend and Interest Income

1. *Dividend Income*—As a general rule, cash dividends on investment securities are recorded as of the record date. Occasionally, cash distributions represent a return of capital; under these circumstances the distributions should be credited to the investment account rather than to income.

Stock splits and dividends in stock of the same class as that owned, are not recorded as income since the Licensee's equity interest in the company declaring the dividend or split has not changed.

Dividends in kind are generally recorded as non-cash income at the fair value of the property received. When the recipient Licensee has the option to receive cash or stock, income should be recorded for the amount of cash that could have been received. When stock rights are received, a portion of the cost basis of the related investment may be allocated to the rights on a pro rata cost basis.

2. *Interest Income*—Interest Income will be accrued according to terms of interest bearing loans and investments. Interest will not be accrued if the ability of the small business concern to pay such accrued interest is doubtful. Indicators of uncollectible accrued interest arise when the SBC is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Other indicators are when principal and/or interest payments are in default more than 6 months or when the Board of Directors values the security below cost and considers collection to be doubtful.

Unearned premiums or discounts are an adjustment of interest income and are to be amortized over the stated life of the debt instrument on a ratable basis.

Interest on invested idle funds is usually accrued on a monthly basis.

G. Profit Sharing

As a general rule, profit sharing with the financed concern is an adjustment of the interest rate. An exception to this rule can arise when the licensee makes an investment in a unincorporated concern which takes the form of an equity interest rather than a loan, and the financed concern treats the profit sharing as a equity distribution rather than an expense.

H. Financing Discounts and Fees

Discounts on debt instruments resulting from financing made to small business concerns are considered an upward adjustment of the interest rate, and are to be amortized over the stated life of the instrument on a ratable basis. Accordingly, the discount is considered earned as it is amortized.

Fees, as a general rule, are considered earned at the time of financing since they are for services rendered in connection with the financing. To the extent fees are for services to be rendered in the future, such amount will be considered unearned until the

services are performed, at which time such fees will be considered earned.

I. Realization of Gain (Loss) on Sale of Securities

In accordance with the accrual basis of accounting, gain or loss on sale of securities or other assets of a licensee will be realized at the time of sale rather than at the time of collection. This practice assumes that the sale represents the final transaction, that the collectability of the gain is reasonably assured, and that the earning process is complete, i.e., the licensee is not obligated to perform significant activities after the sale in order to earn the gain. Accordingly, this practice of recognizing gain is in accordance with generally accepted accounting principles.

Any transaction with recourse upon the licensee or involving any understanding, agreement, option, privilege, or other rights to repurchase by and/or resell to the Licensee may not be considered as a final transaction.

Any gain on sale of securities which does not qualify as realized gain in accordance with the foregoing shall be deferred pending such realization.

When part of the net sales price is other than cash, gain will be realized at the time of sale unless the sale is not a final transaction or unless collection of the proceeds is not reasonably assured. However, such non-cash gains will be restricted in the sense that they will be unavailable for capitalization or distribution until converted to cash. When collected, application of cash will first be made to the recovery of the licensee's cost of securities sold and then to gain, i.e., the cost recovery method.

Losses are recognized at the point of sale and are shown as a reduction of undistributed net earnings realized. They have no effect on non-cash gains.

Cost of securities sold is usually the carrying value of such assets on the licensee's books. Occasionally, a licensee will acquire shares of an investee's stock (which shares are of the same class) at different times and prices. The average cost method of determining cost of such securities when sold is preferred. If a basis other than the average cost method is used, the difference (if material) in gain (loss) between that determined on the average cost method and that on the method actually used should be disclosed.

J. Unrealized Gain (Loss) on Securities Held

Unrealized gain (loss) on securities held results from the licensee's directors/general partner(s) valuation of

Loans and Investments. Unrealized appreciation represents the valuation above cost and unrealized depreciation represents valuation below cost. After considering an appropriate provision for taxes, the net amount will be unrealized gain (loss) on securities held for corporate licensees. Limited partnership licensees will not have a provision for taxes.

The Statement of Operations measures the realized activities of a licensee that can be objectively measured. Unrealized gain (loss) on securities held is in many ways a subjective determination by a licensee; therefore, measurement in a separate statement would be most appropriate with the final results being reflected in the equity section of the Statement of Financial Position. Accordingly, unrealized gain (loss) on securities held will be measured separately in the equity accounts rather than being a measurement of earnings. Such accounting treatment is not at variance with Accounting Principles Board Opinion No. 9, *Reporting the Results of Operations*, issued by the AICPA and effective December 31, 1966, or with accounting practices set forth in the AICPA Audit Guide for Investment Companies as applied to SBICs.

K. Undistributed Realized Earnings

Undistributed realized earnings will encompass all realized earnings whether in cash or non-monetary receipts such as notes receivable, stock, etc. Earnings realized in other than cash will not be available for distribution or otherwise made available for capitalization until converted to cash. Gain or loss on securities held is unrealized and, therefore, not measured in undistributed earnings.

L. Accounting for Non-Monetary Transaction

Non-monetary transactions involve both reciprocal and non-reciprocal transfers of assets or liabilities not involving cash between the licensee and another entity or person, or between the licensee and its stockholders/partners. Accounting Principles Board Opinion No. 29, issued by the AICPA and effective October 1, 1973, should be followed by licensees to the extent applicable when accounting for non-monetary transactions.

M. Loan and Investment Transactions

Non-monetary exchanges with portfolio concerns or others whereby the licensee transfers certain securities or assets for other securities or assets will not be considered transactions where gain (loss) is realized whether such

transactions are taxable or non-taxable exchanges. The accounting basis for assets received will be the same basis as assets transferred and unrealized gain (loss) on securities held will be the result of the valuation process.

N. Dividends and Spin-offs

Dividends in kind are nonreciprocal transfers of non-monetary assets to owners and should be accounted for at fair value. Fair value is defined as being not less than the value as reported on the most recent SBA Form 468 and the gain will be reported as a non-cash gain.

Assume the following facts:

Licensee has an investment, Cost \$100 Value \$500, and wishes to distribute the asset to the shareholders. If this item is isolated from the remainder of the records the balance sheet would appear as follows:

The appropriate asset account	\$100
The appropriate appreciation account	400
Account 440-Stockholders Unrealized Appreciation on Loans and Investments	400
Account 451-Stockholders Undistributed Net Realized Earnings	100

At the time that a decision is made to distribute the asset, immediately prior to distribution the licensee will make the following journal entries:

1. Dr Account 440-Stockholders Unrealized Appreciation on Loans and Investments	\$400
Cr Account 450-Stockholders Non-cash Gains on Sale of Securities	400

Explanation—The distribution of the asset is equivalent to a sale which results in a non-cash gain.

2. Dr The appropriate asset account	\$400
Cr The appropriate appreciation account	400

Explanation: The appreciation of the asset has been now realized.

At the time of distribution the following entry would be made.

3. Dr Account 450-Stockholders' Non-cash Gains on Sales of Assets	\$400
Dr Account 451-Stockholders Net Realized Earnings	100
Cr The appropriate asset account	500

O. Special Policies Applying to 301(d) Licensees

1. Three percent non-voting Preferred Stock Purchased by SBA.

Although considered leverage funds, preferred stock purchased by SBA of a 301(d) licensee is treated like other equity securities for accounting purposes. Dividends on such stock

receive the conventional treatment of dividends and are declared and paid out of "retained earnings". If arrearages of dividends exist on the preferred stock purchased by SBA, the balance sheet should indicate that a footnote should be read in conjunction with the preferred stock. The footnote should explain the amount of the arrearages and the number of arrearages. Dividends or other distributions may not be made if (a) Retained Earnings is a deficit or (b) there are any arrearages of dividends on preferred stock issued to SBA. A transfer from Retained Earnings to Paid-in Surplus is considered to be a distribution.

2. Capitalized Operating Expenses

Frequently, 301(d) licensees that have parent companies will be allowed to increase capital by transfers of allocated operating expenses incurred on the part of the licensee but paid for by the parent company. Another form of the same type of transaction exists when the parent company increases private capital of a subsidiary licensee by a cash transfer in which funds are designated to be used for budgeted operating expenses.

Such transfers will be deferred (account No. 383) expenses rather than assets on the basis that they have no future value.

P. Allowance for Losses on Loans and Investments

The value basis of accounting does not contemplate a general allowance for losses on loans and investments as does the cost basis. Rather, value accounting requires the licensee's Board of Directors/General Partner(s) to value each loan or investment as of the statement date. Where value is determined to be less than cost, unrealized depreciation will result. The Unrealized Depreciation, which is the SBIC's good faith valuation of certain investments below cost, is the amount that should be shown as an "Allowance for Losses on Loans and Investments" in the Computation of Earnings Available for Dividend Declaration or Capitalization. The total amount shown on Line Item 10, Column 2, of the Statement of Financial Position should, under normal conditions, be the amount of the "Allowance for Losses." Any material difference between the amount reported on Line 10, Column 2 of the Statement of Financial Position and the amount reported as the Allowance for Losses on Loans and Investments in the Computation of Earnings Available for Dividend Declaration or Capitalization should be explained by a footnote(s). It should be noted, however, that the

adoption of value accounting will have no effect on the licensee's reserve for losses for tax purposes (see I.R.C.).

As under the cost basis, differences in accounting income and taxable income will occur and will be measured as deferred credit or deferred charge to future income taxes. For example, a licensee may, under either accounting basis, establish an allowance for loss on stock, warrants or other types of equity investments. For tax purposes, however, such allowances may not be taken. In such cases, the difference between accounting for statement purposes and tax purposes is reflected as a deferred charge. Similarly, when a general allowance for loss is established on loans or debt securities, income for tax purposes will be greater than for statement purposes and the difference will be reflected as a deferred credit.

III. Chart of accounts

A. Account Numbering System

This system provides for two-digit number designations for major categories under which accounts are listed, and three-digit number designations for individual general ledger accounts. The first two digits of an individual account number refer to the major category under which the account is classified and the third digit identifies the specific account. Digits from zero through nine are used to identify specific accounts; the first deposit bank account established will be designated "100" and the second "101." It will be noted that some categories encompass individual accounts in sufficient number to require assignment of more than one two-digit number to identify the category. For example, "Cash on Hand and in Banks" has been assigned category numbers "10," "11," and "12."

B. Additional Accounts

Licensees may incorporate such additional accounts into their accounting system as are considered necessary.

Any account may be subdivided provided that such subaccounts do not impair the integrity of the accounts set forth in the prescribed system. Subaccounts shall refer by number and title to the accounts to which they apply. Use of a decimal system is required for extending the account numbers to identify such subaccounts.

C. Primary Classification of Accounts

The primary classification of accounts is as follows.

GENERAL LEDGER

Account number	Description
100-299	Asset and valuation accounts.
300-399	Liability accounts.
400-499	Capital accounts.
500-599	Income accounts.
600-699	Expense accounts.

Memorandum Records

NA-10-NA-14	Nominal assets.
CL-15-CL-17	Contingent liabilities.
OCS-1	Options on company's stock.
AL-1	Actual (realized) losses.
WI	Worthless investments-written off.
WIR	Worthless investments-written off reserve.
PDA	Preferred dividend arrearages on preferred stock sold SBA.

D. Detail Chart of Accounts

The detail chart of accounts is organized according to the primary classification of accounts and identifies the account number and title of each account. The page where a description of the account can be found is indicated at the right of the account title.

Asset and Valuation Accounts

10-12—Cash on Hand and in Banks

- 100-108—Deposits in—bank.
- 110-112—Deposits in imprest account in—bank.
- 118—Cash items in process of collection.
- 120—Party cash fund.

13—Invested Title Funds

- 130—U.S. Government obligations, direct and fully guaranteed.
- 131—Insured savings accounts.
- 135-137—Time certificates of deposit in—bank.
- 138—Other investments in insured institutions.

14—Receivables

- 140—Notes receivable.
- 141—Accounts receivable.
- 142—Allowance for uncollectible notes and accounts receivable.
- 143—Accrued interest receivable.
- 144—Allowances for uncollectible interest receivable.
- 145—Dividends receivable.
- 146—Receivables from parent.

15—Current Maturities and Other Current Assets

- 150—Current maturities on portfolio securities.
- 152—Current maturities on assets acquired in liquidation of portfolio securities.
- 153—Current maturities or operating concerns acquired.
- 154—Current maturities on other securities.
- 156—Other current assets.

16—Investment in 301(d) Licensee

- 160—Investment in 301(d) licensee.
- 17—*Loans to Small Business Concerns*
- 170 Loans.
- 171—Appreciation of loan values.
- 172—Depreciation of loan values.
- 173—Unearned discount, fees, and other charges on loans.
- 18—*Debt Securities of Small Business Concerns*
- 180—Debt securities, convertible, and with stock purchase warrants or options.
- 184—Debt securities divested of stock rights.
- 186—Appreciation of debt securities values.
- 187—Depreciation of debt securities values.
- 188—Unearned discount, fees, and other charges on debt securities.
- 19—*Equity Interests of SBCs*
- 190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.
- 191—Capital stock of SBCs—other.
- 192—Appreciation of capital stock values.
- 193—Depreciation of capital stock values.
- 194—Equity interests of unincorporated concerns.
- 195—Appreciation of equity interests in unincorporated concerns.
- 196—Depreciation of equity interests in unincorporated concerns.
- 197—Warrants, options, and other stock rights acquired from SBCs.
- 198—Appreciation of warrants, options, and other stock rights acquired from SBCs.
- 199—Depreciation of warrants, options, and other stock rights acquired from SBCs.
- 20—*Assets Acquired in Liquidation of Portfolio Securities*
- 200—Receivables from debtors on sale of assets acquired in liquidation of portfolio securities.
- 203—Depreciation in values of receivables from debtors on sale of assets acquired in liquidation of portfolio securities.
- 204—Assets acquired in liquidation of portfolio securities.
- 205—Appreciation of assets acquired in liquidation of portfolio securities.
- 206—Depreciation of assets acquired in liquidation of portfolio securities.
- 21—*Operating Concerns Acquired*
- 210—Operating concerns acquired.
- 211—Appreciation of operating concerns acquired.
- 212—Depreciation of operating concerns acquired.
- 22—*Other Securities*
- 220—Notes and other securities received on sale of portfolio securities.
- 221—Other securities received.
- 222—Appreciation of other securities.
- 223—Depreciation of other securities.
- 3—*Prepaid Expenses and Deferred Charges*
- 230—Prepaid expenses.
- 231—Deferred charges.
- 24—*Furniture and Equipment*
- 240—Furniture and equipment.
- 241—Accumulated depreciation on furniture and equipment.
- 25—*Corporate Premises Owned*
- 250—Corporate premises owned.
- 251—Accumulated depreciation on corporate premises owned.
- 252—Leasehold improvements.
- 26—*Other Assets*
- 265—Amounts due from directors, officers, general partners, limited partners and employees.
- 266—Organization costs.
- 267—Funds in escrow.
- 269—Other assets.
- Liability Accounts*
- 30—*Notes and Other Obligations Payable to SBA for Funds Borrowed*
- 300—Notes payable to SBA.
- 301—Debentures payable issued to SBA.
- 31—*Notes and Other Obligations Payable to Other than SBA for Funds Borrowed*
- 310—Notes payable to other than SBA-guaranteed by SBA.
- 311—Notes payable to other than SBA-not guaranteed by SBA.
- 312—Mortgages payable for funds borrowed.
- 313—Mortgages payable on assets acquired in liquidation of portfolio securities.
- 32—*Notes Payable—Other*
- 320—Notes payable—other.
- 33—*Current Maturities of Long-Term Debt*
- 330—Current maturities of notes and debentures payable to or guaranteed by SBA.
- 331—Current maturities of notes and debentures payable to others not guaranteed by SBA.
- 34—*Accounts Payable*
- 340—Accounts payable.
- 341—Accounts payable due parent or partners.
- 35—*Accrued Expenses and other current Liabilities*
- 350—Accrued interest payable.
- 351—Accrued taxes.
- 354—Estimated income taxes accrued.
- 358—Other current liabilities.
- 36—*Dividends and Distributions Payable*
- 360—364—Dividends payable on (type and class) capital stock.
- 365—369—Distributions payable to general and limited partners.
- 37—*Trust Receipts*
- 370—Employee taxes withheld.
- 374—Unapplied receipts.
- 378—Miscellaneous trust receipts.
- 38—*Deferred Credits*
- 380—Deferred credit to future income taxes.
- 380—Deferred credit to future income taxes.
- 383—Other deferred credits.
- 39—*Other Liabilities*
- 390—Other liabilities.
- Capital Accounts*
- 40—41—*Capital Stock*
- 400—404— (type and class) capital stock authorized.
- 405—409— (type and class) unissued capital stock.
- 410—411— (type and class) capital stock subscribed.
- 413—414—Capital stock subscriptions receivable (type and class).
- 415—419—Treasury stock (type and class).
- 42—*Paid-in Surplus*
- 420—Paid-in surplus.
- 43—*3 Percent Preferred Stock [301(d) Licensees only]*
- 430—3 percent preferred stock, cumulative, non-voting issued to SBA.
- 44—*Stockholders' Unrealized Gain (Loss) on Securities Held*
- 440—Stockholders' unrealized appreciation on loans and investments.
- 445—Stockholders' unrealized depreciation on loans and investments.
- 448—Stockholders' estimated taxes on net unrealized gain (loss) on securities held.
- 45—*Stockholders' Undistributed Realized Earnings*
- 450—Stockholders' non-cash gains on sale of securities.
- 451—Stockholders' undistributed net realized earnings.
- 46—*Stockholders' and Partners Profit and Loss Clearing*
- 460—Stockholders' profit and loss summary.
- 461—Stockholders' realized gain and loss summary in cash.
- 462—Stockholders' non-cash realized gain summary.
- 463—Stockholders' non-cash income from investments reported on the equity method of accounting.
- 465—Partners' profit and loss summary.
- 466—Partners' realized gain and loss summary in cash.
- 467—Partners' non-cash realized gain summary.

- 468—Partners' non-cash income from investments reported on the equity method of accounting.
- 47—*Partners' Capital Contributions*
- 470—General Partners' Permanent Capital Contribution Summary.
- 471—Corporate General Partners' Permanent Capital Contribution.
- 472—Individual General Partners' Permanent Capital Contribution.
- 475—Limited Partners' Permanent Capital Contribution Summary.
- 476—Limited Partners' Permanent Capital Contribution.
- 48—*Partners' Unrealized Gain (Loss) on Securities Held*
- 481—Corporate General Partners' Unrealized Appreciation on loans and investments.
- 482—Individual General Partners' Unrealized Appreciation on loans and investments.
- 483—Corporate General Partners' Depreciation on loans and investments.
- 484—Individual General Partners' Depreciation on loans and investments.
- 485—Limited Partner' Unrealized Appreciation on loans and investments.
- 486—Limited Partners' Unrealized Depreciation on loans and investments.
- 49—*Partners' Undistributed Realized Earnings.*
- 491—Corporate General Partners' non-cash gains.
- 492—Individual General Partners' non-cash gains.
- 493—Corporate General Partners' undistributed net realized earnings.
- 494—Individual General Partners' undistributed net realized earnings.
- 495—Limited Partners' non-cash gains.
- 496—Limited Partners' Undistributed net realized earnings.

Income Accounts

- 50—*Commitment Income*
- 500—Commitment Income.
- 51—52—*Interest Income*
- 510—Interest on invested idle funds.
- 512—Interest on loans.
- 516—Interest on debt securities.
- 520—Interest income—other.
- 53—*Fee Income*
- 532—Management service fees.
- 534—Investigation and service fees charged other lenders.
- 536—Application and appraisal fees.
- 54—*Dividends and Other Earnings*
- 540—Dividends on capital stock of SBCs.

- 541—Sharings in income or revenue of SBCs.
- 542—Non-cash income from investments reported on the "Equity Method of Accounting".
- 57—*Gain on Securities and Other Assets*
- 570—Gain on U.S. Government securities.
- 571—Gain on loans.
- 572—Gain on debt securities.
- 574—Gain on capital stock of SBCs.
- 575—Gain on equity interests of unincorporated SBCs.
- 576—Gain on warrants, options, and other stock rights acquired from SBCs.
- 577—Gain on assets acquired in liquidation of portfolio securities.
- 578—Gain on operating concerns acquired.
- 579—Gain on other assets.
- 58—*Miscellaneous Income*
- 582—Income from assets acquired in liquidation of portfolio securities.
- 584—Other income.

Expense Accounts

- 60—*Commitment Expense*
- 600—Commitment expense.
- 61—62—*Interest Expense*
- 610—Interest on obligations payable to SBA.
- 622—Interest on obligations payable to other than SBA.
- 64—*Stock Record and Other Financial Expenses*
- 642—Stock record and other financial expenses.
- 65—67—*Operating Expenses*
- 650—Advertising and promotional costs.
- 651—Appraisal and investigation costs.
- 652—Auditing and examination costs.
- 653—Communications.
- 654—Cost of space occupied.
- 655—Depreciation of corporate premises owned, furniture, and equipment.
- 656—Amortization of leasehold improvements.
- 657—Directors' and stockholders' and partners' meetings costs.
- 658—Insurance.
- 659—Management services fees.
- 660—Investment adviser costs.
- 661—Legal services.
- 663—Salaries.
- 664—Taxes, excluding income taxes.
- 665—Travel.
- 670—Employee benefits expense.
- 672—Amortization of organization expense.
- 679—Miscellaneous operating expenses.
- 68—*Estimated Losses on Receivables*
- 680—Estimated losses on receivables.

- 70—*Loss on Securities and Other Assets*
- 700—Loss on U.S. Government securities.
- 701—Loss on loans.
- 702—Loss on debt securities.
- 704—Loss on capital stock of SBCs.
- 705—Loss on equity interests of unincorporated concerns.
- 706—Loss on warrants, options, and other stock rights acquired from SBCs.
- 707—Loss on assets acquired in liquidation of portfolio securities.
- 708—Loss on operating concerns acquired.
- 709—Loss on other assets.
- 71—*Miscellaneous Expenses*
- 710—Expenses on assets acquired in liquidation of portfolio securities.
- 715—Other expenses.
- 72—*Income Taxes*
- 720—Income taxes—net income.
- 722—Income taxes—net realized gain on investments.

Memorandum Records

Nominal Assets

- NA-10—Stock purchase warrants or options on stock of SBCs.

Contingent Liabilities

- CL-15—Commitments outstanding.
- CL-16—Guarantees outstanding.
- CL-17—Other contingent liabilities.

Options on Company's Stock

- OCS-1—Options on company's stock.

Actual Loss Experience

- AL-1—Actual (realized) losses.

Worthless Investments

- WI-1—Worthless investments written off.
- WIR-1—Worthless investments written off reserve.

Preferred Dividend Arrearage

- PDA-1—Preferred dividend arrearages on preferred stock sold to SBA.

IV. Description of Accounts

Asset and Valuation Accounts

- 100-108—Deposits in _____ bank.

These accounts will represents funds on demand deposit in banks which are members of the Federal Deposit Insurance Corporation.

Debit:

- (a) With amount of funds deposited.

Credit:

- (a) With amount of funds withdrawn, and charges made by bank for such items as dishonored checks, transfer of funds by wire, collection, exchange, etc.

110-112—Deposits in imprest account in _____ bank.

These accounts will represent funds on demand deposit in imprest bank accounts to be drawn upon for the payment of operating expenses and to be reimbursed periodically through deposit therein of a check requiring dual signatures and drawn on the company's general funds bank account.

Debit:

(a) With amount of funds deposited.

Credit:

(a) With amounts of funds withdrawn.

118—Cash items in process of collection.

This account will represent the amount of cash items placed with banks for collection.

Debit:

(a) With amount of such items placed with banks for collection.

Credit:

(a) With amount of items collected.

(b) With amount of uncollected items returned or withdrawn.

120—Petty cash fund.

This account will represent the imprest petty cash fund maintained for the purpose of making small disbursements.

Debit:

(a) With amount placed in the fund when established.

(b) With amount of increase in the fund.

Credit:

(a) With amount of decrease in the fund.

Note.—The petty cash fund may be reimbursed and expenditures recorded as often as circumstances require, but must be reimbursed at the close of the company's fiscal year. Checks to replenish the fund will be drawn on a general fund bank account and include "petty cash" as a payee. Debits totaling the amount of this replenishment should be made concurrently to the appropriate accounts.

130—United States Government obligations, direct and fully guaranteed.

This account will represent the cost of temporary investments made from general cash funds in direct obligations of the United States Government and obligations guaranteed as to principal and interest by the United States Government. When United States Government Savings Bonds redeemable at par value on maturity are purchased at less than face value, the increase in redemption value may be periodically charged to this account with concurrent credit to account No. 510—Interest on invested idle funds.

Debit:

(a) With cost of such securities acquired.

(b) With increase in redemption value of United States Savings Bonds.

Credit:

(a) With redemption value of United States Savings Bonds redeemed.

(b) With cost of such securities sold or disposed of otherwise.

Note.—Increase in value over cost of United States Treasury Bills, which are issued at a discount and are noninterest bearing, will not be reflected in this account but will be debited to account No. 143—Accrued interest receivable, with concurrent credit to account No. 510—Interest on invested idle funds.

(See accounts Nos. 570 and 700.)

131—Insured savings accounts.

This account will include the balances in subaccounts Nos. 131.1, 131.2, etc.

131.1—Insured savings in _____

This account will represent funds invested in an insured savings account (up to the amount of the insurance) in an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

Debit:

(a) With amount of funds invested.

(b) With amount of interest earned on such invested funds.

Credit:

(a) With amount of funds withdrawn.

135-137—Time certificates of deposit in _____ bank.

These accounts will represent funds in Time Certificates of Deposit, maturing not later than one year after issuance, in banks which are members of the Federal Deposit Insurance Corporation.

Debit:

(a) With amount of funds deposited.

Credit:

(a) With amount of funds withdrawn.

138—Other investments in insured institutions.

This account will represent funds deposited or invested in insured institutions that can not be classified in any of the prior categories.

Debit:

(a) With the amount of funds deposited or invested.

Credit:

(a) With the amount of funds withdrawn.

140—Notes receivable.

This account will represent the unpaid balance of miscellaneous notes receivable, such as notes for management consulting services. Notes representing amounts due from debtors on sale of assets acquired in liquidation of portfolio securities will be reflected in account No. 200.

Debit:

(a) With amount of such miscellaneous notes received.

Credit:

(a) With amount collected on principal of such miscellaneous notes.

(b) With unpaid principal balance written off or disposed of otherwise.

Note.—Recording as income of amounts entered in this account should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the debtor small business concern is in default more than 6 months to the licensee, or the fair value of its debt or equity instruments held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the receivable entered in this account, or, as an alternative, the receivable recorded as an asset should be concurrently credited as deferred income to account No. 383 as above indicated.

(See account No. 142.)

141—Accounts receivable.

This account will represent the amount due on open account for management consulting, appraisal, and miscellaneous services rendered; and miscellaneous current receivables.

The account also will include the amount of accrued compensation receivable for services rendered to "participating" companies and the amount of accrued commitment fees receivable for making funds available on a deferred basis to small business concerns and to "initiating" companies in connection with the latter's financing of small business concerns.

Accounts receivable representing receivables due from debtors on sale of assets acquired in liquidation of portfolio securities will be reflected in account No. 200.

Debit:

(a) With amount due the company.

Credit:

(a) With amount collected.

(b) With amount written off or disposed of otherwise.

Note.—Recording as income of amounts entered in this account should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be involved. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the debtor small business concern is in default more than 6 months to the licensee, or the fair value of its debt or equity instruments

held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the receivable entered in this account, or, as an alternative, the receivable recorded as an asset should be concurrently credited as deferred income to account No. 383 as above indicated.

(See account No. 142.)

142—Allowance for uncollectible notes and accounts receivable.

This account will represent the valuation reserve provided for estimated losses on notes and accounts receivable and should be maintained in an amount not less than a conservative estimate of probable losses. The valuation reserve will be adjusted as occasion demands, so that this account will reflect the best available estimate of probable losses on notes and accounts receivable.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of notes and accounts receivable written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on notes and accounts receivable written off.

Note.—When a note receivable or an account receivable is recorded with respect to any debtor small business is in default more than 6 months to the licensee, or the fair value of whose debt or equity instruments held by the company as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable reflected in this account should be made in an amount equivalent to the recorded receivable, or, as an alternative, the amount of the receivable recorded as an asset should be concurrently credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting.

(See accounts Nos. 140, 141 and 680.)

143—Accrued interest receivable.

This account will represent the amount of interest accrued on portfolio loans to and debt securities of small business concerns, United States Government obligations, direct and fully guaranteed, notes receivable, sales contracts, and other interest-bearing amounts due from debtors, including funds placed in escrow pending the closing of financing and assets acquired in liquidation of portfolio securities as well as interest accrued on other securities.

Debit:

(a) With amount of interest accrued on all items covered by this account.

Credit:

(a) With amount of interest payments received.

(b) With amount of accrued interest transferred to assets acquired in liquidation of loans and debt securities.

(c) Upon disposition of interest-bearing obligations, with amount of accrued interest thereon included in this account.

(d) With amount of accrued interest written off on disposed of otherwise.

Note 1.—At the option of the company, interest payments received in cash from debtors prior to the interest maturity date may be credited to account No. 374—Unapplied receipts, until the maturity date.

Note 2.—Accrual of interest receivable should be discontinued with respect to any loan or debt security financing a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be treated as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee; or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partners is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See account No. 144.)

144—Allowance for uncollectible interest receivable.

This account will represent the valuation reserve provided for estimated losses of accrued interest receivable, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands, so that this account will reflect the best available estimate of probable losses of accrued interest receivable.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of accrued interest receivable written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries of accrued interest receivable written off.

Note.—When interest receivable is accrued under circumstances in which the financed small business concern is in default over six months to the licensee, or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partner(s) is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable reflected in this account should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in account No. 383—Other deferred credits, pending determination of the appropriate accounting.

(See accounts Nos. 143 and 680.)

145—Dividends receivable.

This account will represent cash dividends that have been disclosed on capital stock of small business concerns but have not been distributed to stockholders.

Debit:

(a) With amount due the licensee of cash dividend declared.

Credit:

(a) With amount distributed to the licensee of the dividend declared.

(See account No. 540)

Note 1.—Stock splits or dividends in stock of the same class as that owned are not recorded as dividend receivable or income because licensee's equity interest in the company declaring the dividend or split has not changed.

Therefore, stock splits or dividends will be measured in the appropriate investment account.

(Account Nos. 190 or 191.)

Note 2.—Dividends in kind will be recorded as income at the fair market value of the securities received and will be recorded in account No. 221, Other securities received.

146—Receivables from parent.

This account will represent receivables due licensee from its parent. Receivables due from parent will generally be from one of two sources: (1) Expenses shared pro-rata with the parent paid by the licensee, but not yet reimbursed by the parent and/or (2) licensee has a tax loss from which the parent (and/or consolidated group) have received a tax benefit.

Debit:

(a) Parent's share of any expense shared with the licensee which was paid by the licensee.

(b) Licensee's share of any tax benefit derived by the parent from the filing of a consolidated tax return when the licensee has a taxable loss.

(c) Any other receivable due from parent arising from any other source.

Credit:

(a) Cash received from parent.

(b) Income taxes due from licensee paid by the parent.

Note.—The credit for income taxes due from licensee but paid by the parent can only arise in the case of a prior benefit being derived by the parent.

If the licensee has had a previous tax benefit by reason of a tax loss from some other member of the consolidated group the credit would be to account No. 341—Accounts payable due parent.

150—Current maturities of portfolio securities.

The account will represent the principal amount due the licensee on a cost basis of loans and debt securities of small business concerns that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to loan or debt security accounts.

(See accounts Nos. 170, 180, and 184.)

152—Current maturities on assets acquired in liquidation of portfolio securities.

This account will represent the current principal amounts due the licensee on a cost basis of amounts due from debtors on sale of assets acquired; or the current principal amounts of their debt instruments that are classified as assets acquired in liquidation of portfolio securities.

This account will represent only those amounts reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to the appropriate asset acquired in liquidation of portfolio securities account.

(See accounts Nos. 200, 204.)

153—Current maturities on operating concerns acquired.

This account will represent the principal amounts due the licensee on a cost basis of debt instruments classified as operating concerns acquired that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to other securities accounts.

(See account No. 210.)

154—Current maturities on other securities.

This account will represent the principal amounts due the licensee on a cost basis of debt instruments classified as "other securities" that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to other securities accounts.

(See accounts Nos. 220 and 221.)

156—Other current assets.

This account will represent current assets not otherwise classified of the licensee that are expected to be converted to cash or expensed in the normal course of business in the next twelve months.

Debit:

(a) With amount of such asset.

Credit:

(a) With amount collected.

(b) With the proportionate amount allocated to the period as an expense.

160—Investment in 301(d) licensee.

This account will represent the licensee's investment in capital stock of a special purpose SBIC. The account will be maintained on the equity method of accounting basis and will show licensee's investment after considering proportionate share of realized income (loss) of the 301(d) licensee's operations and dividends declared by the 301(d) licensee.

Debit:

(a) With cost of capital stock of such 301(d) licensee.

(b) With the licensee's proportionate share of the 301(d) licensee's:

- (1) Net investment income, and
- (2) Net realized gain on the sale of securities.

Credit:

(a) With the licensee's proportionate share of:

- (1) Net investment loss.
- (2) Net realized loss on sale of securities.

(b) With the licensee's proportionate share of cash dividends or dividends in kind at fair value.

(c) With the value of equity basis of stock in 301(d) licensee when sold.

170—Loans.

This account will represent the unpaid principal balance of loans made to small business concerns pursuant to Section 305 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With face amount of direct loans.

(b) With portion retained by company of loans in which participations are sold to others.

(c) With amount of participations in loans of others.

(d) With unpaid principal of loans represented by renewal notes accepted or notes taken in substitution for those held.

(e) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of direct loans.

(b) With company's share of amount collected on principal of loans in which participations are sold to others.

(c) With amount by which participations in loans of others are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of loans represented by notes renewed or for which other notes have been substituted.

(e) With amount transferred to assets acquired in liquidation of portfolio securities.

(f) With unpaid principal of loans written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all loan participation arrangements the "initiating" company will service the loans.

Note 3.—It is recommended that individual loan ledger cards or sheets be maintained for all loans. Such ledger cards or sheets should contain the detailed information needed for account No. 173—Unearned discount, fees, and other charges on loans.

(See accounts Nos. 171 and 172.)

171—Appreciation of loan values.

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued loans above cost.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of loans.

(b) With amount of appreciation attributable to loans sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account 172.

172—Depreciation of loan values.

This account will represent the downward valuation of loans and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of such loans written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on such loans written off.

(See account Nos. 170 and 445.)

Note.—Usually, this account will be subdivided into at least two accounts:

172.1 Allowance for Losses—which represents losses the licensee expects to realize on specific loans.

172.2 Other Depreciation of Loan Values—which represents the Board of Directors/General Partner(s) downward valuation of specific loans. However, if securities are held to maturity, no loss would be expected. An example would be money mortgage discounts.

173—Unearned discount, fees, and other charges on loans.

This account will represent the amount of unearned discount, fees, and other charges included in the face amount of loans made to small business concerns pursuant to Section 305 of the Small Business Investment Act of such small business concerns.

Debit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which becomes earned through collection or passage of time.

(b) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which is retained by the company in connection with loans participated in by other lenders (the

amount to be recorded becomes earned through collection or passage of time).

(c) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which is assigned to the company in connection with its participations in loans of other lenders (the amount to be recorded becomes earned through collection or passage of time).

(d) With amount of unearned discount, fee, and other charges included in the face amount of loans, but withheld from disbursement to debtor small business concerns, which is rebated to borrowers upon early repayment of loans, or is closed into the asset account upon liquidation of loans at less than full amount.

Credit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of loans but withheld from disbursements to debtor small business concerns.

(b) With portion retained by the company of total amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, in connection with loans participated in by other lenders.

(c) With portion assigned to the company of total amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, in connection with its participation in loans of other lenders.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—Unearned discount in this account will be transferred, as appropriate to account No. 512—Interest on loans, as it becomes earned, and unearned fees and other charges will be transferred to account No. 536—application and appraisal fees, under similar circumstances.

Note 3.—Any fees and other charges considered earned immediately upon closing of loans will be recorded in the income account at once without first being entered in this account.

Note 4.—Appropriate subsidiary records should be maintained for all unearned amounts included in this account to permit identification of such amounts with the particular loans to which they relate.

180—Debt securities, with stock purchase warrants or options, and/or convertible.

This account will represent the unpaid principal balance of small business concerns' debt securities, with attached stock purchase warrants or options, and/or convertible, acquired by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. If the stock purchase warrants, options, or other stock rights have a separate purchase cost, or if a separate cost has otherwise been determined for them, the warrants, options, or other stock rights will be reflected at such cost in account No. 197.

Debit:

(a) With face amounts of debt securities, with stock purchase warrants or options, and/or convertible, acquired.

(b) With portion retained by company of debt securities, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amount of participations in purchases by others of debt securities, with stock purchase warrants or options, and/or convertible.

(d) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of debt securities, with stock purchase warrants or options, and/or convertible.

(b) With company's share of amount collected on principal of debt securities, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amounts by which participations in purchases by others of debt securities, with stock purchase warrants or options, and/or convertible, are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, or portions thereof, converted into capital stock.

(e) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, which have been divested of stock rights through: (1) The expiration of the conversion privilege; (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options; or (3) the detachment of detachable stock purchase warrants or options.

(f) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, transferred to assets acquired in liquidation of loans and debt securities.

(g) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all arrangements for participation in the purchase of debt securities, with stock purchase warrants or options, and/or convertible, the "initiating" company will service the financing.

Note 3.—It is recommended that individual ledger cards or sheets be maintained for all debt securities, convertible, and with stock purchase warrants or options. Such ledger cards or sheets should contain the detailed information needed for account No. 188—Unearned discount, fees, and other charges on debt securities, and for activities pertaining to participations purchased or sold.

(See accounts Nos. 184, 186, 187, 188, and memorandum record No. NA-10.)

184—Debt securities divested of stock rights.

This account will represent the unpaid principal balance of small business concerns' debt securities which have been divested of stock rights through: (1) The expiration of the conversion privilege of convertible debt securities; (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options of debt securities; or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of debt securities pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With unpaid principal of debt securities divested of stock rights through: (1) The expiration of the conversion privilege; (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options; or (3) the detachment of detachable stock purchase warrants or options.

(b) With company's retained portion of debt securities participated in by others which have been subsequently divested of stock rights.

(c) With amount of participations in purchases by others of debt securities which have been subsequently divested of stock rights.

(d) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of debt securities divested of stock rights.

(b) With company's share of amount collected on principal of debt securities participated in by others which have been subsequently divested of stock rights.

(c) With full amount by which participations in purchases by others of debt securities which have been subsequently divested of stock rights are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of debt securities divested of stock rights transferred to assets acquired in liquidation of loans and debt securities.

(e) With unpaid principal of debt securities divested of stock rights written off or disposed of otherwise.

Note.—It is recommended that individual ledger cards or sheets be maintained for all debt securities which have been divested of stock rights. Such ledger cards or sheets should contain the detailed information needed for account No. 188—Unearned discount, fees, and other charges on debt securities.

(See accounts Nos. 186, 187, and 188.)

186—Appreciation of debt securities of SBC's.

This account will represent the amount by which the licensee's Board of Directors/general Partner(s) has valued debt securities with equity features above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account 187.

187—Depreciation of debt securities values.

This account will represent the downward valuation of debt securities, with stock purchase warrants or options, and/or convertible, and debt securities divested of stock rights and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for debt

securities which are written off, sold, or disposed of otherwise.

(c) With amount of writedown of such debt securities, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When debt securities of small business concerns are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 702 will be debited for the amount of the loss, and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 572. The amount of the reserve which has been established in this account for the debt security sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts.

187.1 Allowance for Losses—which represents losses the licensee expects to realize on specific debt securities.

187.2 Other Depreciation of Debt Securities Values—which represents the Board of Directors/General Partner(s) downward valuation of specific debt securities. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

188—Unearned discount, fees and other charges on debt securities.

This account will represent the amount of unearned discount, fees, and other charges included in the face amount of small business concerns' debt securities acquired pursuant to Section 304 of the Small Business Investment Act of 1958, as amended, and which is withheld from disbursements to such small business concerns.

Debit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which becomes earned through collection or passage of time.

(b) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which is retained by the company in connection with purchases of debt securities participated in by other investors (the amount to be recorded becomes earned through collection or passage of time).

(c) With amount earned of that portion of unearned discount, fees, and

other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns which is assigned to the company in connection with its participations in purchases of debt securities by other investors (the amount to be recorded becomes earned through collection or passage of time).

(d) With amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which is rebated to borrowers upon early repayment of debt securities, or is closed into the asset account upon liquidation of debt securities at less than full amount.

Credit:

(a) With amount of unearned discount (including that equivalent to the determined cost of warrants, options, and other stock rights, as explained in Note 2 of account No. 197), fees, and other charges included in the face amount of debt securities but withheld from disbursements to debtor small business concerns.

(b) With portion retained by the company of total amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursement to debtor small business concerns, in connection with purchases of debt securities participated in by other investors.

(c) With portion assigned to the company of total amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursement to debtor small business concerns, in connection with its participations in purchases of debt securities by other investors.

Note 1.—A participation is defined as an undivided interest shared with one or more lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—Unearned discount in this account will be transferred, as appropriate, to account No. 516—Interest on debt securities, as it becomes earned, and unearned fees and other charges will be transferred to account No. 536—Application and appraisal fees, under similar circumstances.

Note 3.—Any fees and other charges considered earned immediately upon closing of financing through purchase of debt securities will be recorded in the income account at once without first being entered in this account.

Note 4.—Appropriate subsidiary records should be maintained for all earned amounts included in this account to permit identification of such amounts with the

particular debt securities to which they relate.

190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

This account will represent the value at cost of small business concerns' capital stock, with attached stock purchase warrants or options, and/or convertible, acquired by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. If the stock purchase warrants, options, or other stock rights have a separate purchase cost, or if a separate cost has otherwise been determined for them, the warrants, options, or other stock rights will be reflected at such cost in account No. 197.

Debit:

(a) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, acquired.

(b) With portion retained by company of the capital stock of SBCs, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amount of participations in acquisitions by others of capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

Credit:

(a) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, which has been divested of stock purchase rights through: (1) The expiration of the conversion privilege; (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options; or (3) the detachment of detachable stock purchase warrants or options.

(b) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, converted to another class of capital stock.

(c) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all arrangements for participation in the acquisition of capital stock of SBCs, with stock purchase warrants or options, and/or convertible, the "initiating" company will service the financing.

Note 3.—It is recommended that individual ledger cards or sheets be maintained for all capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

(See accounts Nos. 191, 193 and memorandum record No. NA-10.)

191—Capital stock of SBCs—other.

This account will represent the value at cost of small business concerns capital stock acquired by the company without conversion privileges or stock purchase warrants or options, or existing on the books as the result of: (1) The expiration of the conversion privilege of convertible capital stock of SBCs; (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options; or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of capital stock of small business concerns pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With cost of such capital stock of SBCs—other acquired through: (1) Purchase; (2) conversion of convertible debt securities or convertible capital stock of SBCs; or (3) exercise of rights conveyed by stock purchase warrants or options issued by small business concerns in connection with their debt securities or capital stock acquired by the company.

(b) With cost of such capital stock of SBCs—other resulting from: (1) The expiration of the conversion privilege of convertible capital stock of SBCs; (2) the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options; or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of capital stock of small business concerns.

(c) With portion retained by company of the capital stock of SBCs—other in which participations are sold to others.

(d) With amount of participations in capital stock of SBCs—other acquired by or subsequently existing on the books of others without conversion privileges or stock purchase warrants or options.

Credit:

(a) With cost of such capital stock of SBCs—other written off or disposed of otherwise.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for all capital stock of SBCs—other acquired or subsequently existing without conversion privileges or stock purchase warrants or options.

Note 2.—In acquisitions of capital stock through exercise of rights conveyed by stock purchase warrants or options issued by small business concerns in connection with their debt securities or capital stock previously acquired by the company, the amount of the

expenditure made by the company in the current acquisition of the capital stock will be considered the cost of the stock in those instances when the stock purchase rights surrendered have only a nominal value; otherwise, the cost of the stock will comprise the current expenditure plus the cost of the warrants or options surrendered.

Note 3.—In conversion of convertible debt securities of small business concerns into capital stock, or in conversions of convertible capital stock of SBCs into another class of capital stock, the value at cost of the particular convertible security should be considered the cost of the capital stock received in the conversion.

(See account Nos. 190, 193, and 197.)

192—Appreciation of capital stock of SBCs.

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued capital stock of SBCs above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account No. 193.

193—Depreciation of capital stock values.

This account will represent the downward valuation of: (1) Capital stock of SBCs, with stock purchase warrants or options, and/or convertible; and (2) capital stock of SBCs—other, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for capital stock which is written off, sold, or disposed of otherwise.

(c) With amount of writedown of such capital stock, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increase in such reserve.

Note 1.—When capital stock of SBCs is sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount

received. Account 704 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 574. The amount of the reserve which has been established in the account for capital stock sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

193.1 *Allowance for Losses*—represents losses the licensee expects to realize on specific capital stock investments.

193.2 *Other Depreciation of Stock Values*—represents the downward valuation of specific stock investments. However, the licensee's management expects the decline to be temporary and thereby suffer no loss on the investment. An example is a temporary market decline of public tradeable stocks that are unrestricted.

(See accounts Nos. 190, 192, and 445.)

194—Equity interests of unincorporated concerns.

This account will represent the licensee's investment in equity types securities of a limited partnership or other type of unincorporated concern. The account will be maintained on the equity method of accounting basis and will show the licensee's investment after considering its proportionate share of realized income (loss) of the unincorporated concern as well as distributions.

Debit:

(a) With cost of equity interest acquired.

(b) With the licensee's proportionate share of the concern's net income.

Credit:

(a) With the licensee's proportionate share of net loss.

(b) With the licensee's proportionate share of cash distributions.

(c) With the value on equity basis of the licensee's investment when sold or disposed of otherwise.

(See accounts Nos. 195 and 196.)

195—Appreciation of equity interest of unincorporated concerns.

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued equity interests of unincorporated concerns above the carrying value of such securities on the equity method of accounting.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account 196.

(See account Nos. 194, and 440.)

196—Depreciation of equity interests of unincorporated concerns.

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued equity interests of unincorporated concerns below the carrying value of such securities on the equity method of accounting.

Debit:

(a) With decrease in amount of such depreciation resulting from increase in fair value of such equity interests.

(b) With amount of depreciation attributable to equity interests sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When equity interests are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 705 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 575. The amount of the reserve which has been established in the account for equity interest sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—This account will usually be the same as allowance for loss on equity interests of unincorporated concerns. Otherwise, the account should be subdivided.

(See account Nos. 194, 195 and 445.)

197—Warrants, options, and other stock rights acquired from SBCs.

This account will represent the value at purchase price or at cost as otherwise determined of warrants, options, and other stock rights acquired by the company from small business concerns pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. The account will include conversion rights for which a separate cost has been determined.

Detachable stock purchase warrants or options on stock of SBCs for which no consideration is given distinct from that surrendered for the debt securities or capital stock which they accompany, or for which no separate cost has been determined, will be reflected in memorandum record No. NA-10, if retained after the financing instruments which they accompanied have been disposed of.

Debit:

(a) With cost of such warrants, options, or other stock rights acquired.
(b) With portion retained by company of the warrants, options, or other stock rights in which participations are sold to others.

(c) With amount of participations in acquisitions by others of warrants, options, or other stock rights.

Credit:

(a) With cost of such warrants, options, or other stock rights surrendered in exercising the stock rights.

(b) With cost of such warrants, options, or other stock rights written off or disposed of otherwise.

(c) With cost of such warrants, options, or other stock rights for which the exercise period has expired.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for all warrants, options, or other stock rights acquired from SBCs.

Note 2.—The cost of warrants, options, and other stock rights acquired from SBCs for a separate consideration will be charged to this account, with a credit to cash. If warrants, options, or other stock rights are acquired from SBCs without a separate consideration and a cost thereof is otherwise determined, such cost will be established in this account. (The determined cost of warrants, options, and other stock rights acquired with debt securities without a separate consideration therefor shall be arrived at giving full consideration to the grade of the debt security.) The payment for the debt security or capital stock certificate which accompanied the stock rights will be allocated between the obligation or stock and the stock rights. Cash will be credited for the determined cost of the stock rights. Cash also will be credited for the amount of the debt security or stock received less the amount withheld from disbursement in relation to the debt security or stock received, which is equivalent to the determined cost of the stock rights plus (in the case of a debt security) any other withholding from net funds advanced. In the purchase of a debt security the deduction equal to the determined cost of the stock rights, plus any other withholding from net funds advanced, will be treated as unearned discount on the debt security and credited to account No. 188—Unearned discount, fees, and other charges on debt securities. In the case of a purchase of capital stock, the deduction equal to the determined cost of the stock rights will serve to reduce the cost of the stock to be recorded in account No. 190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

(See accounts Nos. 199, 576 and 706.)

198—Appreciation of warrants, options, and other stock rights acquired from SBCs.

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued warrants, options and other stock rights above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account Nos. 197, 199 and 440.)

Note.—See Note 1 to account No. 199.

199—Depreciation of warrants, options, and other stock rights acquired from SBCs.

This account will represent the Board of Directors/General Partner(s) downward valuation of warrants, options and other stock rights acquired from SBCs, and should represent an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for warrants, options, and other stock rights acquired from SBCs which are written off, sold, or disposed of otherwise (contra credit will be made to account No. 445).

(c) With amount of writedown of such warrants, options, and other stock rights acquired from SBCs, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When warrants, options, and other stock rights acquired from SBCs are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received, account 706 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account 576. The amount of the reserve which has been established in the account for warrants, options, or other stock rights acquired, sold or disposed of otherwise will be reversed and offset against account 445.

Note 2.—This account will usually represent the allowance for losses on warrants, options, and other stock rights. Otherwise, this account should be subdivided.

(See accounts Nos. 197, 198, and 445.)

200—Receivables due from debtors on sale of assets acquired in liquidation of portfolio securities.

This account will represent the unpaid balance of accounts receivable, notes receivable, sales contracts, purchase money mortgages, and similar evidences of indebtedness to the company arising from the sale of assets acquired in liquidation of portfolio securities.

Debit:

(a) With amount of such receivables.

(b) With amount of participation in amounts due from debtors on sale of assets acquired in liquidation of portfolio securities of other lenders or investors.

Credit:

(a) With amount collected on principal of such receivables.

(b) With amount transferred to account No. 204—assets acquired in liquidation of portfolio securities. (Noncash assets other than receivables obtained on sale of assets acquired in liquidation of portfolio securities should be reflected at cost in account No. 204).

(c) With unpaid principal balance written off or disposed of otherwise.

Note.—It is recommended that subsidiary records be maintained in sufficient detail to disclose for report and tax purposes all transactions affecting amounts due from debtors on sale of assets acquired in liquidation of portfolio securities.

(See accounts Nos. 203, 204.)

203—Depreciation in values of receivables from debtors on sale of assets acquired in liquidation of portfolio securities.

This account will represent the downward valuation on amounts due from debtors and securities received on sale of assets acquired in liquidation of portfolio securities, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount due from debtors on sale of assets acquired in liquidation of portfolios securities written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on such items written off.

Note.—Occasionally, this account will be subdivided into at least two accounts:

203.1 Allowance for Losses—which represents losses the licensee expects to realize on specific receivables from debtors.

203.2 Other Depreciation of Receivables from Debtors—Represents the Board of Directors/General Partner(s) downward valuation of specific receivables from

debtors. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

(See accounts Nos. 200 and 445.)

204—Assets acquired in liquidation of portfolio securities.

This account will represent the company's investment in assets acquired by foreclosure, or otherwise, in liquidation of portfolio securities. Judgments, sheriffs' certificates (including property acquired subject to redemption), etc., will be reflected in this account.

The investment in property at the date of acquisition by the company should be determined by the Board of Directors/General Partner(s) on the most suitable of the following basis: (1) Bid-in price of the property; (2) agreed consideration for the property; (3) fair appraised value of the property. Any remaining indebtedness will be written off unless the company expects further liquidation of the debt from other sources. Insofar as practicable, investment values will be determined for each individual asset, or unit, at the time such assets are recorded in this account, and when an asset is sold only an amount equal to the investment in such asset will be credited to this account.

The company's investment in mortgaged real property acquired in liquidation of portfolio securities should be recorded at gross value as determined by the Board of Directors/General Partner(s), reduced as necessary to bring the net recorded value to no more than the outstanding principal balance of the related portfolio securities involved. The amount of the existing mortgage or mortgages on such property acquired by the company will be reflected in account No. 313.

The company's investment in judgments should be recorded at the face amount of the judgment. When the company acquires the underlying security to the related portfolio securities outright or subject to redemption, the investment in the property should be determined in accordance with the basis set forth in the second paragraph.

Debit:

(a) With amount of the company's investment in the assets at the time of the acquisition.

(b) With amount of the company's investment in the assets at the date of judgment, sheriff's certificate, etc.

(c) With amount of participation in assets acquired by others in liquidation of portfolio securities.

Credit:

(a) With proceeds of partial sale of the assets.

(b) With amount of the company's investment at date of sale, or other disposition of the assets.

(c) With amount written off.

Note 1.—Collateral notes receivable acquired in the liquidation of portfolio securities will be reflected in this account; but notes receivable that are subsequently accepted in connection with the disposition of assets acquired in the liquidation of portfolio securities will be included in account No. 200—Receivables from debtors on sale of assets acquired in liquidation of portfolio securities.

Note 2.—It is recommended that subsidiary records be maintained in sufficient detail to disclose for report and tax purposes all transactions affecting assets acquired in liquidation of portfolio securities.

(See accounts Nos. 170, 180, and 200.)

205—Appreciation of assets acquired in liquidation of portfolio securities.

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued assets acquired above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account No. 206.

(See accounts Nos. 204, 206, and 440.)

206—Depreciation of assets acquired in liquidation of portfolio securities.

This account will represent the downward valuation of assets acquired in liquidation of portfolio securities, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for assets acquired in liquidation of portfolio securities which are written off, sold, or disposed of otherwise (contra credit will be made to account No. 445).

(c) With amount of writedown of such assets acquired in liquidation of portfolio securities, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When assets acquired in liquidation of portfolio securities are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received, account 707 will be debited for the amount of the loss and account No. 204 will be credited for the related cost value carried therein. If an gain over recorded investment in the assets acquired in liquidation is realized, such gain will be credited to account No. 577. The amount of the reserve which has been established in this account for other assets acquired in liquidation of portfolio securities will be reversed and offset against account 445 when such assets are sold or disposed of otherwise.

Note 2.—This account will usually represent the allowance for losses on other assets acquired in liquidation of portfolio securities. Otherwise, it should be subdivided.

(See accounts Nos. 204 and 445.)

210—Operating concerns acquired.

Occasionally, a licensee takes action to protect its investment in a portfolio concern and as a result acquires a controlling interest in an operating concern. In such cases, the licensee will reclassify the aggregate amount due from the portfolio concern to this account. If the concern has ceased operations and is being liquidated, the aggregate amount due from the portfolio concern will be classified as assets acquired in liquidation of portfolio securities (account No. 204) rather than this account.

Debit:

(a) With total amount of the licensee's investment in the operating concern at the time of the acquisition.

(b) With additional financing provided by the licensee.

Credit:

(a) With amount collected from such operating concern.

(b) With proportionate cost of interest sold or disposed of otherwise.

(c) With amounts written off.

Note.—It is recommended that individual ledger cards or sheets be maintained for individual loans and investments by operating concerns acquired.

(See accounts Nos. 211 and 212.)

211—Appreciation of operating concerns acquired.

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued securities of operating concerns acquired above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See accounts 210 212, and 440.)

Note.—See Note 1 to account No. 212.

212—Depreciation of operating concerns acquired.

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued securities of operating concerns acquired below cost of such securities.

Debit:

(a) With decreases in amount of such depreciation resulting from increases in fair value of such equity interests.

(b) With amount of depreciation attributable to equity interests sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When investments in operating concerns are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 708 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein.

If a gain over cost is realized, such gain will be credited to account No. 578. The amount of the reserve which has been established in the account for the investment sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

212.1 Allowance for Losses—which represents losses the licensee expects to realize on the specific operating concern acquired.

212.2 Other Depreciation of Values—represents the Board of Directors/General Partner(s) downward valuation of specific loans. However, if securities are held to maturity no loss would be expected. an example is money mortgage discount.

(See account Nos. 210, 211, and 445.)

220—Notes and other securities received on sale of portfolio securities.

This account will represent the securities taken by the licensee as part of the net sales price of portfolio securities sold.

Debit:

(a) With assigned cost of such securities when acquired.

Credit:

(a) With cost of such securities when sold.

(b) With cost of such securities when written off or disposed of otherwise.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for securities received on sale of portfolio securities.

(See account 221, 222, and 223.)

221—Other securities received.

This account will represent securities received by the licensee for which no funds were provided and which would not otherwise be classified as loans and investments. An example of such securities would be a dividend in kind received by licensee from a portfolio concern.

Debit:

(a) With fair value of such securities when received.

Credit:

(b) With carrying value of such securities when sold, written off or disposed of otherwise.

(See accounts 220, 222, and 223.)

222—Appreciation of other securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

Credit:

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account No. 223.

(See accounts 220, 221, 223, and 440.)

223—Depreciation of other securities.

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued other securities below the carrying value of such securities.

Debit:

(a) With decreases in amount of such depreciation resulting from increasing in fair value of such securities.

(b) With amount of depreciation attributable to other securities sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When other securities are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 709 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 579. The amount of the reserve which has been established in the account for securities sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Frequently, this account will be subdivided into at least two accounts:

223.1 Allowance for Losses—represents losses the licensee expects to realize on specific other securities.

223.2 Other Depreciation of Values—represents the Board of Directors/General Partner(s) downward valuation of specific securities. However, if securities are held to maturity, no loss would be expected. An example is money mortgage discount. Another example would be temporary market decline of marketable securities.

(See account Nos. 220, 221, 222, and 445.)

230—Prepaid expenses.

This account will represent the unexpired or unconsumed portion of expenses expressly applicable to future periods for which no specific accounts have been provided. Such expenses should be amortized over the appropriate period. An example of such prepaid expense is debt discount and expense that may result from obtaining leverage funds.

Debit:

(a) With amount of prepaid expenses.

Credit:

(a) With the proportional amount of such expenses applicable to the period.

Note.—Subsidiary records should be maintained to identify the items reflected in this account and to facilitate their amortization.

231—Deferred charge.

Timing differences will exist between accounting income and taxable income and thereby may cause a prepayment of taxes which is considered to be a deferred charge to future tax expense. The prepayment is based on accounting income and primarily will result from provision for loss on stock of SBCs. This account will represent such deferred charges recognized.

Debit:

(a) Such account for amounts when prepaid.

Credit:

(a) Such account for amounts that have been previously prepaid that are being applied during the period.

(See account No. 380.)

240—Furniture and equipment.

This account will represent the cost of furniture, fixtures, and equipment, including automobiles, owned by the company. The cost of freight, drayage, cartage, express, etc., in connection with the purchase of such items of furniture and equipment, will be included in this account.

Debit:

(a) With cost of such assets purchased.

Credit:

(b) With cost of such assets at the time of sale or other disposition.

Note.—An inventory record should be maintained for all such assets and each item should be tagged or numbered to facilitate ready identification.

(See account No. 241.)

241—Accumulated depreciation of furniture and equipment.

This account will represent the valuation reserve provided for depreciation of furniture, fixtures, and equipment, including automobiles, owned by the company. This account should be maintained in an amount not less than a conservative estimate of the expired service life of such assets while owned by the company.

Debit:

(a) With amount of depreciation accumulated, when such an asset is sold or disposed of otherwise.

Credit:

(a) With amount necessary to depreciate the cost of such assets over the estimated service life.

(See accounts Nos. 240 and 655.)

250—Corporate premises owned.

This account will represent the actual cost of acquisition of the land and building used as the company's office quarters. The account also will include the actual cost of any improvements, such as street, sidewalk and other benefits, applicable to the land, and any improvements applicable to the building.

Debit:

(a) With actual cost of acquisition of the land and building.

(b) With actual cost of any improvement to the land and/or building.

Credit:

(a) With the acquisition cost of the land and/or building, plus the cost of improvements made thereto, when the land and/or building is sold or disposed of otherwise.

(See account No. 251.)

251—Accumulated depreciation of corporate premises owned.

This account will represent the valuation reserve provided for depreciation of the building and other depreciable improvements of corporate premises owned and used as the company's office quarters. This account should be maintained in an amount not less than a conservative estimate of the expired service life of such building and improvements while owned by the company.

Debit:

(a) With amount of depreciation accumulated, when such an asset is sold or disposed of otherwise.

Credit:

(a) With the amount necessary to depreciate the cost of such assets over the estimated service life.

(See accounts Nos. 250 and 655.)

252—Leasehold improvements.

This account will represent the actual cost of improvements to leased property used as the company's office quarters. The amount of this account will be amortized through account No. 656 over the life of the lease or the life of the improvements, whichever is the shorter.

Debit:

(a) With actual cost of improvements to leasehold.

Credit:

(a) With the amount necessary to amortize the cost of leasehold improvements.

265—Amounts due from directors, officers, general partners, limited partners and employees.

The account will represent the unpaid balance of amounts advanced to directors, officers, general partners, limited partners and employees.

Debit:

(a) With amount of such advances made.

Credit:

(a) With amount collected on such advances.

(b) With amount transferred to appropriate expense classification upon proper authorization.

(c) With amount written off or disposed of otherwise.

(See account No. 709.)

266—Organization costs.

This account will represent the amount of legal fees, promotional expense, stock certificate cost, incorporation fees, taxes, and other related costs incurred in organizing the company.

Debit:

(a) With amount of such costs incurred.

Credit:

(a) With the amount necessary to amortize the organization costs.

(See account No. 672.)

267—Funds in escrow.

This account will represent the amount of funds placed in escrow pending the closing of financing for small business concerns.

Debit:

(a) With amount of funds placed in escrow.

Credit:

(a) With amount of funds withdrawn from escrow.

269—Other assets.

This account will represent the amount of assets of the company, at cost, not specifically provided for in other accounts, including recoverable amounts advanced for the protection

and preservation of the company's investments (such as the payment of taxes on mortgaged property), but not including short-term loans or debt securities issued to protect the company's interests in previously issued long-term loans or equity securities.

Debit:

(a) With amount of the company's investment in such assets.

Credit:

(a) With amount of such assets sold or disposed of otherwise.

(See account No. 709.)

300—Notes payable to SBA.

This account will represent the long-term principal balance of notes payable.

(1) For funds borrowed and received directly from the Small Business Administration; and (2) for funds borrowed from others through guaranteed loans which subsequently have been purchased by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(b) With unpaid principal balance of guaranteed loans purchased by SBA (contra debit will be made to account No. 310).

(See account No. 330.)

301—Debentures payable issued to SBA.

This account will represent the long-term principal balance of funds received by the company under its debentures payable issued to the Small Business Administration for funds borrowed.

Debit:

(a) With amount of principal payments made to SBA on such debentures.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds received from SBA under such debentures.

(See account No. 330.)

310—Notes payable to other than SBA—guaranteed by SBA.

This account will represent the long-term principal balance of notes payable for funds borrowed from other than the Small Business Administration and guaranteed by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With unpaid principal balance of guaranteed loans purchased by SBA (contra credit will be made to account No. 300).

(c) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.
(See account No. 330.)

311—*Notes payable to other than SBA—not guaranteed by SBA.*

This account will represent the loan-term principal balance of notes payable for funds borrowed from other than the Small Business Administration and not guaranteed by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.
(See account 331.)

312—*Mortgages payable for funds borrowed.*

This account will represent the long-term principal balance of mortgages payable for funds borrowed on corporate premises or other real estate owned by the company. Purchase money mortgages, conditional sales contracts, or similar documentary evidence of indebtedness given by the company in the acquisition of real property will be included in this account.

Debit:

(a) With amount of principal payments made on such indebtedness.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.
(See account 331.)

313—*Mortgages payable on assets acquired in liquidation of portfolio securities.*

This account will represent the unpaid principal balance of existing mortgages payable on assets acquired by the company in liquidation of portfolio securities.

Debit:

(a) With amount of principal payments made on such indebtedness.

Credit:

(a) With amount of such indebtedness.
(See account No. 204.)

320—*Notes payable—other.*

This account will represent the unpaid principal balance of notes payable in evidence of amounts owned by the company other than for funds borrowed. Notes payable, conditional sales contracts, and liens for the acquisition of furniture, fixtures, equipment, and automobiles will be included in this account.

Debit:

(a) With amount of principal payments made on such notes.

Credit:

(a) With amount of unpaid principal of such notes executed.

330—*Current Maturities of notes and debentures payable to or guaranteed by SBA.*

This account will represent the principal amount due on a current basis (payable by the licensee in the next 12 months of operations) of long-term debt shown in accounts 300, 301 and 310.

Debit:

(a) With amounts paid by the licensee or disposed of otherwise.

Credit:

(a) With amounts that become due by the licensee on a current basis.

(See accounts Nos. 300, 301, and 310.)

331—*Current maturities of notes and debentures payable to others not guaranteed by SBA.*

This account will represent the principal amount due on a current basis (payable by the licensee in the next 12 months of operations) of long-term debt shown in accounts 311 through 313.

Debit:

(a) With amounts paid by the licensee or disposed of otherwise.

Credit:

(a) With amounts that become due by the licensee on a current basis.

(See account Nos. 311 through 313.)

340—*Accounts payable.*

This account will represent amounts payable on open account. The account also will include accrued compensation payable for services rendered to the company on its participations in financing transactions, and accrued commitment fees payable for having funds made available on a deferred basis by "participating" companies in connection with the financing of, or commitments to finance, small business concerns.

Debit:

(a) With amount of such indebtedness paid, or disposed of otherwise.

Credit:

(a) With amount of such indebtedness incurred.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

(See accounts Nos. 141, 600, and 715.)

341—*Accounts payable due parent and partners.*

This account will represent payables due parent from licensee. Payables due parent will generally be from one of two sources: (1) Expenses shared (pro-rata with the parent, paid by the parent but not yet reimbursed by the licensee and/or (2) parent (and/or consolidated group) has a tax loss from which the licensee has received a tax benefit.

Debit:

(a) Cash paid to parent and partners.

(b) Income taxes due from licensee but paid by the parent.

Note.—The above debit can only arise when the licensee has had the benefit of a prior tax loss from the filing of a consolidated return.

Credit:

(a) Licensee's share of any expense shared with parent and paid by parent.

(b) Licensee's share of any tax benefit resulting from the filing of a consolidated tax return with the parent if the licensee has taxable income but the consolidation has a loss.

(c) Any other payable due parent or partner arising from any other source.

350—*Accrued interest payable.*

This account will represent the amount of liability for interest accrued on the company's notes, mortgages and debentures payable. The account will also include accrued interest payable on other interest-bearing obligations of the company.

Debit:

(a) With amount of such interest paid or disposed of otherwise.

Credit:

(a) With amount of interest accrued on all interest-bearing obligations covered by this account.

351—*Accrued taxes.*

This account will represent the balance of accrued taxes of payroll, such as the company's portion of social security taxes, which have not been remitted to the appropriate collectors of such taxes.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See account No. 664.)

354—*Estimated income taxes accrued.*

This account will include the balances in subaccounts Nos. 354.1, 354.2, 354.3, etc.

354.1—*Estimated Federal income taxes accrued.*

This account will represent the balance of estimated Federal income taxes accrued which have not been

remitted to the Internal Revenue Service.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes

accrued.

(See subaccounts Nos. 720.1 and 722.1.)

354.2—*Estimated State income taxes accrued.*

This account will represent the balance of estimated State income taxes accrued which have not been remitted to the appropriate collector of such taxes.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes

accrued.

(See subaccounts Nos. 720.2 and 722.2.)

358—*Other current liabilities.*

This account will represent other current liability not provided for in other accounts.

Debit:

(a) With amount of such expenses paid or disposed of otherwise.

Credit:

(a) With amount of such expenses accrued.

Note.—Increases or decreases in the liability for accrued expenses, through accruals or adjustments, will be offset by increases or decreases, respectively, in the appropriate expenses accounts.

360-364—*Dividends payable on (Type of class) capital stock.*

These accounts will represent the company's liability for dividends declared by the company's Board of Directors on the respective types and classes of capital stock issued and outstanding. A separate account should be used to reflect the dividends payable for each type and class of capital stock outstanding.

Debit:

(a) With amount of such dividends paid.

Credit:

(a) With amount of such dividends declared payable by the company's Board of Directors.

365-369—*Partnership distributions payable to general partners/limited partners.*

Debit:

(a) With the amount of distributions paid.

Credit:

(a) With the amount of distributions accrued.

370—*Employee taxes withheld.*

This account will represent the amount of income and social security

taxes withheld from employee's salaries which have not been remitted to the appropriate collectors of such taxes.

Debit:

(a) With amount of such taxes

remitted.

Credit:

(a) With amount of such taxes withheld.

374—*Unapplied receipts.*

This account will represent the amount of funds received by the company which have not been applied to loans, debt securities, interest receivable, etc. This account will be used only in instances when the funds received cannot be applied promptly.

Debit:

(a) With amount of such funds applied or disposed of otherwise.

Credit:

(a) With amount of funds received which cannot be applied promptly.

378—*Miscellaneous trust receipts.*

This account will represent the liability of the company for funds withheld or received in trust, for which no specific account is provided, including earnest money deposits, and funds withheld from employees' salaries for the purpose of United States Savings Bonds, payment of group life insurance premiums, payment of pension fund contributions, etc. The account will also include amounts due other companies that are participants in financing where the licensee is the sponsor and is servicing the debt.

Debit:

(a) With amount of such funds disbursed or disposed of otherwise.

Credit:

(a) With amount of such funds withheld or received.

380—*Deferred credit to future taxes.*

Timing differences will exist between accounting income and taxable income and thereby cause a deferment of tax expense. Such deferred credits usually will result from provision for loss on loans and debt securities. This account will represent such deferred tax payments.

Debit:

(a) Such account with amount of taxes paid which had been previously deferred.

Credit:

(a) Such account with amount of tax payments when deferred.

(See account No. 231.)

383—*Other deferred credits.*

This account will represent the amount of deferred credits of the company not specifically provided for in other accounts.

The account will include any gain on sale of assets which does not qualify as realized gain.

Debit:

(a) With amount of such deferred credits transferred to income or gain, or disposed of otherwise.

Credit:

(a) With amount of such deferred credits established.

Note 1.—Accrual of interest receivable should be discontinued with respect to any loan or debt security financing a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be treated as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in this account, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to licensee over 6 months, or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partner(s) is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in this account as above indicated.

Note 2.—Deferred gain in this account will be transferred to appropriate gain accounts as it is realized.

390—*Other liabilities.*

This account will represent the amount of liabilities of the company not specifically provided for in other accounts.

Debit:

(a) With amount of such liabilities paid or disposed of otherwise.

Credit:

(a) With amount of such liabilities incurred.

Capital Accounts

400-404— (Type and class) capital stock authorized.

These accounts will represent the total par or stated value of the capital stock authorized, as provided for in the company's charter. A separate account should be provided for each type and class of capital stock authorized.

Debit:

(a) With amount of reductions of such capital stock authorized.

Credit:

(a) With original amount of such capital stock authorized.

(b) With additional amounts of such capital stock authorized.

(See accounts Nos. 405-409 and "Note" of accounts Nos. 415-419.)

405-409— (Type and class) unissued capital stock.

These accounts will represent the total par or stated value of unissued capital stock of the company. A separate account should be provided for each type and class of unissued capital stock.

Debit:

(a) With original amount of such unissued capital stock, as provided for in the company's charter.

(b) With additional amounts of such unissued capital stock authorized.

(c) With par or stated value of capital stock retired.

Credit:

(a) With amount of such capital stock issued (contra debit will be made to accounts Nos. 410-411).

(b) With amount of reductions of capital stock authorized.

(See accounts Nos. 400-404 and "Note" of accounts Nos. 415-419.)

410-411—(Type and class) capital stock subscribed.

These accounts will represent the total amount at the subscription price of the company's capital stock subscribed. A separate account should be provided for each type and class of capital stock subscribed. These accounts will reflect the company's responsibility to issue shares of its stock to subscribers who have made final payment of their capital stock subscriptions.

Debit:

(a) With amount at the subscription price of such subscribed capital stock issued (contra credits will be made to account Nos. 405-409 and, as appropriate, No. 420).

(b) With amount at the subscription price of such subscribed capital stock canceled or disposed of otherwise.

Credit:

(a) With amount at the subscription price of such capital stock subscribed.

(See accounts Nos. 413-414 and "Note" of accounts Nos. 415-419.)

413-414—Capital stock subscriptions receivable—(Type and class).

These accounts will represent the total unpaid balances of capital stock subscriptions receivable from subscribers of the company's authorized capital stock. A separate subscriptions receivable account should be provided for each type and class of capital stock subscribed.

Debit:

(a) With amount of such capital stock subscriptions received.

Credit:

(a) With amount collected on such capital stock subscriptions.

(b) With amount of such capital stock subscriptions canceled or disposed of otherwise.

(See accounts Nos. 410-411 and "Note" of accounts Nos. 415-419.)

415-419—*Treasury stock* (Type and class).

These accounts will represent the total amount of the company's issued capital stock which has been reacquired through purchase or donation and has not been retired. A separate account should be provided for each type and class of such capital stock held by the company.

Debit:

(a) With cost of such capital stock acquired through purchase.

(b) With amount of fair market value or par value of such capital stock acquired through donation (control credit will be made to account No. 420).

Credit:

(a) With cost of such capital stock acquired through purchase, when sold or disposed of otherwise.

(b) With amount of fair market value or par value of such capital stock acquired through donation, when sold or disposed of otherwise.

Note.—Appropriate subsidiary records should be maintained as deemed necessary.

420—*Paid-in surplus.*

This account will represent the amount of surplus arising from (1) sales initially of the company's capital stock at a price in excess of par value (including amounts transferred from capital stock subscribed at a price above par, when shares are issued); (2) donations to the company of its issued capital stock carried as treasury stock at fair market value or par value; (3) retirements of capital stock purchased at less than the par value thereof; (4) sales of treasury stock in excess of its carrying value on the books of the company; (5) donations or gifts to the company of assets carried at not in excess of fair market value; and (6) other equity transactions with stockholders.

Debit:

(a) With amount of loss on treasury stock sold which was acquired through purchase, but not to exceed the total paid-in surplus. (Any amount of loss in excess of the total of such credits will be charged to account No. 451).

(b) With amount received by the company below fair market value, or par value, whichever applicable, for treasury stock sold which was acquired through donations.

(c) With amount paid by the company in excess of par value, but not to exceed the premium received initially, for shares of capital stock retired (any amount paid in excess of par plus initial premium received will be charged to account No. 451).

Credit:

(a) With amount paid in (including stock dividends from undistributed

earnings), or transferred from capital stock subscribed, representing the excess after deduction of underwriters' fees and commissions) over par value of the company's capital stock, when shares are issued.

(b) With amount of fair value or par value of the company's capital stock acquired through donation.

(c) With amount of discount below par value of the company's capital stock acquired through purchases, when such stock is retired.

(d) With amount received by the company in excess of cost, or in excess of fair value or par value, whichever applicable, for treasury stock sold.

(e) With amount not to exceed fair market value of donations or gifts of assets to the company.

430—*3% Cumulative preferred stock (Issued to SBA).*

This account will be used by 301(d) licensees only and will represent the preferred stock sold to the Small Business Administration at its par value by the licensee. Such stock is not included in capital stock accounts Nos. 400 and 414 because such stock is not considered private capital for leverage or regulatory purposes.

Debit:

(a) Such account with the par value of preferred stock repurchased by the licensee.

Credit:

(a) Such account with the par value of preferred stock sold to SBA by the licensee.

440—*Stockholders' unrealized appreciation on loans and investments.*

This is a credit balance account and will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued loans and investments above cost of such securities.

Debit:

(a) With decrease in amount of appreciation resulting from decline in fair value of securities held.

(b) With amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With amount of such appreciation recognized.

(b) With amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211, and 222)

Note.—In the case of distributions in kind to stockholders, this account will be debited with an amount not less than the amount of unrealized gain reported on the most recent 408 for the asset being distributed. The offsetting credit will be to account No. 450, Non-cash gains.

445—Stockholders' unrealized depreciation on loans and investments.

This is a debit balance account and will represent the amount by which the licensee's Board of Directors has valued loans and investments below cost of such securities.

Debit:

(a) With amount of "depreciation" of loans and investments recognized.

(b) With amount of increase in such depreciation recognized.

Credit:

(a) With decrease in the amount of depreciation resulting from increase in fair value of securities held.

(b) With amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212, and 223.)

448—Stockholders' estimated taxes on net realized gain (loss) on securities held.

This is a debit account that will represent the provision for income taxes on net unrealized appreciation (amount by which the Board of Directors valuation of all securities exceeds cost). As the valuation of securities changes, the provisions for taxes will change.

Debit:

(a) With provisions for taxes established on net unrealized gain.

(b) With increases in provisions for taxes.

Credit:

(a) With established provision for taxes attributable to securities sold or disposed of otherwise.

(b) With decrease in provision established.

Note.—Should the net amount (unrealized appreciation less unrealized depreciation) be a negative figure (i.e., a net loss), the tax effect should be computed and reflected in the accounts.

(See account Nos. 231 and 380.)

450—Stockholders' non-cash gains on sale of securities.

This is a credit balance account and represents gains realized on sale of securities that have not been converted to cash. While considered to be undistributed earnings, amounts in this account will not be available for distribution or capitalized by corporate action. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With amount of cash collected of such non-cash gains previously recognized.

(b) With amount of non-cash gains written off or disposed of otherwise.

(c) With the amount previously credited to this account from

stockholders' unrealized appreciation on loans and investments.

Credit:

(a) With amounts of non-cash gain when the securities generating such gain are sold.

(b) With the amount of unrealized gain on the asset being distributed. This is the amount debited to account No. 440.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 462, 220, 579 and 709.)

451—Stockholders' undistributed net realized earnings.

This is a credit balance account and represents the cumulative balance of periodic net investment income including realized gain (loss) on securities sold, less dividend distributions whether cash, stock, or dividends in kind. Non-cash gain on sale of securities are included in account No. 450.

Debit:

(a) At the end of the fiscal year, with any debit balance in account No. 460 reflected in the profit and loss summary account, and/or the realized gain and loss summary account No. 461.

(b) With amount of dividends, other than stock dividends declared payable out of undistributed net realized earnings by the company's Board of Directors.

(c) With amount of stock dividends, at a per share value representing the higher of fair value existing at the time that the dividend is declared, which are declared by the company's Board of Directors and paid out of undistributed net realized earnings.

(d) With appropriate amount of loss on treasury stock sold which was acquired through purchase, representing the excess of such loss over the total of credits residing in paid-in surplus, account No. 420, relating to previous gains on treasury stock sold or retirement of capital stock at amounts less than the amounts previously paid in with respect thereto.

(e) With appropriate amount paid by the company in excess of par plus initial premium received on the type and class of shares of capital stock retired.

Credit:

(a) At end of the fiscal year, with the credit balances of the profit and loss summary account, No. 460 and the realized gain and loss summary account, No. 461.

(See account Nos. 450, 460, 461 and 462.)

460—Stockholders' profit and loss summary.

This account will be used as a clearing account through which all income and expense accounts on the books of the company will be closed.

Debit:

(a) At end of the fiscal year, with the debit balance of all expense and income accounts.

(b) At the end of the year with any credits arising from investments in management service subsidiaries or unincorporated businesses reported on the equity method of accounting.

(c) At the end of the fiscal year, with the credit balance of the account (transfer to undistributed net realized earnings—account No. 451).

Credit:

(a) At the end of the fiscal year, with the credit balances of all income and expense accounts.

(b) At the end of the year, by means of a journal entry, credit profit and loss summary with the amount of cash received from a management services subsidiary and/or unincorporated business which is not in excess of amounts previously charged to Profit and Loss summary that were credited to account No. 463—Stockholders' non-cash income from investments reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the debit balance of the account (transfer to undistributed net realized earnings—account No. 451).

(See account No. 451.)

461—Stockholders' realized gain and loss summary in cash.

This account will be used as a clearing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the balance of all accounts for losses on investments.

(b) At the end of the fiscal year, with the credit balance of the account (transfer to retained earnings).

Credit:

(a) At the end of the fiscal year, with the balance of all accounts for gains on investments.

(b) At the end of the fiscal year, with the debit balance of the account (transfer to retained earnings).

(See account No. 451.)

462—Stockholders non-cash realized gain summary.

This account will be used as a clearing account through which all accounts for non-cash realized gains on investment on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the credit balance of the account (transfer to non-cash gains on sale of securities)—account No. 450.

Credit:

(a) At the end of the fiscal year, with the amounts of non-cash gains on investments sold during the period and recognized in accounts 572 through 579. (See account Nos. 450 and 461.)

463—Stockholders non-cash income from investments reported on the Equity Method of Accounting.

This account will be used as a clearing account for income from any investment being reported on the Equity Method of Accounting rather than on the Value Method of Accounting. Generally this will be from investments in management services subsidiaries and/or investments in unincorporated small businesses concerns. Licensee's losses will not be reported in this account.

Debit:

(a) At the end of the fiscal year by a journal entry debit with the amount of cash received from investments reported on the Equity Method of Accounting but not in excess of amounts previously credited to the account from account 460 on the same investment.

Credit:

(a) At the end of the fiscal year credit with the amount of the licensee's share of income from investments reported on the Equity Method of Accounting.

Note.—It is suggested that subsidiary records be kept of each investment being reported on the Equity Method of Accounting. Income from each investment is to be treated as a separate item.

Losses are not reported through this account but remain in account 460.

465—Partners' profit and loss summary.

This account will be used as a clearing account through which all income and expense accounts on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the debit balance of all expense and income accounts.

(b) At the end of the fiscal year with any credit arising from management services investments or unincorporated businesses reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the credit balance (transfer to the appropriate partners' undistributed net realized earnings account, i.e., account 493—Corporate General Partners' undistributed net realized earnings, 494—Individual General Partners' undistributed net realized earnings and 496—Limited Partners' undistributed net realized earnings.)

Credit:

(a) At the end of the fiscal year, with the credit balance of all income and expense accounts.

(b) At the end of the fiscal year, by means of a journal entry, credit profit and loss summary with the amount of cash received from a management services investment and/or unincorporated business which is not in excess of amounts previously charged to Profit and Loss Summary that were credited to Account 486—Partners Non-cash Income from Investment Reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the debit balance of the account (transfer to the appropriate partners' undistributed net realized earnings, i.e., 493, 494, and 496).

466—Partners' realized gain and loss summary-in cash.

This account will be used as a clearing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the balances of all accounts for losses on investments.

(b) At the end of the fiscal year, with the credit balance of the account (transfer to the appropriate partners' undistributed net realized earnings, i.e., 493, 494, and 496).

Credit:

(a) At the end of the fiscal year, with the balances of all accounts for gains on investments.

(b) At the end of the fiscal year, with the debit balance of the account (transfer to the appropriate partner's undistributed net realized earnings, i.e., 493, 494, and 496).

467—Partners' non-cash realized gain summary.

This account will be used as a closing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the credit balance of the account (transfer to the appropriate partners' non-cash gains on sale of securities, i.e., 491—Corporate General Partners' non-cash gain on sale of securities, 492—Individual General Partners' non-cash gain on sale of securities, and 495—Limited Partners' non-cash gains on sale of securities.)

Credit:

(a) At the end of the fiscal year, with the amounts of non-cash gains on investments sold during the period and recognized in accounts 572 through 579.

468—Partners' non-cash income from investments reported on the Equity Method of Accounting.

This account will be used as a clearing account for income from any investment being reported on the Equity Method of Accounting rather than on the Value Method of Accounting. Generally this will be from investments in management service investments and/or investments in unincorporated small business concerns. Licensee's losses will not be reported in this account.

Debit:

(a) At the end of the fiscal year by a journal entry, debit with the amount of cash received from investments reported on the Equity Method of Accounting but not in excess of amounts previously credited to the account from account 465.

Credit:

(a) At the end of the fiscal year credit with the amount of the licensee's share of income from investments reported on the Equity Method of Accounting.

Note 1.—It is suggested that subsidiary records be kept of each investment being reported on the Equity Method of Accounting. Income from each investment is to be treated as a separate item.

Losses are not reported through this account but remain in account 465.

Note 2.—This account should be divided into 468.1 for general partners and 468.2 for limited partners.

470—General Partners' Permanent Capital Contribution Summary.

This is a summary account reflecting the balances of all general partners capital contributions. The credit balance in this account represents the amount of general partner's capital contributions that is a component in the computation of regulatory capital for leverage and overline purposes.

471—Corporate General Partners' Permanent Capital Contribution.

This account respects the amount of the corporate general partners' capital contribution available for computation of regulatory capital.

Debit:

(a) Debit with the amount of any withdrawal during the fiscal period of capital contributions available for leverage.

Credit:

(a) Credit with the amount of additional cash contributed to the general partners' permanent capital contribution that is available for SBA leverage purposes.

(b) Credit with the amount transferred from account 493—Corporate General Partners' undistributed net realized earnings to increase the amount of

capital available for SBA leverage and overline purposes.

Note 1.—This account performs the same function for a partnership licensee as a capital stock account performs for a corporate licensee. It represents capital available for leverage purposes, subject to certain regulatory adjustments.

Note 2.—This account performs an additional function for the partnership licensee. The credit balance in this account may be used to determine the percent of interest a corporate general partners has in the following items: (a) general partners' unrealized appreciation (depreciation), (b) general partners' non-cash income from investments reported on the Equity Method of Accounting, (c) general partners' non-cash gain on sale of securities and (d) general partners undistributed net realized earnings.

Note 3.—Usually there is no relationship between the amount of capital contributed by general partners' to the total partnership capital and the general partners share of profits, losses and gains on securities. The ratio of the general partners share of profits and gains is determined by the partnership agreement.

Assume the following facts:

1. General partners contribute \$5,000.
2. Limited partners contribute \$23,000.

3. Profits and gains are divided:

- 20 percent to general partners.
- 80 percent to limited partners.

If there was only one (1) general partner, the general partner would receive 100 percent of 20 percent of all income and gains. If there were two (2) general partners and each contributed \$2,500 each would receive 50 percent of 20 percent of all income and gains, if there were two (2) general partners and one partner contributed \$2,000 and the other partner contributed \$3,000, one partner would receive 40 percent of the gains and the other partner would receive 60 percent of the gains. The above examples apply at the time the limited partnership is organized.

A different situation applies if a new partner is admitted at a later date. Assume that at some later time a new general partner is to be admitted and at that moment the general partner(s) have interests of \$3,000 in general partners non-cash income from investments reported on the Equity method of Accounting, \$6,000 in general partners unrealized appreciation, \$9,000 in general partners non-cash gains and \$12,000 in general partners' undistributed net realized gains. At that moment the total value of all the capital accounts of the general partners would be \$5,000 + \$3,000 + \$6,000 + \$9,000 + \$12,000 = \$23,000.

If there was only one (1) general partner when the new general partner was to be admitted and the two general

partners were to share equally, the new general partner would have to contribute \$23,000. The \$23,000 contributed by the incoming partner would be credited as follows:

General partners' permanent capital contribution, \$23,000.

472—Individual General Partners' Permanent Capital Contribution.

This account corresponds to account 471.

Debit:

(a) Debit with the amount of any withdrawals during the fiscal period of capital contributions available for leverage.

Credit:

(a) Credit with the amount of additional cash contributed to general partners' capital contribution that is available for computation of regulatory capital.

(b) Credit with the amount transferred from account 494—individual general partners undistributed net realized earnings to increase the amount of capital available for SBA leverage and overline purposes.

Note 1.—See notes 1, 2, and 3 to account 471.

Note 2.—It is suggested that subsidiary records be kept for each general partner.

475—Limited Partners Capital Permanent Contribution Summary.

This is a summary account reflecting the balance of all limited Partners capital contributions. The credit balance in this account represents the amount of limited partners capital contributions that is available for computation of regulatory capital.

Note.—This account performs the same function for limited partners as account 470 performs for general partners.

476—Limited partners Permanent Capital Contribution.

This account performs the same function for limited partners that accounts 471 and 472 perform for general partners.

Debit:

(a) Debit with the amount of any withdrawals during the fiscal period of capital contributions available for computation of regulatory capital.

Credit:

(a) Credit with the amount of additional cash contributed to limited partners' permanent capital contribution that is available for computation of regulatory capital.

(b) Credit with the account transferred from account 496—Limited Partners Undistributed Net Realized Earnings to increase the amount of capital available for computation of regulatory capital.

Note 1.—The same rules apply to limited partners as apply to general partners. See Notes 1, 2, and 3 to account 471.

Note 2.—It is suggested that subsidiary records be kept for each limited partners.

481—Corporate General Partners' Unrealized Appreciation on Loans and Investments.

This is a credit balance account representing the corporate general partners' share of the amount by which the general partner(s) has valued loans and investments above the cost of such securities.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211, and 222.)

482—Individual General Partner(s) Unrealized Appreciation on Loans and Investments.

This is a credit balance account representing the individual general partners' share of the amount by which the general partner(s) has valued loans and investments above the cost of such investments.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211 and 222.)

483—Corporate General Partners' Depreciation on Loans and Investments.

This is a debit balance account and will represent the corporate general partners share of the amount by which the licensee's general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 222.)

484—Individual General Partners' Depreciation on Loans and Investments.

This is a debit balance account and will represent the individual general partners' share of the amount by which the licensee's general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See amount Nos. 172, 187, 193, 196, 199, 203, 206, 212, and 222.)

485—Limited Partners Unrealized Appreciation on Loans and Investments.

This is a credit balance account and will represent the limited partners share of the amount by which the general partner(s) has valued loans and investments above the cost of such securities.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in the fair value of securities held.

(b) With the amount appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211 and 222.)

486—Limited Partners Unrealized Depreciation on Loans and Investments.

This is a debit balance account and will represent the limited partners share of the amount by which the general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the Decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 222.)

491—Corporate General Partners Non-cash Gains on Sale of Securities.

This is a credit balance account and represents the corporate general partners' share on gains realized on the sale of securities that have not been converted to cash. While considered to be undistributed earnings, the amounts in this account will not be available for distribution or capitalized by partnership action transferring amounts to Partners' Permanent Capital Contribution for SBA leverage. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amounts of non-cash gain when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579 and 709.)

492—Individual General Partners Non-cash Gain on Sale of Securities.

This is credit balance account that performs the same function for individual general partners as account 491 performs for corporate general partners.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amount of non-cash gain when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579, and 709.)

493—Corporate General Partners Undistributed Net Realized Earnings.

This is a credit balance account and represents the corporate general partners share of the limited partnership's cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in account 491.

Debit:

(a) At the end of the fiscal year, with the corporate general partners' share of any debit balance in accounts (a) 465—Partners' profit and loss summary and/or (b) the debit balance in account 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to corporate general partners whether cash, stock and/or in kind.

(c) With the amount transferred to corporate general partners capital contribution account 471 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year with the corporate general partners share of any credit balance in (a) account 465—Partners' profit and loss summary and/or (b) the credit balance in Account 466—Partners' realized gain and loss summary in cash.

494—Individual General Partners' Undistributed Net Realized Earnings.

This is a credit balance account and represents the individual general partners' share of the limited partnerships' cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in Account 492.

Debit:

(a) At the end of the fiscal year, with the individual general partners' share of any debit balance in accounts (a) 465—Partners' profit and loss summary and/or (b) the debit balance in 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to individual general partners whether cash, stock and/or in kind.

(c) With the amount transferred to the individual general partners' capital contribution account 471 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year, with the individual general partners' share of any credit balance in (a) accounts 465—Partners' profit and loss summary and/or (b) the credit balance in account 466—Partners' realized gain and loss summary in cash.

495—Limited Partners' Non-cash Gains On Sales of Securities.

This is a credit balance account and represents the limited partners' share of gains realized on the sale of securities that have not been converted to cash. While considered to be undistributed earnings, the amount in this account will not be available for distribution or

capitalized by partnership action transferring amounts to partners capital contribution for SBA leverage. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amounts of non-cash gains when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579 and 709.)

496—Limited Partners' Undistributed Net Realized Earnings.

This is a credit balance account and represents the limited partners' share of the licensee's cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in account 495.

Debit:

(a) At the end of the fiscal year, with the limited partners' share of any debit balance in (a) account 465—Partners' profit and loss summary and/or (b) the debit balance in Account 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to limited partners whether cash, stock and/or in kind.

(c) With the amount transferred to limited Partners' capital contribution account 476 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year, with the limited partners' share of any credit balance in (a) account 465—Partners' profit and loss summary and/or (b) account 466—Partners' realized gain and loss summary in cash.

Income Accounts

500—Commitment income.

This account will represent the amount of income earned on commitments to small business concerns for loans and equity securities. This account, on the books of the "participating" company, will include the amount of commitment income on deferred participations.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of income earned on commitments and deferred participations.

Note 1.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

Note 2.—Recording as income in this account of accrued commitment fees receivable should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the small business concern or the fair value of its debt or equity instrument held by the company, as determined by the Board of Directors, is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the accrued commitment fees taken into income in this account, or as an alternative, the commitment income should be deferred in account No. 383 as above indicated.

(See account Nos. 141 and 142.)

510—Interest on invested idle funds.

This account will represent the amount of interest earned on (1) time certificates of deposit in banks which are members of the Federal Deposit Insurance Corporation, (2) U.S. Government obligations, direct and fully guaranteed, owned by the company, and (3) funds of the company in insured savings accounts in institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on invested idle funds.

(See account Nos. 130 through 137, 143 and 144.)

512—Interest on loans.

This account will represent the amount of interest earned on loans to small business concerns.

Debit:

(a) At the end of fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on loans outstanding to small business concerns.

Note.—Accrual of interest receivable should be discontinued with respect to any loan to a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be credited to this account as interest income, but should be either credited as payments on principal of the debt or credit as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee, or the fair value of the loan as determined in good faith by the Board of Directors is less than cost or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrued interest receivable taken into income in this account, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 143, 144, 170 and 173.)

516—Interest on debt securities.

This account will represent the amount of interest earned on debt securities of small business concerns owned by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) At the end of the fiscal year with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on debt securities owned.

Note.—Accrual of interest receivable should be discontinued with respect to any debt security of a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be credited to this account as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee, or the fair value of the debt security as determined in good faith by the Board of Directors is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrued interest receivable taken into income in this account, or, as alternative, the interest income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 143, 144, 180, 184 and 188.)

520—Interest income—other.

This account will represent the amount of interest earned on miscellaneous notes receivable, funds in escrow, and interest-bearing receivables not otherwise classified.

Debit:

(a) At the end of the fiscal year with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on such receivables.

(See accounts Nos. 140, 143 and 267.)

532—Management service fees.

This account will represent the amount of fees charged for management services rendered to small business concerns and other small business investment companies pursuant to section 107.601 of the Small Business Administration Rules and Regulations.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

Note.—Recording as income in this account of accrued management service fees receivable should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in questions should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the fair value of the financed concern's debt or equity instruments held by the company, as determined by the Board of Directors, is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the accrued management consulting service fees taken into income in this account, or, as an alternative, the management consulting service income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 140, 141 and 142.)

534—Investigation and service fees charged other lenders.

This account will represent the amount of fees charged for investigation and services rendered to banks or other lenders or investors, pursuant to section 308(a) of the Small Business Investment Act of 1958, as amended. The account will include compensation for financial services rendered in connection with participations sold.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

(See accounts Nos. 140, 141 and 142.)

536—Application and appraisal fees.

This account will represent the amount of fees charged for application, appraisal, investigation, and related services rendered to small business concerns.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

(See accounts Nos. 173 and 188 and "Note" of accounts Nos. 140, 141 and 532.)

540—Dividends on capital stock of SBSSs.

This account will represent the amount of income from dividends on capital stock of small business concerns.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of income from such dividends.

(See amount No. 145.)

541—Sharing in income or revenue of SBCs.

This account will represent the amount of sharings or participations in the income or revenue of small business concerns which the company has financed by means of loans or debt securities.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such sharings.

(See amount Nos. 140, 141 and 145.)

542—Non-cash income from investments reported on equity method of accounting.

This account is a summary account of all income and losses from investments required to be reported on the Equity Method of Accounting. The sources of entries will be primarily from any of the following sources.

1. Corporate licensees' management services subsidiary.
2. Limited partnerships' investment in a management services company.
3. Investments in unincorporated small business concerns.

It is important that separate records be kept of each source of investments reported on the Equity Method of Accounting since losses and gains are not reported in the same manner.

Debit:

(a) At the end of the fiscal year with the amount of all gains, which will be credited to account 463—Stockholder

non-cash income from investments reported on the Equity Method of Accounting or to account 468—Partners' non-cash income from investments reported on the Equity Method of Accounting.

(b) With the amount of losses resulting from investments to be reported on the Equity Method of Accounting.

Credit:

(a) With the amount of income from investments to be reported on the Equity Method of Accounting.

(b) With the amount of losses from investments to be reported on the Equity Method of Accounting. If the licensee is a corporation the offsetting debit will be to account 460. If the licensee is a limited partnership the offsetting debit will be to account No. 465.

570—Gain on U.S. Government securities.

This account will represent the amount of gain on the sale or other disposition of U.S. Government obligations, direct and fully guaranteed, carried in account No. 130.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such securities sold or disposed of otherwise.

Note.—Increase in value over cost of United States Treasury bills, which are issued at a discount and are noninterest bearing, will not be reflected in this account but will be credited to account No. 510—Interest in invested idle funds, with concurrent debit to account No. 143—Accrued interest receivable.

571—Gain on loans.

This account will represent the amount of gain on the sale or other disposition of loans of small business concerns carried in account No. 170, and will include recoveries on loan losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such loans sold or disposed of otherwise.

(b) With amount collected on portions of loans previously charged to the loss account.

(See accounts Nos. 383 and 701.)

572—Gain on debt securities.

This account will represent the amount of gain on the sale or other disposition of debt securities of small business concerns carried in accounts No. 180 and 184, and will include

recoveries on debt security losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such debt securities sold or disposed of otherwise.

(b) With amount collected on portions of debt securities previously charged to the loss account.

(See accounts Nos. 383 and 702.)

574—Gain on capital stock of SBCs.

This account will represent the amount of gain on the sale or other disposition of capital stock of small business concerns carried in accounts Nos. 190 and 191, and will include recoveries on capital stock losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such capital stock sold or disposed of otherwise.

(b) With amount realized on capital stock of SBCs previously charged to the loss account.

(See accounts Nos. 383 and 704.)

575—Gain on equity interest of unincorporated concerns.

This account will represent the amount of gain on the sale or other disposition of equity interests of unincorporated concerns carried in account 194 and will include recoveries of losses on equity interests of unincorporated concerns previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such equity interests sold or disposed of otherwise.

(b) With amount realized on equity interests previously charged to the loss account.

576—Gain on warrants, options, and other stock rights acquired from SBCs.

This account will represent the amount of gain on the sale or other disposition of warrants, options, and other stock rights acquired from SBCs, and will include recoveries on stock rights losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such warrants, options, and other stock rights acquired from SBCs sold or disposed of otherwise.

(b) With amount realized on warrants, options, and other stock rights previously charged to the loss account.

(See accounts Nos. 197, 383 and 706, and memorandum record No. NA-10.)

577—Gain on assets acquired in liquidation of portfolio securities.

This account will represent the amount of gain on the sale or other disposition of assets acquired in liquidation of portfolio securities of small business concerns carried in accounts Nos. 200, and 204, and will include recoveries on losses on assets acquired in liquidation previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets acquired in liquidation of portfolio securities sold or disposed of otherwise.

(b) With amount realized on assets in liquidation of portfolio securities previously charged to the loss account.

(See accounts Nos. 383 and 707.)

578—Gain on Operating Concerns Acquired.

This account will represent the amount of gain on the sale or other disposition of investments in operating concerns acquired and will include recoveries on losses previously charged to the related loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets sold or disposed of otherwise.

(b) With amount realized on assets previously charged to the loss account. (See accounts Nos. 210, 221, 383, and 708.)

579—Gain on other assets.

This account will represent the amount of gain on the sale or other disposition of assets not specifically provided for in other accounts, and will include recoveries on losses on other assets previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets sold or disposed of otherwise.

(b) With amount realized on other assets previously charged to the loss account.

(See accounts Nos. 220, 221, 383, and 709.)

582—Income from assets acquired in liquidation of portfolio securities.

This account will represent the amount of income earned on assets acquired in liquidation of portfolio securities, including the operation of properties, carried in accounts Nos. 200, 204.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such income earned.

Note.—In instances when a liquidating agent is employed to supervise the disposition of the assets, appropriate subsidiary accounts should be maintained by the agent. Cash collected from the sale of assets by the liquidating agent should be remitted immediately to the company. The company should maintain a local depository bank account, in which all receipts of the agent are deposited when direct remittance to the company are not feasible. Deposit balances in this account should be subject to withdrawal by check only by the company and should be reflected on the company's records in the same manner as other bank accounts.

Any advances to a liquidating agent for expenses incident to the operation or the disposition of assets acquired in the liquidation of portfolio securities should be charged to account No. 230—Prepaid expenses.

584—Other income.

This account will represent the income earned not specifically provided for in other accounts.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such income earned.

Expense Accounts

600—Commitment expense.

This account will represent the amount of commitment expense on commitments from lending institutions.

On the books of the "initiating" company, this account also will include the amount of commitment expense on deferred participations.

Debit:

(a) With amount of expense incurred on commitments and deferred participations.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Note.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

(See account No. 340.)

610—Interest on obligations payable to SBA.

This account will represent the amount of interest expense accrued on obligations payable to the Small Business Administration for funds borrowed.

Debit:

(a) With amount of such interest accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See accounts Nos. 300, 301, and 350.)

622—Interest on obligations payable to other than SBA.

This account will represent the amount of interest expense accrued on obligations payable to other than the Small Business Administration for funds borrowed.

Debit:

(a) With amount of such interest accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See accounts Nos. 310, 311, 312, 313, 320 and 350.)

642—Stock record and other financial expenses.

This account will represent the amount of charges to the company by transfer agent and the registrar for services rendered in connection with the issuance and transfer of company's capital stock, and will include other financial expenses not provided for elsewhere.

Debit:

(a) With amount of such interest incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See account No. 340.)

650–679—Operating Expenses.

The accounts under this caption will represent the amounts of operating expenses incurred.

Debit appropriate account:

(a) With amount of operating expenses incurred.

Credit appropriate account:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

650—Advertising and promotional costs.

This account will represent the cost of advertising and promoting the company's services, including the cost of entertaining prospective borrowers and clients.

651—Appraisal and investigation costs.

This account will represent the amount of charges made by outside firms and individuals for appraisal, investigation, and related services rendered to the company.

652—Auditing and examination costs.

This account will represent the amount of charges for auditing, examination, and bookkeeping services rendered by accountants not on the company's payroll, and charges for services rendered by SBA examiners.

653—Communications.

This account will represent telephone, telegraph, and postage expense.

654—Cost of space occupied.

This account will represent the cost of space occupied such as rent, alterations, light, heat, power, janitor service, maintenance and repair expense on buildings, furniture, and equipment (other than automobiles), etc.

655—Depreciation of corporate premises owned, furniture, equipment and automobiles.

This account will represent the amount of provision applicable to the fiscal year for depreciation of the buildings and other depreciable improvements of corporate premises owned and used as the company's office quarters. The account also will include the amount of provision applicable to the fiscal year for depreciation of furniture, equipment and automobiles owned by the company.

656—Amortization of leasehold improvements.

This account will represent the amortization of leasehold improvements.

657—Director's, stockholders' or partners' meetings costs.

This account will represent directors' fees and travel expense for attendance at directors' and stockholders' or partners' meetings. The account also will include the cost of holding stockholders' or partners' meetings, such as rental of the meeting hall and related expenses.

658—Insurance.

This account will represent fire, theft, employee group life insurance, and other insurance expense, including fidelity

bond, premiums and insurance on automobiles. The portion, if any, of employee group life insurance premiums withheld from salaries or received from employees will be reflected in account No. 378. Insurance premiums to be amortized will be charged to account No. 230.

659—Management services fees.

This account will represent the amount of charges made by outside firms or individuals for management services provided to licensee pursuant to management agreement approved by SBA.

660—Investment advisor costs.

This account will represent the amount of charges made by outside firms and individuals for furnishing consultation and advice to the company with respect to the desirability of investing in, purchasing, or selling loans, debt securities, and capital stock of small business concerns and other property.

661—Legal services.

This account will represent the cost of legal services rendered to the company.

663—Salaries.

This account will include the balance in subaccounts Nos. 663.1 and 663.2.

663.1—Salaries of officers or Partners.

This account will represent the salary cost of all officers/partners of the company, including directors' salaries, if any, but not directors' fees for attendance at meetings.

663.2—Salaries of employees.

This account will represent the salary cost of all employees other than officers/partners, including salaries of any temporary or part-time employees engaged for specific assignments.

664—Taxes, excluding income taxes.

This account will represent the cost of all taxes, including those on corporate premises owned, motor vehicle, and personal property, social security taxes (company's portion), and other taxes charged to the company, exclusive of income taxes.

665—Travel.

This account will represent all travel expense, including transportation charges, automobile maintenance, operating expense, meals, lodging, telephone, telegraph, and other company cost incurred by officers and employees while in a travel status.

670—Employee benefits expense.

This account will represent the cost assumed by the company in contributing to funds providing for employee retirement benefits and other types of employee benefits, except group life insurance. The portion, if any, of the cost of employee benefits withheld from

salaries or received from employees will be reflected in account No. 378.

672—Amortization of organization expense.

This account will represent the amount of legal fees, promotional expense, stock certificate costs, incorporation fees, taxes, and other related costs incurred in organizing the company, which are charged to expense (this account) as incurred or are transferred to this account periodically through the amortization of organization costs established as an asset in account No. 266.

679—Miscellaneous operating expenses.

This account will represent the amount of operating expenses not specifically provided for in other accounts. There will be included expenses incurred in connection with dues, subscriptions, donations, and similar items; charges made to the company for custodial or safekeeping services in connection with its portfolio securities; and bank service charges, exchange on checks, protest fees, etc., and the cost of office supplies such as stationery, accounting forms, binders, pencils, etc.

680—Estimated losses on receivables.

This account will represent the amount of estimated losses applicable to the fiscal year on notes and accounts receivable, and interest receivable.

Debit:

(a) With amount of such estimated losses incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

700—Loss of U.S. Government securities.

This account will represent the amount of loss on the sale or other disposition of United States Government obligations, direct and fully guaranteed, carried in account No. 130-135.

Debit:

(a) With amount of loss on such securities sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 460 or 462).

(See account No. 570.)

701—Loss on loans.

This account will represent the amount of loss on the sale or other disposition of loans of small business concerns carried in account No. 170.

Debit:

(a) With amount of loss on such loans written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary—account No. 461).

(See account No. 571.)

702—Loss on debt securities.

This account will represent the amount of loss on the sale or other disposition of debt securities of small business concerns carried in accounts Nos. 180 and 184.

Debit:

(a) With amount of loss on such debt securities written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary—account No. 461).

(See account No. 572.)

704—Loss on capital stock of SBCs.

This account will represent the amount of loss on the sale or other disposition of capital stock of small business concerns carried in accounts Nos. 190 and 191.

Debit:

(a) With amount of loss on such capital stock written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 574.)

705—Loss on equity interest of unincorporated concern.

This account will represent the amount of loss resulting from sale or other disposition of equity interests of unincorporated concerns carried in account No. 194.

Debit:

(a) With amount of loss on such equity interest sold, written off, or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 575.)

706—Loss on warrants, options, and other stock rights acquired from SBCs.

This account will represent the amount of loss on the sale or other disposition of warrants, options, and other stock rights acquired from SBCs.

Debit:

(a) With amount of loss on such warrants, and other stock rights written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See accounts Nos. 197, 576, and memorandum record No. NA-10.)

707—Loss on assets acquired in liquidation of portfolio securities.

This account will represent the amount of loss on the sale or other disposition of assets acquired in liquidation of portfolio securities of small business concerns carried in account No. 200, 204.

Debit:

(a) With amount of loss on such assets written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 577.)

708—Loss on Operating Concerns Acquired.

This account will represent the amount of loss on the sale or other disposition of investments in operating concerns acquired.

Debit:

(a) With amount of loss on such assets or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 578.)

709—Loss on other assets.

This account will represent the amount of loss on the sale or other disposition of assets not specifically provided for in other accounts.

Debit:

(a) With amount of loss on such assets or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 579.)

710—Expense on assets acquired in liquidation of portfolio securities.

This account will represent the amount of expense incurred on assets acquired in liquidation of portfolio securities, including the operation and depreciation of properties, carried in account No. 204. The account also will include the amount of interest expense accrued on mortgages payable on assets acquired in liquidation of portfolio securities.

Debit:

(a) With amount of such expense incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

Note.—Instances when a liquidating agent is employed to supervise the disposition of the assets, appropriate subsidiary accounts should be maintained by the agent.

Cash collected from the sale of assets by the liquidating agent should be remitted immediately to the company. The company should maintain a local depository bank account, in which all receipts of the agent are deposited when direct remittances to the company are not feasible. Deposit balances in this account should be subject to withdrawal by check only by the company and should be reflected on the company's records in the same manner as other bank accounts.

Any advances to a liquidating agent for expenses incident to the operation of or in the disposition of assets acquired in the liquidation of loans and debt securities should be charged to account No. 230—Prepaid expenses.

715—Other expenses.

This account will represent the amount of nonoperating expenses not specifically provided for in other accounts, including, on the books on the "participating" company, the amount of compensation expense for financial services received from "initiating" companies in connection with participations purchased.

Debit:

(a) With amount of such expenses incurred.

Credit:

(b) At the end of fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

(See account No. 340.)

720—Income taxes—net income.

This account will include the balances in subaccounts Nos. 720.1, 720.2, 720.3, etc.

720.1—Federal income taxes—net income.

This account will represent the amount of Federal income taxes applicable to net income for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

720.2—State income taxes—net income.

This account will represent the amount of State income taxes applicable to net income for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

(See subaccount Nos. 354.1 and 354.2)

722—Income taxes—net realized gain on investments.

This account will include the balance in subaccounts Nos. 722.1, 722.2, 722.3, etc.

722.1—Federal income taxes—net realized gain on investments.

This account will represent the amount of Federal income taxes applicable to net realized gain on investments for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary account 461 or 462).

(See subaccount No. 354.1.)

722.2—State income taxes—net realized gain on investments.

This account will represent the amount of State income taxes applicable to net realized gain on investments for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary account 461 or 462).

(See subaccount No. 354.2.)

Memorandum records

Nominal Assets

NA-10—Stock purchase warrants or options on stock of SBCs.

This record will show the company's ownership of detachable stock purchase warrants or options on stock of SBCs, retained after the accompanying financing instruments have been disposed of, for which no consideration was given distinct from that surrendered for such financing instruments and for which no separate cost has otherwise been determined.

Each such detachable stock purchase warrant or option certificate should be entered in this record, upon detachment, at a nominal value of one dollar (\$1.00). Upon sale of such a detached stock purchase warrant or option, upon exercise or expiration of rights conveyed by such a detached stock purchase warrant or option or upon the determination of a cost to be recorded for such a detached stock purchase warrant or option, the entry establishing such certificate in the memorandum records is to be discharged through an equivalent credit.

Debit:

(a) With nominal value of such detachable stock purchase warrants or options upon their detachment from capital stock certificates or debt securities.

Credit:

(a) With nominal value of such detachable stock purchase warrants or

options upon exercise or expiration of rights conveyed by such warrant or option certificates.

(b) With nominal value of such detachable stock purchase warrants or options sold or disposed of otherwise.

(c) With nominal value of such detachable stock purchase warrants or options for which a separate cost has been established.

(See accounts Nos. 180, 190, and 197)

Contingent Liabilities

CL-15—Commitments outstanding.

This record will show the amount of financing commitments made and outstanding to small business concerns, including commitments for loans and for the acquisition of small business concerns' capital stock and debt securities. This record also will show the amount of deferred participations. A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies. When funds are advanced against commitments, appropriate entry will be made in this record.

CL-16—Guarantees outstanding.

This record will show the amount for which the company is contingently liable under guarantees issued to lending institutions in connection with obligations of portfolio concerns under notes, debentures, or other evidences of indebtedness, or short-term advances to such concerns.

CL-17—Other contingent liabilities.

This record will show the amount of miscellaneous contingent obligations not otherwise classified.

Options on Company's Stock

OCS-1—Options on company's stock.

This record will show details of outstanding options on the company's capital stock granted in lieu of salary or in payment for services actually rendered to the company. The following data will be included:

1. Identification of person or entity holding options.
2. Number of shares optioned.
3. Type and class of stock called for by options.
4. Dates of grant and of expiration of options.
5. Price or prices at which options exercisable, with dates they apply.

6. Fair market value, per share, of stock called for at date each option was granted.

7. Price of each option as percent of fair market value of optioned stock at date option was granted.

8. Provisions for termination of options in case of death or retirement of optionees, or other circumstances.

9. Details of authorization, shares reserved for, issuance, exercise, lapse, and forfeiture of options provided for under the company's stock option plan.

Actual Loss Experience

AL-1—Actual (realized) losses.

This record will show for each fiscal year, and also accumulatively, the amount of actual (realized) losses incurred through disposition, writedown, or write-off of loans and investments.

Losses shall be stated in total for all loans and investments and also separately for loans; debt securities; capital stock of small business concerns; warrants, options, and other stock rights of small business concerns; assets acquired in liquidation of loans and debt securities; and amounts due from debtors on sale of assets acquired in liquidation of loans and debt securities. Losses realized shall be determined in relation to cost of the assets involved without regard to the existence or nonexistence of related allowances for losses.

WI—Worthless Investments Written Off.

WIR—Worthless Investments Written Off Reserve.

These two accounts provide an internal control for investments

determined to be worthless. Each such investment will be writtendown to the sum of \$1.00 and a reserve of the same amount established. When the evidentiary documents are physically disposed of, the WI and WIR will be reduced by 1 dollar and the auditor will footnote the actions taken.

PDA—Preferred Dividend Arranges on Preferred Stock Sold SBA.

A memorandum account will be established showing:

- (a) the amount of each arrearage
- (b) the total amount of arrearage
- (c) the number of arrearages
- (d) the date the arrearages began.

The auditor will disclose the above information by an appropriate footnote.

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Register

Friday
February 10, 1984

Part III

Department of Labor

Employment Standards Administration,
Wage and Hour Division

Minimum Wages for Federal and
Federally Assisted Construction; General
Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
DivisionMinimum 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.

Modifications to General Wage
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Arizona: AZ83-5107	Mar. 18, 1983.
Delaware: DE82-3015	June 4, 1982.
Illinois:	
IL81-2004	Mar. 13, 1981.
IL83-2052	July 1, 1983.
IL83-2064	Aug. 12, 1983.
New York:	
NY83-3003	Mar. 25, 1983.
NY81-3062	Sept. 11, 1981.
NY81-3045	July 17, 1981.
Ohio:	
OH83-5122	Nov. 25, 1983.
OH83-5124	Dec. 2, 1983.
OH83-5125	Dec. 23, 1983.
OH83-5127	Do.
Oklahoma:	
OK83-4068	Sept. 16, 1983.
OK83-4067	Do.
Pennsylvania:	
PA81-3068	Sept. 25, 1981.
PA81-3073	Oct. 2, 1981.
PA81-3076	Oct. 9, 1981.
PA81-3080	Oct. 23, 1981.
PA82-3011	Mar. 12, 1982.
PA82-3012	Mar. 5, 1982.
PA82-3016	May 14, 1982.
Washington: WA81-5100	Mar. 6, 1981.

Supersedeas Decisions to General Wage
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Missouri and Kansas: MO83-4043	June 3, 1983.
(MO84-4009)	
Nevada: NV82-5114 (NV85-5002)	Aug. 6, 1982.
Pennsylvania:	
PA81-3069 (PA84-3001)	Sept. 25, 1981.
PA81-3072 (PA84-3002)	Oct. 2, 1981.
PA81-3077 (PA84-3003)	Oct. 9, 1981.

Signed at Washington, D.C., this 3rd day of February, 1984.

James L. Valin,
Assistant Administrator.

BILLING CODE 4510-27-M

MODIFICATIONS

DECISION NO. DE82-3015 MOD. #3 (47 FR 245 - June 4, 1982) New Castle, Kent & Sussex Cos. Delaware	DECISION NO. A283-5107 MOD. #6 (48 FR 11605 - March 18, 1983) Statewide, Arizona	DECISION NO. IL83-2052 - Mod #5 (48 FR 30576 - July 1, 1983) Adams, Bond, Boone, Crown, Bureau, Calhoun, Carroll, Cass, Clinton, DeKalb, Fulton, Greene, Hancock, Henderson, Henry, Jersey, Jobaviness, Knox, LaSalle, Lee, Livingston, Logan, McDon- ough, McLean, Macoupin, Marshall, Montgomery, Morgan, Ogle, Pike, Putnam, Randolph, Rock Island, Schuyler, Scott, Stark, Stephens, son, Warren, Washington, White- side, Winnebago, and Woodford Counties, Illinois	DECISION NO. IL83-2064 - MOD. #1 (48 FR 36778 - Aug. 23, 1983) Macon County, Illinois
Change: LABORERS: Building Construction New Castle County Class 1 Class 2 Class 3 Class 4 Class 5 Kent & Sussex Cos.: Class 1 Class 2 Class 3 Class 4 Class 5 Heavy Construction New Castle County: General laborers, asphalt tapper, asphalt raker, concrete pitman, landscaper, planter, puddler, railroad trackman seeder and arboriate, and signalman Pipelayers Blasters, caissons, and cofferdams (open air below 8 feet where excavations for circular caissons and cofferdams are 8 feet or more below level of natural grade adjacent to start point) diamond point drills, from setters, gunite nozzle operators, and wagon frills Kent & Sussex Counties: Common laborers, land- scapers, planters, seeders, aboxists, asphalt tappers, rak- ers, concrete pitman, puddlers, rubber maga- zine tenders, railroad trackmen, signal men Pipelayers Wagon drill, diamond point drill, gunite nozzlemen, form setters, blasters, caissons & coffer dams (open-air, below eight feet.)	Add: Plumbers: Pinal County	Change: SHEET METAL WORKERS: Residential	
\$12.32 12.57 12.82 12.82 13.32 13.57	19.84	\$14.53 18.35 1.85 1.85 14.68 18.72	\$10.10
3.18 3.18 3.18 3.18 3.18	3.38	2.40 2.40 2.40	\$2.48

MODIFICATIONS

DECISION NO. DE82-3015 MOD. #3 (47 FR 245 - June 4, 1982) New Castle, Kent & Sussex Cos. Delaware	DECISION NO. A283-5107 MOD. #6 (48 FR 11605 - March 18, 1983) Statewide, Arizona	DECISION NO. IL83-2052 - Mod #5 (48 FR 30576 - July 1, 1983) Adams, Bond, Boone, Crown, Bureau, Calhoun, Carroll, Cass, Clinton, DeKalb, Fulton, Greene, Hancock, Henderson, Henry, Jersey, Jobaviness, Knox, LaSalle, Lee, Livingston, Logan, McDon- ough, McLean, Macoupin, Marshall, Montgomery, Morgan, Ogle, Pike, Putnam, Randolph, Rock Island, Schuyler, Scott, Stark, Stephens, son, Warren, Washington, White- side, Winnebago, and Woodford Counties, Illinois	DECISION NO. IL83-2064 - MOD. #1 (48 FR 36778 - Aug. 23, 1983) Macon County, Illinois
Change: LABORERS: Building Construction New Castle County Class 1 Class 2 Class 3 Class 4 Class 5 Kent & Sussex Cos.: Class 1 Class 2 Class 3 Class 4 Class 5 Heavy Construction New Castle County: General laborers, asphalt tapper, asphalt raker, concrete pitman, landscaper, planter, puddler, railroad trackman seeder and arboriate, and signalman Pipelayers Blasters, caissons, and cofferdams (open air below 8 feet where excavations for circular caissons and cofferdams are 8 feet or more below level of natural grade adjacent to start point) diamond point drills, from setters, gunite nozzle operators, and wagon frills Kent & Sussex Counties: Common laborers, land- scapers, planters, seeders, aboxists, asphalt tappers, rak- ers, concrete pitman, puddlers, rubber maga- zine tenders, railroad trackmen, signal men Pipelayers Wagon drill, diamond point drill, gunite nozzlemen, form setters, blasters, caissons & coffer dams (open-air, below eight feet.)	Add: Plumbers: Pinal County	Change: SHEET METAL WORKERS: Residential	
\$12.32 12.57 12.82 12.82 13.32 13.57	19.84	\$14.53 18.35 1.85 1.85 14.68 18.72	\$10.10
3.18 3.18 3.18 3.18 3.18	3.38	2.40 2.40 2.40	\$2.48

MODIFICATIONS

DECISION NO. IL81-2004 MOD. #3 (46 FR 16818 - March 13, 1981) Illinois, Indiana, Kentucky, Missouri, Ohio & West Virginia	BASIC HOURLY RATES	FRINGE BENEFITS
Change: Area IV Within the geographical jurisdiction of the St. Paul District, Corps of Engineers Levermen, Engineer, Mechanic and Boatman Oiler	17.14 15.30	4.00 4.00
Area V Within the geographical jurisdiction of the Rock Island District, Corps of Engineers Levermen, Engineer, Mechanic, and Boatman Oiler	18.73 16.51	4.00 4.00
Area VI Within the geographical jurisdiction of the Chicago District, Corps of Engineers Levermen, Engineer, Mechanic, and Boatman Oiler	20.35 16.88	4.00 4.00

MODIFICATIONS

DECISION NO. NY83-3003 - MOD. #6 (46 FR 12647 - March 25, 1983) ONONDAGA COUNTY, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE: BRICKLAYERS & STONE MASONS (Except Cicero & Dewitt Townships) CEMENT MASONS (Cicero and Dewitt Townships): Building Heavy & Highway STEAMFITTERS	14.73 14.30 12.90 16.145	3.31 3.20 3.20 4.32+e
ADD: FOOTNOTE: e. Labor Day and Thanksgiving Day, pro- vided the employee has worked the week prior to the holiday.		
DECISION NO. NY81-3062 - MOD. #9 (46 FR 45530 - Sept. 11 1981) WESTCHESTER CO. NEW YORK		
CHANGE: PLUMBERS	17.89	5.41+f
ADD: FOOTNOTE: f. Additional Security Annuity Benefit: \$7.00 per day for each day worked by each worker.		
DECISION NO. NY81-3045 - MOD. #6 (46 FR 37204 - July 17, 1981) NIAGARA CO., NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE: ASBESTOS WORKERS BOILERMAKERS BRICKLAYERS North Tonawanda Bricklayers & Stone Masons Terrazzo Workers & Tile Setters Marble Setters Remainder of County Bricklayers & Stone Masons Marble Masons, Terrazzo Workers & Tile Setters CARPENTERS North Tonawanda Carpenters, Millwrights, Piledriversmen & Soft Floor Layers Remainder of County Carpenters, Soft Floor Layers, Millwrights & Piledriversmen Heavy & Highway CEMENT MASONS Swinging Scaffold ELEVATOR CONSTRUCTORS ELEVATOR CONSTRUCTORS HELPERS ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY GLAZIER IRONWORKERS Structural, Ornamental & Reinforcing Sheeter PAINTERS Remainder of County Brush Spray, Steel, Steeple Jack, Swing Scaffold, Sandblasting Bridge - crossing the Niagara River ROOFERS Composition Slate & Tile SHEET METAL WORKERS SPRINKLER FILTERS	17.35 17.85 16.66 16.28 16.375 17.57 17.32 16.93 15.23 10.615 15.61 15.86 18.65 13.055 9.325 15.48 17.98 19.78 14.66 15.66 16.655 16.86 17.01 17.88 15.34	3.51 1.875 5.00 5.00 5.00 2.50 2.50 4.60 5.375 5.384 4.60 4.60 2.69+ b+c 2.69+ b+c 4.71 2.62 2.62 5.35 5.35 5.35 2.71 2.71 4.36+37 5.21

MODIFICATIONS

DECISION NO. NY81-3045
(CONT'D)

LINE CONSTRUCTION:

Basic Hourly Rates	Fringe Benefits	Sub-Station Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems where other trades are or have been involved:	Basic Hourly Rates	Fringe Benefits
14.20	3.95+ 5%+ 5%+ 5%+	Journeyman Lineman & Technician	17.20	3.95+ 5%+ 5%+
18.92	3.95+ 5%+	Cable Splicer	18.92	3.95+ 5%+
12.78	3.95+ 5%+	Groundman Digging Machine Operator, Groundman Dynamite Man	15.48	3.95+ 5%+
11.36	3.95+ 5%+	Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	13.76	3.95+ 5%+
12.07	3.95+ 5%+	Groundman Truck Driver (Tractor Trailer)	14.62	3.95+ 5%+
10.65	3.95+ 5%+	Driver Mechanic, Groundman - Experienced	12.90	3.95+ 5%+
16.32	3.95+ 5%+	All Overhead Transmission Line Work and Lighting for Athletic Fields	17.20	3.95+ 5%+
14.688	3.95+ 5%+	Journeyman Lineman & Technician	18.06	3.95+ 5%+
13.056	3.95+ 5%+	Groundman Digging Machine Operator, Groundman Dynamite Man	18.92	3.95+ 5%+
13.872	3.95+ 5%+	Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver	17.20	3.95+ 5%+
12.24	3.95+ 5%+	Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+
		Driver Mechanic Groundman	13.76	3.95+ 5%+
			12.90	3.95+ 5%+

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

MODIFICATIONS

DECISION NUMBER OHS3-5122 -
MOD. #4(48 FR 53254 - November 25, 1983)
Statewide, Ohio

Change:
Carpenters:
Area 1:
Carpenters
Piledrivers
Area 9:
Piledrivers
Ironworkers:
Area 8:
Plumbers; Steamfitters; &
Pipefitters:
Area 13

Basic Hourly Rates	Fringe Benefits	Basic Hourly Rates	Fringe Benefits
\$15.58	\$2.72	\$17.76	\$3.32
15.87	2.72	17.24	3.32
15.54	30%	17.08	3.32
17.06	3.61	16.73	3.32
17.57	5.66	15.92	3.32
		15.59	3.32
		13.38	3.32

Add:
Power Equipment Operators:
Master Mechanic

Group 1
Group 2
Group 3
Group 4
Group 5
Group 6

DECISION NUMBER OHS3-5124 -
MOD. #1
(48 FR 54422 - December 2, 1983)
Lucas County, Ohio

Change:
Boilermakers
Carpenters; Lathers;
Millwrights; & Piledrivers
Cement Masons
Electricians
Residential up to & inclu. 3 story apartments
All Other Work:
Electricians
Cable Splicers
Ironworkers
Plumbers; Steamfitters; &
Pipefitters
Sheet Metal Workers
Soft Floor Layers
Commercial
Residential
Terrazzo Workers & Tile
Setters
Quit:
Power Equipment Operators
Wage Rates & Classifications

Basic Hourly Rates	Fringe Benefits	Basic Hourly Rates	Fringe Benefits
20.425	3.23	11.88	3.00+
19.31	2.73	3.3%	3.3%
18.23	2.86	20.00	3.00+
		23.00	3.00+
		19.46	3.44
		19.20	3.72
		17.805	3.905
		17.54	2.91
		17.54	2.91
		16.90	2.36

MODIFICATIONS

DECISION NUMBER OH53-5125 - MOD. #1

(48 FR 56898 - December 23, 1983)

Ashtabula, Cuyahoga, Lake,
Lorain, Portage, Stark, &
Summit Counties, Ohio

DECISION NUMBER OH53-5124 (CONT'D)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

Add:
Power Equipment Operators
(Except Well & Pump Work):Area 1:
Master Mechanic

Group 1

Group 2

Group 3

Group 4

Group 5

Group 6

Area 2:
Master Mechanic

Group 1

Group 2

Group 3

Group 4

Group 5

Group 6

Change:

Carpenters; Millwrights;

Piledrivemen; & Soft Floor

Layers:

Area 3:

Commercial Building:

Carpenters

Residential Carpenters

Cement Masons:

Area 2:

Electricians:

Area 7:

Family Residences, not to

exceed 4 units, whether or

not under the same roof and

not exceeding 2 stories,

with the exception of a

single family residence

which may be more than 2

stories

Ironworkers:

Area 2:

Sheeters

Area 3:

Ornamental; Reinforcing; &

Structural

Sheeters; Layout Man

Line Construction:

Area 1:

Cable Splicer Operator;

Linemen; Pole Digging

Equipment Operator

Groundmen

Pipefitters; Plumbers:

Residential:

Area 1

Roofers:

Area 2

Omit:

Power Equipment Operators

(Except Well & Pump Work)

Wage Rates & Classifications

*BOOM & JIB OVER 150 FEET, \$.25 PREMIUM; BOOM & JIB OVER 250 FEET, \$.50 PREMIUM

GROUP A: Boiler or Compressor Operator Mounted on Crane (Fisgy-Back Operation); Boom Trucks; Cables; Cherry Pickers; Combination Concrete Mixer and Tower; Concrete Pumps (except Trailer Pumps); Cranes; Derricks; Draglines; Dredges (Dipper, Clam or Suction) 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator and Helicopter Winch Operator (When Holding Builders Materials); Hoes; Hoists (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple Drum); Mobile Concrete Pumps (With Boom); Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson Work for Foundations and Substructure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); & Tug Boat

GROUP B: Asphalt Paver; Bulldozers; C.M.I. Type Equipment; Endloaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; & Push Cat

GROUP C: A-Frames; Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Boiler (15 lbs. pressure & over); Fork Lifts (except Masonry); Hoisting Engines (One Drum); House Elevators (except those automatic call button controlled); Man Lift; Mud Jacks; Pressure Grouting; Pump Operators (Installing or Operating Well Points or other Type of Deswatering System); Pumps (4" and Over Discharge); Submersible Pumps (4" and Over Discharge); Trailer Concrete Pumps (without Booms); Trench Machines (24" and Under); & Utility Operators

GROUP D: Compressors; Concrete Mixers (Capacity more than one bag); Concrete Mixers (one bag capacity, side loader); Conveyors; Generators; Gunite Machines; Pavement Broadener (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; & Rollers (except Asphalt Rollers)

GROUP E: Backfiller & Tampers; Bar and Joint Installing Machines; Batch Plant; Bulfloats; Burlap and Curing Machines; Clefplanes; Concrete Spreaders; Crushers; Deckhands; Drum Fireman (In Asphalt Plants); Farm-type Tractors (Pulling Attach.); Finishing Machines; Form Trenchers; Hydro Seeders; Pressure Pumps (Over 4" discharge); Self-propelled Power Spreader; Self-propelled Sub-Grader; Tire Repair-man; Tractors (Pulling Sheep Foot Roller or Grader); Vibratory Compactor (With Integral Power)

GROUP F: Boilers (Less Than 15 lbs. pressure); Fork Lift (Masonry); Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oilier; Power Driven Heaters (Oil Fired); Power Scrubbers; Power Sweepers; Pumps (Under 4" discharge); Submersible Pumps (Under 4" discharge); Tenders; & VAC/ALLS

Basic Hourly Rates	Fringe Benefits	Basic Hourly Rates	Fringe Benefits
\$19.02	\$3.32	13.04	2.85+
18.32	3.32	3.3%	3.3%
18.37	3.32	18.87	4.12
18.02	3.32	17.06	3.61
17.24	3.32	18.06	3.61
16.92	3.32	19.50	.85+
13.74	3.32	15.60	.85+
17.76	3.32		10%
17.24	3.32	11.35	1.23
17.08	3.32	17.24	3.11
16.73	3.32		
15.92	3.32		
15.59	3.32		
13.38	3.32		

MODIFICATIONS

DECISION NUMBER OH83-5125 (Cont'd)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR AREA 2:

GROUP A: Boiler or Compressor Operator Mounted on Crane (Piggy-Back Operation); Boom Trucks; Cableways; Cherry Pickers; Combination Concrete Mixer and Tower; Concrete Pumps (except Trailer Pumps); Cranes; Derricks; Draglines; Dredges (Dipper, Clam or Suction); 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator and Helicopter Winch Operator (When Hoisting Builders Materials); Hoses; Hoists (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple Drum); Mobile Concrete Pump (With Boom); Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson Work for Foundations and Substructure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); & Tug Boat

GROUP B: Asphalt Paver; Bulldozer; C.M.I. Type Equipment; Endloaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; & Push Cat

GROUP C: Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Boiler (15 lbs. pressure & over); Fork Lifts (except Masonry); Hoisting Engines (One Drum); House Elevators (except those automatic call button controlled); Man Lift; Mud Jacks; Pressure Grouting; Pump Operators (Installing or Operating Well Points or other type of Dewatering System); Pumps (4" and Over Discharge); Submersible Pumps (4" and Over Discharge); Trailer Concrete Pumps (Without Booms); Trench Machines (24" and Under); & Utility Operators

GROUP D: Compressors; Concrete Mixers (Capacity more than one bag); Concrete Mixers (one bag capacity, side loader); Conveyors; Generators; Gunita Machines; Pavement Breaker (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; & Rollers (except Asphalt Rollers)

GROUP E: Backfiller & Tampers; Bar and Joint Installing Machines; Batch Plant; Bullfloats; Burlap and Curing Machines; Clefplanes; Concrete Spreaders; Crushers; Deckhands; Drum Fireman (In Asphalt Plants); Farm-type Tractors (Pulling Attach.); Finishing Machines; Form Trenchers; Hydro Seeders; Pressure Pumps (Over 4" discharge); Self-propelled Power Spreader; Self-propelled Sub-Grader; Tire Repairman; Tractors (Pulling Sheep Foot Roller or Grader); Vibratory Compactor (With Integral Power)

GROUP F: Boilers (Less Than 15 lbs. pressure); Fork Lift (Masonry); Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oilier; Power Driven Heaters (Oil Fired); Power Scrubbers; Power Sweepers; Pumps (Under 4" discharge); Submersible Pumps (Under 4" discharge); Tenders; & VAC/ALLS

*BOOM & JIB OVER 150 FEET, \$.25 PREMIUM; BOOM & JIB OVER 250 FEET, \$.50 PREMIUM

MODIFICATIONS

DECISION NUMBER OH83-5125 (Cont'd)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR AREA 1:

GROUP A: A-Frames; Boiler or Compressor Operator Mounted on Crane (Piggy-Back Operation); Boom Trucks; Cableways; Cherry Pickers; Combination Concrete Mixer & Tower; Concrete Pumps; Cranes; Derricks; Draglines; Dredge (Dipper, Clam or Suction); 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator & Helicopter Winch Operator (When Hoisting Builders Materials); Hoses; Hoists (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple Drum); Mobile Concrete Pump (With Boom); Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson Work for Foundations and Substructure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); & Tug Boats

GROUP B: Asphalt Paver; Bulldozer; C.M.I. Type Equipment; End Loaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; & Push Cats

GROUP C: Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Fork Lifts; Hoist (One Drum); House Elevators (except automatic call button controlled); Man Lift; Mud Jacks; Power Boilers (Over 15 lbs. Pressure); Pressure Grouting; Pump Operators (Installing Well Points or other type of Dewatering system; Pumps (4" and Over discharge); Submersible Pumps (4" and Over discharge); Trenchers (24" and under); & Utility Operators

GROUP D: Compressors; Conveyors; Generators; Gunita Machines; Mixers (Capacity more than one bag); Mixers (One Bag capacity, side loader); Pavement Breaker (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; & Rollers

GROUP E: Backfiller & Tampers; Bar & Joint Installing Machines; Batch Plant; Bullfloats; Burlap and Curing Machines; Clefplanes; Concrete Spreading Machine; Crushers; Deck Hands; Drum Fireman (Asphalt); Farm-type Tractors (Pulling Attach.); Finishing Machines; Form Trenchers High Pressure Pumps (over 4" discharge); Hydro Seeders; Self-propelled Power Spreader; Self-propelled Sub-Grader; Tire Repairman; Tractors (Pulling Sheep Foot Roller or Grader); Vibratory Compactor (With Integral Power)

GROUP F: Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oilier; Power Driven Heaters (Oil Fired); Power Scrubbers; Power Sweepers; Boilers (Less than 15 lbs. Pressure); Pumps (Under 4" discharge); Submersible Pumps (Under 4" discharge); Tenders; & VAC/ALLS

MODIFICATIONS

DECISION NUMBER OH83-5127 (Cont'd)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR ZONES 1 and 2 (Cont'd):

GROUP E: Backfiller & Tampers; Bar and Joint Installing Machines; Batch Plant; Bulfloats; Burlap and Curing Machines; Clefplanes; Concrete Spreaders; Crushers; Deckhands; Drum Fireman (in Asphalt Plants); Farm-type Tractors (Pulling Attach.); Finishing Machines; Form Trenchers; Hydro Seeders; Pressure Pumps (Over 4" discharge); Self-propelled Power Spreader; Self-propelled Sub-Grader; Tire Repairman; Tractors (Pulling Sheep Foot Roller or Grader); Vibratory Compactor (With Integral Power)

GROUP F: Boilers (Less Than 15 lbs. pressure); Fork Lift (Masonry); Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oilier; Power Driven Heaters (Oil Fired); Power Scrubbers; Power Sweepers; Pumps (Under 4" discharge); Submersible Pumps (Under 4" discharge); Tenders; & VAC/ALLS

*BOOM & JTB OVER 150 FEET, \$.25 PREMIUM; BOOM & JTB OVER 250 FEET, \$.50 PREMIUM

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR ZONE 3:

GROUP A: A-Frames; Boiler or Compressor Operator Mounted on Crane (Piggy-Back Operation); Boom Trucks; Cableways; Cherry Pickers; Combination Concrete Mixer & Tower; Concrete Pumps; Cranes; Derricks; Draglines; Dredge (Dipper, Clam or Suction); 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator & Helicopter Winch Operator (When Hoisting Builders Materials); Hoses; Hoists (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple Drum); Mobile Concrete Pumps (With Boom); Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson Work for Foundations and Substructure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); & Tug Boats

GROUP B: Asphalt Paver; Bulldozer; C.M.I. Type Equipment; End Loaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; & Push Cats

GROUP C: Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Fork Lifts; Hoist (One Drum); House Elevators (except automatic call button controlled); Man Lift; Mud Jacks; Power Boilers (Over 15 lbs. Pressure); Pressure Grouting; Pump Operators (Installing Well Points or other type of Dewatering system; Pumps (4" and Over discharge); Submersible Pumps (4" and Over discharge); Trenchers (24" and Under); & Utility Operators

GROUP D: Compressors; Conveyors; Generators; Gunite Machines; Mixers (Capacity more than one bag); Mixers (One Bag capacity, side loader); Pavement Breaker (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; & Rollers

GROUP E: Backfiller & Tampers; Bar & Joint Installing Machines; Batch Plant; Bulfloats; Burlap and Curing Machines; Clefplanes; Concrete Spreading Machine; Crushers; Deck Hands; Drum Fireman (Asphalt); Farm-type Tractors (Pulling Attach.); Finishing Machines; Form Trenchers High Pressure Pumps (over 4" discharge); Hydro Seeders; Self-propelled Power Spreader; Self-propelled Sub-Grader; Tire Repairman; Tractors (Pulling Sheep Foot Roller or Grader); Vibratory Compactor (With Integral Power)

GROUP F: Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oilier; Power Driven Heaters (Oil Fired); Power Scrubbers; Power Sweepers; Boilers (Less than 15 lbs. Pressure); Pumps (Under 4" discharge); Submersible Pumps (Under 4" discharge); Tenders; & VAC/ALLS

MODIFICATIONS

DECISION NUMBER OH83-5127 - MOD. #2

(43 FR 56903 - December 23, 1983)

Adams, Allen, Wood, & Wyandot Counties, Ohio

Onlt: Power Equipment Operators : Zones 1, 2, & 3 Wage Rates & Classifications

Add: Power Equipment Operators:

Zone 1:	Basic Hourly Rates	Fringe Benefits
Master Mechanic	\$17.76	\$3.32
Group A	17.24	3.32
Group B	17.08	3.32
Group C	16.73	3.32
Group D	15.92	3.32
Group E	15.59	3.32
Group F	13.38	3.32
Zone 2:		
Master Mechanic	17.48	3.32
Group A	16.96	3.32
Group B	16.80	3.32
Group C	16.44	3.32
Group D	15.66	3.32
Group E	15.33	3.32
Group F	13.13	3.32

CLASSIFICATIONS FOR ZONES 1 and 2:

GROUP A: Boiler or Compressor Operator Mounted on Crane (Piggy-Back Operation); Boom Trucks; Cableways; Cherry Pickers; Combination Concrete Mixer and Tower; Concrete Pumps (except Trailer Pump); Cranes; Derricks; Draglines; Dredges (Dipper, Clam or Suction); 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator and Helicopter Winch Operator (When Hoisting Builders Materials); Hoses; Hoists (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple Drum); Mobile Concrete Pumps (With Boom); Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson Work for Foundations and Substructure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); & Tug Boat

GROUP B: Asphalt Paver; Bulldozer; C.M.I. Type Equipment; Endloaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; & Push Cat

GROUP C: Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Boilers (15 lbs. pressure & over); Fork Lifts (except Masonry); Hoisting Engines (One Drum); House Elevators (except those automatic call button controlled); Man Lift; Mud Jacks; Pressure Grouting; Pump Operators (Installing or Operating Well Points or other Type of Dewatering System); Pumps (4" and Over Discharge); Submersible Pumps (4" and Over Discharge); Trailer Concrete Pumps (without Booms); Trench Machines (24" and Under); & Utility Operators

GROUP D: Compressors; Concrete Mixers (Capacity more than one bag); Concrete Mixers (One bag capacity, side loader); Conveyors; Generators; Gunite Machines; Pavement Breaker (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; & Rollers (except Asphalt Rollers)

MODIFICATIONS			MODIFICATIONS		
DECISION NO. #OR83-4068-MOD#5 (48 FR 41714-September 16, 1983)	DECISION NO. #OR83-4067-MOD#6 (48 FR 41710-September 16, 1983)	DECISION NO. #PAB1-3073 - MOD. #7 (46 FR 48853 - October 2, 1981) Northumberland County, Pennsylvania	DECISION NO. #PAB1-3076 - MOD. NO. 9 (46 FR 50263 - October 9, 1981) SCHUYLKILL COUNTY PENNSYLVANIA	DECISION NO. #PAB1-3068 - MOD. #13 (46 FR 47403 - September 25, 1981) LEBANON COUNTY, PENNSYLVANIA	DECISION NO. #PAB1-3068 - MOD. #13 (46 FR 47403 - September 25, 1981) LEBANON COUNTY, PENNSYLVANIA
Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods & Woodward Cos., Oklahoma	Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Leflore, Latimer, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Tulsa, Sequoyah, Wagoner & Washington Cos., Oklahoma	ABESTOS WORKERS ELECTRICIANS: Delaware, Lewis & Trubut LABORERS: North of Susquehanna River, Unskilled laborers scaffold builders, wrecking, window cleaners & demolition Masons tenders, operators of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tool coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under piling & pier holes (below 12'), non-metallic pipe layers, plaster tenders, mortar men mixed by hand, handling & using cutting or burning torches in the wrecking of building Plumbers Steamfitters	Bricklayers & Stonemasons Carpenters Ironworkers Laborers: Class 1 Class 2 Millwrights Tile Setters	CHARGE: Carpenters Cement Masons West of Route 501 Line Construction: Lineman & Cable Splicer Groundman Winch truck operator Millwrights Plasterers: West of Route 501 Plumbers & Steamfitters West of Route 501 Roofers: Annville, Cold Springs, East Hanover, North Annville, North Cornwall, North Londonderry, South Annville, South Londonderry, Union, West Cornwall Twp.: Compositions Remainder of County: Composition, damp & Waterproofing Sheet metal workers Soft Floor Layers	CHARGE: Carpenters Cement Masons West of Route 501 Line Construction: Lineman & Cable Splicer Groundman Winch truck operator Millwrights Plasterers: West of Route 501 Plumbers & Steamfitters West of Route 501 Roofers: Annville, Cold Springs, East Hanover, North Annville, North Cornwall, North Londonderry, South Annville, South Londonderry, Union, West Cornwall Twp.: Compositions Remainder of County: Composition, damp & Waterproofing Sheet metal workers Soft Floor Layers
Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Fringe Benefits	Fringe Benefits	Fringe Benefits	Fringe Benefits	Fringe Benefits	Fringe Benefits
\$16.24 3 3/4+ 17.54 3 3/4+ 1.00 1.00	\$16.24 3 3/4+ 17.54 3 3/4+ 1.00 1.00	16.33 2.31 13.06 3.57 9.20 1.40	13.09 2.66 14.50 2.25 17.65 3.50 8.95 1.00 9.15 1.00 16.57 2.25 12.09 2.66	14.50 2.25 13.42 2.20 14.74 .80+3 8.77 .3/8+ 10.26 .80+3 16.57 .3/8+ 11.90 2.21 17.05 2.39	14.50 2.25 13.42 2.20 14.74 .80+3 8.77 .3/8+ 10.26 .80+3 16.57 .3/8+ 11.90 2.21 17.05 2.39
Line Construction: Lineman	Line Construction: (except Braden, Pocoma & Spito Townships in Leflore County) Lineman	CHARGE: Line Construction: (except Braden, Pocoma & Spito Townships in Leflore County) Lineman	CHARGE: Bricklayers & Stonemasons Carpenters Ironworkers Laborers: Class 1 Class 2 Millwrights Tile Setters	CHARGE: Carpenters Cement Masons West of Route 501 Line Construction: Lineman & Cable Splicer Groundman Winch truck operator Millwrights Plasterers: West of Route 501 Plumbers & Steamfitters West of Route 501 Roofers: Annville, Cold Springs, East Hanover, North Annville, North Cornwall, North Londonderry, South Annville, South Londonderry, Union, West Cornwall Twp.: Compositions Remainder of County: Composition, damp & Waterproofing Sheet metal workers Soft Floor Layers	CHARGE: Carpenters Cement Masons West of Route 501 Line Construction: Lineman & Cable Splicer Groundman Winch truck operator Millwrights Plasterers: West of Route 501 Plumbers & Steamfitters West of Route 501 Roofers: Annville, Cold Springs, East Hanover, North Annville, North Cornwall, North Londonderry, South Annville, South Londonderry, Union, West Cornwall Twp.: Compositions Remainder of County: Composition, damp & Waterproofing Sheet metal workers Soft Floor Layers
Cable Splicers	Cable Splicers	Cable Splicers	Bricklayers & Stonemasons	Carpenters	Carpenters
Hole Digger & Heavy Equipment Operator (pole or cat equipment)	Hole Digger & Heavy Equipment Operator (pole or cat equipment)	Hole Digger & Heavy Equipment Operator (pole or cat equipment)	Ironworkers	Cement Masons	Cement Masons
Jackhammerman	Jackhammerman	Jackhammerman	Laborers:	West of Route 501	West of Route 501
Line Truck (winch oper.)	Line Truck (winch oper.)	Line Truck (winch oper.)	Class 1	Line Construction:	Line Construction:
Powderman	Powderman	Powderman	Class 2	Lineman & Cable Splicer	Lineman & Cable Splicer
Groundman	Groundman	Groundman	Millwrights	Groundman	Groundman
Truck Driver (flatbed, ton & half & under)	Truck Driver (flatbed, ton & half & under)	Truck Driver (flatbed, ton & half & under)	Tile Setters	Winch truck operator	Winch truck operator
BRICKLAYERS-STONEMASONS Area 5	BRICKLAYERS-STONEMASONS Area 6	BRICKLAYERS-STONEMASONS Area 6		Millwrights	Millwrights
Plasterers	Plasterers	Plasterers		Plasterers:	Plasterers:
				West of Route 501	West of Route 501
				Plumbers & Steamfitters	Plumbers & Steamfitters
				West of Route 501	West of Route 501
				Roofers:	Roofers:
				Annville, Cold Springs, East Hanover, North Annville, North Cornwall, North Londonderry, South Annville, South Londonderry, Union, West Cornwall Twp.:	Annville, Cold Springs, East Hanover, North Annville, North Cornwall, North Londonderry, South Annville, South Londonderry, Union, West Cornwall Twp.:
				Compositions	Compositions
				Remainder of County:	Remainder of County:
				Composition, damp & Waterproofing	Composition, damp & Waterproofing
				Sheet metal workers	Sheet metal workers
				Soft Floor Layers	Soft Floor Layers

MODIFICATIONS

Basic Hourly Rates	Fringe Benefits
12.25	2.575
DECISION NO. PA82-3011 - MOD. NO. 7 (47 FR 10963 - March 12, 1982) BRADFORD, TIOGA & UNION COUNTIES, PENNSYLVANIA CHANGE: Bricklayers & Stonemasons Electricians: Tioga County in its entirety; Remainder of Union and Bradford Counties Townships of E. Buffalo, Union & Lewisburg in Union County Bradford County, Town of Towanda, that portion of the County West of the Susquehanna River South of Towanda and West of U.S. Highway 309, North of Towanda LABORERS: Unskilled Laborers, Scaffold Builders, Wrecking, Window Cleaners & Demolition Operators of Jackhammers, Paving Breakers, Vibrator & other pneumatic & mechanical tools coming under the jurisdiction of Laborers, Wagon Drill operators, Excavating for Caisson, under pinning & Pier Holes (below 12') no-metallic pipe layers, plasterers Tenders, Mortar Men (mixed by hand) handling & using cutting burning torches in the wrecking of buildings, Masons Tenders Millwrights Plumbers & Steamfitters: Tioga & Union counties and Eastern half of Bradford County Soft Floor Layer	
13.06	3.57
15.75	1.054 3%
15.25	3.004 3%
9.20	1.40
9.35	1.40
16.57	2.25
17.56	2.44
11.94	2.25

MODIFICATIONS

Basic Hourly Rates	Fringe Benefits
9.20	1.40
DECISION NO. PA82-3012 - MOD. NO. 8 (47 FR 9681 - March 5, 1982) COLUMBIA, MONTGOMERY & SNYDER COUNTIES, PENNSYLVANIA CHANGE: LABORERS: Montour County: Unskilled laborers, scaffold builders, wrecking, window cleaners & demolition Operators of Jackhammer paving breakers, vib- rators & other pneu- matic & mechanical tools coming under the juris- diction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12') nonmetallic pipe layers, plasterers tenders, mortar men (mixed by handling & using cutting or burning torches in the wrecking of build- ings, mason tenders Millwrights Plumbers & Steamfitters Roofers: Snyder County Soft Floor Layers	
14.05	3.02
15.48	1.90
15.83	.8043 3/8%
9.24	.8043 3/8%
10.81	.8043 3/8%
13.45	3.40
15.36	1.91
14.05	3.02
13.70	3.40
13.45	3.40
10.80	e+f+g
DECISION NO. PA81-3080 MOD. NO. 8 (47 FR 52078 - October 23 1981) Lehigh County, Pa. CHANGE: Bricklayers Cement Masons Line Construction: Linemen & Cable Splicer Groundmen Winch truck op. Marble Setters Plasterers Stonemasons Terrazzo Workers Tile Setters Truck Drivers	
14.05	3.02
15.48	1.90
15.83	.8043 3/8%
9.24	.8043 3/8%
10.81	.8043 3/8%
13.45	3.40
15.36	1.91
14.05	3.02
13.70	3.40
13.45	3.40
10.80	e+f+g
FOOTNOTES: e. Employer Contributes \$127.03 per month to a Health and Welfare Fund. f. Employer Contributes \$108.34 per month to a pension fund.	

FOOTNOTE:

c. Election Day paid
Holiday.

Basic Hourly Rates	Fringe Benefits
\$11.00	\$2.66
DECISION NO. WA81-5100 - Mod #3 (46 FR 15636 - March 6, 1981) King and Kitsap Counties, Washington CHANGE: Carpenters	

Basic Hourly Rates	Fringe Benefits
15.20	2.17
15.50	2.91
16.70	1.574 10%
18.70	3.70
17.08	.8043 3/8%
17.08	.8043 3/8%
10.25	.8043 3/8%
11.96	.8043 3/8%
15.90	2.91
14.99	2.17
14.55	3.43
15.55	3.43
18.17	2.7343
8.25	2.7343
15.23	4.39
14.10	2.17
DECISION NO. PA82-3016 MOD. NO. 5 (47 FR 20390 - May 14, 1982) Northampton County, Pa. CHANGE: Bricklayers & Stonemasons Carpenters Electricians: Remainder of County Ironworkers Line Construction: Linemen Cable Splicer Groundman Winch truck operator Millwrights Plasterers Painters (Bethlehem) Brush Structural Steel Spray Roofers: Composition, damp & Waterproofing Mechanic II - Handle and transport all materials tools, and equipment; clear-up debris Sheet Metal Workers Terrazzo Workers	

DECISION MO84-4009

COUNTIES: Cass, Clay, Jackson, Platte,
Ray, Henry, Johnson & Lafayette Cos.,
Missouri; Johnson & Wyandotte Cos.,
Kansas

DATE: Date of Publication
June 3, 1983 in 48 FR 25102.

DESCRIPTION OF WORK: Building Projects (excluding single family homes and
apartments up to and including 4 stories) and heavy and highway construction
in Johnson & Wyandotte Cos., Kansas only.

DECISION NO: MO84-4009
Supersedes Decision NO.

Asbestos Workers
Boilermakers
Bricklayers & Stone-
masons
Carpenters:
Zone 1 - Cass, Clay, Jack-
son, Lafayette, Platte &
Ray Cos., Mo.; Johnson
& Wyandotte Cos., Kansas;
Carpenters, Lathers,
Millwrights & Pile-
drivers
Zone 2 - Henry County,
Mo.;

Basic Hourly Rates	Fringe Benefits	Electricians (Cont'd):	Basic Hourly Rates	Fringe Benefits
17.29	4.26	Cass Co., Mo. not in- cluding Pleasant Hill: Electricians	16.18	10%+ 2.51
17.345	3.00	Zone 2 - Henry, Johnson & Lafayette Cos., Mo. & remainder of Clay, Jackson, Platte & Cass Cos., Mo.;		
14.44	4.10	Electricians (con- tracts exceeding 2000 man hrs.	16.18	10%+ 2.51
15.05	2.07	Electricians (con- tracts not exceeding 2000 man hrs.	15.18	10%+ 2.51
13.55	2.07	Zone 3 - Ray Co., Mo: Electricians (contracts exceeding 2000 man hrs	16.18	10%+ 2.51
15.05	2.07	Electricians (contracts not exceeding 2000 man hrs.	14.58	10%+ 2.51
14.075	2.07	Zone 4 - Johnson & Wyandotte Cos., Kansas	16.18	10%+ 2.51
15.05	2.07	Elevator Constructors Helpers	16.53	2.465 +a
15.475	2.075	Elevator Constructors' Helpers (Prob.)	70%JR	2.465 +a
13.98	1.95	Glaziers	50%JR	2.56+ 15.48%
14.97	1.95	Ironworkers: Zone 1 - Cass, Clay, Jack- son, Platte, Ray, Henry, Johnson & Lafayette Cos., Mo.	14.72	4.25 4.25
		Zone 2 - Johnson & Wyandotte Cos., Kansas	16.125	

STATE: Missouri & Kansas

Basic Hourly Rates	Fringe Benefits	Line Construction: (Con'd)	Basic Hourly Rates	Fringe Benefits
12.30	1.85	including C.A.T.V. Work): Cable splicers, air pressure technicians, central office equip- ment man	10.96	3%+.45
12.45	1.85	Telephone lineman & installer repairman; C.A.T.V. terminator; equipment operator (1/4 yd. backhoe & larger & D-4 crawlers & larger: operator (trenchers & all other equipment) Groundman-winch driver Groundman	10.39	3%+.45
9.575	2.55	Line Construction (Rail- road & Cross Country Transmission Lines): Zone 4 - Wyandotte Co. & Johnson Co.-that portion east of Mon- ticello, Olathe & Spring Hill Townships: Lineman	9.11	3%+.45
9.675	2.55		7.87	3%+.45
9.90	2.55		6.36	3%+.45
12.02	3.30		15.50	3-1/2% +1.06
12.82	3.30		14.36	3-1/2% +1.06
			10.79	3-1/2% +1.06
			10.09	3-1/2% +1.06
			16.24	3-1/2% +1.06
			15.50	3-1/2% +1.06
			10.79	3-1/2% +1.06
			10.09	3-1/2% +1.06
			16.55	10%
			14.40	

Laborers:

Building Construction:

Zone 1 - Cass, Clay, Jack-
son, Lafayette, Platte &
Ray Cos., Mo.; Johnson &
Wyandotte Cos., Kansas:

Group 1

Group 2

Group 3

Zone 3 - Henry & Johnson
Cos., Mo.;

Group 1

Group 2

Group 3

Site preparation & grad-
ing, heavy & highway
Construction:

Zone 4 - Johnson &
Wyandotte Cos., Kansas:

Group 1

Group 2

Line Construction:

Zone 1 - Cass, Clay, Jack-
son, Platte & Ray Cos.,
Mo.; Wyandotte & remain-
der of Johnson Cos.,
Kansas:

Linemen

Linemen Operator

Groundman

Zone 2 - Western 3/4 of
Johnson Co., Kansas:

Lineman

Cable Splicers

Groundman

Powderman

Line Truck & Equipment
Operators

Zone 3 - Cass, Clay, Jack-
son, Platte, Ray, Henry,
Johnson & Lafayette Cos.,
Mo.; Wyandotte Co. &
Johnson Co.-that portion
east of Monticello, Olathe
& Spring Hill Townships
Kansas:

Line Construction (Tele-
phone & Telegraph Work-

DECISION NO. NO84-4009

Painters:
Zone 1 - Cass, Clay, Henry, Jackson, Johnson (excluding Whiteman AFB), Lafayette, Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos., Kansas; Brush & Tapers
Spray
Zone 2 - Johnson Co., Mo. (Whitman AFB only):
Brush
Spray
Plasterers:
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos., Kansas
Zone 2 - Henry & Johnson Cos., Mo.
Pipefitters
Plumbers
Power Equipment Operators:
Building Construction:
Group I
Group II
Group III:
(a)
(b)
(c)
(d)
Group IV
Group V
Group VI
Group VII:
(a)
(b)
(c)
Group VIII
Group IX
Site Preparation & grading, Heavy & Highway Construction:
Zone 1 - Johnson & Wyandotte Cos., Kansas:
Group I
Group II
Group III
Group IV:
(a)
(b)
Group V

Basic Hourly Rates	Fringe Benefits
16.49	1.55
17.49	1.55
14.25	
15.25	
15.46	3.75
15.11	3.75
10.05	3.75
13.21	3.75
10.85	3.75
13.46	3.75
15.71	3.75
15.36	3.75
15.96	3.75
15.21	3.75
14.96	3.75
12.96	3.75
16.46	3.75
15.96	3.75
14.10	3.92
13.85	3.92
13.15	3.92
9.13	3.92
12.15	3.92
14.35	3.92

Roofers:

Roofers
Sheet Metal Workers
Soft Floor Layers
Sprinkler Fitters (Henry, Johnson & Lafayette Cos., Mo.)
Terrazzo Workers:
Terrazzo Workers
Finishers
Terrazzo Base Machine
Truck Drivers:
Building Construction:
Group I
Group II
Group III
Group IV
Group V
Group VI
Group VII
Group VIII
Truck Drivers:
Site Preparation & grading, Heavy & Highway Construction:
Zone 1 - Johnson & Wyandotte Cos., Kansas
Group I
Group II
Group III
Group IV
Group V
Group V

FOOTNOTES: a - Employer contributes 8% of basic hourly rate for over 5 yrs. of service & 6% of basic hourly rate for 6 mos. to 5 yrs. service as Vacation Pay Credit. Also 7 paid holidays.

DECISION NO. NO84-4009

CLASSIFICATION DEFINITIONS

LABORERS - (Building Construction Zone 1):

Group 1 - General labor; wiremesh handlers or setters; carpenter tender; track men; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)
Group 2 - Plumber laborers (conduit pipe, sewer work, drain tile and duct lines, digging and power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; georgia buggies (self-propelled) fork lift; hoseman; insulation man
Group 3 - Fork lift (masonry); brick tender; plasterer tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

LABORERS: (Zone 3):

Group 1 - Carpenter tenders, track men, wreckers (alteration or entire projects); reinforcing rod carriers; signal men; all other general laborers
Group 2 - Plumber laborers; stonemason tenders; air tool operators, sewer work, water lines, conduit pipe, drain tile and duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; jackhammer & chipping hammer operators; material batch hopper man; scaleman; spreader or screed man on asphalt machine; chain or concrete sawman; brush feeders or pulverizers; swinging scaffold; cement handlers (buck or sack); laser beam man
Group 3 - Plasterer tenders; hod carriers; brick tender; cutting torch & burner men; asphalt rakers; Barco tamers; Jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzlemen; head pipe layer or sewer work; man working in tunnels; head form setters & stringline men; hot tar applicator

LABORERS: (Site Preparation)

Group 1 - Carpenters; salamander tenders; dump man and ticket takers on stock piles; loading trucks under bins, hoppers and conveyors track men and all other general laborers. Air tool operators; cement handler (bulk or sack); chain or concrete saw; deckhands; dump man on earth fill; grade checkers cuts and fills; georgia buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers, rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas gacoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; puddlers (paving only); crusher feeder; men handling creosote ties or

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CLASSIFICATION DEFINITIONS - (Cont'd)

LABORERS: (Site Preparation) (Cont'd):

creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used

Group 2 - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettlemaker; hot tar applicator; hand blade operator; manhole builders helpers and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels; Manhole builder (brick or block); dynamite and powder man

POWER EQUIPMENT OPERATORS

Group I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barbertone loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist; endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

GROUP II - Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws, self-propelled; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors sigle, truck mounted; elevator; finishing machine

Group III -

(a) Oilers
(b) Fork lift-masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material) less than 50 h.p.

Group IV -

Clamshells, 80 ft. of boom or over (incl. jib); crane or rigs, 80 ft. of boom or over (incl. jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft. of boom or over (incl. jib)

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS: (Cont'd):

Group V

Hoists-each additional drum over 1 drum

Group VI

Crane or rigs, over 200 ft. of boom

Group VII

Ready Mixed Concrete Plants;

(a) Crane operator

(b) Loader operator & plant man

(c) Conveyor Operator

Group VIII

Master Mechanic

Group IX

Crane-tower or climbing

POWER EQUIPMENT OPERATORS: (Site Preparation)

Group I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer man; truck crane; welding machine maintenance operator - 2

Group II - A-frame truck, asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operator; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum; latourneau roofer; multiple compactor; pavement breaker, self-propelled, of the hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p.

Group III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand-welding machine maintenance operator - 1

STATE: Nevada

SUPERSEDEAS DECISION

CLASSIFICATIONS DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS: (Site Preparation - Contd):

Group IV

- (a) Oiler
 (b) Oiler driver, all types
 Group V - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over; men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

TRUCK DRIVERS - (Building Construction):

- Group I - Warehousemen and stock man
 Group II - Flat beds; pick-ups; drum trucks, under 10 yds.
 Group III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers
 Group IV - Straddle trucks, wheel tractors (when used for towing); hydro lift trucks, hydraulically operated aerial lifts; heavy hauling, a-frame and winch fork trucks; heavy excavating (dumpster, euclid, etc.); double bottom units (20 tons capacity and over)
 Group V - Distributor truck drivers and operators; oilers, greasers
 Group VI - Mechanics; transit mix tractor trailer
 Group VII - Transit mix, 5 yds. and over
 Group VIII - Transit mix, under 5 yds.

TRUCK DRIVERS: (Site Preparation)

- Group I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle
 Group II - Material trucks, tandem, two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers tandem or semi; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and similar excavating equipment
 Group III - A-frame, lowboy, and boom truck driver
 Group IV - Mechanics and welders
 Group V - Oiler and greasers

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)).

DECISION NUMBER: NV84-5002

Supersedes Decision NV82-5114 dated August 6, 1982, in 47 FR 34312

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

COUNTIES: Nevada Test Site including Tonopah Test Range in Clark, Lincoln, and Nye Counties

DATE: Date of Publication

Basic Hourly Rates	Fringe Benefits	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS		LABORERS:	
BOILERMAKERS	\$19.41	Laborer	3.76
BRICKLAYERS	21.39	Tunnel Shaft & Stope Miner	3.86
CARPENTERS:	16.59	Miner	1.86
Carpenters; Saw Filer;		Tunnel Hardrock Miner	
Power actuated tools;		Bullgang	
Pneumatic Nailor	17.66	POWER EQUIPMENT OPERATORS	
Floor Layers; Shingler	17.66	(Except Piledriving and Steel Erection):	
Millwrights	18.66	Group 1	3.05
Piledrivers	17.86	Group 2	3.05
Power Saw Operator	17.81	Group 3	3.05
CEMENT MASONS:	12.73	Group 4	6.93
ELECTRICIANS:		Group 5	5.04
Electricians; Equipment Operators; Linemen	18.74	Group 6	+3%
Cable Splicers	19.07	TRUCK DRIVERS:	
Groundman	14.99	Group 1	5.04
ELEVATOR CONSTRUCTORS:		Group 2	+3%
Mechanics	22.74	Group 3	5.04
Mechanics' helpers	15.92	Group 4	+3%
Probationary Helpers	11.37	Group 5	3.00
GLAZIERS	16.07		+a
IRONWORKERS:			
Ornamental; Reinforcing; Structural	18.26		
MARBLE SETTERS	16.59		
MASON TENDERS	13.14		
PAINTERS:			
Brush; Roller	15.46		
Paperhangers; Spray;			
Steel; Sandblasters;			
Sealing Stage; Tapers	15.81		
Buffing Steel; Sand-			
blasters; Steel	16.07		
PLUMBERS: Steamfitters	23.10		
ROOFERS	22.40		
SHEET METAL WORKERS	17.85		
TERRAZZO WORKERS:			
TILE SETTERS	16.59		

DECISION NO. NV84-5002

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:

a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A thru. G

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving; G-Christmas Day

POWER EQUIPMENT OPERATORS

(Except Piledriving and Steel Erection)

Group 1: Air Compressor, Pump or generator; Engineer Oiler and Signal Man; Heavy Duty Repairman's Tender; Rotary Drill Tender (Rotary and Core); Switchman or Brakeman

Group 2: Concrete Mixer, skip type; Conveyor and Beltman; Fireman; Generator, pump or compressor (2-5 units inclusive, over 5 units, \$0.10 per hour for each additional unit up to 10 units, portable units); Generator, pump or compressor plant; Hydrostatic pump; Motorman (Rotary and Core); Skiploader, wheeltype, Ford, Ferguson, Jeep or similar type, 3/4 yard or less (without drag-type attachments); Temporary Heating Plant; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Derrickman (Rotary and Core); Dinky Locomotive or Tunnel Motor; Elevator Hoist; Equipment Greaser; Ford, Ferguson or similar type (with drag-type attachments); Hydra-hammer or similar type equipment; Power Concrete Curing Machine; Power Concrete Saw; Power-driven Jumbo Form Setter; Ross Carrier; Self-propelled Tar Pipelining Machine; Stationary Pipe Wrapping and Cleaning Machine; Towblade Operator

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixer Box (concrete or asphalt plant); Fishing Tool Engineer; Highline Cableway Signalman; Locomotive Engineer; Mud Plant Operator; Power Sweeper; Roller, Compacting Screed; Trenching Machine (up to 6 ft. depth capacity, manufacturer's rating)

Group 5: Asphalt or Concrete Spreading, Mechanical Tamping or Finishing Machine - Roller (all types and sizes), soil, cement, asphalt - finish; Asphalt Plant Engineer; Deck Engine; Grade Checker; Pavement Breaker; Pneumatic Heading Shield - tunnel; Road Oil Mixing Machine; Forklift, under five tons; Rubber-tired, heavy duty equipment (Oshkosh, DW, Euclid, Lefournau, LaPlant-Choate, or similar type equipment with any type attachments); Skip-loader, wheeltype, over 3/4 yds., up to and including 1 1/2 yds.; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tractor Operator - Drag-type Shovel, Bulldozer, Tamper, Scraper and Push Tractor

DECISION NO. NV84-5002

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 6: Combination Heavy-duty Repairman and Welder (additional \$0.10 per hour premium, \$0.05 per hour tool allowance); Concrete Mixer, paving; Concrete Mobile Mixer; Concrete Pump or Pumpcrete Gun; Crushing Plant Engineer; Driller (Rotary and Core); Elevating Grader; Forklift, over 5 tons; Grade-all; Heavy-duty Repairman (\$0.05 per hour tool allowance); Heavy-duty Welder; Highline Cableway; Hoist (Chicago Boom and Mine); Kolman Belt Loader and similar type; Lift Slab Machine; Loader Operator - Athey, Euclid, Hancock, Sierra or similar type; Motor Patrol (any type or size); Multiple-engine earthmoving machinery; Pneumatic Concrete Placing Machine - Hackley-Presswell or similar type; Shovel, Backhoe, Dragline, Clamshell, Derrick, Derrick Barge, Crane Piledriver and Mucking Machine; Skip-loader, wheeltype, over 1 1/2 yds.; Surface Heater and Planer; Tractor Loader - Crawler type - all types and sizes; Tractor, with boom attachments; Traveling Pipe Wrapping, Cleaning and Bending Machine; Trenching Machine (over 6 ft. depth capacity, manufacturer's rating)

TRUCK DRIVERS

Group 1: Light Duty Driver

Group 2: Bootman; Truck Greaser

Group 3: Tireman

Group 4: Heavy Duty Driver; Forklift Driver

Group 5: Extra Heavy Duty Driver

Unlisted classifications needed for work not included with 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)).

DECISION NO. PA84-3001

SUPPERSEDEAS DECISION

STATE: Pennsylvania

COUNTY: Berks

DATE: Date of Publication

DECISION NO.: PA84-3001
Supersedeas Decision No. PA81-3069 dated September 25, 1981, in 46 FR 47401.DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or apartments up to and including 4 stories),
Excluding Sewage and Water Treatment Plant Projects.

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS (Where Applicable):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 9 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holidays.

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F, plus the Friday after Thanksgiving.

d. Paid Holidays: Election Day and Labor Day.

e. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day Presidential Election Day; Veteran's Day and Thanksgiving Day.

"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))."

Basic Hourly Rates	Fringe Benefits	Basic Hourly Rates	Fringe Benefits
\$17.51	2.04	11.09	1.00
18.88	2.865		
13.35	2.35		
15.40	2.22	11.13	1.00
10.79	1.65	11.15	1.00
		15.40	2.22
		10.75	.66+a
		15.83	.80+3
			.3787
		9.50	.80+3
			.3787
		11.08	.80+3
			.3787
		15.92	2.22
		12.15	2.25
		13.60	2.25
		13.20	2.25
		14.82	6.16+e
		10.81	1.66
		18.33	2.64
		18.17	2.73+d
			4.39
			3.22
			3.23
			3.81
			2.22

Asbestos Workers
Boilermakers
Bricklayers & Stonemasons
Carpenters
Cement Masons
Electricians
Herford, Longswamp & Washington, Twp., Port-
tion of Makatawney, Twp.
east of Sacony Creek
Marion, Tulpehooken &
Bethel Twp.
Remainder of County
Elevator Constructors
Elevator Constructors'
Helpers
Elevator Constructors'
Helpers (Prob.)
Glaziers
Ironworkers, structural
ornamental, bridge
Ironworkers, reinforcing
General Laborers
Operators of jackhammer,
pneumatic, electrical
and mechanical tools
coming under the juris-
diction of laborer, lay-
ing of all clay, terra-
cotta, ironstone, vitri-
field concrete or non-
metallic pipe and the
making of joints for
same, wagon drill opera-
tors and concrete power
buggies
Cofferdam, (below 10')
tunnel free air muckers
Handling and using cur-
ting or burning torches
in the wrecking of
buildings, plasterer
tenders, scaffold build-
ers and removal for

plasterers
Mason tenders, scaffold
builders, removal for
mason and power buggies
Blasters
Lathers
Lead Burners
Line Construction:
Lineman
Groundman
Winch truck operator
Millwrights
Painters:
Brush
Bridge, tower, stacks &
tanks
Spray and steel
Piledrivermen
Plasterers
Plumbers
Roofers:
Commercial
Composition, damp &
waterproofers
Roofers:
Comercial
(Mechanic II - Handle
and transport all
materials tools, and
equipment; clean-up
debris)
Sheet metal workers
Soft floors layers
Sprinkler Fitters
Steamfitters
Stone masons

15.35 1.84+3
15.21 1.67+3
15.59 1.89+3
15.475 2.69+b
+c
10.83 2.69+b
+c
7.74
14.04 1.465
17.65 3.50
17.65 3.50
10.70 1.00
10.93 1.00
10.98 1.00

DECISION NO. PA64-3001

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		M & W	Pensions	Vacation	
GROUP 1	\$15.85	13.5%	10.3%	a	1.8%
GROUP 2	15.56	13.5%	10.3%	a	1.8%
GROUP 3	14.49	13.5%	10.3%	a	1.8%
GROUP 4	13.84	13.5%	10.3%	a	1.8%
GROUP 5	12.97	13.5%	10.3%	a	1.8%
GROUP 6	12.06	13.5%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

- GROUP 1:** Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above
- GROUP 2:** All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-4 c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above
- GROUP 3:** Conveyors, building hoists (single drum) scrapers and tounapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt paint engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-4 cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above
- GROUP 4:** Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above
- GROUP 5:** - Fireman, grease truck
- GROUP 6:** Oilers and deck hands (personnel boats), core drill helper

FOOTNOTES:

- a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPPERSEDES DECISION

STATE: Pennsylvania
DECISION NO.: PA84-3002

COUNTIES: Adams & York

DATE: Date of Publication

Supersedeas Decision No. PA81-3072 dated October 2, 1981 in 46 FR 48851.
 DESCRIPTION OF WORK: Building Erection and Foundation Excavation. (does not include single family homes or apartment up to and including 4 stories).
 Excluding Sewage and Water Treatment Plant Projects.

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
Asbestos Workers	17.51	2.04	Marble, tile & terrazzo workers	12.95	1.20
Boilermakers	18.88	2.865	Millwrights (Adams Co.)	16.57	2.25
Bricklayers & Stone masons			Painters:	13.89	1.88
Carpenters (York County)	13.00	1.20	Brush	10.00	.60
Carpenters (Adams County)	13.39	1.88	Structural Steel	10.75	.60
Cement Masons (Adams Co.)	14.50	2.25	Spray	10.85	.60
Cement Masons (York Co.)	13.47	2.10	Filedrievermen	14.82	6.16+
Electricians:	13.00	1.20			
Franklin, Carroll, Monaghan, and Fairview townships in York Co.	15.21	1.67+ 3%	Plasterers (York Co.)	13.63	.93
Remainder of York Co. and Adams Co. in its entirety	15.70	.76+3%	Plasterers (Adams Co.)	11.90	2.21
Elevator Constructors	15.56	3.00+ a+b	Roofers:	17.05	2.39
Elevator Constructors Helpers	10.89	3.00+ a+b	Composition Sheet Metal Workers	13.85	1.76
Elevator constructors Helpers (Prob.)	7.78	1.66	Soft Floor Layers:	13.23	4.39
Glaziers	13.51	3.745	Adams County	11.94	2.25
Ironworkers	17.265	2.25	Sprinkler Fitters	13.39	2.10
Lathers	14.50		Steamfitters	16.92	3.23
Laborers:			Weider - Receive rate for craft	17.05	2.39
General Laborers	9.80	1.57			
Operator of Jackhammer (etc.)	10.00	1.57	PAID HOLIDAYS (WHERE Applicable)		
Wagon drill operator	10.10	1.57	A-New Year's Day:		
Handling of all materials (etc.)	10.05	1.57	B-Memorial Day, Day		
Laborers assisting tile (etc.)	9.85	1.57	C-Independence Day, Day		
Handling & using dynamite	10.13	1.57	D-Labor Day:		
Caisson work (top men)	10.05	1.57	E-Thanksgiving Day:		
Caisson work (bottom men)	10.25	1.57	F-Christmas Day:		
Mixer man	10.20	1.57			
Line Construction:					
Linemen, cable splicers	14.74	.80+3 3/8%			
Winck truck operators	10.26	.80+3 3/8%			
Groundman	8.77	.80+3 3/8%			

FOOTNOTES:

- a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- b. Paid Holidays: A through F, plus the Firday ather Thanks-giving Day.
- c. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Presidential Election Day; Veterans Day; Thanksgiving Day.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided inthe labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))."

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			Education and or Appl. Yr.
		H & W	Pensions	Vacation	
GROUP 1	\$15.65	13.5%	10.3%	a	1.8%
GROUP 2	15.56	13.5%	10.3%	a	1.8%
GROUP 3	14.49	13.5%	10.3%	a	1.8%
GROUP 4	13.84	13.5%	10.3%	a	1.8%
GROUP 5	12.97	13.5%	10.3%	a	1.8%
GROUP 6	12.06	13.5%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

- GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above
- GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, pavers, trench shovels, trenching machines, hoist with two towers, derricks, all types overhead cranes, building hoists (double drum) gradalls, muck-ing machines in tunnel, all front end loaders 3-4 c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above
- GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt paint engineers, roller (high grade finishing), ditch witch type trencher, all load-ers under 3-4 cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above
- GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finish-ingmachines concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above
- GROUP 5: - Fireman, grease truck
- GROUP 6: Oilers and deck hands (personnel boats), core drill helper

FOOTNOTES:

- a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

DECISION NO. PA84-3003

SUPPERSEDEAS DECISION

STATE: Pennsylvania
 COUNTY: Lancaster
 DATE: Date of Publication
 SUPERSEDES Decision No. PA81-3077 dated, October 9, 1981, in 46 FR 50283.
 DESCRIPTION OF WORK: Building Erection and Foundation, (does not include single family homes or apartment up to and including 4 stories). Excluding Sewage and Water Treatment Plant Projects.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:

A-New Years's Day; B-Memorial Day; C-Independence Day;
 D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

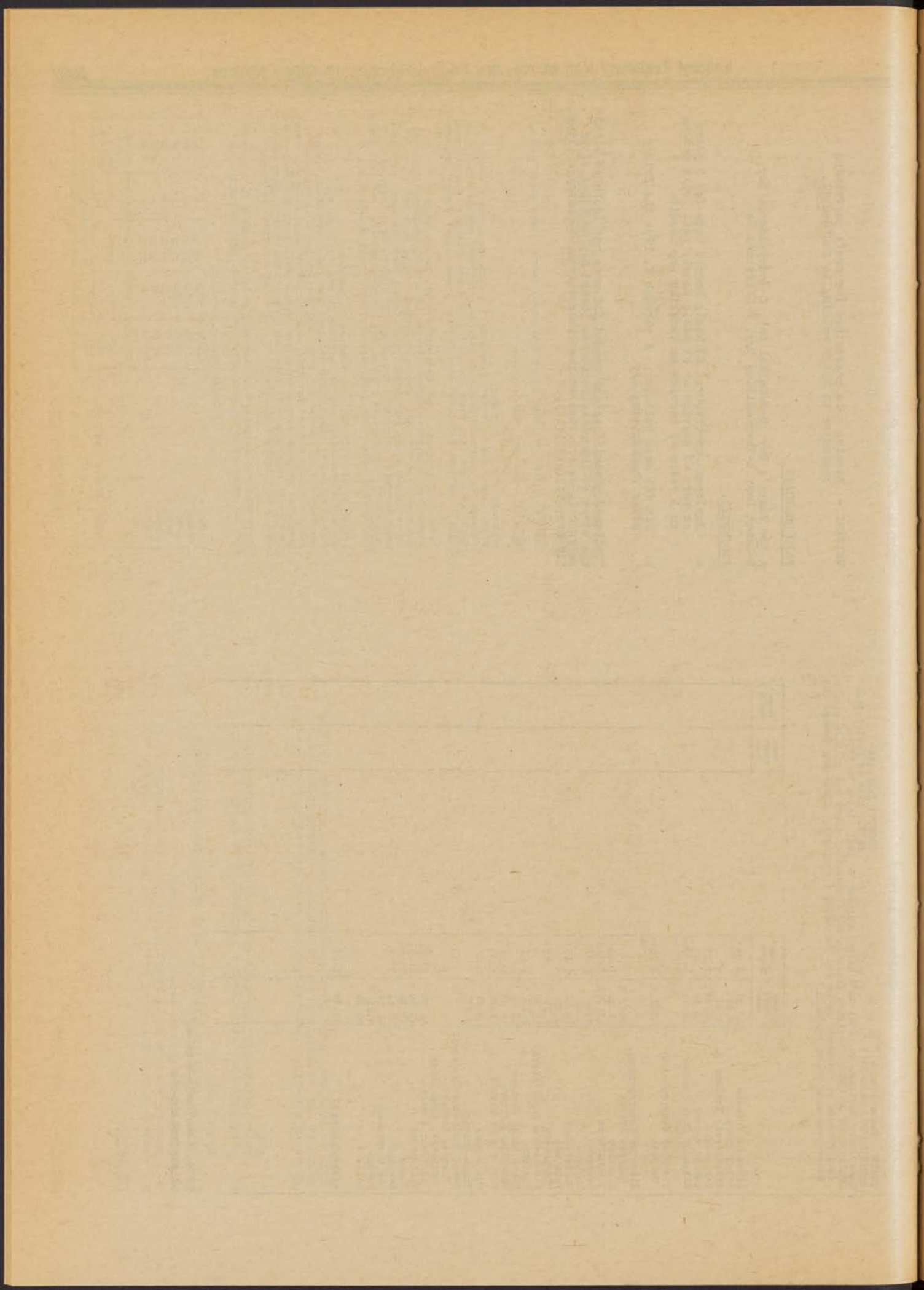
- Employers contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- Six (6) paid holidays: A through F, Plus the Friday after Thanksgiving Day.

"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))."

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	17.51	2.04
Bricklayers	9.06	
Bricklayers Tenders	6.47	
Carpenters	14.50	2.25
Cement Masons	13.54	.93
Elevator Constructors	15.56	3.00 ^a
Elevator Constructors Helpers	70 ^b J.R.	^a
Elevator Constructors Helpers (Prob)	50 ^b J.R.	^b
Glaziers	14.04	1.47
Ironworkers	17.265	3.745
Laborers	9.80	1.57
Lathers	9.42	
Millwrights	16.57	2.25
Painters	8.51	.93
Plasterers	9.97	
Plumbers & Pipefitters	11.50	1.62
Roofers	9.72	
Sheet Metal Workers	10.21	3.23
Sprinkler Fitters	16.92	2.25
Soft Floors Layers	11.94	1.20
Tile Setters	12.95	
Truck Drivers	9.07	
Power Equipment Operator: Cranes, loaders		
scrapers, fork lifts (20 feet & over)	15.56	25.6%
Bulldozers	15.56	25.6%
Pumps	13.84	25.6%
Backhoe	10.91	3.39
Air Compressors	11.14	
Pavers	8.85	
Rollers	10.16	
Electricians	10.79	1.06

[FR Doc. 84-3464 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-27-C



Revised Federal Register

Friday
February 10, 1984

Part IV

Department of the Interior

Bureau of Land Management

43 CFR Part 8560
Final Special Recreation Permit Policy

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****43 CFR Part 8560****Special Recreation Permit Policy**

AGENCY: Bureau of Land Management, Interior.

ACTION: Final special recreation permit policy.

SUMMARY: This final Special Recreation Permit Policy describes how the Bureau of Land Management will administer permitted recreational use of public lands and related waters. It states the general policy that will be followed regarding Special Recreation Permits, how these permits will be issued, the basis for fees charged, the term of permits, how they may be renewed and transferred, bonding and insurance requirements, and methods necessary to gain compliance with terms and conditions of the permits.

This policy, as it relates to commercial recreational uses, closely parallels similar outfitter/guide policy proposed by the Forest Service.

This policy will serve as a basis for developing future, more specific guidance on Special Recreation Permits.

Comments received represented the full scope of affected publics and varied widely from full acceptance to full rejection. All comments having been carefully considered during the decision-making process, this final policy is thought to be in the best interest of the public.

EFFECTIVE DATE: February 10, 1984.

ADDRESS: Inquiries or suggestions should be sent to: Director (340), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce R. Brown, (202) 343-9353.

SUPPLEMENTARY INFORMATION: The proposed policy on special recreation permits was published in the *Federal Register* on April 8, 1983 (48 FR 15275). Comments were invited for a period of 83 days ending on June 30, 1983. During this period a total of 84 comments were received, with 19 coming from individual outfitters, 16 from outfitter associations, 8 from State and local governments, 39 from other individuals, and 2 from congressmen.

As stated in the proposed policy, the need for a Bureauwide policy was the result of identified deteriorating resources, user conflicts and increased concern for safety. This policy recognizes and allows for specialized, individual recreational use in areas determined to require special

management procedures to protect the resources or control visitor use. It also provides for commercial and competitive recreational uses on the public lands and related waters. The permitting system also recognizes the public service performed by commercial recreation services in providing recreation opportunities and access to recreation areas for those users not equipped or desiring to do so themselves.

Some of the key features of the proposed policy include: (1) Consistency in meeting recreation management planning objectives; (2) the requirement for special recreation permits for commercial, competitive, and other recreational uses; (3) enhanced stability for the commercial recreation industry operating on the public lands; (4) a timely appeals process; (5) a statement of goals for allocating limited recreation opportunities; (6) an equitable fee structure that attempts to recover permitting costs and, in some cases, generates net revenues; (7) provisions for fee waivers for educational use which are consistent with Departmental regulation in 36 CFR 71; (8) evaluation of permittee performance at least once per year; and, (9) monitoring and enforcement policies to deter unauthorized use.

It is also important to note that the policy contains several references to desired coordination with State and local governments and organizations to obtain their input and ensure compliance with any laws or regulations that affect the implementation of the special recreation permit policy. There are adequate opportunities to enter into cooperative agreements with county, State or Federal agencies for joint management of Federal recreation properties and facilities.

Many of the comments on the proposed policy applied to the proposed rulemaking on special recreation permits which appeared in the *Federal Register* on May 6, 1983 (48 FR 20630). As these comments were considered in developing the final rulemaking, responses to them are contained in the preamble of the final rulemaking. Therefore, this preamble will only discuss comments not addressed in the final rulemaking. Also, specific sections of the policy for which there were no comments will not be discussed.

The major opposing comments on the policy in general came from outfitters/guides and individual private users. The outfitters overwhelmingly supported the policy with the exception of fees. They particularly favored the policy on issuance of permits, length of the permit, renewal of permits, and transfer of

permit privileges. They said the policy will give them the business stability they need to assure continuity of high quality service to the user publics.

On the other hand, many private users, particularly river users, feel the policy strongly favors the commercial outfitters, and if implemented would ensure the outfitters an exclusive, monopolistic use of public lands. In areas where maximum allowable use has been reached they feel all users should compete equally for space and allow those who are successful to decide if they want to go on their own or with an outfitter. They did not want a split allocation between user groups.

In response to these opposing views, it is important to understand this policy is not intended to favor any one sector of the user publics. Those aspects of the policy dealing with commercial permittees are designed to provide some degree of business stability to the outfitting industry, so that the segment of the user public desiring the services of a professional outfitter will have an opportunity for a particular type of recreational experience. The concerns expressed by the individual private users are aimed directly at the issue of allocation of limited use. While this policy does not discuss specific allocation methodologies, it does discuss allocation goals. Allocation decisions are made at the local field office level via the planning process. Using the goals stated in this policy and more specific guidance to be developed in the future, alternative allocation formulas will be evaluated, and after considering public input, a prescribed allocation of available use will be adopted for those special areas requiring restricted use. This allocation will be contained in the adopted management plan for each special area and is subject to change when it becomes necessary to revise the management plan. Any assigned use in connection with a permit is a privilege and may be revoked at any time for noncompliance with the terms and conditions of the permit.

Some comments said that the policy draft contained too much discussion on commercial permits and not enough on competitive and individual permits. This final policy contains more discussion on competitive and individual permits, particularly in section B., Issuance of permits, and section D., Terms.

In commenting on the key features of the proposed policy, one comment stated that it would be better to say the policy "attempts" to recover permitting costs. This change is made in the final policy.

General Policy

One comment suggested adding the word "equitable" to the statement on basic objectives. This change was adopted in the final policy.

One comment suggested eliminating the paragraph on privilege because it implies rights. There are no rights connected with a permit, only privileges. The authorized officer retains the authority to revoke or modify a special recreation permit.

One comment said that the requirement of permits for all off-road vehicle (ORV) events is unreasonable stating that some ORV events are spontaneous. The primary reason for requiring ORV events to be permitted is to ensure that the activity will not cause undue resource degradation. When a permit application is submitted for an ORV event, an environmental assessment is conducted to determine if the proposed use is compatible with the site, and to develop any required stipulations for use. However, the policy does allow for spontaneous, nonpermitted use under certain conditions. The authorized officer has discretion to waive the permit and fee requirements for competitive events as described in section A.4. of the final policy.

On this subject of exemptions to ORV events, one commenter suggested replacing the criterion of "no cash prizes awarded" with "no prizes valued at greater than \$50 are awarded." This change has not been made to the final policy. The determination of the dollar value of a single prize for purposes of an exemption would create burdensome requirements on both the Bureau and the event's sponsor.

One comment suggested adding the words "and there is no anticipated damage to resources or need of monitoring" to the exception criteria for competitive events discussed in section A.4. Since controlling use and reducing resource degradation are primary reasons for issuing permits, words to this effect have been added.

There were numerous comments on the allocation section. Some comments asked for more detailed discussion of allocation; some opposed any limits on access; some felt outfitters have been given virtually exclusive use of popular areas; some felt outfitters should be given a minimum of 50 percent of available use; a few thought all users should compete equally in a lottery for allowable use, and several suggested specific allocation methods. While all of these suggestions have merit, it is not appropriate to make decisions on allocation issues in this policy document

for three reasons: (1) The various alternatives for allocating limited use opportunities have not been adequately researched and discussed with all affected publics and (2) detailed guidance on allocation, and the standards therefor, is more appropriately covered in a manual release, and (3) allocation criteria are in large part dictated by local conditions. The Bureau plans a thorough analysis of allocation issues, coordinated closely with interested user groups and other Federal and State agencies, before issuing more detailed guidance. Detailed comments and suggestions provided during the comment periods on this proposed policy will be considered at that time. As stated earlier in this preamble, the decision regarding allocation techniques and formulas will be contained in management plans for each special area requiring limited use. Therefore, discussion of allocation between user groups and rationing techniques has not been expanded in the final policy.

B. Issuance of Permits

Many comments favored the proposed policy on issuance of permits, stating that it will give outfitters the stability to maintain an economically viable operation and ensure quality service to the public. The key objective for the BLM is dependable, safe service to the public. While the Bureau does not have an obligation to guarantee financial success to a commercial permittee, economically healthy operators are in a much better position to provide safer, more enjoyable trips, which is clearly in the best interest of the public.

Many comments said that this policy unduly favored commercial outfitters and lacked adequate discussion on issuance of permits to other users. For the most part, the comments referred to the allocation issue which is responded to earlier in this preamble and will not be further discussed here. However, this policy section has been amended to cover the issuance of competitive and other use permits, adequately.

Two comments said that it was not clear whether or not a special recreation permit was valid in other Bureau Districts or in jurisdictions administered by other agencies. Generally permits are issued by individual Bureau offices and are valid only for a special area and time. However, in some cases a permit can authorize use in an area administered by more than one Bureau office or other agency. In these instances the use is managed by a cooperative agreement between the offices or agencies. An example would be where a river crosses administrative boundaries

but is best managed as a single unit. Therefore, one joint permit may be issued.

One comment specifically asked what kind of competitive system will be used in issuing new permits. Many comments strongly opposed a bid/prospectus system. In this policy document no specific single system is recommended. However, as a point of clarification, the competitive system, if used, will be designed to determine who can best provide the type of service desired, in a manner that will have the highest probability of resulting in safe, enjoyable experiences. The amount of money a competitor is willing to offer will not be the basis for granting a permit.

Several comments said that the proposed policy on issuance of permits would preempt the ability of State agency licensing boards from deciding who gets commercial licenses to operate within their State. While the final decision on the award of Bureau permits must be retained by the authorized officer, no permits will be issued to commercial outfitters or guides without a valid State license in those States requiring such licenses.

One comment stated that new opportunities for commercial permits should not be reserved for existing marginally economical commercial permittees or those displaced from another area. These are only two of the possible alternatives identified in the proposed policy for awarding new commercial permits. They could also be awarded according to historical use, awarded by a competitive system or by a combination of methods. The primary objective is to select an operator who will provide the needed service in a manner that will best serve the public interest and protect the resource values. In certain specific situations an existing commercial permittee may be performing in a satisfactory manner, but because of limited allocation may only be operating on a marginally economical basis. If additional allocation would allow such an existing permittee to provide better services to the public, the authorized officer may give such a permittee priority in awarding a newly available commercial permit.

In the case of a commercial permittee who has been displaced from another area it has been decided such a permittee should not be given priority when new commercial permits are awarded in another area.

C. Fees

Most of the comments related to the discussion of fees and the fee schedule

contained in the proposed rulemaking on special recreation permits published in the Federal Register on May 6, 1983, (48 FR 2063). Some comments addressed the authority to establish fees, the possibility of using the consumer price index to guide annual fee increases, various specific fee rates, the amount of environmental degradation likely as a basis for setting fees, and the specific fee schedule each type of permittee is required to pay. As stated earlier, we responded to those comments in the preamble of the final rulemaking and will not discuss them in this final policy. However, as a general summary, the fee schedule shown below is thought to represent a fair and equitable charge which will allow the BLM to recover a greater portion of the costs of issuing and monitoring special recreation permits and in some instances will provide a return for the privilege of using Federal resources for commercial purposes.

The commercial fee schedule was carefully crafted after extensive consultation with a special committee from the outfitter and guide industry, and officials of the U.S. Forest Service, which has adopted the same schedule. The competitive fee schedule is designed to recover the increased costs of administering this type of special use permit and to cause some of the larger events to provide a similar return as from commercial permits. The permit fee proposed for other special uses was based on a projected Bureauwide average of the costs of issuing and administering the permits. However, based on recent field experience and after considering the comments on the proposed rulemaking, it has been determined that the fee for non-commercial, non-competitive permits should be reduced from \$2 to \$1.50 per use day. This is a reasonable proportion of the average fee charged commercial permittees and in most cases will be less than the commercial fee and still cover the cost of administering these permits.

The fee schedule, to be phased in over a three-year period beginning in 1984, is as follows:

(1) *Commercial use*—\$100 for the term of the permit or the amount from the table below per participant, whichever is greater, is required. In determining the adjusted daily charge, the authorized officer will recognize that operators may, under certain circumstances, adjust their advertised customer rates, or that certain associated customer charges may be deducted from the daily amount charged participants. Deductions may be limited to long

distance, off-site transportation and lodging expenses either before or after the associated permitted use, or fees paid to others for services off public lands. Documentation of the basis for adjusted customer rates may be required by the authorized officer.

Adjusted daily charge collected by permittee from each participant	Fee paid to the bureau per user day		
	1984	1985	1986
\$8.00 or less	\$.25	\$.25	\$.25
\$8.01 to \$20.00	.30	.35	.40
20.01 to \$35.00	.45	.60	.80
35.01 to \$50.00	.60	.95	1.30
50.01 to \$75.00	.80	1.35	1.90
75.01 to \$100.00	1.05	1.80	2.60
100.01 to \$125.00	1.30	2.35	3.40
125.01 to \$150.00	1.50	2.80	4.10
150.01 to \$175.00	1.80	3.30	4.90
175.01 to \$200.00	2.00	3.80	5.60
200.01 to \$250.00	2.40	4.55	6.75
250.01 to \$300.00	2.90	5.55	8.25
Over \$300.00	(1)	(2)	(3)

¹ 1 percent of adjusted daily charge per participant.

² 2 percent of adjusted daily charge per participant.

³ 3 percent of adjusted daily charge per participant.

(2) *Competitive use*—The fee for a competitive use permit is:

1984

\$1.35 per user day or 3 percent of gross receipts, whichever is greater.

1985

\$1.65 per user day or 3 percent of gross receipts, whichever is greater.

1986

\$2.00 per user day or 3 percent of gross receipts, whichever is greater.

When use is both commercial and competitive, the competitive fee shall be charged. Gross receipts include total income which has been generated from the permitted activity before deducting costs such as insurance, prizes, other permit or license fees, etc. Gross receipts would also include total supplemental money collected through sponsor contributions, other donations, the sale of clothing, insignia, specialized equipment, or food and beverages when sold incidentally to the permitted activity.

(3) *Other uses*—For uses other than commercial or competitive, involving more than 50 vehicles including those of participants and spectators, or taking place in special areas for which permits are required, the fee is:

1984

\$.50 per user day.

1985

\$1.00 per user day.

1986

\$1.50 per user day.

Allowances for proportional fees may be made, based on use of other lands along with public lands. Exceptions to the fees listed above may be granted only by written order from the Director.

D. Terms

1. *Permit length*. Some comments said a 5-year term for commercial permits is too long and others said it was too short. In the past, commercial permits have been issued on an annual basis. Processing these permits every year has been administratively costly. In order to reduce these costs, and to reflect a policy that commercial operators should be allowed an adequate opportunity to realize a return on their investments, a longer term was necessary. Therefore, we think a 5-year term is adequate. If it is determined that a permittee is performing unsatisfactorily, the permit may be revoked at any time during the term of the permit.

One comment suggested adding a statement regarding revocation of the permit. If, as a result of a performance evaluation or compliance check, a permittee's performance is found to be unsatisfactory, the authorized officer will modify or revoke the permit. Such a statement has been added to the final policy.

A comment suggested that a 5-year permit should only be valid if the permittee has paid annual fees and provided a copy of a valid insurance policy. Such a statement has been added.

Several comments stated that the development of performance standards by each individual authorized officer would result in inconsistencies between Bureau offices. The main purpose of this clause is to recognize and accommodate, to the extent possible, performance standards established by State agencies and outfitter and guide organizations. Guidance on development of general performance standards, focusing on common Bureauwide goals, will be issued at a later date. These goals will be compared to standards of State agencies and outfitter organizations in developing the performance review standards. We shall strive for standards that are consistent Statewide and that assure quality services.

2. *Renewal of Permits*. Some comments favored the renewal policy saying it provides incentive for operators to continually upgrade their services and helps maintain a stable business environment. Other comments thought it was a permanent giveaway of public land uses. The main reason for allowing commercial or, in some cases, competitive permits to be renewed is to attempt to provide the best service possible to the user publics. If a permittee has been performing in a satisfactory manner throughout the term of the permit he/she would probably be

able to continue that record for another term. A permittee with past experience in a particular area would be quite knowledgeable about the physical and environmental resources of the area and could pass that knowledge on to his/her clients. Experienced outfitters would also be more knowledgeable of the technical skills required to safely guide their clients. Therefore, the authorized officer should give priority to existing commercial and some competitive permittees when issuing a new permit.

One comment asked whether the renewal policy applies to a permit issued to a bona fide educational or scientific institution. If the permit is commercial, the same policy applies. If the permit is awarded from the noncommercial allocation, it is not renewable.

3. Transfer of Commercial Permit Privileges. Many comments favored the transfer policy saying it allows outfitters to realize the value of their business and provides an opportunity for new people to enter the industry. Those opposed said this practice will lead to speculation on federally owned resources and result in higher prices to the consumer. One comment said that it represents the buying and selling of public access rights by private businesses. Another comment said the Bureau should regulate the fees charged by commercial permittees. Except for two statements of clarification that the policy on transfer of permit privileges shall be consistent with management plan decisions, this section remains unchanged in the final policy.

The main reason for this transfer provision is to encourage and sustain the services of qualified outfitters and guides. This practice is not a wholesale buying and selling of public rights. Each transfer of permit privileges must follow the specific procedure outlined in the final policy. Sale of authorized use only is specifically prohibited. With this and other conditions of the transfer policy, the authorized officer retains complete authority on the disposition of permit privileges, including the development of terms and conditions contained in the new permit. There is no authority for the Bureau to regulate the fees charged by permittees. However, if adequate competition exists among commercial permittees, the open market should stabilize fees at a reasonable level.

One comment suggested qualifying two consecutive use seasons in section D.3b(4), by adding "as defined by the management plan." The comment said that the additional phrase was necessary because the length of a use season may vary by activity. For instance, there could be a spring,

summer, and fall use season, a total of three use seasons in one calendar year for one type of activity, and only a summer season each year for another type of activity.

Therefore, the suggested phrase has been added. Also added for clarity, to the last sentence of section D.3.c, is the phrase "according to the management plan allocation system."

4. Allowable Use. One comment requested a definition of "assignment of permit privileges." This means a permittee may not assign or otherwise transfer user days that he/she has been authorized to use. Only bona fide employees of the permittee of record may guide trips allocated to him/her.

Two comments asked if one year of emergency non-use would be allowed without jeopardizing future use allocations. When an area's maximum allowable use has been allocated, it is important to ensure the allocation is fully utilized. The authorized officer must determine if non-use is excusable without penalty of future adjustments. An important factor that will be considered is whether expected non-use is reported in sufficient time to allow reassignment of the use. If reassignment cannot be made, the permittee assigned the use will be responsible for the fee due the Bureau.

5. Suspension. One comment asked to know the purpose of this section. In certain situations it may be necessary for the authorized officer to temporarily suspend assigned authorized use for a period of time. Examples of such instances include periods of high fire potential, flooding conditions or high water, situations of potential health hazards or instances of potential degradation of environmental resources. These situations are usually temporary and will therefore not normally extend the life of the permit. Fees due the Bureau will be waived during periods of suspension.

9. Bonds. One comment suggested that payment bonds and Irrevocable Letters of Credit be added to this provision. Existing regulations at 43 CFR 8372.5(c) discuss bonding requirements and address these suggestions of adding other types of bonds. Therefore, to avoid confusion, this section is amended to conform to the existing regulations at 43 CFR 8372.5(c).

10. Insurance. One comment objected to the requirement for insurance, stating that insurance is unnecessary because State law indemnifies the Government. The specific State law referred to (Idaho statute 36-1604) does not apply when fees are charged. Also, all States in which the Bureau issues special

recreation permits have not passed similar legislation.

11. Violation of Law. Some comments were confused by this provision and specifically wanted to know what kind of convictions could result in permit cancellation. The existing regulations at 43 CFR 8372.5(f) are more definitive on this requirement and, therefore, this section of the policy is amended to conform to the regulation.

E. Appeals

One comment suggested citing the appeals regulations. This was done. The Department of the Interior's appeal regulations are contained in 43 CFR 4.400 and appeal regulations regarding special recreation permits are contained in 43 CFR 8372.6, as amended.

F. Monitoring for Compliance

One comment requested a description of specific monitoring techniques. Further guidance on monitoring for compliance will appear in future Bureau directives. It is not appropriate to include that level of detail in this policy document.

G. Enforcement

Some comments questioned the Bureau's capabilities to enforce permitting requirements and suggested the need for citation authority. Enforcement of this policy and regulations on special recreation permits is authorized by Section 303 of the Federal Land Policy and Management Act. Citation authority has been granted to the Bureau by the Secretary and may be delegated only to fully trained law enforcement personnel. In addition, the Bureau may enter into contracts with local officials having law enforcement authority to enforce compliance with special recreation permits within its jurisdiction. The need for, and options to provide additional citation capability, is currently being evaluated by the Bureau.

In response to comments on the proposed special recreation regulations pertaining to prohibited acts, a fifth act was added to the four listed. The same comment was received on the policy and therefore the same fifth prohibited act is added to Section G.a. It states: "(5) fail to show a copy of the special recreation permit to a Bureau of Land Management employee or a participant upon request."

One comment wanted to know if authorized users as well as unauthorized users are subject to civil suit. Yes they are. This provision has been amended accordingly.

One other comment, not addressing any specific section of the proposal

policy, requested clarification of the term "public lands" as used in the policy. For the purposes of this policy, "public lands" means any land or interest in land administered by the Bureau of Land Management, and waters related thereto. Where appropriate, the policy has been amended to reflect this meaning and this definition has been added to the "notes" section of the policy.

Dated: January 31, 1984.

Robert F. Burford,
Director.

Special Recreation Permit Policy

A. General Policy.

1. *Basic Objectives.* The basic objectives of the Bureau of Land Management's (BLM's) special recreation permitting system are to satisfy recreational demand within allowable use levels in an equitable, safe and enjoyable manner while minimizing adverse resource impacts and user conflicts.

2. *Consistency With Planning.* Special recreation permits are managed in a manner which is consistent with management objectives determined in resource management plans, recreation area management plans, or in their absence, through recreation management objectives resulting from analysis of resources and visitor use for each area (recreation opportunity spectrum classes).

3. *Privilege.* In issuing special recreation permits to recreational users of public lands, BLM consents to use of the land and/or related waters for the permitted purposes. This represents a privilege to use public lands and/or related waters which is subject to the terms and conditions of the permits.

4. *Permits Required.* Special recreation permits are issued for specific recreational uses of the public lands and related waters. They are issued as a means to control visitor use, to protect recreational resources, and as a mechanism to accommodate commercial recreational uses. Authorized by the Land and Water Conservation Fund Act, there are four types of uses for which these permits are required—commercial, competitive, off-road vehicle use involving 50 or more vehicles, and individual or group use in special areas. (See definitions in 43 CFR 8372.)

There are three exceptions to these permit requirements. Special recreation permits are not required when: (1) BLM sponsors, or co-sponsors uses, such as activities that take place as a result of cooperative or volunteer agreements; (2) the authorized officer (1) (See notes at the end of this policy.) determines that

permits and fees are unnecessary where a use or event begins and ends on non-public lands or related waters, traverses less than 1 mile of public lands or one shoreline mile, and poses no threat of significant damage to public land or water resource values; and (3) the authorized officer waives the permit and fee requirements for competitive events that are not commercial when the events comply with off-road vehicle designations for the use area, no cash prizes are awarded, less than 50 vehicles are involved, there is no public advertising for the event, and there is no threat of significant damage to public land or water resource values, or need for monitoring.

5. *Allocation of Use.* As the use in a recreation area increases, one of the actions taken by the authorized officer is to determine the desired level of use or the carrying capacity (2). When necessary, carrying capacities are set in accordance with decisions in the management plan for each area or, in the absence of management plans, through recreation management objectives resulting from analysis of resources and visitor use for each area (recreation opportunity spectrum classes).

If the use level in the area exceeds the carrying capacity, measures must be taken to remedy the problem. Indirect visitor and resource management techniques such as controlling public land access, interpretive efforts to promote environmental awareness and protection, providing extra protection for fragile resources, encouraging voluntary scheduling of commercial trips, or other mitigating measures to resolve user conflicts are used before resorting to direct management methods such as allocating use among users.

When the need for more direct management methods is apparent, use opportunities are allotted between and rationed within competing types of uses. This allocation consists of imposing limits on users who participate in similar types of recreation activities. These limits may effect: (1) The overall number of individuals, (2) the number of groups or parties, (3) the number of individuals per group and/or the number of users by sector (e.g., commercial, competitive, or individual/group use).

The following are BLM's allocation goals:

a. *Manageability*—allocation methods must be workable, implementable, defensible to users, and within legal and budgetary constraints.

b. *Flexibility*—the method used must be responsive to the relative amount of use and to demand shifts.

c. *Fairness and Equity*—to the greatest extent possible, for all concerned.

d. *Maximization of experiences and allowable use.*

e. *Minimization of resource impacts and user conflicts.*

B. Issuance of Permits.

When the desired use is within the maximum allowable use level determined for the area and the applicant meets any minimum standards which are required to conform with management plan decisions or by State or local agencies, all special recreation permits are generally issued on a first-come-first-served basis. In States requiring commercial or competitive licenses, such licenses must be obtained in order to receive a special recreation permit. Where possible, a sufficient number of commercial permits are issued to encourage competition among permittees.

When an area's desired use level has been reached, no additional permits will be issued. New permits may become available when:

1. An area's desired use level (carrying capacity) is increased. Desired use levels could be expanded, for example, by increasing the number of allowable users within a use season or by lengthening the season.

2. A permit is revoked or not renewed because of non-compliance.

3. A permittee voluntarily relinquishes a permit.

4. New opportunities become available.

New commercial and competitive permits may be: (1) Awarded according to historical use, (2) limited to existing permit holders, (3) awarded by a competitive system, or (4) awarded by a combination of methods. For example, two or more current commercial permittees may be marginally economical and the additional allocation or capacity may help ensure better service to the public. In such cases, those competing for the permit may be limited to existing commercial permittees.

New permits for other uses may be: (1) Awarded on a first-come, first-served basis, (2) selected from a waiting list, or (3) awarded by a non-competitive system such as a lottery.

In areas where use exceeds the desired use levels, or when the management plan indicates decreases in the use level are necessary, the reductions are generally accomplished proportionally for all types of permit holders in each particular area or through voluntary reductions. Another method which may be used to reduce use is to award fewer permits. In this

method; subsequent commercial and competitive permits may be awarded according to historical use (3), limited to existing commercial permit holders; by a competitive system, or by a combination of methods.

C. Fees. Fees are charged for these permits to meet two objectives: primarily, to recover at least a portion of the cost of issuing and administering the permits; and, where possible, to provide a return for special use of public lands. Fee levels are set with these objectives in mind after study of the direct and indirect cost (4) to the government, the benefits to the recipient, the public policy or interest served, the comparable recreation fees charged by Federal and non-Federal public agencies and the private sector, the economic and administrative feasibility of fee collection, and other pertinent factors such as the value of the use privilege conferred. In most cases these levels provide for recovery of the costs of the permits and in some cases, notably commercial recreation uses, provide a return to the Government for the use of the land.

Permit fees shall be nonrefundable where the amount of intended use is determined in the application, except when notification of whole or partial cancellation is made in sufficient time to allow reallocation of use to others.

Permits may be required but fees are not charged for uses for educational or scientific purposes, regardless of whether the use is commercial, so long as the use is not primarily recreational. Applicants on this basis must, however, compete for use allocation in those areas where use is limited (e.g., for allocation purposes, those applicants who meet the definition of commercial compete for commercial permits while others compete for noncommercial permits). Applicants for waiver of fees on this basis may be required to provide documentation of their official recognition as educational or scientific institution by Federal, State or local government bodies.

D. Terms.

1. Permit length. Commercial permits are generally issued for five years. Other types of permits may be issued for a day, season of use, or any other time period considered appropriate by the authorized officer for the intended use. Criteria used to determine appropriate permit length include management objectives, the time necessary to amortize the permittee's investment, resource management planning timeframes, the environmental risks involved, public demand for the intended use, and the permittee's past performance. A multi-year permit will

only be valid if the permittee has paid annual fees and provided a copy of a valid insurance policy.

At a minimum, an annual evaluation of each multi-year permit is completed to evaluate performance and compliance with terms and conditions of the permit, determine if use still complies with management plan objectives, and review of past year receipts to determine over or under payment.

For commercial special recreation permits, the authorized officer develops performance review standards in consultation with the permittee, State fish and game agencies, State outfitter licensing boards, councils, and other State and Federal land managing agencies. These performance standards are included in each permit. If, as a result of a performance evaluation or compliance check, a permittee is found to have performed unsatisfactorily, the authorized officer will modify or invalidate the permit.

2. Renewal of Permits. Only multi-year commercial and competitive permits may be renewed. At the end of the term of each permit a review of the permit similar to the annual review indicated above is conducted. If the permittee applies for another permit and it is determined that the permittee satisfactorily met the requirements of the previous permit and continued use is consistent with the management plan, the authorized officer should show preference to that permittee in issuing a new permit. Unsatisfactory performance may lead to denial of the permit applications.

3. Transfer of Commercial Permit Privileges. On occasion, existing permittees may wish to sell or otherwise terminate their business and desire the permit privileges be transferred to a new owner. This might occur either at the end of the existing permit period or prior to expiration of the existing permit. Procedure for this type of transfer is as follows:

a. When an existing permittee wishes to have the permit privileges transferred to a potential new owner of his/her business the permittee must so notify the authorized officer in writing.

b. The authorized officer will consider the following in determining whether to allow the transfer:

(1) The new applicant must agree to provide the type and size of operation specified in the management plan.

(2) The new applicant must be able to meet any standards required in conformance with management plan decisions or by State or local agencies (this includes standards of outfitter/guide licensing boards in States with licensing requirements).

(3) Adequate documentation must be provided to the authorized officer that a bona fide business transfer or sale is intended. The transfer or sale must include a substantial portion of the equipment and other tangible assets needed to conduct a business. Any attempted transfer or sale of authorized use only is not allowed.

(4) Generally, the previous permittee should have operated to an acceptable standard for at least two consecutive use seasons, as defined by the management plan, before requesting a transfer of the permit privileges.

c. If the new applicant has demonstrated the ability to meet the above conditions and has met State and local requirements (as applicable), the authorized officer should reissue the permit. The new permit may contain terms and conditions that vary from the previous permit, including the number of authorized user days and the length of the permit period according to the management plan allocation system.

4. Allowable Use. The amount and type of use allowed under each permit is set by the authorized officer in conformance with management objectives. Modifications of permit terms within the permit period, including user days or other changes, are allowed only with approval of the Authorized Officer and must be consistent with the management plan. Assignment of permit privileges is not allowed. Consistent non-use of user days by a permittee may be a determining factor in future use allocations and award of permits.

5. Suspension. The authorized officer may suspend a special recreation permit if necessary to protect public health, public safety, or the environment. Such suspensions have no effect on the expiration date of the permit.

6. Area of land. Special recreation permits are issued for only the minimum amount of land needed for the intended use. If, in the judgment of the authorized officer, additional land is needed, a permit may be amended to include the necessary land.

7. Inspection of records and accounts. The authorized officer, or any other duly authorized representative of the Bureau, may examine any of the permittee's records or other documents related to the permit for up to three years after expiration of the permit.

8. Stipulations. The authorized officer may require the permittee to comply with any reasonable stipulations or conditions necessary to protect the lands or resources involved and the public interest in general. The permittee's compliance with these stipulations may be monitored at

various intervals depending on the type of use involved, the resource values at risk, the permittee's past record of compliance, and other factors. Failure to comply with stipulations or conditions may result in permit cancellation, criminal sanctions, or civil suit.

9. Bonds. In addition to a payment bond, the authorized officer may require the posting of a cash or surety bond or other guarantee in such form and in such amount as the authorized officer determines to be sufficient to defray the costs of restoration and rehabilitation of the lands affected by the permitted use. Bonds and guarantees will be returned to the permittee upon satisfactory compliance with all permit stipulations, including restoration and rehabilitation requirements.

10. Insurance. Insurance is required of all commercial and competitive permittees to provide restitution for damage or injury to the public or to privately owned resources, and to protect the United States from suit resulting from actions taken or caused by the permittee or participants in a permitted use.

11. Violation of law. The conviction for a violation of any Federal or State law or regulation concerning the conservation or protection of natural resources, the environment, endangered species, or antiquities that is related to said special recreation permit may result in the cancellation of the permit.

E. Appeals. The decisions of the authorized officer regarding special recreation permits may be appealed to the Interior Board of Land Appeals in accordance with procedures in 43 CFR 4.400. However, such decisions remain in effect pending appeal, unless ruled otherwise by the Secretary of the Interior. Petitions for stay of decisions may be made to the Secretary. Also, any person who participated in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may raise only those issues which were submitted for the record to the District Manager during the planning process. Protest procedures and requirements are found at 43 CFR Part 1600.

F. Monitoring for Compliance. Permits are monitored for compliance with terms and conditions. The amount of such monitoring is commensurate with the

resource values at risk, the permittees' past record of compliance, and other factors. This monitoring includes checking to ensure that all permitting requirements have been met. In addition, the Bureau also relies on permittees to report unauthorized use. When noncompliance or unauthorized use is encountered the Bureau seeks voluntary compliance. If voluntary compliance efforts and other administrative remedies, such as cancellation of permits, are unsuccessful the Bureau must resort to enforcement.

G. Enforcement. When voluntary and administrative means of gaining compliance fail, enforcement of criminal and civil sanctions related to the permitting requirements is in the interest of long-term management of BLM's recreation resources.

a. Criminal penalties. Persons who commit prohibited acts are subject to criminal penalties under the Land and Water Conservation Fund Act (conviction can result in a fine of up to \$100) and the Federal Land Policy and Management Act (conviction can result in a fine of up to \$1000 and/or one year imprisonment). These prohibited acts include:

(1) Failure to obtain a permit or pay a fee required by the special recreation permit regulations;

(2) Violation of stipulations or conditions of a permit issued under authority of the regulations;

(3) Knowingly participating in an event or use subject to the permit requirements of the regulations where no such permit has been issued. This extends criminal sanctions to participants in unauthorized events and is likely to deter many participants from knowingly becoming involved in unauthorized events. Proof of intent to participate in the unauthorized event or use knowingly would be required for conviction;

(4) Failure to post a copy of any commercial or competitive permit in plain view where all participants have the opportunity to read it. This makes participants aware that the use is authorized and it also makes them aware of the conditions of the permit. Participants can report permit violations to BLM;

(5) Failure to show a copy of the special recreation permit to a Bureau of Land Management employee or a participant upon request.

b. Civil suit. Authorized as well as unauthorized users are subject to civil suit. The Bureau will seek penalties based on the amount of fees (lost revenue had a permit been issued), the cost of repair and/or rehabilitation of any damage caused by the use, and the value of irreparable resource damage. The Bureau can, under regulations in 43 CFR 9239.0-9(b), refuse to sell timber or materials, or to issue a lease or permit to unauthorized users who have been served with a demand for payment and the authorized officer has reason to believe payment will not be made.

Notes

(1) **Authorized Officer.** Any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described herein. A document listing such delegation of authority may be reviewed in each BLM District Office.

(2) **Carrying Capacity.** Carrying capacity is the amount and type of recreational use an area can accommodate without altering either the environment or the user's experience beyond the degree of change deemed acceptable by the management objectives for the area. This can also be called the maximum allowable use level.

(3) **Historical Use.** This is generally defined as the average of the highest two use seasons in the preceding five-year period.

(4) **Direct Costs.** These are costs incurred, after an application for a special recreation permit has been received, to process the application, to issue the permit, and to ensure compliance with the terms of the permit. These include labor costs, travel and per diem, vehicle mileage, supplies needed for that particular permit, and other costs directly attributable to the permit. Services normally provided whether or not permits are issued, such as law enforcement, search and rescue, work done prior to the receipt of the application, and other normal operating costs are not included.

Indirect Costs. These are overhead costs affected by the permitting activities, expressed as a percentage of the total direct costs. The percentage for Fiscal Year 1984 is 17 percent. Field offices are notified in advance if a change in the percentage is necessary (the indirect cost rate is based on annual analysis of actual indirect costs for the previous year).

(5) **Public Lands.** For the purposes of this policy, "public lands" means any land or interest in land administered by the Bureau of Land Management, and waters related thereto.

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Environmental Protection Agency

Friday
February 10, 1984

Part V

Environmental Protection Agency

40 CFR Part 261

**Hazardous Waste Management System;
Identification and Listing of Hazardous
Waste; Interim Final Rule and Proposed
Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 261****[SWH-FRL 2442-3(a)]****Hazardous Waste Management System; Identification and Listing of Hazardous Waste****AGENCY:** Environmental Protection Agency.**ACTION:** Interim final rule and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today promulgating an interim final regulation under the Resource Conservation and Recovery Act (RCRA). This regulation lists as hazardous a group of wastes of a generic category generated during the manufacture of chlorinated aliphatic hydrocarbons by free radical catalyzed processes, having a carbon content ranging from one to five, with varying amounts and positions of chlorine substitution. EPA originally proposed this action in August, 1979. The effect of this interim final regulation is that all of these wastes will be subject to the hazardous waste management standards contained in 40 CFR Parts 262-266 and the permitting requirements of Parts 270, 271, and 124. This action, however, does not apply to wastes generated during the production of chlorinated aliphatic hydrocarbons that are already listed as hazardous.

DATES: Comment Date: EPA will accept public comment on this amendment until April 10, 1984.

Effective Date: August 10, 1984.

Notification Data: The Agency has decided not to require persons who generate, transport, treat, store, or dispose of these hazardous wastes to notify the Agency within 90 days of promulgation that they are managing these wastes. The Agency views the notification requirement to be unnecessary in this case since we believe that most, if not all, persons who manage these wastes have already notified EPA and received an EPA I.D. number.

ADDRESSES: Comments should be sent to Docket Clerk [Docket 261-83-2], Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Communications should identify the regulatory docket "Section 3001/Generic Chlorinated Aliphatic."

Public Docket: The public docket containing the Background Document and all other supporting documentation for this regulation is located in Room S-

212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday thru Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346 or at (202) 382-3000. For technical information contact Dr. Cate Jenkins, Office of Solid Waste (WH-565B), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-4788.

SUPPLEMENTARY INFORMATION:**I. Background**

As part of its regulations implementing Section 3001 of RCRA, EPA published a list of hazardous wastes which include hazardous wastes generated from non-specific sources. This list has been amended several times, and is published in § 261.31 of Title 40 of the Code of the Federal Regulations. In today's action, EPA is amending this section to add a particular generic category of residual wastes generated during the manufacture of chlorinated aliphatic hydrocarbons by free radical catalyzed processes having carbon chain lengths ranging from one to five ("C₁-C₅").¹ These wastes include distillation residues, heavy ends, tars, and reactor clean-out wastes. In addition, in another section of today's Federal Register, EPA is also proposing to list as hazardous light ends, spent filter and filter aids, and dessicant wastes from these same free radical catalyzed manufacturing processes. Neither the interim final nor proposed listing, however, include process wastewaters, wastewater treatment sludges, or spent catalysts.² These listings also do not include wastes from those processes listed individually in 40 CFR 261.32, as they are already listed. (Phrased another way, after promulgation of the interim final and the proposed listings, virtually all solid wastes from these processes that are not typically treated in plant wastewater treatment systems will be subject to RCRA control.)

¹ The Agency has limited this listing to C₁-C₅ chlorinated aliphatic hydrocarbons for two reasons. First, C₆-C₁₀ chlorinated aliphatic hydrocarbons are not produced in significant quantity in the U.S. by the generic chemical reaction processes addressed by these listings. Second, and more importantly, the higher molecular weight chlorinated paraffin manufacturing processes typically do not produce organic residuals.

² The Agency is not including wastewaters, wastewater treatment sludges, and spent catalysts as part of today's listing since the Agency has an insufficient amount of data to determine the hazardousness of these wastes on a generic basis. However, as our data base becomes more complete, we will re-evaluate these listings to determine whether they should also be included.

On August 22, 1979, the Agency proposed, among other things, to list as hazardous, by generic description, a number of waste streams from the production of chlorinated aliphatic hydrocarbons (see 44 FR 49402). This proposal covers all of the wastes listed in today's interim final regulation (and some which are not, at this time, being promulgated as final rules).³ In addition, the Agency is proposing to list several new waste streams from the production of these same chlorinated aliphatic hydrocarbons under a separate action described in another section of today's Federal Register.

The hazardous constituents in these wastes, both in the interim final and proposed listings, include a wide range of carcinogenic and other toxic chlorinated and non-chlorinated organic compounds. One or more of these toxicants typically are present in high concentrations in each waste (although each waste does not contain all of the individual toxic constituents of concern). These wastes consequently are of particular environmental concern. EPA has evaluated these wastes against the criteria for listing hazardous wastes (40 CFR 261.11(a)(3)), and has determined that they typically contain high concentrations of toxicants, the toxicants are mobile and persistent, the wastes are generated in large volumes and have been mismanaged in the past, and many of the toxicants in the wastes are regulated by other EPA regulations as well as under regulations of other governmental agencies. The Agency believes, therefore, that these wastes are capable of posing a substantial present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed, and thus are hazardous wastes.

II. Summary of the Regulation

As stated, this interim final regulation lists as hazardous certain wastes generated during free radical catalyzed manufacturing processes of chlorinated

³ The listings proposed on August 22, 1979 included wastes from the production of chlorinated aliphatic hydrocarbons, chlorinated cyclic aliphatic hydrocarbons, chlorinated aromatic hydrocarbons, and chlorinated polymers. (In addition to the waste streams covered by today's action, the original proposal included spent catalysts and "washer wastes" (contact process waters). For reasons explained later in this proposal, today's regulation does not apply to wastes from chlorinated aromatic or chlorinated polymer production. It does, however, apply to wastes from the production of cyclic chlorinated aliphatic hydrocarbons because they are a subset of the total set of chlorinated aliphatic hydrocarbons.

aliphatic hydrocarbons * having carbon chain lengths ranging from one to five. This listing does not apply to those wastes from chlorinated aliphatic hydrocarbon production already listed in § 261.32—namely EPA Hazardous Wastes K016, K018, K019, K020, K028, K029, K030, K095, and K096. These wastes were listed on May 19, 1980, and the listings are final for purposes of rulemaking and of judicial review.

The residual wastes covered by this interim final regulation include distillation residues, heavy ends, tars, and reactor clean-out wastes. The C₁-C₆ chlorinated aliphatic hydrocarbon generic product category includes those chemicals currently produced in the U.S. and also any new commercial products which would also be part of this category. The major commercial products for which the associated organic residual wastes are covered by this interim final regulation as well as the accompanying proposed regulation include the following:

Carbon tetrachloride
1-Chlorobutane (*n*-Butyl chloride)
Chloroethane (Ethyl chloride)
Chloroform (Trichloromethane)
2-Chloro-1,3-butadiene (Chloroprene)
Chloromethane (Methyl chloride)
2-Chloro-2-methylpropane (*t*-Butyl chloride)
3-Chloro-2-methylpropene (Methylallyl chloride)
3-Chloropropene (Allyl chloride)
Dichlorobutadiene
Dichlorobutenes
1,4-Dichlorobutene
1,2-Dichloroethane (Ethylene dichloride)
Dichloromethane (Methylene dichloride)
1,2-Dichloropropane
1,3-Dichloropropane
Hexachlorocyclopentadiene
Tetrachloroethylene (Perchloroethylene)
1,1,1-Trichloroethane
1,1,2-Trichloroethane
Trichloroethylene (1,1,2-Trichloroethene)
1,2,3-Trichloropropane
1,2,3-Trichloropropene
Vinyl chloride (Chloroethene)
Vinylidene chloride (1,1-Dichloroethene)

According to the U.S. International Trade Commission, over 21 billion pounds (9.5 million metric tons) of these commercial chemicals are produced annually by approximately 29 domestic companies. Available information in the Section 3007 RCRA Industry Studies

* "Chlorinated aliphatic hydrocarbons" refers to a class of organic compounds. "Hydrocarbons" are organic compounds (molecules) composed solely of the atoms hydrogen and carbon. "Aliphatic" designates that the chemical bonding between carbon atoms are single, double, or triple covalent bonds, (not aromatic bonds). (Cyclic aliphatic hydrocarbons are included in this class.)

"Chlorinated" means that the hydrogen atoms in the "aliphatic hydrocarbon" have been chemically replaced with chlorine atoms, at different positions and also in multiple positions.

data base indicates that approximately 166 million pounds (75,000 metric tons) per year of new wastes are covered by this action while 63 million pounds (29,000 metric tons) of new wastes would be covered by the accompanying proposed regulation. Approximately 3.3 billion pounds (1,509,000 metric tons) of wastes associated with these manufacturing processes are already regulated under § 261.32, as discussed above.

The wastes covered by these regulations are formed as residuals at several points in an integrated series of chemical reactors and associated purification units employed to produce a range of desired chlorinated aliphatic hydrocarbons. Our decision to list these wastes by means of a generic process, rather than by individual processes, is based on the similarity of chemical reactions and by-product formation within these C₁-C₆ free radical catalyzed chemical conversion processes. Although plants differ in process design, size, and specific products manufactured, a common factor is the utilization of one or more general chemical reaction types in a series of unit processes to generate higher degrees of chlorinated compounds.

Usually at least one of these chemical conversions in an integrated process is catalyzed by "free radicals", which generally require high reactor temperatures. These free radical catalyzed reactions are not totally specific in producing the desired chemical product; thus, reactor conditions can only be arranged to maximize the desired products. Therefore, for any given C₁-C₆ process, a range of by-products will be formed having both higher and lower carbon atoms and higher and lower amounts of chlorine substitution. It is possible to predict many of the different chemical species that will be formed in the course of these free radical catalyzed processes, and that will, in turn, be found in the listed wastes. The Agency's sampling program confirms these predictions. The listing Background Document and the sources cited therein describe in detail the process, reaction similarities, and chemical reaction theory justifying the Agency's generic approach.

The Agency also predicted and has confirmed with sampling data that processes employing only low temperature acid catalyzed reactor units do not generate the toxic wastes found from integrated free radical catalyzed processes. Consequently, the listing descriptions apply only to wastes generated by free radical catalyzed

integrated processes. (Phrased another way, this listing does not include those wastes generated from processes that only use low temperature acid catalyzed reactor units.) This listing and accompanying proposed listing are intended to cover the described wastes from all sources within an integrated process utilizing free radical catalyzed conversions, whether or not the integrated process utilizes free radical catalyzed conversions solely or in conjunction with other types of chemically catalyzed conversions. This is because there is carry-over of toxic by-products as well as intrinsically toxic intermediates and products formed during the free radical catalyzed conversion process into all of the wastes from these processed.

The wastes, described in this listing as well as the accompanying proposal, typically will contain significant aggregate concentrations of one or more of the following contaminants of concern:

Chloromethane (Methyl chloride)**
Dichloromethane (Methylene chloride)**
Trichloromethane (Chloroform)*
Carbon tetrachloride*
Vinyl chloride (Chloroethene)*
1,1-Dichloroethane (Ethylidene dichloride)
1,2-Dichloroethane (Ethylene dichloride)*
trans-1,2-Dichloroethene
1,1-Dichloroethene (Vinylidene chloride)*
1,1,1-Trichloroethane**
1,1,2-Trichloroethane*
Trichloroethene (Trichloroethylene)*
1,1,1,2-Tetrachloroethane
1,1,2,2-Tetrachloroethane*
Tetrachloroethene (Perchloroethylene)*
Pentachloroethane
Hexachloroethane*
3-Chloropropene (Allyl chloride)
Epichlorohydrin (1-Chloro-2,3-epoxypropane)*
Dichloropropane
Dichloropropene**
2-Chloro-1,3-butadiene (Chloroprene)
Hexachloro-1,3-butadiene*
Hexachlorocyclopentadiene**
alpha-Hexachlorocyclohexane*
beta-Hexachlorocyclohexane*
gamma-Hexachlorocyclohexane*
delta-Hexachlorocyclohexane**
Benzene*
Chlorobenzene**
Dichlorobenzenes**
1,2,4-Trichlorobenzene
Tetrachlorobenzene**
Pentachlorobenzene**
Hexachlorobenzene*
Toluene**
Naphthalene

* Indicates compounds that have been determined by the U.S. EPA's Carcinogen Assessment Group (CAG) as having evidence of carcinogenicity. The weight of evidence for carcinogenicity varies. Some of the chemicals have human evidence (epidemiology data) while others have only animal evidence.

Depending on the amount and quality of the data, the evidence could be classified as limited or sufficient using criteria developed by the International Agency for Research on Cancer. The EPA has established Ambient Water Quality Criteria Levels based on their potentially carcinogenic effects.

** Indicates compounds for which Ambient Water Quality Criteria Levels have been determined by the Agency for chronic human health risks other than carcinogenicity.

The contaminants include chlorinated aliphatic hydrocarbons as well as aromatic compounds and chlorinated aromatic compounds that are currently identified in Appendix VIII of Part 261. In addition, 2-chloro-1,3-butadiene (chloroprene) and 3-chloro-propene (allyl chloride) are new toxicants which the Agency is adding to Appendix VIII of Part 261. The toxicology and environmental fate of these toxicants is presented in the Background Document and Health and Environmental Effects Profiles. By adding these two new constituents, the Agency also is increasing the number of hazardous constituents for which land disposal facilities must monitor groundwater under compliance monitoring programs (See § 264.99). Land disposal permittees also may be required to monitor for these constituents under groundwater detection monitoring programs ⁵ (see § 264.98).

As explained above, the Agency has inferred the presence of these contaminants from knowledge of reaction chemistry and process conditions. In conjunction with this theoretical predictive methodology, the Agency obtained representative samples of these wastes and confirmed the presence of these contaminants through chemical analysis.

As shown in the Background Document, the hazardous constituents generally are present in these wastes in significant concentrations, typically in concentrations many orders of magnitude above the levels related to human health concerns. For example, analysis of one manufacturer's vinyl chloride distillation residues (Table 1) shows the hazardous constituents at concentrations typically found in these wastes.⁶

⁵ The Agency already has specified procedures for analyzing these toxicants in groundwater. See U.S. EPA, SW-846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods. U.S. Gov't. Printing Office Publication No. 055-002-81001-2.

⁶ U.S. EPA, Disposal of Organochlorine Wastes by Incineration at Sea, EPA Publication No. 430/9-75-041 (1975).

TABLE 1—VINYL CHLORIDE DISTILLATION RESIDUE

Constituent	Percent
1,2-dichloroethane.....	* 36.0
1,1,1-trichloroethane.....	.4
1,1,2-trichloroethane.....	15.0
trichloroethylene.....	.2
1,1,2,2-tetrachloroethane.....	.2
dichlorobutenes ¹	1.8
dichlorobutane & butadiene ¹	.3
chlorobenzene.....	.7

¹ At the present time, the Agency does not have adequate information to classify these constituents as toxicants of concern.

² That is, 360,000 ppm.

The Agency has calculated that persons face a 1 per million increased risk of cancer or other adverse health effects as a result of lifetime ingestion of water and aquatic organisms (fish, etc.) living in such water when the water is contaminated at levels above the Ambient Water Quality Criteria Levels (AWQCL). As an indication of how high toxicant concentrations in these wastes are, the concentration of 1,2-dichloroethane alone in the vinyl chloride distillation waste approaches 400 million times the AWQCL. The other toxic constituents likewise are frequently present in concentration orders of magnitude greater than the AWQCL.

In all cases, the solubilities of the toxicants of concern are many orders of magnitude greater than the AWQCL. Thus, only a small fraction of the toxicants present in these wastes need migrate and reach environmental receptors to pose the potential for substantial harm if these wastes are landfilled improperly. Improper incineration is another exposure pathway of concern.

The chemical analyses obtained by the Agency and company supplied information in the Section 3007 RCRA Industry Studies data base demonstrate empirically similar high concentrations of toxicants in the wastes covered by this interim final and the accompanying proposed regulation.⁷ Although there were many differences between these wastes, both qualitatively and quantitatively, in all cases, there were one or more of the toxicants of concern present at levels which could present a substantial environmental hazard if the wastes are mismanaged.

We note further that comparison of toxicity of individual waste constituents is likely to *understate* the toxicity of these wastes. This is because these

⁷ The results of these analyses have been claimed by the individual companies to be confidential business information, and therefore are not presented here. The Background Document and supporting information for this action provide aggregate toxicant concentration ranges for the C₁ through C₆ process wastes sampled.

wastes are complex mixtures of many hazardous constituents. Aggregate toxic effects, whether additive or synergistic, must be judged probable.

These wastes thus typically contain many known toxicants in concentrations well above those necessary to cause substantial harm. All of these toxicants are capable of migrating from the wastes via leaching action and of persisting in the environment in concentrations sufficient to cause substantial harm to environmental receptors. Many of these toxicants also are bioaccumulative, increasing the risk of *de facto* exposure to higher levels of toxicants, since receptors will accumulate these toxicants in increasing levels. We also note that these wastes are generated in large quantities, increasing the risk of exposure and substantial damage if mismanagement occurs.

Thus, these wastes are capable of causing substantial harm to humans if managed improperly. Examples of improper management which could realistically occur include disposal in unlined or inadequately lined land disposal facilities, which could lead to contamination of groundwater, surface water, and soil. Improper incineration could also lead to exposure to unburned toxicants in the wastes, and also could lead to exposure to products of incomplete combustion, including phosgene and hydrochloric acid. These predictions of substantial harm all have occurred in actual management of these wastes. The Agency has documented damage incidents involving mismanagement of these wastes which have resulted in surface and groundwater contamination, and contamination of soil and air as well. These incidents show the potential for these wastes to cause substantial harm, if mismanaged. In addition, the constituents of concern in the listed wastes have been shown in other damage incidents to have migratory potential and the ability to persist in harmful concentrations after migrating from waste matrices.

In summary, the Agency has determined that the wastes listed in this interim final regulation typically contain toxicants at concentrations that are of concern, that these toxicants are capable of migration and persistence in hazardous concentrations, and therefore that these wastes are capable of causing (indeed, repeatedly have caused) substantial harm if mismanaged.

III. Response to Comments

A number of commenters challenged both the Agency's legal authority to list wastes generically and the Agency's

technical basis in supporting these listings. The Agency has already answered comments regarding its authority to list wastes generically (see 45 FR 33114 (May 19, 1980)). However, confusion remains about the factors the agency will consider when listing wastes on a generic basis.

As this preamble and accompanying background document make clear, the Agency intends to base generic listings on the factors set out in 40 CFR 261.11(a)(3), the same factors considered for all hazardous waste listings. Thus, in determining that wastes within the generic class are typically and frequently hazardous (see 40 CFR 261.11(b)), the Agency will look to such factors as the nature of toxicity of the various toxic constituents, the concentration of toxic constituents in the wastes, mobility and persistence of these constituents, potential of these constituents to bioaccumulate, and whether the wastes have caused substantial harm when mismanaged. The wastes listed here and in the accompanying proposed listing are typically and frequently hazardous under these criteria. As shown above, they typically contain very high concentrations of a wide range of hazardous constituents—concentrations in some cases approaching a billion times the levels calculated by the Agency to increase the risk of cancer in humans from a lifetime ingestion of contaminated water and aquatic organisms. There also is a distinct possibility of synergistic toxicological effects from the various constituents. The constituents typically and frequently are mobile and persistent, and many are bioaccumulative. These wastes have been mismanaged frequently in the past and the mismanagement has resulted in substantial harm; in addition, they are generated in large quantities. All of these considerations strongly support the conclusion that these wastes are typically and frequently hazardous under section 1004(5) of the Act.

The generic listing descriptions, rather than a listing of wastes generated in the course of producing a particular C_1 - C_6 product, also is a more accurate way of listing these wastes. As discussed above, this is because the reactions that lead to toxic by-product formation, and the conditions under which these reactions occur, are essentially alike for this entire group of wastes. In fact, a wide range of marketable chlorinated products can be made during one specific C_1 to C_6 process. A listing linked to only one product—for example, "wastes from the production of carbon

tetrachloride"—understates greatly the amount of wastes generated in this generic C_1 production process, omitting wastes from the simultaneous production of methyl chloride, methylene chloride, and chloroform. The generic listing thus utilizes these underlying similarities as a critical factor in establishing its basis.

Most of the comments critical of the August 1979 proposal were general comments critical of the Agency's scientific methodology in predicting the inevitable chemical formation of toxic by-product constituents as a result of the high temperature/pressure free-radical generating conditions present in the chemical reactor. The Agency recognizes that there are process factors such as internal recycling, and differences in temperature, pressure, and reactor configuration which may cause variations in the wastes. We do maintain though, that a substantial amount of toxic constituents will predictably be removed from the product process by the waste streams described in the interim final (and proposed) hazardous waste listing(s). The preamble and background documents to this regulation demonstrate why these wastes, which are hazardous, are typically and frequently generated by these processes, taking into account many of the factors cited by the commenters, and thus responding to their comments.

We do agree, however, at least for the time being, with the commenters who questioned the Agency's proposal to list wastes from the production of chlorinated polymers in that our present information suggests that no substantial volume of organic wastes is generated from these processes; all potential "wastes" are carried along with the heavy viscous product stream and incorporated into the product.

Finally, we note that the 1979 proposal also included wastes from the production of chlorinated aromatic hydrocarbons. The Agency already has listed individually many of these wastes through its listing of wastes from the production of chlorobenzenes and benzyl chloride. The major process not yet covered is chlorinated toluene production. The Agency is now evaluating these wastes, and will then make a decision about whether to list them.

IV. Opportunity for Comment

Although we already have proposed to list the wastes covered by this interim final regulation, the Agency decided to allow further opportunity for comment. We solicited and obtained comment on additional data developed to support

these listings (48 FR 22750, May 20, 1983). In light of our earlier proposal and the opportunity to comment on additional data, we do not believe it necessary to propose this action. The additional listing of light ends, spent filters and filter aids, and spent dessicant wastes from these same manufacturing processes was not part of the original proposal and is thus being proposed separately in another section of today's Federal Register.

V. Economic, Environmental and Regulatory Impacts

A. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The total combined cost for disposal of the wastes as hazardous, assuming that all of these wastes would be managed for the first time as hazardous, and making conservative estimates as to costs, is approximately \$38 million. It must be noted though, that information available from the Section 3007 RCRA Industry Studies data base indicates that over two thirds of these wastes is already being managed as hazardous waste at RCRA facilities. For these wastes, listing will not add appreciably to the current cost of disposal except for the minimal additional cost of recordkeeping. It will also have very little additional cost impact on the permitting of these facilities since they are already handling hazardous wastes. Based on this reasoning, the estimated impact of this rule will be well under the \$100 million that constitutes a major regulation.

The addition of the two new toxicants of concern to Appendix VIII (2-chloro-1,3-butadiene and 3-chloropropene) will not result in any significant increased burden in groundwater monitoring requirement. The analytical techniques currently employed to test for the presence and concentration of other chlorinated organic toxicants on Appendix VIII (gas chromatography combined with mass spectroscopy) will simultaneously test for these new toxicants.

In addition, we do not expect that there will be adverse impacts on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, since this rule is not a major regulation, a Regulatory Impact Analysis is not being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by

Executive Order 12291. Any comments from OMB to EPA, and any EPA responses to those comments, are available for public inspection in Room S-212 at EPA.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The hazardous wastes listed here are not generated by small entities (as defined by the Regulatory Flexibility Act), and the Agency does not believe that small entities will dispose of them in significant quantities. Accordingly, I hereby certify that this amendment is unlikely to have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VI. List of Subjects in 40 CFR Part 261

Hazardous materials; Waste treatment and disposal, Recycling.

Dated: February 6, 1984.

Alvin L. Alm,

Acting Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In § 261.31 add the following waste streams:

§ 261.31 Hazardous waste from non-specific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
F024	Wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. (This listing does not include light ends, spent filters and filter aids, spent desiccants, wastewater, wastewater treatment sludges, spent catalysts, and wastes listed in § 261.32.)	(T)

3. Add the following entry in numerical order to Appendix VII of Part 261:

Appendix VII—Basis for Listing Hazardous Wastes

EPA hazardous waste	Hazardous constituents for which listed
F024	Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1,2-dichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, trichloroethylene, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, tetrachloroethylene, pentachloroethane, hexachloroethane, allyl chloride (3-chloropropene), dichloropropane, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, hexachlorocyclohexane, benzene, chlorobenzene, dichlorobenzenes, 1,2,4-trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene

4. Add the following constituents in alphabetical order to Appendix VIII of Part 261.

3-Chloropropene (allyl chloride)
2-Chloro-1, 3-butadiene (chloroprene)

[FR Doc. 84-3086 Filed 2-9-84; 8:45 am]

BILLING CODE 6580-50-M

ENVIRONMENTAL PROTECTION
AGENCY

40 CFR Part 261

(SWH-FRL 2442-3(b))

Hazardous Waste Management
System; Identification and Listing of
Hazardous WasteAGENCY: Environmental Protection
Agency.ACTION: Proposed rule and request for
comments.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing a regulation under the Resource Conservation and Recovery Act (RCRA) that will list as hazardous a group of wastes of a generic category generated during the manufacture of chlorinated aliphatic hydrocarbons utilizing free radical catalyzed processes, having a carbon content ranging from one to five, with varying amounts and positions of chlorine substitution. The effect of this proposed regulation will be that all of these wastes will be subject to the hazardous waste management standards contained in 40 CFR Parts 262-266 and the permitting requirements of Parts 270, 271, and 124.

DATE: EPA will accept public comment on this proposal until April 10, 1984.

ADDRESSES: Comments should be sent to the Docket Clerk [Docket 261-83-2], Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Communications should identify the regulatory docket "Section 3001/Generic Chlorinated Aliphatic."

Public Docket: The public docket containing the Background Document and all other supporting documentation for this regulation is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday thru Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346 or at (202) 382-3000. For technical information contact Dr. Cate Jenkins, Office of Solid Waste (WH-565B), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382-4788.

SUPPLEMENTARY INFORMATION:

I. Background

As part of its regulations implementing Section 3001 of RCRA, EPA published a list of hazardous wastes which include hazardous wastes generated from non-specific sources.

This list has been amended several times, and is published in § 261.31 of Title 40 of the Code of the Federal Regulations. In this notice, EPA is proposing to amend this section to add a particular generic category of residual wastes generated during the manufacture of chlorinated aliphatic hydrocarbons by free radical catalyzed processes having carbon chain lengths ranging from one to five ("C₁-C₅"). These wastes are light ends, spent filters and filter aids, and dessicants from the manufacture of C₁-C₅ chlorinated aliphatic hydrocarbons.

In addition, in another section of today's Federal Register, EPA is promulgating, as an interim final rule, hazardous waste listings for distillation residues, heavy ends, tars, and reactor clean-out wastes from this same generic category of manufacturing processes. Neither this proposed nor the interim final listing, however, include process wastewaters, wastewater treatment sludges, or spent catalysts.

The hazardous constituents in the wastes in this proposed listing include the same wide range of carcinogenic and other toxic chlorinated and non-chlorinated organic compounds as in the wastes listed in the accompanying interim final rule. One or more of these toxicants typically are present in high concentrations in each waste (although each waste does not contain all of the individual toxic constituents of concern). These wastes consequently are of particular environmental concern. EPA has evaluated these wastes against the criteria for listing hazardous wastes (40 CFR 261.11(a)(3)), and has determined that they typically contain high concentrations of toxicants, the toxicants are mobile and persistent, the wastes are generated in large volumes and have been mismanaged in the past, and many of the toxicants in the wastes are regulated by other EPA regulations as well as under regulations of other governmental agencies. The Agency believes, therefore, that these wastes are capable of posing a substantial present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed, and thus are hazardous wastes.

II. Summary of the Proposed Regulation

As stated, the proposed regulation would list as hazardous light ends, spent filters and filter aids, and spent dessicants generated during free radical catalyzed manufacturing processes of chlorinated aliphatic hydrocarbons having carbon chain lengths ranging from one to five. Available information in the Section 3007 RCRA Industry

Studies data base indicates that approximately 63 million pounds (29,000 metric tons) per year of wastes would be covered by this proposed regulation.

Our proposal to list these wastes by means of generic process, rather than by individual processes, is based on the similarity of chemical reaction and by-product formation within the C₁-C₅ production processes, as described in the accompanying interim final listing and listing Background Document. The wastes covered by both this proposal and the interim final rule typically will contain significant aggregate concentration of one or more of the following contaminations of concern:

Carbon tetrachloride*
Vinyl chloride (Chloroethene)*
1,1-Dichloroethane (Ethylidene dichloride)
1,2-Dichloroethane (Ethylene dichloride)*
trans-1, 2-Dichloropentene
1,1-Dichloroethene (Vinylidene chloride)*
1,1, 1-Trichloroethane**
1, 1, 2-Trichloroethane*
Trichloroethene (Trichloroethylene)*
1,1,1, 2-Tetrachloroethane
1,1,2, 2-Tetrachloroethane*
Tetrachloroethene (Perchloroethylene)*
Pentachloroethane
Hexachloroethane*
3-Chloropropene (Allyl chloride)
Epichlorohydrin (1-Chloro-2,3-epoxypropane)*
Dichloropropane
Dichloropropene**
2-Chloro-1,3-butadiene*
Hexachloro-1,3-butadiene*
Hexachlorocyclopentadiene**
alpha-Hexachlorocyclohexane*
beta-Hexachlorocyclohexane*
gamma-Hexachlorocyclohexane*
delta-Hexachlorocyclohexane**
Benzene*
Chlorobenzene**
Dichlorobenzenes**
1,2,4-Trichlorobenzene
Tetrachlorobenzene**
Pentachlorobenzene**
Hexachlorobenzene*
Toluene**
Naphthalene
Chloromethane (Methyl chloride)**
Dichloromethane (Methylene chloride)**
Trichloromethane (Chloroform)*

* Indicates compounds that have been determined by the U.S. EPA's Carcinogen Assessment Group (CAG) as having evidence of carcinogenicity. The weight of evidence for carcinogenicity varies. Some of the chemicals have human evidence (epidemiology data) while others have only animal evidence. Depending on the amount and quality of the data, the evidence could be classified as limited or sufficient using criteria developed by the International Agency for Research on Cancer. The EPA has established Ambient Water Quality Criteria Levels based on their potentially carcinogenic effects.

** Indicates compounds for which Ambient Water Quality Criteria Levels have been determined by the Agency for chronic human health risk other than carcinogenicity.

The contaminants include chlorinated aliphatic hydrocarbons as well as aromatic compounds and chlorinated aromatic compounds that are currently identified in Appendix VIII of Part 261. The potential of all of these contaminants to cause harm to human health and the environment is described in the accompanying interim final listing notice, the listing Background Document, and the Health and Environmental Effects Profiles.

The wastes covered by these regulations are formed as residuals at several points in an integrated series of reactors and associated purification units utilizing one or more free radical catalyzed chemical conversion steps to produce a range of desired chlorinated aliphatic hydrocarbons. This proposed listing covers wastes from all sources within an integrated process utilizing free radical catalyzed conversions, whether or not the integrated process utilizes free radical catalyzed conversions solely or in conjunction with other types of chemically catalyzed conversions.

The usual plant sources of the light ends derive from the hot, gaseous overhead streams from reactor vessels and/or associated purification and distillation equipment. The light ends component of these overheads is in fact liquids at standard temperature and pressure, but because of elevated temperature and admixture with gases (e.g., hydrogen, methane) they require some form of physical condensation to be isolated as liquids. For example, freon condensers coupled with water condensers are currently used by industry to recover light ends, products, unreacted feedstock, or wastes from the overheads. Incineration, flaring, or release to the atmosphere of light ends, without either partial or complete condensation to ambient temperature, is also practiced.

The Agency considers these light ends to be solid wastes within the meaning of section 1004(28) of RCRA. Although these wastes are generated as gases, they are liquids at standard temperature and pressure, and can feasibly be condensed to the liquid phase after generation.

The exclusion from RCRA of "gaseous materials" that are not contained (section 1004(28)), in the Agency's view, applies only to true gases, namely those which are not capable of being condensed and which remain gases at standard temperature and pressure (for example, the hydrogen and methane admixed with the light ends). The Agency, of course, is not requiring that these light ends be condensed; however, as a RCRA hazardous wastes, these

light ends remain subject to the applicable regulations even if left in the gaseous state. Otherwise, one could evade regulation under RCRA simply by heating every waste to the gaseous state.¹

The spent filters and filter aids, and spent dessicants are generated as residuals during product intermediate and feedstock purification. These wastes are currently managed by landfilling, incineration, or regeneration and recycling.

As shown in the Background Document, the hazardous constituents generally are present in these waste in significant concentrations, typically in concentrations many orders or magnitude above the levels related to human health concerns. For example, an analysis of one manufacturer's chlorinated propane distillation light ends (Table 1) shows the hazardous constituents at concentrations typically found in these wastes.² Chemical analyses obtained by the Agency and company supplied information in the Section 3007 RCRA Industry Studies data base demonstrate similar high concentrations of toxicants in all these wastes.³ Although there were many differences between these wastes, both qualitatively and quantitatively, in all cases, there were one or more of the toxicants of concern present at levels which could present a substantial environmental hazard if the wastes are mismanaged.

TABLE 1.—CHLORINATED PROPANE DISTILLATION LIGHT ENDS

Constituent	Percent
dichloromethane and isopropyl alcohol *	10.7
chloroform, acetonitrile and dichloropropane	4.0
ethyl chloride * and 2-chloropropanes/propenes	17.0
1,1-dichloroethane	4.0
1,2-dichloroethane	0.2
chloropropane *	22.0
chloropropane	18.0
chlorodihydroxypropanes *	0.2
dichloropropanes	12.0
dichloropropanes	14.4
dichloropropanols *	0.2
epichlorohydrin	0.4

¹ The Agency has previously listed distillation light ends from the production of phthalic anhydride from naphthalene and orthoxylene as hazardous wastes KO23 and KO93 (40 CFR 261.32), thus establishing a precedent for regulating a waste which originates from a gaseous overhead process stream. No comments were received questioning the Agency's authority to regulate these wastes.

² U.S. EPA. Disposal of Organochlorine Wastes by Incineration at Sea. EPA Publication No. 430/9-75-041 (1975).

³ The results of these analyses have been claimed by the individual companies to be confidential business information, and therefore are not presented here. The Background Document and supporting information for this action provides aggregate toxicant concentration ranges for the C₁ through C₆ process wastes sampled.

TABLE 1.—CHLORINATED PROPANE DISTILLATION LIGHT ENDS—Continued

Constituent	Percent
benzene	0.7

* At the present time, the Agency does not have adequate information to classify these constituents as toxicants of concern.

[†] (i.e., 7,000 parts per million).

The Agency has calculated that persons face a 1 per million increase risk of cancer or other adverse health effects as a result of lifetime ingestion of water when the water is contaminated at levels above the Ambient Water Quality Criteria Levels (AWOCL). As an indication of how high toxicant concentrations in these wastes are, the benzene alone in the light ends waste approaches ten million times the AWOCL. The other toxic constituents likewise are frequently present in concentrations orders of magnitude greater than the AWOCL.

In all cases, the solubilities of the toxicants of concern are many orders of magnitude greater than the AWOCL. Thus, only a small fraction of the toxicants present in these wastes need migrate and reach environmental receptors to pose the potential for substantial harm if these wastes are landfilled improperly. Improper incineration is another exposure pathway of concern.

In summary, and as detailed in the listing Background Document, these wastes typically contain toxicants at concentrations that are of concern, these toxicants are capable of migration and persistence in hazardous concentration, and therefore these wastes are capable of causing substantial harm if mismanaged.

IV. Economic, Environmental and Regulatory Impacts

A. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The effect of the present amendment is judged to be minor.

The total combined cost for disposal of the wastes as hazardous, assuming that all of these wastes would be managed for the first time as hazardous, and making conservative assumptions as to costs, is approximately \$15 million per year. This figure also overstates costs because information available from the Section 3007 RCRA Industry Studies data base indicates that over one fourth of these wastes are *already* being managed as hazardous waste at RCRA facilities. For these wastes, listing

will not add appreciably to the current cost of disposal except for the minimal additional cost of record keeping. It will also have very little additional cost impact on the permitting of these facilities since they are already handling hazardous wastes. Based on this reasoning, the estimated impact of this rule will be well under the \$100 million that constitutes a major regulation.

In addition, we do not expect that there will be adverse impacts on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, since this proposed amendment is not a major regulation, a Regulatory Impact Analysis is not being conducted.

This proposed amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA responses to those comments, are available for public inspection in Room S-212 at EPA.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the

head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The hazardous wastes listed here are not generated by small entities (as defined by the Regulatory Flexibility Act), and the Agency does not believe that small entities will dispose of them in significant quantities. Accordingly, I hereby certify that this amendment is unlikely to have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: February 6, 1984.

Alvin L. Alm,
Acting Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In § 261.31 add the following waste streams:

§ 261.31 Hazardous waste from non-specific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
F025.....	Light ends, spent filters and filter aids, and spent desiccant wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes.	(T).

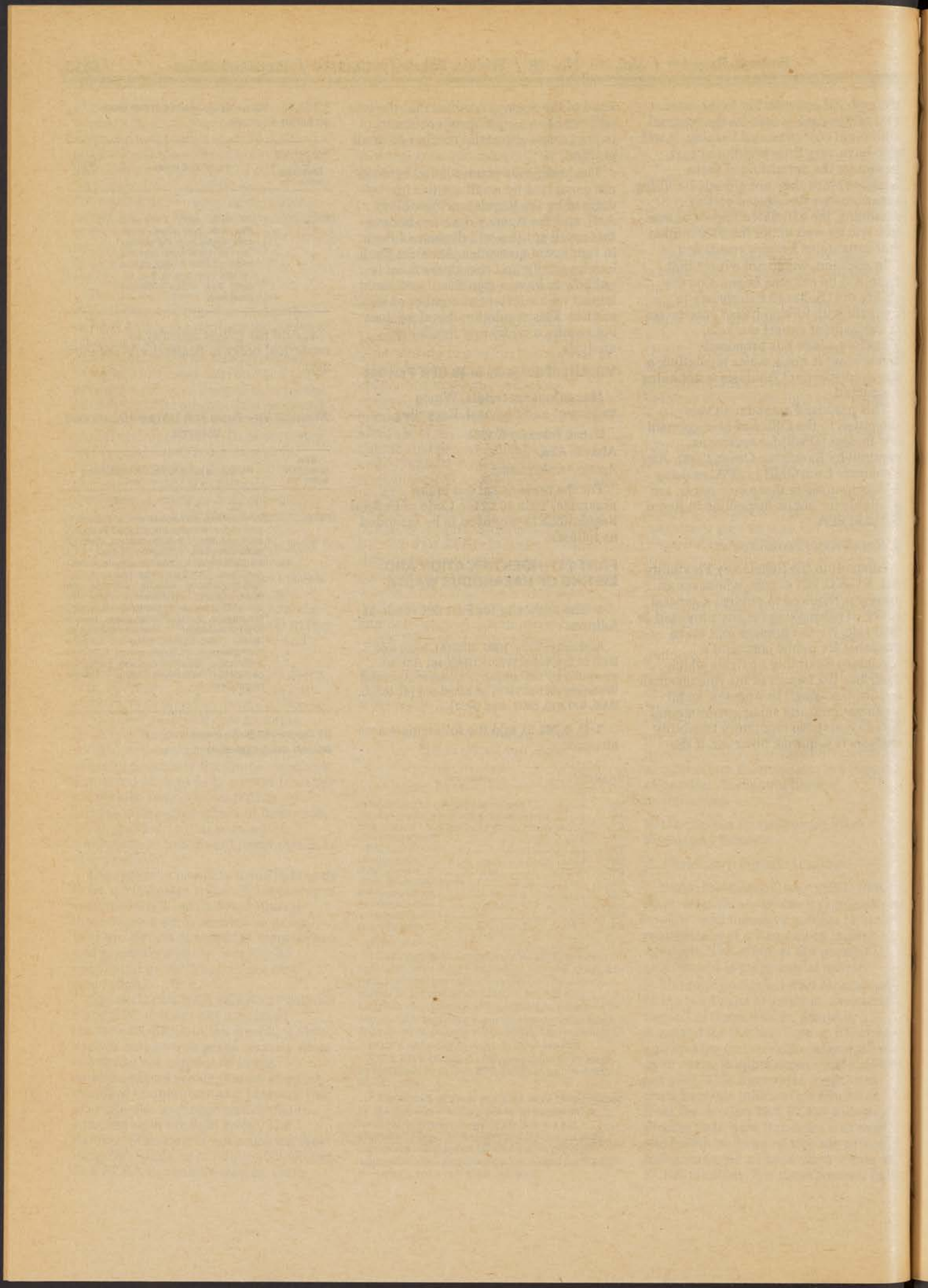
3. Add the following entry in numerical order to Appendix VII of Part 261:

APPENDIX VII—BASIS FOR LISTING HAZARDOUS WASTES

EPA hazardous waste No.	Hazardous constituents for which listed
F025.....	Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1,2-dichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, trichloroethylene, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, tetrachloroethylene, pentachloroethane, hexachloroethane, allyl chloride (3-chloropropene), dichloropropene, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, hexachlorocyclohexane, benzene, chlorobenzene, dichlorobenzenes, 1,2,4-trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene.

[FR Doc. 84-3687 Filed 2-9-84; 6:45 am]

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Test Report Federal Register

Friday
February 10, 1984

Part VI

Department of Labor

Occupational Safety and Health
Administration

29 CFR Part 1910

Revocation of Advisory and Repetitive
Standards; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-600]

Revocation of Advisory and Repetitive Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule revokes 153 of the 194 provisions of the General Industry Standards (29 CFR Part 1910) which were proposed for revocation on May 28, 1982 (47 FR 23477). These provisions use the word "should," or other advisory language instead of the mandatory "shall." Also revoked are three sections whose requirements are repeated elsewhere in Part 1910, and one advisory paragraph which was improperly adopted by OSHA as a mandatory provision.

Forty-one provisions originally proposed for revocation are being retained. Public comment and evidence in the record indicates that some of these provisions provide valuable guidance to employers in addressing significant workplace hazards, while the others are tied to or are part of mandatory provisions and are critical to the application or understanding of those provisions.

In addition, OSHA is amending § 1910.6 to clarify that only mandatory provisions of standards incorporated by reference are adopted as OSHA standards.

The removal of these advisory and repetitive provisions from the standards will facilitate OSHA's enforcement responsibilities regarding these provisions, and will assist employers by improving the clarity of the standards.

EFFECTIVE DATE: This final rule becomes effective on February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637, 200 Constitution Avenue NW., Washington, D.C. 20210, (202) 523-8151.

SUPPLEMENTARY INFORMATION:**I. Background**

On May 28, 1982, OSHA published (47 FR 23477) a proposed revocation of nearly 200 provisions of the General Industry Standards (Part 1910). Notices of corrections to the proposal were published on June 8, 1982, (47 FR 24751)

and June 15, 1982, (47 FR 25743). The purpose of the proposal was to correct problems that OSHA had encountered in enforcing some of the provisions in the initial package of Occupational Safety and Health Standards adopted under Section 6(a) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 29 U.S.C. 655).

Many of the standards adopted under Section 6(a) were national consensus standards originally developed by the American National Standards Institute (ANSI) and the National Fire Protection Association (NFPA). Some of these standards contained advisory provisions which were adopted verbatim by OSHA. The advisory provisions generally provided that an employer "should" undertake specified safety or health obligations. For example, the third sentence of 29 CFR 1910.107(e)(7) provides that agitators, if used, "should" preferably be driven by compressed air, water, or low pressure steam.

In other instances, ANSI standards which contained "should" provisions were changed by OSHA to "shall" when the regulations were promulgated under Section 6(a). The sole remaining standard of this type is 29 CFR 1910.28(a)(3), which provides that guardrails *shall* be installed on platforms more than 10 feet in height. This regulation's ANSI precursor merely advised that guardrails *should* be provided.

In still other instances, OSHA incorporated by reference certain ANSI or NFPA consensus standards which contained advisory provisions. It is clear that the problems associated with the "should" standards and other advisory provisions which are actually published in Part 1910, are also present wherever such advisory provisions are found in standards incorporated by reference.

In the past, OSHA maintained that all standards, regardless of whether the term "should" or "shall" is used, created mandatory compliance responsibilities. Employers have consistently challenged this position on the basis that Section 6(a) of the Act only gave OSHA the authority to adopt ANSI standards verbatim. In ANSI standards, use of the term "should" means that the provision is only advisory. Therefore, employers maintained that ANSI "should" standards could only be advisory when adopted by OSHA under Section 6(a).

Enforcement of "should" standards has been denied by the Occupational Safety and Health Review Commission, and by most of the appellate courts in which contested cases have been heard. For example, in *Marshall v. Pittsburgh-Des Moines Steel Company*, 584 F.2d 638, 643-44 (1978), the Third Circuit

Court of Appeals determined that "should" standards were merely advisory because the consensus organization had reached "substantial agreement" that these provisions be viewed only as *recommendations*, and not as mandatory standards.

The courts have also ruled that failure to adopt an ANSI standard verbatim (in this case by changing a "should" to a "shall" in § 1910.28(a)(3)) renders the resulting OSHA Section 6(a) standard invalid and unenforceable [see *Usery v. Kennecott Copper Corporation*, 577 F.2d 1113, 1117 (10th Cir. 1977)].

Although the "should" standards have not been enforceable in and of themselves, OSHA has also employed the "should" provisions to demonstrate the existence of "recognized hazards" under the general duty clause [Section 5(a)(1)] of the Act. However, the Review Commission has ruled that, as long as the "should" standard remains in effect, even though it is not enforceable, OSHA may not issue a general duty clause citation for the hazard addressed by that "should" standard (see *A. Prokosch & Sons Sheet Metal and Mid Hudson Automatic Sprinkler*, 1980 CCH OSHO ¶24,840). This decision was of great concern to the Agency, since some of the "should" and other advisory provisions cover hazards which may be serious or potentially serious under certain conditions. The fact that OSHA cannot enforce these provisions either directly or indirectly leaves gaps in coverage, resulting in decreased safety and health protection for the nation's employees. Where these provisions cover hazards which may cause death or serious physical harm to employees, the revocation of such provisions will enable OSHA to issue citations for these hazards under the general duty clause.

Many of the "should" provisions in the OSHA standards have little direct or immediate relationship to employee safety and health. The removal of these advisory provisions will serve to simplify and streamline the existing Part 1910.

The standards contained in §§ 1910.166-168 are not "shoulds" or other advisory provisions. Rather, they are repetitions of requirements concerning compressed gas cylinders and compressed gas equipment which are also found in § 1910.101 of Subpart H. Their removal will not lessen employee protection in any way. Elimination of these repetitive sections will, however, serve to shorten and streamline Part 1910.

At its meeting on December 18, 1981, the National Advisory Committee on Occupational Safety and Health

(NACOSH) recommended that OSHA not proceed with deletion of advisory provisions at this time. Instead, the committee recommended that OSHA wait until the Agency could simultaneously propose mandatory rules under Section 6(b) of the Act to take the place of the advisory provisions wherever necessary. OSHA agreed with NACOSH that rulemaking action might be warranted in the future to provide specific coverage for certain hazards which are currently addressed only by advisory provisions. The need for future promulgation of mandatory provisions is discussed more fully below.

Based on OSHA's review of the comments, the Agency has determined that some of the "should" provisions proposed for revocation in May 1982 are not totally advisory, in that they are an essential part of, or otherwise tied to, a mandatory provision. For example, the note to Table G-16 of § 1910.95, Occupational Noise Exposure, is necessary for the proper interpretation and use of the Table. There are other provisions which, though advisory on their face, are relied upon for valuable guidance in insuring a safe workplace when dealing with potentially serious hazards, while still others are used by other federal agencies, such as the Federal Communications Commission (FCC), in exercising its own statutory obligations. OSHA believes that revocation of these provisions would have deleterious effects and would not accomplish the purposes of the revocation as expressed in the proposal. A discussion of the provisions being revoked and of those being retained is found in the summary and explanation of the final rule.

In this preamble, OSHA identifies exhibits submitted to Docket S-600 with parentheses (Ex. 5). Comment numbers follow the exhibit in which they are contained (Ex. 5: 24). If more than one comment within an exhibit is cited, the comment numbers are separated by semicolons (Ex. 5: 24; 102).

II. Public Response to the Proposal

The comment period, originally scheduled to be closed on July 27, 1982, was later extended to September 10, 1982 (47 FR 34577). A total of 58 comments were received.

Twenty two (22) commenters (e.g., Ex. 2: 1; 2: 2; 2: 4; 2: 5; 2: 8) were generally supportive of the proposed revocation, and for the most part did not discuss any of the specific provisions. For example, Mr. James McKarns, (Ex. 2: 4) an industrial hygienist, stated " * * * I agree with the proposal to revoke the 194 advisory statements and standards enumerated."

Eighteen (18) commenters (e.g., Ex. 2: 8; 2: 7; 2: 9; 2: 11; and 2: 13) generally opposed the proposed revocations because they felt that even though the advisory provisions were not enforceable, a reduction in employee safety and health would result from their removal. For example, the Hoist Manufacturers Institute (Ex. 2: 13), in its comment stated, " * * * we believe the proposed revocation of advisory OSHA standards would be both unwise and in violation of OSHA's primary obligation to assure * * * safe and healthful working conditions." The National Society to Prevent Blindness stated, "While we recognize the legal difficulties presented to OSHA by the use of the word 'should' in many standards adopted by the Agency, revoking them would have an effect exactly opposite as to the Agency's goal—reducing workplace injuries."

Twelve (12) of the 18 commenters (e.g., Ex. 2: 19; 2: 35; 2: 40; and 2: 50), in addition to objecting generally to the proposal, suggested that OSHA convert all the "shoulds" to "shalls" in accordance with the procedure recommended by NACOSH. For example, the Phillips Petroleum Company (Ex. 2: 19) stated, "If it is determined that advisory standards should be revoked, we believe that OSHA should follow the recommendation of the National Advisory Committee on Occupational Safety and Health (NACOSH)."

The State of California (Ex. 2: 58) stated, " * * * although we do not have access to the details of the arguments presented at the NACOSH meeting in December 1981, we agree with the Committee's recommendation that OSHA not proceed to delete rules until replacement rules are in effect."

Three commenters (Ex. 2: 7; 2: 39; and 2: 52) addressed the issue of the proposed revocation of the three repetitive sections (§§ 1910.166–1910.168), while only two commenters (Ex. 2: 7; and 2: 20) addressed the issue of the proposed amendment to § 1910.6.

Only one request (Ex. 2: 6) for an informal public hearing was received, but was later withdrawn (Ex. 2: 59). Therefore, no public hearing was held on the proposal.

III. Summary and Explanation of the Final Rule

OSHA has determined that most of the proposed revocations will not reduce the safety and health of employees. However, where OSHA believes that revocation of a given provision might diminish employee protection, the provision in question is being retained in Part 1910. OSHA would like to point out,

in addition, that 78 of the 194 provisions originally proposed for revocation are contained in standards already scheduled for revision by section 6(b) rulemaking in the future. These provisions include those contained in Subparts D and H, and in § 1910.66, § 1910.95, § 1910.97, and § 1910.134. It is expected that mandatory provisions will be proposed in these revisions where necessary to replace the advisory provisions currently contained in those sections.

After consideration of the evidence and public comment, OSHA has decided to revoke 153 of the 194 provisions originally proposed for revocation, and to amend § 1910.6 in the manner proposed. These 153 items, including the improperly promulgated "shall" in § 1910.28(a)(3), are being revoked (as discussed in the proposal, and again in the *Background* section of this document) because they have been determined to be unenforceable, and it is the OSHA's conclusion that their elimination will not adversely affect the safety and health of the employees covered by the OSHA standards. Revocation of the repetitive sections (§§ 1910.166–168) will simplify and streamline the existing OSHA General Industry Standards.

However, after reviewing the record, OSHA has determined that 41 of the provisions which were proposed for revocation should, in fact, be retained in OSHA standards. Each of these 41 provisions is being retained for one, or both, of two reasons: (1) The provision provides valuable guidance for employers and employees in achieving a safe and healthful workplace; or (2) Its retention is necessary for the application or understanding of an existing mandatory provision of the OSHA standards. A discussion of each of these areas follows.

A. The record reflects that some of the provisions originally proposed for revocation are valuable even though they are unenforceable, because they are relied upon in many situations for guidance in providing and maintaining a safe and healthful workplace. OSHA, in reviewing the record, has determined that the benefits to employee safety and health are sufficient to justify leaving these provisions in place until they can be replaced by mandatory provisions.

For example, the FCC (Ex. 2: 29) recognizes that § 1910.97 is only advisory, but recommends that the standard be retained until a replacement is promulgated because " * * * the lack of any standard will leave a vacuum that may create serious problems for Federal and state agencies

with an interest in the use of RF energy."

The Atlantic Richfield Company (Ex. 2: 31) in expressing its concerns regarding proposed revocations of parts of the respiratory protection standard (§ 1910.134) stated, "This action may materially affect the level of protection afforded employees who must utilize respiratory protective devices." Atlantic Richfield went on to recommend that OSHA not revoke these provisions, but leave them until a section 6(b) rulemaking can be initiated to revise § 1910.134.

The Bakery, Confectionary and Tobacco Workers International Union (Ex. 2: 11), in opposing the proposed revocation of § 1910.263(i)(11) and § 1910.263(j)(1)(vii)(c), stated that "... [the two provisions] have proved indispensable in ensuring safer working conditions in the baking industry."

The American Petroleum Institute (Ex. 2: 27), while generally sympathetic to OSHA's position on the "should" provisions, nevertheless believes

"... That certain of the advisory provisions in question provide useful guidance to employers in implementing employee protection programs and believes that deletion of such provisions may work to the detriment of near term employee welfare."

The United Steelworkers of America (Ex. 2: 24), in opposing the OSHA proposal, stated "I have listed below several examples of 'should' standards which you propose to delete that cover serious safety and health standards. This is only a partial list. There are many others that at least inform an employer that a serious hazard exists ... The provisions listed by the Steelworkers include two from § 1910.25, one from § 1910.134, three from § 1910.252 and one from § 1910.265."

It is evident that although there is not complete agreement on which provisions should be retained because of their valuable guidance, there is sufficient justification for retention of a significant number of these provisions. A list of provisions being retained for their guidance value appears later in this summary and explanation section.

B. Secondly, OSHA recognizes that some of the proposed revocations involve provisions which, although advisory on their face, are actually either tied to or part of mandatory provisions, and are critical for the application and understanding of these provisions.

For example, numerous objections to revoking the footnote to Table G-16, § 1910.95 (Occupational Noise Exposure), were received. Alice Suter

(Ex. 2: 30), an industrial audiologist, commented that "To delete the footnote to Table G-16 would give employers the impression that these provisions are unnecessary to protect the hearing and health of their employees." The DuPont Company (Ex. 2: 32) stated in its comment that "To effectively carry out the intent of Table G-16, the footnote should be part of the Table." The Shell Oil Company (Ex. 2: 42) felt that the deletion of the footnote "... may substantially reduce employee protection from noise exposure. It would eliminate the combined effect of noise exposure periods and delete the peak impulsive or impact noise restriction of 140 db."

Another example of a provision tied to or part of a mandatory provision, and necessary for the application or understanding of the mandatory provision is § 1910.66(d)(8)(ii), which states that fastening devices for safety belts "should" be of the self-closing type. Safety belts are mandated in § 1910.66(d)(8)(i). Since adequate fastening devices are essential in the use of safety belts, the "should" provision is necessary for the application of the total safety belt provision.

Table I presents a complete listing of the provisions being retained because of their guidance value. Those provisions included in standards for which revisions are planned in the future are denoted by an asterisk.

Table I.—Provisions Which Provide Guidance

- * 1. The phrase "and false floors, platforms, mats, or other dry standing places should be provided where practicable" in the second sentence of paragraph (a)(2) of § 1910.22.
- * 2. The third sentence of paragraph (e)(5)(i) of § 1910.23.
- * 3. Paragraph (c)(5) of § 1910.25.
- * 4. Paragraph (d)(1)(xi) of § 1910.25.
- * 5. Paragraph (d)(2)(ii) of § 1910.25.
- * 6. Paragraph (d)(2)(xv) of § 1910.25.
- * 7. Paragraph (d)(2)(xvii) of § 1910.25.
- * 8. The first sentence of paragraph (d)(2)(xix) of § 1910.25.
- * 9. Paragraph (c)(2)(vi)(d) of § 1910.26.
- * 10. Paragraph (c)(3)(vii) of § 1910.26.
- * 11. Paragraph (d)(8)(ii) of § 1910.66.
12. Paragraph (c)(6)(iii)(a) of § 1910.94.
- * 13. § 1910.97.
14. Paragraph (a)(2)(vii) of § 1910.133.
- * 15. Paragraph (b)(10) of § 1910.134.
- * 16. The second and third sentences of paragraph (e)(1) of § 1910.134.
- * 17. The second, third and fifth sentences of paragraph (f)(5) (i) of § 1910.134.
- * 18. Paragraph (f)(5)(ii) of § 1910.134.
19. Paragraph (e)(2) of § 1910.145.
20. Paragraph (i)(3)(vi) of § 1910.181.
21. Paragraph (i)(4)(ii) of § 1910.181.
22. Paragraph (b)(4) of § 1910.213.
23. Paragraph (l)(2) of § 1910.213.
24. Paragraph (m)(1)(ii) of § 1910.219.

25. The second sentence of paragraph (b)(4)(viii) of § 1910.252.

26. The first sentence of paragraph (b)(4)(ix)(a) of § 1910.252.

27. The second sentence of paragraph (f)(11)(ii) of § 1910.252.

28. The third sentence of paragraph (l)(9) (i) of § 1910.261.

29. The phrases "and should not be operated at a speed greater than" and "which," in the first sentence of paragraph (y)(1)(iv) of § 1910.262.

30. Paragraph (c)(12)(i) of § 1910.265.

31. Paragraph (c)(20)(i) of § 1910.265.

Table II presents a complete listing of the provisions being retained because they are tied to, or part of, mandatory provisions. Those provisions included in standards for which revisions are planned in the future are denoted by an asterisk.

Table II.—Provisions Which Are Tied to, or Part of, Mandatory Provisions

- * 1. Paragraph (d)(8)(ii) of § 1910.66.
- * 2. The entire footnote at the end of Table G-16 of § 1910.95.
- * 3. The phrase "in addition, they should be separated from each other by not less than the distances shown for a 'Separation of Magazines,' except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines" in note 4 of Table H-21, § 1910.109.
- * 4. The third sentence (including the entire formula for determining maximum volume of LP Gas) and notes at the end of paragraph (b)(19)(v)(a) of § 1910.110.
- * 5. The second and third sentences of paragraph (e)(1) of § 1910.134.
- * 6. The second, third and fifth sentences of paragraph (f)(5)(i) of § 1910.134.
7. The third sentence of paragraph (p)(1) of § 1910.213.
8. The phrase "should not exceed 90° or one-fourth of the periphery" in the first sentence, and the phrase "This exposure" in the second sentence of paragraph (b)(3) of § 1910.215.
9. The second sentence of paragraph (a)(3)(iv) of § 1910.218.
10. The first and second sentences of paragraph (b)(2)(iv)(d) of § 1910.252.
11. The phrase "those on the unloading side should be partially cut through first, and then the binder wires cut on the opposite side. Wire cutters equipped with long extension handles shall be used." In the first and second sentences of paragraph (c)(4)(iii) of § 1910.261.
12. The third sentence of paragraph (1)(9)(i) of § 1910.261.
13. The second sentence of paragraph (i)(11) of § 1910.263.
14. The second and third sentences of paragraph (j)(1)(vii)(c) of § 1910.263.

The remaining 22 (unasterisked) of these retained provisions in Tables I and II are contained in standards for which early rulemaking is not currently contemplated. However, OSHA plans to incorporate proposed amendments of

these provisions into its review and revision of the various subparts of Part 1910 when it updates these subparts in the future.

In summary, OSHA has determined that the 41 provisions being retained are too important for the establishment and maintenance of a safe and healthful workplace to be removed without simultaneous replacement by a mandatory requirement. However, the problems with enforcement of these provisions remains as long as they are left in place. It is anticipated, therefore, that all of the topics addressed by these 41 provisions will be the subject of 6(b) rulemaking in the future to develop provisions which are mandatory and fully enforceable.

IV. Regulatory Assessment

The revocation of "should" and other advisory or repetitive provisions of the General Industry Safety and Health Standards is not a "major" action as defined by Executive Order Number 12291 (46 FR 13193, February 19, 1981) as it does not have an annual effect on the economy of \$100 million or more; cause major increases in costs or prices; or have other significant adverse effects. Revocation of these provisions does not constitute a "major rule" primarily because few, if any, additional requirements are imposed on industry. Revocation relieves current regulatory burdens created by the uncertainty regarding the enforceability of these provisions.

For the same reason, it is certified that pursuant to the provisions of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601) these revocations do not have a significant economic impact on a substantial number of small entities.

V. List of Subjects in 29 CFR Part 1910

Explosives, Flammable materials, Gases, Hazardous materials, Health, Industrial trucks, Ladders and scaffolds, Machinery, Occupational safety and health, Protective equipment, Respiratory protection, Safety, Signs and symbols, Tools, Welding.

VI. Effective Date

Because this regulatory action involves deletion of unenforceable standards, OSHA has determined that there is good cause to make this final rule effective immediately, pursuant to 5 U.S.C. 553(d). Therefore the revocations listed herein are effective on February 10, 1984. The 24 States with their own OSHA approved occupational safety and health plans must adopt comparable standards within six months of this publication date. These are: Alaska,

Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

VII. Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736) and 29 CFR Part 1911, 29 CFR Part 1910 is amended as set forth below.

Signed at Washington, D.C., this 7th day of February 1984.

Thorne G. Auchter,
Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Part 1910 of Title 29 of the Code of Federal Regulations is amended as follows:

A. Paragraph (a) of § 1910.6 is revised to read as follows:

§ 1910.6 Incorporation by reference.

(a) The standards of agencies of the U.S. Government, and organizations which are not agencies of the U.S. Government which are incorporated by reference in this Part, have the same force and effect as other standards in this Part. Only the mandatory provisions (i.e., provisions containing the word "shall" or other mandatory language) of standards incorporated by reference are adopted as standards under the Occupational Safety and Health Act.

* * *

§ 1910.24 [Amended]

B. The heading of paragraph (g) of § 1910.24 is revised to read "Stairway platforms."

C. 29 CFR Part 1910 is further amended as follows:

Subpart D—Walking-Working Surfaces

§ 1910.23 Guarding floor and wall openings and holes. [Amended]

1. The phrase, "and should preferably be hinged or otherwise mounted so as to be conveniently replaceable," in the second sentence of paragraph (a)(3)(ii) of § 1910.23 is removed.

2. The phrase, "which should be hinged in place," in the first sentence of paragraph (a)(5) of § 1910.23 is removed.

3. The phrase, "that should be hinged in place," in the first sentence of paragraph (a)(8)(ii) of § 1910.23 is removed.

4. The second sentence of paragraph (b)(1)(i) of § 1910.23 is removed.

§ 1910.24 Fixed industrial stairs. [Amended]

5. The first two sentences of paragraph (f) of § 1910.24 are removed.

6. The first two sentences of paragraph (g) of § 1910.24 are removed.

7. Paragraph (j) of § 1910.24 is removed.

§ 1910.25 Portable wood ladders. [Amended]

8. Paragraph (d)(2)(vi) of § 1910.25 is removed.

9. Paragraph (d)(2)(vii) of § 1910.25 is removed.

10. The second sentence of paragraph (d)(2)(xiv) of § 1910.25 is removed.

11. Paragraph (d)(2)(xvi) of § 1910.25 is removed.

12. Paragraph (d)(2)(xviii) of § 1910.25 is removed.

§ 1910.26 Portable metal ladders. [Amended]

13. The second sentence of paragraph (c)(2)(iv) of § 1910.26 is removed.

14. Paragraph (c)(2)(v) of § 1910.26 is removed.

15. The first sentence of the introductory text of paragraph (c)(2)(vi) of § 1910.26 is removed.

16. Paragraph (c)(2)(vi)(b) of § 1910.26 is removed.

17. Paragraph (c)(2)(vi)(c) of § 1910.26 is removed.

18. The first sentence of paragraph (c)(3)(i) of § 1910.26 is removed.

19. The second and third sentences of paragraph (c)(3)(iii) of § 1910.26 are removed.

20. The second sentence of paragraph (c)(3)(iv) of § 1910.26 is removed.

§ 1910.28 Safety requirements for scaffolding. [Amended]

21. Paragraph (a)(3) of § 1910.28 is removed.

22. Paragraph (p)(1) of § 1910.28 is removed.

23. The words "they should be arranged so as to provide four ends which are to be securely fastened to an overhead support" in the third sentence of paragraph (u)(5) of § 1910.28 are removed and the remainder of the third sentence is combined with the fourth sentence.

§ 1910.30 Other working surfaces. [Amended]

24. The phrase, "and should be defined by marking," in the second sentence of paragraph (b)(2) of § 1910.30, is removed.

Subpart F—Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms

§ 1910.66 Powered Platforms for exterior building maintenance. [Amended]

25. The first sentence of paragraph (c)(20)(viii) of § 1910.66 is removed.

Subpart G—Occupational Health and Environmental Control

§ 1910.94 Ventilation. [Amended]

26. The phrase, "periodically, thereafter, the air flow should be remeasured, and," in the fourth sentence of paragraph (d)(8)(iii) of § 1910.94 is removed.

Subpart H—Hazardous Materials

§ 1910.107 Spray finishing using flammable and combustible materials. [Amended]

27. The fourth, fifth and sixth sentences of paragraph (b)(5)(i) of § 1910.107 are removed.

28. Paragraph (c)(9)(ii) of § 1910.107 is removed.

29. The third sentence of paragraph (e)(7) of § 1910.107 is removed.

30. The second sentence of paragraph (i)(3) of § 1910.107 is removed.

§ 1910.108 Dip tanks containing flammable or combustible liquids. [Amended]

31. The second sentence of paragraph (c)(1) of § 1910.108 is removed.

32. The second, third and fourth sentences of paragraph (c)(2)(i) of § 1910.108 are removed.

33. The second sentence of paragraph (g)(3)(ii)(a) of § 1910.108 is removed.

34. The phrase, "and should be at least five feet from processing equipment," in the second sentence of paragraph (h)(3)(x) of § 1910.108 is removed.

§ 1910.110 Storage and handling of liquefied petroleum gases. [Amended]

35. The fourth sentence of paragraph (b)(10)(xii) of § 1910.110 is removed.

36. The note, "Fixed electrical equipment should preferably not be installed" in the fourth column, Table H-28 of § 1910.110, is removed.

37. The second sentence of paragraph (d)(7)(vi)(b) of § 1910.110 is removed.

38. The words, "pits and," in the heading and the first sentence of paragraph (d)(11) of § 1910.110 are removed.

39. The first sentence of paragraph (e)(5)(iv)(e) of § 1910.110 is removed.

40. The words "should preferably be stored in the open" and "they" in paragraph (f)(2)(v) of § 1910.110 are removed and the two sentences are combined into one.

41. Paragraph (h)(4)(iii)(b) of § 1910.110 is removed.

§ 1910.111 Storage and handling of anhydrous ammonia. [Amended]

42. Paragraph (b)(10)(i) of § 1910.111 is removed.

43. Paragraph (b)(15) of § 1910.111 is removed.

Subpart I—Personal Protective Equipment

§ 1910.134 Respiratory protection. [Amended]

44. Paragraph (b)(4) of § 1910.134 is removed.

45. The second sentence of paragraph (b)(5) of § 1910.134 is removed.

46. The fourth, fifth, and sixth sentences of paragraph (e)(2) of § 1910.134 are removed.

47. The second and third sentences of paragraph (f)(3) of § 1910.134 are removed.

Subpart J—General Environmental Controls

§ 1910.144 Safety color code for marking physical hazards. [Amended]

48. The second sentence of paragraph (a)(3) of § 1910.144 is removed.

§ 1910.145 Specifications for accident prevention signs and tags. [Amended]

49. The first sentence of paragraph (c)(1)(i) of § 1910.145 is removed.

50. The phrase, "but should be used until a positive means can be employed to eliminate the hazard," in the second sentence of paragraph (f)(1)(i) of § 1910.145 is removed.

51. Paragraph (f)(4)(i) of § 1910.145 is removed.

52. Paragraph (f)(4)(iii) of § 1910.145 is removed.

53. Paragraph (f)(5)(i) of § 1910.145 is removed.

54. Paragraph (f)(5)(ii) of § 1910.145 is removed.

55. Paragraph (f)(6) of § 1910.145 is removed.

Subpart M—Compressed Gas and Compressed Air Equipment

§ 1910.166 Inspection of compressed gas cylinders. [Removed]

56. The heading and text of § 1910.166 is removed. The section number is reserved.

§ 1910.167 Safety relief devices for compressed gas cylinders. [Removed]

57. The heading and text of § 1910.167 is removed. The section number is reserved.

§ 1910.168 Safety relief devices for cargo and portable tanks storing compressed gases. [Removed]

58. The heading and text of § 1910.168 is removed. The section number is reserved.

§ 1910.169 Air receivers. [Amended]

59. The second and fourth sentences of paragraph (b)(1) of § 1910.169 are removed.

Subpart N—Materials Handling and Storage

§ 1910.178 Powered industrial trucks. [Amended]

60. Paragraph (g)(3) of § 1910.178 is removed.

61. The first sentence of paragraph (g)(9) of § 1910.178 is removed.

62. Paragraph (h)(1) of § 1910.178 is removed.

63. Paragraph (i)(2) of § 1910.178 is removed.

64. Paragraph (n)(7)(ii) of § 1910.178 is removed.

65. The first sentence of paragraph (o)(4) of § 1910.178 is removed.

§ 1910.179 Overhead and gantry cranes. [Amended]

66. The second sentence of paragraph (b)(2) of § 1910.179 is removed.

67. Paragraph (c)(1)(iii) of § 1910.179 is removed.

68. The first sentence of paragraph (c)(3) of § 1910.179 is removed.

69. The second sentence of paragraph (d)(1)(i) of § 1910.179 is removed.

70. The first and third sentences of paragraph (d)(1)(ii) of § 1910.179 are removed. The second sentence of that paragraph is revised to read as follows: "Where footwalks are located in no case shall less than 48 inches of headroom be provided."

71. Paragraph (d)(2)(iii) of § 1910.179 is removed.

72. The first sentence of paragraph (d)(2)(iv) of § 1910.179 is removed.

73. Paragraph (j)(3)(ix) of § 1910.179 is removed.

74. The second sentence of paragraph (j)(4)(iii) of § 1910.179 is removed.

75. The first two sentences of paragraph (k)(2) of § 1910.179 are removed.

76. Paragraph (l)(2)(i)(f) of § 1910.179 is removed.

§ 1910.180 Crawler locomotive and truck cranes. [Amended]

77. Paragraph (h)(3)(ii)(d) of § 1910.180 is removed.

§ 1910.181 Derricks. [Amended]

78. The second sentence of paragraph (b)(2) of § 1910.181 is removed.

79. All of paragraph (d)(3)(i)(f) except the word "Hooks" is removed.

80. The second sentence of paragraph (d)(4)(iii) of § 1910.181 is removed.

81. Paragraph (i)(3)(ii)(d) of § 1910.181 is removed.

Subpart O—Machinery and Machine Guarding**§ 1910.213 Woodworking machinery requirements. [Amended]**

82. The fifth sentence of paragraph (c)(1) of § 1910.213 is removed.

83. The phrase, "and should be placed so that there is not more than 1/2-inch space between the spreader and the back of the saw when the largest saw is mounted in the machine" in the fourth sentence of paragraph (c)(2) of § 1910.213, is removed.

84. Paragraph (d)(2) of § 1910.213 is removed.

85. The fourth sentence of paragraph (h)(5) of § 1910.213 is removed.

86. The phrase, "and the top member of the guard should have at least a 2-inch clearance outside the saw and be lined with smooth material, preferably metal," in the ninth sentence of paragraph (i)(1) of § 1910.213, is removed.

87. The tenth sentence of paragraph (i)(1) of § 1910.213 is removed.

88. Paragraph (m)(2) of § 1910.213 is removed.

89. The phrase, "which should be hinged to the machines so that they can be thrown back for making adjustments," in paragraph (o)(2) of § 1910.213, is removed.

§ 1910.215 Abrasive wheel machinery. [Amended]

90. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(i) of § 1910.215 is removed.

91. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(ii) of § 1910.215, is removed.

92. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(iii) of § 1910.215, is removed.

93. The second and third sentences of paragraph (d)(5) of § 1910.215, is removed.

94. Paragraph (d)(7) of § 1910.215 is removed.

§ 1910.216 Mills and calendars in the rubber and plastics industries. [Amended]

95. The third sentence of paragraph (b)(1)(i) of § 1910.216 is removed.

96. Paragraph (b)(2) of § 1910.216 is removed.

97. The second and third sentences of paragraph (c)(2) of § 1910.216 are removed.

98. Paragraph (g) of § 1910.216 is removed.

§ 1910.218 Forging machines. [Amended]

99. The second, third and fourth sentences of paragraph (a)(3)(v) of § 1910.218 are removed.

100. The phrase, "and should not project more than 2 inches in front and 4 inches in back of ram or die," in paragraph (b)(1) of § 1910.218, is removed.

101. The phrase, "and should be conveniently located and distinctly marked for ease of identification" in paragraph (e)(1)(ii) of § 1910.218 is removed.

102. The second, third and fourth sentences of paragraph (h)(4) of § 1910.218 are removed.

103. The second and third sentences of paragraph (j)(2) of § 1910.218 are removed.

§ 1910.219 Mechanical power transmission apparatus. [Amended]

104. Paragraph (d)(2)(ii) of § 1910.219 is removed.

105. Paragraph (l)(1)(iii) of § 1910.219 is removed.

106. The second sentence of paragraph (l)(3) of § 1910.219 is removed.

107. The seventh sentence of paragraph (o)(5)(ii) of § 1910.219 is removed.

108. The second sentence of paragraph (o)(5)(iii) of § 1910.219 is removed.

109. Paragraph (p)(5)(ii) of § 1910.219 is removed.

110. Paragraph (p)(5)(iii) of § 1910.219 is removed.

111. Paragraph (p)(5)(iv) of § 1910.219 is removed.

112. Paragraph (p)(6)(iii) of § 1910.219 is removed.

113. The phrase, "and should use cans with long spouts to keep their hands out of danger," in the first sentence of paragraph (p)(7) of § 1910.219 is removed.

Subpart P—Hand and Portable Tools and Other Hand-Held Equipment**§ 1910.243 Guarding of portable powered tools. [Amended]**

114. The phrase, "and hands should be kept clear of the open barrel end," in the

second sentence of paragraph (d)(4)(iii) of § 1910.243, is removed.

115. The fourth sentence of paragraph (d)(4)(v) of § 1910.243 is removed.

§ 1910.244 Other portable tools and equipment. [Amended]

116. The second sentence of paragraph (a)(2)(v) of § 1910.244 is removed.

Subpart Q—Welding, Cutting, and Brazing**§ 1910.252 Welding, cutting, and brazing. [Amended]**

117. The fourth sentence of paragraph (a)(2)(iii)(a) of § 1910.252 is removed.

118. Paragraph (a)(3)(v)(e) of § 1910.252 is removed.

119. The second sentence of paragraph (a)(4)(iii)(e) of § 1910.252 is removed.

120. The second sentence of paragraph (a)(6)(vii)(f) of § 1910.252 is removed.

121. The first sentence of paragraph (b)(2)(iii) of § 1910.252 is removed.

122. The second sentence of paragraph (b)(2)(iv)(a) of § 1910.252 is removed.

123. The phrase, "and appropriate periodic inspections should be conducted as to ascertain that no condition of electrolysis or shock, or fire hazard exists by virtue of such use," in paragraph (b)(3)(ii)(d) of § 1910.252 is removed.

124. The first sentence of paragraph (b)(4)(ix)(c) of § 1910.252 is removed.

125. The third and fourth sentences of paragraph (d)(2)(vii) of § 1910.252 are removed.

126. The second and third sentences of paragraph (d)(2)(xv) of § 1910.252 are removed.

127. The second and third sentences of paragraph (e)(2)(i)(a) of § 1910.252 are removed.

128. Paragraph (e)(2)(ii)(f) of § 1910.252 is removed.

129. Paragraph (f)(1)(ii) of § 1910.252 is removed.

130. The second sentence of paragraph (f)(13) of § 1910.252 is removed.

Subpart R—Special Industries**§ 1910.261 Pulp, paper, and paperboard mills. [Amended]**

131. Paragraph (d)(4)(i) of § 1910.261 is removed.

132. The second sentence of paragraph (d)(4)(ii) of § 1910.261 is removed.

133. Paragraph (d)(4)(iv) of § 1910.261 is removed.

134. The second sentence of paragraph (e)(17) of § 1910.261 is removed.

135. The third sentence of paragraph (e)(18) of § 1910.261 is removed.

136. Paragraph (f)(6)(iii) of § 1910.261 is removed.

137. The phrase, "and buildings should be designed with explosion relief," in paragraph (g)(1)(iii) of § 1910.261, is removed.

138. The phrase, "and should be replaced when necessary," in the second sentence of paragraph (g)(12)(iii) of § 1910.261 is removed.

139. Paragraph (g)(14)(iv) of § 1910.261 is removed.

140. Paragraph (g)(19)(i) of § 1910.261 is removed.

141. Paragraph (g)(19)(ii) of § 1910.261 is removed.

142. The second sentence of paragraph (h)(1) of § 1910.261 is removed.

143. The second sentence of paragraph (h)(3)(v) of § 1910.261 is removed.

144. Paragraph (j)(4)(v) of § 1910.261 is removed.

145. Paragraph (k)(5) of § 1910.261 is removed.

146. The second and third sentences of paragraph (k)(18) of § 1910.261 are removed.

147. Paragraph (k)(19)(i) of § 1910.261 is removed.

148. Paragraph (k)(19)(ii) of § 1910.261 is removed.

149. The first sentence of paragraph (k)(22) of § 1910.261 is removed.

150. Paragraph (k)(26)(ii) of § 1910.261 is removed.

151. The first and third sentences of paragraph (k)(29) of § 1910.261 are removed.

152. The second sentence of paragraph (k)(30) of § 1910.261 is removed.

§ 1910.262 Textiles. [Amended]

153. The second sentence of paragraph (cc)(1) of § 1910.262 is removed.

(Secs. 6, 8, 84 Stat. 1593, 1600 (29 U.S.C. 855, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736), 29 CFR Part 1911)

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Environmental Protection Agency

Friday
February 10, 1984

Part VII

**Environmental
Protection Agency**

40 CFR Part 60

**Standards of Performance for New
Stationary Sources; Performance
Specification 4 for Continuous Monitoring
of Carbon Monoxide Emissions;
Proposed Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

(AD-FRL 2497-6)

Standards of Performance for New Stationary Sources; Appendix B: Performance Specification 4 for Continuous Monitoring of Carbon Monoxide Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The purpose of this action is to propose "Performance Specification 4—Specifications and Test Procedures for CO Continuous Emission Monitoring Systems in Stationary Sources," to be added to Appendix B of 40 CFR Part 60. The intended effect is to require all applicable sources in oil refineries as specified in Subpart J of 40 CFR Part 60 to install and operate continuous emission monitoring systems as prescribed in the specification within 1 year of the promulgation date.

DATES: *Comments.* Comments must be received on or before April 25, 1984.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by March 5, 1984, a public hearing will be held on April 10, 1984 beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by March 5, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention Docket Number A-79-03, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at the ERC Auditorium, Corner of Hwy 54 & Alexander Drive, Research Triangle Park, N.C. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Ms. Journigan, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Docket. Docket No. A-79-03, containing materials relevant to this rulemaking, is available for public

inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION: EPA promulgated standards of performance pursuant to Section 111 of the Clean Air Act, as amended, on March 8, 1974 (39 FR 9308) for new or modified petroleum refineries. To ensure proper operation and maintenance, provisions were included in the standards that require sources to install and operate carbon monoxide (CO) continuous emission monitoring systems (CEMS) on fluid catalytic cracking unit regenerators. However, affected facilities were not to become subject to these provisions until after the promulgation of performance specifications for CO CEMS.

On February 20, 1980, EPA issued an advance notice of proposed rulemaking (45 FR 11444) soliciting comments on a draft "Performance Specification 4—Specifications and Test Procedures for Carbon Monoxide Continuous Monitoring Systems in Stationary Sources." During 1979 and 1980, EPA conducted a laboratory and long-term field study of CO continuous monitoring systems and published their results in the document: Field Evaluation of Carbon Monoxide and Hydrogen Sulfide Continuous Emission Monitors at an Oil Refinery, EPA-600/4-82-054 (August 1982). This report is available through the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (Order No. PB 82-227406).

Based on the comments received and results of the field study, specifications and test procedures are proposed for continuous CO monitoring instruments. The format of proposed Performance Specification 4 follows closely that of the most recent final revisions to Performance Specification 2 (48 FR 23608 dated May 25, 1983). Several references are made in Performance Specification 4 to specific sections of Performance Specification 2.

This proposed rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change the emission standard or make it

more stringent. Rather, this proposed rulemaking will bring into effect the continuous monitoring requirements to which the affected facilities are already subject.

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

An economic impact analysis performed for sulfur dioxide monitoring at the affected fluid catalytic cracking units at petroleum refineries has shown an insignificant impact on small businesses. The impact of carbon monoxide monitoring is expected to be the same. Therefore, pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on small entities. This proposed rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.*

This proposed rulemaking is issued under the authority of Sections 111, 114, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, and 7601(a)].

Dated: February 3, 1984.
William D. Ruckelshaus,
Administrator.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc. Can surface coating tires, Incorporation by Reference, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators.

It is proposed that 40 CFR Part 60 be amended by adding Performance

Specification 4 to Appendix B as follows:

Appendix B—Performance Specifications

Performance Specification 4—Specifications and Test Procedures for Carbon Monoxide Continuous Emission Monitoring Systems in Stationary Sources

1. Applicability and Principle.

1.1 Applicability. This specification is to be used for evaluating the acceptability of carbon monoxide (CO) continuous emission monitoring systems (CEMS) at the time of or soon after installation and whenever specified in an applicable subpart of the regulations.

This specification is not designed to evaluate the installed CEMS performance over an extended period of time nor does it identify specific calibration techniques and other auxiliary procedures to assess CEMS performance. The source owner or operator, however, is responsible to calibrate, maintain, and operate the CEMS. To evaluate CEMS performance, the Administrator may require, under Section 114 of the Act, the source owner or operator to conduct CEMS performance evaluations at other times besides the initial test. See Section 60.13(c).

The definitions, installation specifications, test procedures, data reduction procedures

for determining calibration drifts (CD) and relative accuracy (RA), and reporting of Performance Specification 2 (PS 2), Sections 2, 3, 5, 6, 8, and 9 apply to this specification.

1.2 Principle. Reference method (RM), CD, and RA tests are conducted to determine that the CEMS conforms to the specification.

2. Performance and Equipment Specifications

2.1 Instrument Zero and Span. This specification is the same as Section 4.1 of PS 2.

2.2 Calibration Drift. The CEMS calibration must not drift or deviate from the reference value of the calibration gas, gas cell, or optical filter by more than 5 percent of the established span value for 6 out of 7 test days (e.g., the established span value is 1000 ppm for Subpart J affected facilities).

2.3 Relative Accuracy. The RA of the CEMS shall be no greater than 10 percent of the mean value of the RM test data in terms of the units of the emission standard or 15 percent of the applicable standard, whichever is greater.

3. Relative Accuracy Test Procedure

3.1 Sampling Strategy for RM Tests, Correlation of RM and CEMS Data, Number of RM Tests, and Calculations. These are the same as PS 2, Sections 7.1, 7.2, 7.3, and 7.5, respectively.

3.2 Reference Methods. Unless otherwise specified in an applicable subpart of the regulation, Method 10 is the reference method for this PS. A test method that does not use a

nondispersive infrared analyzer (NDIR) is being developed and evaluated to later serve as the reference method for those CEMS utilizing an NDIR. In the meantime, NDIR CEMS meeting the specifications of Method 10 are exempted from the RA tests, but not the calibration drift test.

4. Bibliography

4.1 Ferguson, B.B., R.E. Lester, and W. J. Mitchell. Field Evaluation of Carbon Monoxide and Hydrogen Sulfide Continuous Emission Monitors at an Oil Refinery. U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication No. EPA-600/4-82-054. August 1982. 100 p.

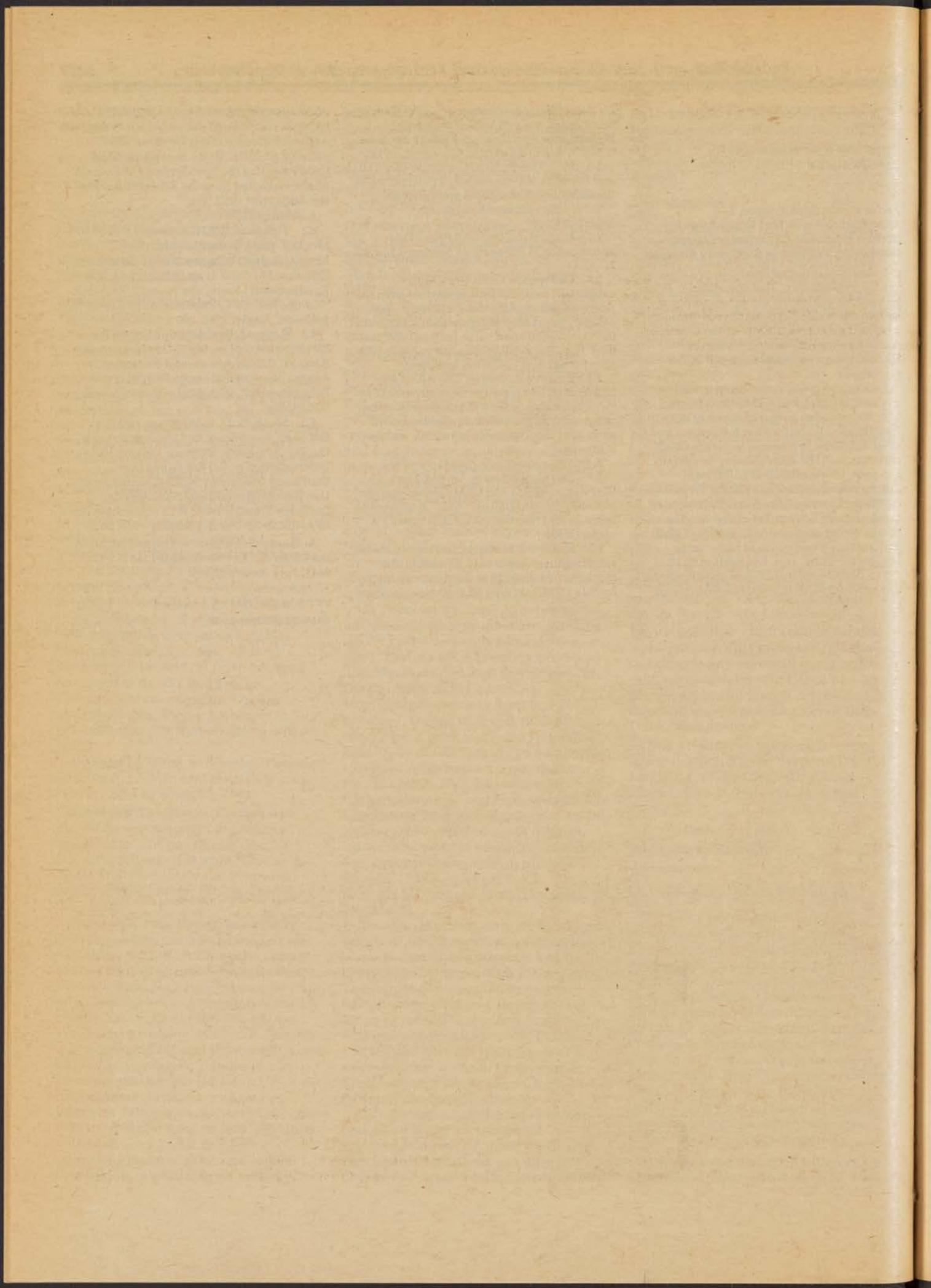
4.2 Repp, M. Evaluation of Continuous Monitors for Carbon Monoxide in Stationary Sources. U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication NO. EPA-600/2-77-063. March 1977. 155 p.

4.3 Smith, F., D. E. Wagoner, and R. P. Donovan. Guidelines for Development of a Quality Assurance Program: Volume VIII—Determination of CO Emissions from Stationary Sources by NDIR Spectrometry. U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication No. EPA-650/4-74-005-h. February 1975. 96 p.

Authority: Sections 111, 114, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, and 7601(a)].

[FR Doc. 84-3684 Filed 2-9-84; 8:45 am]

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Federal Register

Friday
February 10, 1984

Part VIII

Department of Education

34 CFR Part 682

**Guaranteed Student Loan Program;
Notice of Proposed Rulemaking**

DEPARTMENT OF EDUCATION

34 CFR Part 682

Guaranteed Student Loan Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education issues proposed regulations to govern the approval of the *Plan for Doing Business* submitted to the Department of Education by Authorities which issue tax-exempt obligations in order to secure funds to make, purchase, or provide financing for loans under the Guaranteed Student Loan and PLUS Programs. Specifically, these proposed regulations would establish general standards and procedures that Authorities must follow in submitting their Plans for Doing Business, as well as particular standards for implementing the requirement of section 438(d)(1)(G) of the Higher Education Act that no tax-exempt obligations be issued by Authorities in excess of reasonable needs for student loan credit after taking into account existing sources of credit.

DATES: Interested persons are invited to submit comments or suggestions regarding these proposed regulations on or before March 12, 1984.

ADDRESSES: Comments should be addressed to Mr. David Bayer, Guaranteed Student Loan Program, Office of Postsecondary Education, U.S. Department of Education, Room 4310, ROB-3, 400 Maryland Avenue, SW, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. David Bayer, telephone (202) 245-2475.

SUPPLEMENTARY INFORMATION:**Background**

In order to receive special allowance payments on loans acquired with tax-exempt financing, student loan Authorities must submit a Plan for Doing Business (Plan) and receive approval of the Secretary for that Plan. This requirement was imposed by Section 420(b) of the Education Amendments of 1980 (Pub. L. 96-374, October 3, 1980, 94 Stat. 1427). Section 7 of the Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98-79, August 15, 1983) expanded the list of provisions required in the Plan to include new provisions to ensure that:

The Authority will not issue obligations for amounts in excess of the reasonable needs for student loan credit within the area served by the Authority, after taking into account existing sources of student loan credit in that area.

This assurance is now found in section 438(d)(1)(G) of the Higher Education Act.

In issuing these proposed regulations the Secretary is following the intent of Congress that the Department "police the amounts of capital raised through tax exempt offerings to insure that excessive amounts beyond the reasonable needs of student credit are not being sold" (Cong. Rec. H6121, August 1, 1983). These proposed regulations would establish minimum standards and methods which provisions adopted by Authorities under their Plan for Doing Business must meet to determine the need for issuance of a tax-exempt obligation.

1. General requirements for Plans for Doing Business

These proposed regulations incorporate the basic policy of the Department that generally Authorities are to address in their own way the requirements in the statute for Plans, and that certain minimum requirements be set by the Department only where they appear necessary in light of experience.

Under the proposed regulations, Authorities are to submit Plans to the Secretary for approval. The proposed regulations specify the information needed with the submission to permit the Secretary to evaluate adequately an Authority's policies regarding implementation of the Plan. All Authorities will be given a reasonable period of time to submit amended plans to implement final regulations. To the extent that existing State law prohibits an Authority from taking action to comply with one or more provisions of those final regulations, the effective date of that provision shall be deferred for such an Authority for a reasonable interval after the adjournment of the next regular session of the State legislature which convenes after the effective date of the final regulations.

a. Authority defined. The statute does not define the word "Authority", but does require any party raising funds to make, purchase, or finance GSLP loans by tax-exempt financing to comply with the requirements now found in section 438(d). These regulations clarify what is implicit in the statute: any such entity able to borrow for GSLP acquisitions by means of obligations the income from which is exempt from taxation under the Internal Revenue Code (IRC) is included within the term Authority and is subject to the requirements imposed on them in the Act. The Secretary, therefore, has included within the regulatory definition of Authority all such entities, including any multi-purpose agency of a State or

local government if that instrumentality issues tax-exempt obligations for student loan purposes.

b. Submission and review of Plans. The statute gives the Secretary only 30 days to approve or disapprove submitted Plans. These regulations incorporate the policy that a Plan inadequately documented or incomplete in its scope as judged under these regulations is not a complete Plan, and its submission does not begin the 30 day period for approval or disapproval. That review period commences only upon the receipt of a Plan complete both in its scope and documentation. Secretarial approval of Plans submitted prior to August 15, 1983, the date of the most recent statutory change to Plan requirements, will continue in effect on loans already made or purchased, but until a modified Plan is approved, an Authority may not receive special allowance payments on loans acquired with the proceeds of any obligations issued after that date.

c. Sanctions and remedial action. These proposed regulations articulate in §§ 682.806 and 682.823 the range of remedial action available if the Secretary determines that an Authority is not in compliance with its Plan. Because each situation has its own unique circumstances, no attempt is made in these proposed regulations to tie each particular remedy to a particular act or omission. The Secretary will provide an Authority an opportunity to contest any adverse action by means of an informal hearing before a designated Department official.

2. Provisions in the Plan governing issuance of tax-exempt obligations

As noted in § 682.802, the Secretary will evaluate the adequacy of the provisions of a Plan under the requirements of Subpart H. At present, particular standards are proposed for only one statutory requirement: that limiting the issuance of tax-exempt obligations to instances in which available credit from other sources of credit in the service area of the Authority is insufficient to meet reasonable borrower need. The particular standards proposed here describe three aspects of the assessment of unmet need for student loan credit required by section 328(d)(1)(G) of the Act: the criteria or standards to be used by an Authority to estimate borrower need and credit resources available to meet that need [§§ 682.812 through 682.814], the steps to be included in any methods used to estimate that need and available resources [§ 682.815], and the procedures to be followed to

demonstrate to the Secretary that the proposed issue does not exceed the unmet need so determined [§ 682.822]. Considerations for refunding issues are similarly presented [§§ 682.820-821].

(a) *Standards for measuring unmet need.* Section 438(d)(1)(G) of the Act requires an Authority to make two assessments before it can justify the issuance of a new tax-exempt obligation: first, it must estimate the "reasonable needs for student loan credit within the area served by the Authority", and secondly, it must "take into account existing sources of student loan credit in that area." If the credit available from existing sources is less than the reasonable need for such credit, an "unmet need" exists, for which an Authority may justifiably issue a new tax-exempt obligation. The standards in these regulations propose a framework for the analysis required in the law.

The provisions proposed here are meant to ensure that these two required assessments are conducted in a realistic manner. In general, they require an Authority to "take into account" credit available from existing sources by contacting sources which can be expected to be credit resources for the period of time for which it asserts that a shortage of loans will exist. If an Authority is aware of a source outside its area which can provide credit for its lenders or borrowers, that source must be contacted and taken into account as a resource by the Authority. Furthermore, the need for additional financing for a loan-making Authority depends both on the lending policies of other lenders and the level of activity of secondary markets in its area, and conversely, the need for additional funds for a secondary market Authority depends on the amount of loans which lenders will make and hold. Both types of Authorities must, therefore, measure available credit in the same way, assessing credit available from all sources. The unencumbered assets of the Authority, or funds borrowed by the Authority itself, can also be resources which the Authority must realistically assess before issuing a new tax-exempt obligation.

(i) *Differences between arbitrage bond rules and assessments of unmet need for student loan credit.*

In proposing the standards found in these regulations for measuring unmet need, the Secretary considered and rejected several alternative approaches as inconsistent with the statutory language itself and with the congressional intent articulated in the pertinent legislative history.

The bill also requires that State direct lenders or State secondary markets who raise their capital through the sale of tax-exempt bonds must justify to the Secretary of Education in their plan of doing business that the amount of bonds issued are not in excess of the reasonable needs for student loan credit. I expect that the Secretary will begin to police the amounts of capital raised through tax-exempt bonds to insure that excessive amounts beyond the reasonable needs of student credit are not being sold. The Federal revenue foregone because of the tax-exempt status of these bonds increases the Federal deficit. This Federal cost should not be incurred beyond the level necessary to serve the legitimate educational credit needs of students.

Cong. Rec. H 6121, August 1, 1983 (Remarks of Representative Ford).

The principal alternative approach would essentially have the Secretary rely upon existing provisions of the Internal Revenue Code (IRC) and its implementing regulations limiting arbitrage with tax-exempt obligations to establish both the legal standard and the review and enforcement procedures under the new law. This alternative does not adequately address the new statutory requirement for several reasons. First, there is nothing in the language of the law or in the legislative history to suggest that Congress intended such a reliance on arbitrage rules, or that it considered obligations which exceeded "unmet need" under section 438(d)(1)(G) to necessarily violate limitations under the IRC. The language of the recent amendment does not mirror or cite the language of section 103(c), the pertinent section of the IRC or its implementing regulations. Had Congress wished merely to insert in the Higher Education Act a widely-understood requirement already in existing tax law, it could readily have referred to those tax law provisions. It is more logical to infer that by using different language, and mandating, as will be discussed here, different determinations, Congress imposed a requirement different from those arbitrage limitations.

Because the amount of any tax-exempt issue is indirectly limited by the arbitrage bond provisions of the Internal Revenue Code and regulations, some comparison of those provisions and the requirements of this new law may be useful. The purposes of the two laws are not the same, and compliance with one cannot ensure compliance with the other. Not only is the language of the two laws different, the focus and required determinations differ as well.

Treasury Department regulations permit an issuer to disregard investment earnings on proceeds of an issue that might otherwise jeopardize the tax-

exempt status of the issue, so long as the issuer endeavors to expend the proceeds with due diligence, and in fact does expend most of these proceeds within a three-year period. In other words, an Authority complies with arbitrage rules by timely spending the proceeds to make or purchase student loans, without regard to the availability of other credit, and its certifies, when it issues the obligations, that it reasonably expects to do so.

Section 438(d)(1)(G) of the Higher Education Act, on the other hand, requires an issuer to first assess the availability of credit from other sources before it issues a new obligation. To do so, it must evaluate other sources of student loan credit, not as competitors as under arbitrage considerations, but as credit-providers of first-resort. Only when, and to the extent that, those sources are insufficient to meet the reasonable needs of student loan credit, is the tax-exempt issue justified. The secretary recognizes that Authorities undertake certain analyses for purposes of compliance with arbitrage bond rules, and these proposed regulations, where possible, use definitions and procedures common to those analyses. These rules, unlike arbitrage rules, require an Authority to make a written, positive inquiry, not only of direct lenders active in the past in its area, but also of regional and national lenders and secondary markets known to be able to provide additional credit regarding their lending and purchasing plans for the period in question, and to demonstrate that credit is in fact not available from such sources to meet the full need in its area.

(b) *General considerations for issuance and use of tax-exempt borrowing.* (i) *Pre-issue approval of tax-exempt obligations.* Under these regulations, the Secretary proposes to monitor the issuance of tax-exempt obligations by reviewing the individual determination of need on which an Authority justifies the issuance of an obligation. If the Secretary finds that determination to be reasonable, he approves it and thereby assures the issuer that loans acquired with any issue justified by that determination will receive special allowance payments. The approval thus conferred on a determination of unmet need applies to any borrowings within a twelve-month period of the approval justified on the basis of that determination, whether the Authority chooses to borrow only once for that period, or several times, as might be more common under a line of credit agreement. The Secretary considers pre-issue review the most

realistic way to prevent unnecessary use of tax-exempt obligations while respecting needs of an Authority regarding such borrowings.

Prospective purchasers of a tax-exempt issue should be seriously concerned about the entitlement of loans to be acquired with that issue of special allowance payments. Pre-issue approval of the need for an obligation provides a convenient mechanism for furnishing prospective purchasers with formal governmental confirmation that this Department will definitely make such payments on those loans. Such an assurance would be expected to enhance the marketability of those issues. The alternative to pre-issue review, a post-issue audit, may tend to detract from that marketability, because it leaves that entitlement open to question. Because compliance with section 438(d)(1)(G) of the Act is a condition of entitlement to those payments, non-compliance with that section can disqualify those loans for further payments. If the Secretary were to relegate that determination of compliance to a post-issue audit, the consequences of a finding of non-compliance could jeopardize not only the financial expectations of the Authority, but those of purchasers of its issues, and in some cases, subsequent holders of those loans as well. Because of the variety of competing equities where such third-parties are involved, post-issue reviews would inevitably raise difficult enforcement questions. Moreover, any action taken by the Department, even if limited to an Authority itself, could taint the credibility of that Authority in the marketplace and make its future issues less attractive to the public.

Even if the Secretary took only prospective action in cases of noncompliance, a post-issue audit procedure would leave an Authority which did not adequately assess available credit resources an issued obligations partially in excess of the actual unmet need in a difficult position. If that over-issuance were determined in an audit conducted in the middle of the bond-use period, that Authority would have only partially performed on its loan agreements or loan purchase contracts. Loans to be made or purchased with the excess amount of proceeds could not qualify for special allowance payments. If the Authority were unable to carry those loans without that subsidy, it would be forced to renege on those commitments. Although those borrowers and lenders should be able to borrow from, or sell loans to, the underestimated credit

resource to meet the remainder of their credit needs, the Authority, by reneging on its agreements with those parties, would damage both its finances and credibility.

Pre-issue approval eliminates these difficulties by minimizing the likelihood of such adverse actions. It provides the Secretary an opportunity to assure himself that the Authority's assessment is realistic, while providing the Authority an opportunity to fully explain its determination and adjust its expectations before it fully commits itself. Moreover, this review process need not be considered a sterile, unproductive exercise; both this Department and the Authority are committed to the goal of full access to loan credit for the students in the area of the Authority, and any determination that need has been overestimated or resources underestimated should result in a more realistic focus for the Authority's loan acquisition program, as well as the recognition that needed resources are actually available. Both results can only benefit the borrowers whom both the Authority and this Department are committed to serve.

(ii) *Timing of issues of tax-exempt obligations.* An Authority issues obligations to raise funds for an unmet need expected to arise during a specific period of time. The particular period of time for which an Authority measures unmet need, and during which it proposes to spend the proceeds of the obligations, is described in these regulations as the bond-use period. Because assessments of unmet need are only predictions of future events and conditions, their credibility and reliability can be assumed to increase the closer they are made to the period they purport to describe. Therefore, the shorter the bond-use period, and the closer it is to the date of the prediction, the more reliably an Authority can make a determination of need for the period. On the other hand, an Authority which operates a secondary market program has need for a longer bond-use period to permit it to offer the extended planning and long-term purchase commitments which may well be necessary to successfully attract lenders to its services. Moreover, Authorities attempt, to the extent their resources permit, to issue their obligations when market conditions are most favorable.

The Secretary proposes to address these concerns in the regulations, first, by providing secondary market Authorities a two-year bond-use period, while restricting direct lender Authorities to a one-year period (§ 682.811(c)), and secondly, by

extending his approval of the determination of unmet need for a proposed issue to any obligation issued over a twelve-month period from the date of that approval, so long as no obligation is issued more than three months before the beginning of its bond-use period (§ 682.811(b)). An Authority could therefore issue an obligation either before its projected bond-use period, or during it, selecting the most favorable marketing time consistent with its need for funds.

(iii) *Matching tax-exempt obligations outstanding to continuing need for credit.* The need to assess the relationship between unmet need for credit and the amount of the obligation issued to meet that need is not limited to the period when the issue is being proposed, but logically extends over the life of the obligation itself. To the extent possible, the amount of the outstanding tax-exempt obligations should continue to relate to the actual need for that borrowing as that need evolves over the term of the obligation. The concern demonstrated in the law over reducing the tax revenues foregone because of the issuance of unneeded tax-exempt obligations applies equally to reducing such losses over the life of these obligations. Although the cost to the government in the form of special allowance payments declines as the loans acquired with an issue mature and are repaid, the cost to the government in lost revenues from the tax-exempt obligations which finance those loans is unrelated to the repayment status of the loans, and continues over the life of the obligations. These regulations adopt several measures to implement this concern.

The first such measure used to match the amount of an outstanding tax exempt obligation to the amount of demonstrated need is the limitation on the use of proceeds not actually needed for loan acquisitions, or for normal administrative and debt service needs. Under § 682.811(d), those proceeds of an issue which are not expended during the period for which the Authority determined them to be needed must be used promptly at the close of that period to repay, in part, the outstanding obligations from which they were derived.

The second method of ensuring a periodic reevaluation of the continuing need for an outstanding amount of tax-exempt obligations is that of limiting the term of any such obligation to ten years. This limitation, in § 682.811(a), ensures that at least at that point, an Authority will assess whether the need continues to finance with tax-exempt funds the

portfolio acquired with the obligation, or whether other resources, including repayments received on loans in that portfolio, suffice to meet that need. These considerations are specifically required if the Authority proposes to refinance that portfolio by refunding that prior issue with the proceeds of a new tax-exempt issue.

A third method of relating the amount outstanding on the tax-exempt obligations to the continuing need for credit relates to the use of loan repayments. If an Authority proposes to refinance by means of a refunding issue a portfolio acquired with any prior issue, whether taxable or tax-exempt, § 682.820(a)(1) limits the amount of need it can show to the amount of the outstanding balance on those loans. Payments on those loans by debtors or by guarantors are considered to be available to the Authority to retire a portion of the outstanding obligation, and are an available credit resource for that refinancing need. Moreover, if an Authority chooses to retain repayments rather than using them to retire outstanding obligations, those repayments are considered under § 682.813(b)(2) to be an available credit resource in the hands of the Authority and must be taken into account for any determination of need for a new issue.

(c) *Estimating borrower need for student loan credit.* The first step in any determination of the need for a new tax-exempt obligation is an estimate of the reasonably expected need for student loan credit during the period for which the obligation is proposed to raise additional loan capital. The Secretary bases the method of calculating this need in § 682.812 on several judgments. First, this Department's experience in administering the student loan program demonstrates that the number of students who will actually seek to borrow funds to meet their expected educational costs differs significantly from the number of students who theoretically have educational expenses in excess of the amounts of financial aid and family contribution they would be expected to receive. This difference between the hypothetical need to borrow and the amount of actual borrowing is in part explainable by student preference to avoid consumer debt by using other financial resources. Students who qualify for a subsidized guaranteed student loan for part of their costs may well be able to meet that part of their educational costs from their own savings or earnings, and choose not to incur the cost of borrowing funds. Family resources may exceed the amount expected as the family

contribution under this Department's rules, also eliminate any need for borrowing.

The difference between hypothetical and actual borrowing rates can also arise because expected costs, when calculated under commonly-used need measurement systems, may overstate the actual need of those borrowers who attend schools with low tuitions, and share housing or live at home. Such theoretically-eligible borrowers may in fact have no real financial pressure to borrow. This reduced need is not necessarily balanced by greater use of credit by students with high educational costs because individual borrowers are statutorily limited in the amount they can borrow, regardless of their higher need.

To arrive at a reasonable estimate of the actual need for loan credit during the bond-use period, as Authority must start with the expectation that the same proportion of its student population will, if funds are available, use loans to finance their costs during that period as in the most recent period for which its had reliable data. That proportion is described in these regulations as the utilization rate, the ratio of the unduplicated total of individuals who applied and qualified for guaranteed student loans during that period to the total postsecondary student population as measured in the Higher Education General Information Survey conducted by the National Center for Education Statistics. The latter survey does not necessarily include all those students who are eligible to receive loans under the GSLP; however, it does offer the Authority a specific and probably conservative base figure to use in this calculation. The number of qualified applicants will probably be about the same as the total number of borrowers, and can be determined from the various guarantee agencies serving the area.

In those instances in which an Authority believes that the number of actual borrowers is less than the number of qualified applicants, and that actual borrowing does not accurately reflect the need for loans, it may use a higher utilization rate if it demonstrates that had more loan capital been available, more students would have borrowed. To support this claim, it cannot rely on mere generalized observations about limits on access to higher education. While useful for some purposes, such generalities cannot furnish a reasonable basis for a claim that a specific amount borrower need has not been met, and will not be met, if past use is the standard for future need for loans. As a general rule, the Secretary proposes to

sanction adoption of a utilization rate different than that demonstrated in the recent past only in those cases in which lack of loan credit can be reasonably blamed for a student's failure to attend or continue in attendance at a school at which the student was accepted for enrollment. Two sources should be able to provide such data to the Authority: financial aid offices at area schools and the participating lenders, both of which the Authority surveys as part of its assessment of need. Other data may also support the use of a higher utilization rate, but information from these two sources offers the most credibility. Potential students who did not qualify for admission to an eligible school cannot be described as prevented from securing a loan because of a shortage of loan capital. Similarly, it is only speculation to claim that an individual who did not discuss his or her financial need with a lender or financial aid officer left school, or did not enroll at all, because of financial reasons. Furthermore, even if unmet financial need were the reason this latter group did not matriculate an Authority would have no basis for determining whether the need might have been met with other financial aid, or whether a GSLP loan was then needed and lacking resource to meet their education costs.

After determining the appropriate utilization rate, an Authority then determines the number of expected borrowers by applying this percentage to the expected postsecondary student population in its area during the bond-use period. The Secretary expects that estimates of the population, which can include classes of students eligible for student loans not counted in the HEGIS study, will be based on credible estimates from schools in the area surveyed by the Authority (§ 682.315(a)(1)). Such estimates may also be granted from State education agencies or other planning agencies.

Because most GSLP Plans are now made only if the borrower qualifies for an interest subsidy, the Secretary considers the elements of the GSLP need formula to present a reasonable formula for measuring the amount of credit needed by this pool of expected borrowers. Based on the Department's experience in administering the GSLP, the Secretary considers information on expected average educational costs, student aid, and family contributions to be available from the schools to be surveyed by the Authority. Authorities may rely upon the estimates provided by schools, subject to two limitations. First, the methodology adopted by an Authority to evaluate estimates

provided by schools must incorporate a corrective check to identify and appropriately modify estimates from sources which have proven to be significantly inaccurate in the past. Secondly, estimates of costs, financial aid, and family contributions must not exceed parameters set by the Secretary by formal notice.

(d) *Estimating available credit resources.* (i) *Credit available from direct lenders.* Any need for student loan credit is ultimately a need for consumer credit extended to individual borrowers. The regulatory analysis of available credit starts, therefore, with a determination under § 682.813(a) of the amount of credit to be provided by lenders directly to students or parents in the form of GSLP and PLUS Program loans. If lenders extending credit in the service area of an Authority can be expected to make the volume of loans which students are reasonably likely to seek, there is no loan shortage in that area, and no unmet need for student loan credit. Under § 682.814(b)(1), therefore, an Authority is to contact sources which have provided a substantial volume of student loans in the recent past, and a representative sample of other active lenders, to solicit from them projections of their lending plans for the bond use period. That projection must under, § 682.813(a), exclude the effect, if any, of expected sales to secondary markets. An Authority must also contact other substantial credit sources brought to its attention by the Department which might be able and willing to provide student loans in its area, and solicit this same information from them.

The inquiry made by an Authority does not call for a commitment from the lender, but merely an estimate, as of the date of its response, of its expected loan volume. In evaluating responses to these inquiries, the Secretary intends that an Authority accept lender representations regarding a specific volume of loans it intends to make, unless the Authority has a substantial ground for discounting that projection. Ordinarily, the only reasonable ground would be repeated failure by that lender to meet past projections of lending volume.

Lenders may not always be fully responsive to such inquiries, and in such instances, the Secretary believes that the actual lending performance of such lenders offers the most reliable and readily-obtained basis for predicting their future behavior. Under § 682.814(f)(1), an Authority is to consider such lenders as willing and able to extend about the same amount of loans as in the most recent year for

which the Authority has data. However, if the loan volume in that area has changed over the past three years, it is reasonable to assume that any trend evident over these three years will continue through the bond-use period, and that a non-responding lender will mirror that trend. An Authority need not assume that a particular lender which provide no specific projection will increase its volume to the same degree as it may have in the past years. The regulation assumes that the net result of the actions of individual lenders which do not provide specific projections through the bond-use period is reasonably measured if the Authority imputes to them the general rate of change common to the area.

In the past, some Authorities have sought to demonstrate that a need for loan capital would exist in their areas in the future merely because lenders were unwilling to assure them that they would continue to lend at their current levels, perhaps in the belief that such a statement would be taken as a commitment to lend that amount. The Secretary does not consider generalized fears that lending would be reduced if market conditions were to change in unspecified ways in the future to be a reasonable basis for establishing a need for a specific amount of new loan capital. Such fears can always be sincerely advanced by those lenders, but offer no solid basis on which to make a reasonable estimate of the credit they will provide during a specific short period in the relatively near future. On the contrary, the Secretary believes that a lender which actually intends to curtail its lending is willing and able to describe that curtailment in its plans. An Authority cannot disregard that credit which will in all likelihood be provided by those lenders which have no present plans to curtail their lending; using the historical performance levels of such lenders, modified to reflect trends evident in the area, appears to be the most reasonable method of assessing the amount they are likely to lend.

(ii) *Credit available from the Authority.* The statute directs an Authority to assess the amount of credit available from existing sources, and the Authority itself can obviously be an existing source of credit. An Authority may have substantial amounts of loan acquisition funds available, and under § 682.813(b) those funds must also be counted as a resource for the bond-use period. Because the Authority in the first stage of the analysis measures only the net amount of loans which would be made by direct lenders and not those committed to be sold to the Authority,

the Authority includes in this stage of the analysis the full amount of the unexpended proceeds of any prior issue less any required reserve fund. The Secretary recognizes that in some instances Authorities may also have liquid assets available in the bond-use period which no statute, regulation, or contractual provisions restricts it from using for loan purposes during that period. For new issues, those assets would not include the Authority's student loan portfolio, but would include accumulated investments, repayments held on loans acquired by the Authority, appropriated funds, grants and donations.

(iii) *Credit available from secondary markets other than the Authority.*

Estimating credit available from other secondary markets in a responsible manner poses a number of problems, and therefore, § 682.813(c) divides that field into three categories of available credit. Based in part on past representations regarding use of sale proceeds by lenders, the regulation directs the Authority to consider funds provided to lenders as proceeds of loan sales to secondary markets as funds available in that same period for loans to individual borrowers. Therefore, for purposes of this analysis, the Authority is to disregard the year in which loans were made, and count only the period during which they will be sold.

The first and most easily-measured category of such credit consists of the amount of loans which secondary markets are already committed to purchase under contracts executed as of the date of the Authority conducts its survey. Credit may also be offered or expected to be made available from secondary markets which have not yet executed loan purchase contracts for specific amounts of loans. Credit from these sources, while theoretically available, may not actually reach the consumer because lenders may not wish to sell loans on the terms offered by that secondary market. These regulations, therefore, adopt a conservative approach to measuring the amount of loan credit that will be generated from purchases by such secondary markets, particularly where a secondary market offers to make substantially more purchases than it did in the recent past. For this, the second category of credit available from secondary markets, where the amount of credit announced differs from past amounts, the Secretary considers two conditions essential to a reasonable expectation that such amounts of credit theoretically available will actually result in those loan sales needed to place this capital in the hands

of lenders. First, the credit must be available at the same price as that generally charged for loan purchases, and secondly, the credit must be available under an offer which can be relied upon through the bond-use period.

Section 682.813(c)(2) embodies these conditions; under that section, credit is considered available from a secondary market at a market rate if the secondary market offers to purchase loans from lenders in that area at par or at a discount not exceeding one percent. Offers to purchase at a premium do not appear to be responsible or needed, and such premiums are to be disregarded in this comparison with generally-available purchase terms.

Before such credit can be realistically expected to reach the consumer, it must also be offered in such a manner that lenders can rely upon the offer and make their lending plans based on confidence that the offer will not be withdrawn. The Secretary considers this need for reliance realistically met if, as described in § 682.813(c)(2), a secondary market makes the offer to purchase publicly, communicates that offer to lenders in the service area, and publicly offers to execute with any lender which desires to do so a written contract to purchase its loans on the announced terms. Such an offer should provide lenders with a legally-enforceable means of safeguarding their reliance on the availability of that credit.

Third, it is reasonable to expect that a secondary market which has not made the offer described here will nevertheless acquire some amount of loans in the bond-use period if it did so in the past year. If lenders sold loans in the past to such a secondary market, some of these can be expected to continue to do so. The Secretary considers the recent history of loan purchases by such a credit source to be the most easily-measured predictor of the amount of such purchases to be expected during the bond-use period, with appropriate adjustments made to reflect increased or reduced activity by that particular source in the recent past.

A significant feature of the assessment of credit available from secondary market sources under these regulations is the requirement that an Authority consider the Student Loan Marketing Association (SLMA) as a resource for such secondary market credit available in any service area, without regard to limitations on its ability to purchase guaranteed loans in that area arising from local regulation. Such limitations can be direct, such as excluding loans sold to SLMA from coverage under a State guarantee program, or indirect, such as requiring

an in-State loan servicing commitment as a condition for coverage under the guarantee program.

This treatment of SLMA under § 682.813(b) is quite different from the treatment of other out-of-State lenders implicit under § 682.813(a). States are obviously free to impose restrictions on the credit operations of both their own lenders and those incorporated outside their borders, and the Secretary recognizes that credit is not acutely available from a credit source which cannot operate in a State because of local regulation prohibiting extensions of credit by out-of-State lenders, or by similar restrictions indirectly imposed by excluding such lenders from the benefits of the State's loan guarantee program. In determining the amount of credit available from a direct lender which may be identified to the Authority by the Secretary under § 682.815(b)(3), the Secretary expects an Authority to consider only that credit available from lenders which are free to operate in that service area. SLMA, however, is the Congressionally-chartered secondary market, specifically empowered to conduct business in any State. It therefore occupies a status different from that of an out-of-State lender. It remains the prerogative of a State or guarantee agency to decide that it does not need the additional credit SLMA was established to provide, and to directly or indirectly bar access to this resource. However, it is completely inconsistent with such a choice for an Authority, which is either an instrumentality of the State which chooses not to use SLMA, or operates at the invitation of such a State, to claim that an unmet need exists there for additional loan credit which might have been obtained from SLMA. The Secretary, therefore, proposes to give due regard for the Congressional intent that SLMA be available as a resource in each State by requiring an Authority to treat SLMA, for purposes of this analysis of need only, as an available resource. This plainly requires such an Authority to secure a representation from SLMA of the amount of credit it would make available if there were no local limitations on its ability to acquire or hold loans in that State, and to include in the manner described in § 682.813(c), the amount that SLMA would be willing to offer in the total of credit available in that service area.

(iv) *Credit available from proceeds of taxable borrowings.* The Secretary has recently learned of increased interest among commercial lenders in extending credit directly to student loan Authorities by means of taxable obligations. Because Authorities would

qualify for full special allowance payments on loans made or purchased with the proceeds of a taxable obligation, Authorities which can arrange to borrow by taxable obligations will receive increased revenues to meet the higher cost of those advances. The Department has received approval from the Internal Revenue Service for one method of arranging such transactions in order to render the obligations taxable, and several such taxable financing agreements have been reached using that approach. The regulations therefore require in § 682.813(d) that an Authority determine whether such credit is reasonably available as a resource to meet the need it identifies. The regulations recognize SLMA as the body Congressionally-chartered not only to act as a secondary market, but also to provide advances for the making or purchasing of student loans. Obviously an Authority may secure such a taxable advance from any credit source it chooses, and the Secretary encourages Authorities to explore alternative sources of such funds. In light of SLMA's national role, however, the Secretary considers it reasonable to consider such credit generally available on the terms offered by SLMA. In addition, the Authority is required, under § 682.815(c), to approach at least two other lenders to determine the specific terms on which they would extend such credit.

Whether such taxable credit is reasonably available also depends on the other costs of doing business incurred by the Authority. Under § 682.813(d) an Authority which asserts that it cannot meet both the costs of taxable credit and its reasonable operating and servicing costs is required to show that the latter costs are reasonable. The Secretary recognizes that the cost principles contained in Appendix C to 34 CFR Part 74 are not precisely applicable to analysis of the propriety of costs incurred by an Authority because such costs are not charged to a Federal grant or contract. However, those principles offer some guidance as to the reasonableness of including different categories of costs as legitimate expenses of the loan acquisition program of an Authority. These principles are not intended to be applied directly, however; no approval from a grantor agency is needed to incur costs such as automatic data processing expense, listed in Part II, Subpart C of Appendix C, and several of the excluded costs listed under Subpart D, such as interest expenses, bad debts and contingencies, are plainly reasonable

administrative expenses for an Authority, if not for a grantee.

(e) *Unmet need for tax exempt obligation; Special access credit programs.* Under normal circumstances, the unmet need for which an Authority may issue a new tax-exempt issue is simply the amount by which estimated need exceeds estimated resources. However, Authorities have asserted that in some cases particular types of borrowers will not receive loans because of restrictions imposed by lenders in the area on loans to such individuals. These restrictions may be direct, such as refusals to lend to freshmen, to proprietary school students, to borrowers who do not have a customer relationship with the lender, or to borrowers who do not reside in the area. Lenders might also choose to make loans only to those borrowers who qualify for larger amounts of credit, and may exclude smaller loans. Such restrictions may also be indirect: a lender willing to extend some credit to such classes of borrowers may refuse to make additional loans to those borrowers because it wishes to, but cannot, sell such loans to a secondary market. The Secretary therefore provides, in § 682.814(b), an opportunity for an Authority which proposes to target its lending or loan purchase activities to such categories of borrowers to show that a specific need exists for these groups.

To show that such a "Special access" need exists, an Authority must first perform the analysis of available credit resources required under § 682.813, and then demonstrate that credit estimated to be available will not generate loans for certain of the borrowers included in the estimated number of borrowers. To show this deficiency, it must demonstrate that prevalent lender limitations restrict the number of loans available for those groups, and that secondary markets contribute to the restriction on credit to those groups by limiting or excluding purchases of loans which might be made to those borrowers. Furthermore, the Authority must show that it cannot generate sufficient loans for these borrowers from its own available resources, including taxable borrowings. Lastly, an Authority which proposes to raise funds for these targeted groups must, under § 682.822(a)(2)(v), certify to the Secretary that the proceeds will in fact be spent on the targeted group, and must provide a specific plan of action describing the manner in which it proposes to use those proceeds for this purpose.

(f) *Refunding issues.* Much of the recurring need for borrowing by Authorities arises because of their need or desire to retire existing obligations, either because they can secure a more favorable interest rate, or because the obligations have matured. A refunding issue may also be used not merely to retire a prior issue, but also to raise new capital, or to continue to make available capital already raised and not yet spent on student loans. Because existing sources of student loan credit may suffice to meet each of these needs, an Authority must consider such resources, and determine whether these resources can meet these needs, when it proposes a tax-exempt refunding issue.

For purposes of this analysis, the proceeds of refunding issues are divided under § 682.820 into two parts: that portion corresponding to the amount outstanding on the loans acquired with the issue to be retired, and the remaining amount.

The portion of the refunding issue equal to the outstanding balances of the loans acquired with the prior obligation represents the face value of that loan portfolio. To determine whether a need exists for tax-exempt financing to refinance that portfolio, an Authority must "take into account" existing sources of credit available for that purpose. If an Authority can sell all or part of that portfolio without significant loss, then existing sources of credit suffice to meet its need to retire the corresponding portion of the prior issue. The Secretary considers an unmet need to exist for refinancing capital only if an Authority cannot sell these loans except at a discount greater than the one percent it is permitted, by statute, to charge its lenders.

If an Authority can sell a portion of its portfolio to secure funds to meet this refunding need, no unmet need exists for that portion of the proposed issue, and the issuance of a tax-exempt refunding obligation for that amount violates the requirements of the approved Plan of the Authority, and may constitute grounds for such remedial action under § 682.806 as may be warranted on the facts of the particular case.

The remainder of the proceeds of the refunding consists of either new capital or proceeds of the prior issue available but not yet spent on student loans. If an Authority proposes to make such loan acquisition funds available by means of a tax-exempt refunding issue, it must demonstrate that other sources of credit cannot meet the same need. Under §§ 682.820(a)(2)(ii) and 682.821(a), an Authority must assess need for this portion of the refunding issue in exactly

the same manner as that required for new issues.

Finality of Administrative Decisions Under This Subpart H

Section 438 of the Higher Education Act describes the holder of an eligible loan as having a "contractual right against the United States during the life of such loan, to receive the special allowance according to the provisions of this section." 20 U.S.C. 1087-1(b)(3). By describing the relationship between the holder of the loan and the United States as contractual, this language may suggest that judicial review under some standard other than that provided under the Administrative Procedure Act was meant to apply to judicial review of decisions under this Subpart. The Secretary therefore includes in these regulations a finality clause as a term of this contract between the Authority and those taking from or acting on behalf of the Authority, and the United States. Inclusion of such a clause in a contract with the United States brings judicial review of decisions arising under that contract within the provisions of the Wunderlich Act, 41 U.S.C. 321-322, which provides for substantially the same standards of review as those found in section 706 of the Administrative Procedure Act. The Secretary believes that this addition to the regulations clarifies the standard that would ordinarily be expected to apply to his decisions, and precludes application of a *de novo* review standard.

Executive Order 12291

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

Regulatory Flexibility Act

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations affect only State and private non-profit agencies and merely simplify and clarify provisions in the statute.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 30th day after publication of this

document will be considered before the Secretary reissues final regulations.

All comments submitted in response to these regulations will be available for public inspection, during and after the comment period, in Room 4310, ROB-3, 400 Maryland Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Paperwork Reduction Act

The information collection requirements in these proposed regulations will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Comments concerning information collection requirements only should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education. All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Assessment of Educational Impact

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

List of Subjects in 34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Loan programs—education, Student aid, Vocational education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the

line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number: Guaranteed Student Loan Program, and Plus Program, 84032)

Dated: February 8, 1984.

T. H. Bell,

Secretary of Education.

PART 682—[AMENDED]

The Secretary proposes to amend Part 682 of Title 34 of the Code of Federal Regulations as follows:

1. A new subpart H is added as follows:

Subpart H—Special Allowance Payments on Loans Made or Purchased With Proceeds of Tax-Exempt Obligations

- Sec.
- 682.800 General.
 - 682.801 Definitions applicable to Subpart H.
 - 682.802 Provisions required in Plan.
 - 682.803 Submission of Plan for approval—required documentation.
 - 682.804 Amendments to Plan.
 - 682.805 Approval of Plan.
 - 682.806 Failure to comply with Plan.
 - 682.807–682.809 [Reserved]
 - 682.810 Standards for provisions of Plan for Doing Business—need for proposed tax-exempt obligation.
 - 682.811 Term, timing, and advance repayment of tax-exempt obligations.
 - 682.812 Estimating need for student loan credit.
 - 682.813 Estimating resources available for student loan credit.
 - 682.814 Unmet need.
 - 682.815 Methodology for measuring unmet need—new issues.
 - 682.816–682.819 [Reserved]
 - 682.820 Unmet need—refunding issues.
 - 682.821 Methods for measuring unmet need—refunding issues.
 - 682.822 Procedures for approval of determination of need for tax-exempt obligation.
 - 682.823 Sanctions for material misrepresentation regarding unmet need.

§ 682.800 General.

An Authority which issues tax-exempt obligations in order to make or acquire loans under the Guaranteed Student Loan or PLUS programs, or to advance funds to another entity for those purposes, shall submit a Plan for Doing Business (Plan) to the Secretary. In order for the Authority, or the recipient of those funds from the Authority, to receive special allowance payments on those loans, the Secretary must approve the Plan. This subpart lists the requirements which must be addressed in the Plan, the procedures for its submission, and the documentation required with the Plan. The Plan must also include provisions which meet the standards established in this subpart.

(20 U.S.C. 1082, 1087–1)

§ 682.801 Definitions applicable to subpart H.

The definitions contained in § 682.200 apply as well to this subpart. In addition, the following definitions apply to this subpart:

Authority means any entity, public or private non-profit, which may issue tax-exempt obligations in order to obtain funds to be used for the making or purchasing of GSL or PLUS loans. The term "Authority" includes any agency, including a State postsecondary institution, or any other instrumentality of a State or local governmental unit, regardless of the designation or primary purpose of that agency, which may issue tax-exempt obligations. The term also includes any party authorized to issue such obligations on behalf of a governmental agency, and any non-profit organization which issues qualified scholarship funding bonds under 26 U.S.C. 103(e).

Bond-use period of an issue means the period in which the proceeds of the obligation or obligations comprising the issue will be used to make or purchase student loans.

Issuing expense means the costs of issuing the obligation, including survey costs, advertising and printing costs, fees of financial advisors and counsel, initial fees of trustees, paying agents, certifying or authenticating agents, and similar expenses.

Loan or student loan means any loan made under the GSL or PLUS programs.

Obligation means any interest-bearing debt incurred by an Authority pursuant to its borrowing powers. As used in this subpart, this term means only an obligation issued to acquire funds for financing or refinancing the making or purchasing of student loans.

Proceeds means that term as used in 26 CFR 1.103–13(b)(2).

Qualified applicant for a loan means an individual who has applied for a loan and has been determined to qualify for a loan which is eligible for a special allowance payment by the school which completes the loan application.

Refunding issue means one described in 26 CFR 1.103–14(e)(2).

Service area means the geographic area in which the Authority may do business under the Plan.

Source of student loan credit means a party which may make or purchase student loans, or provide funds to be used for those purposes.

Spendable proceeds is used as defined in 26 CFR 1.103–14(b)(2)(iii).

Tax-exempt obligation means any obligation, the income from which is

exempt from taxation under the Internal Revenue Code of 1954.

Utilization rate means the ratio of qualified applicants for loans in the service area of the Authority to the total postsecondary study enrollment in that area as measured in the Higher Education General Information Survey (HEGIS) conducted by the National Center for Education Statistics (NCES). (20 U.S.C. 1082, 1087-1)

§ 682.802 Provisions required in Plan.

(a) Each Plan submitted for the approval of the Secretary must contain provisions necessary to ensure that:

(1) If an Authority acts as a secondary market for student loans, it shall exclude no eligible lender in the service area from participation in this program, and shall permit all eligible lenders to participate in this program on the same terms and conditions;

(2) No director, officer, or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation of any kind from, any agency or organization that would contract to service and collect the loans in which the Authority has a legal or equitable interest;

(3) The Authority shall not purchase student loans at a premium or discount amounting to more than one percent of the unpaid principal amount borrowed plus interest accrued to the date of acquisition;

(4) The Authority shall, within the limit of funds available and subject to the applicable State and Federal law, make loans to, or purchase loans made to, all eligible borrowers who are residents of, or who seek loans for a student to attend a school within, the service area of the Authority;

(5) The Authority has a plan under which the Authority shall pursue both the development of new lender participation in a continuing program of benefits to students and the maintenance of existing lender commitments to the program;

(6) The Authority shall secure an annual audit of its transactions by a certified public accounting firm which will include a review according to standards established by the Secretary of its compliance with the provisions of its Plan. Until such time as the Secretary has issued an audit guide for the conduct of such audit, the audit may be performed according to standards adopted by the Authority in its Plan; and

(7) The Authority will not issue tax-exempt obligations for amounts in excess of the unmet need determined according to this subpart for student loan credit.

(b) The Secretary approves the Plan if it is submitted in the manner described in § 682.803, includes provisions needed to implement the requirements in this section and meets the standards set forth in this subpart.

(20 U.S.C. 1082, 1087-1)

§ 682.803 Submission of Plan for approval—required documentation.

An Authority shall submit with, or include in, each Plan submitted for the approval of the Secretary the following:

(a) If the Authority is a secondary market, a description of the procedures used to inform eligible lenders of the program of the Authority, samples of announcements to lenders regarding the Program, and a listing of the types of lenders and numbers of each type so informed;

(b) A sample of the form signed by all directors, officers and staff of the Authority who receive compensation from the Authority certifying that these persons do not own stock in or receive compensation of any kind from any agency or organization that would contract to service and collect loans in which the Authority has a legal or equitable interest, and a list of the persons who have signed the form;

(c) A schedule of the amount of loan transfer fees paid or to be paid by the Authority to parties from whom it purchases loans;

(d) A copy of any Federal or State law which the Authority believes limits its ability to make a purchase loans made to any eligible borrowers who are residents of, or who obtained loans for a student to attend a school located within, its service area;

(e) A copy of the plan under which the Authority pursues both the development of new lender participation in a continuing program of benefits to students under both the GSL and PLUS programs and the maintenance of existing lender commitments to the program;

(f) A copy of the most recent independent audit of the Authority.

(g) A copy of any survey instrument or written inquiry form to be used to solicit from schools, lenders, and secondary markets information from which the Authority measures unmet need for student loan credit; and

(h) A certification that the Authority is in compliance with section 438(d)(2) of the Act (regarding patterns or practices resulting in denial of access to student loan credit for certain borrowers).

(20 U.S.C. 1082, 1087-1)

§ 682.804 Amendments to Plan.

(a) An Authority shall submit to the Secretary amendments to the Plan or

such documentation as may be needed to reflect accurately the policy and practice of the Authority within 30 days of the date that—

(1) An Authority amends any provision of a Plan which had previously been approved by the Secretary; or

(2) Any documentation or representation submitted pursuant to § 682.803 has been revised or rendered inaccurate in any material aspect.

(b) An Authority shall promptly amend its Plan to comply with changes in applicable statutes and regulations.

(20 U.S.C. 1082, 1087-1)

§ 682.805 Approval of Plan.

(a) The Secretary approves or disapproves the Plan within 30 days after receipt of a complete Plan.

(b) If the information or documentation submitted in or with a Plan is not complete, the Secretary indicates why the Plan is incomplete and returns the Plan to the Authority for revisions or more information as appropriate.

(20 U.S.C. 1082, 1087-1)

§ 682.806 Failure to comply with Plan.

(a) If the Secretary finds that an Authority has failed to comply with any requirement of its Plan or with applicable Federal law or regulations, the Secretary takes actions necessary to protect the interests of the United States. These actions may include the following:

(1) Suspending or revoking approval of the Plan;

(2) Determining that loans made or purchased by the Authority after the date of suspension or revocation are ineligible for payments of special allowances; or

(3) Requiring reimbursement of special allowances paid on loans made or purchased by the Authority.

(b) The Secretary's decision to require repayment of funds by an Authority, to withhold payments of special allowance, or to suspend or revoke approval of a Plan does not become final until the Secretary provides the Authority with written notice of the intended action and an opportunity to be heard thereon. However, the Secretary may withhold payments or suspend approval of the Plan prior to giving notice and opportunity to be heard if the Secretary finds such emergency action necessary to prevent substantial harm to Federal interests.

(c) Once final, the Secretary's decision to require repayment of funds or to take other remedial action against an Authority under this section is

conclusive and binding on the Authority and subsequent holders of its loans.

(2 U.S.C. 1082, 1087-1)

Note.—A decision by the Secretary under this section is currently subject to judicial review under 5 U.S.C. 706 and 41 U.S.C. 321-322.)

§ 682.807-682.809 [Reserved]

§ 682.810 Standards for provisions of Plans for Doing Business—need for proposed tax-exempt obligation.

To implement the requirements of § 682.802(a)(7), an Authority shall adopt provisions to determine, according to the standards, methodology, and procedures prescribed in §§ 682.811 through 682.822, that the amount of the spendable proceeds of any proposed tax-exempt obligation does not exceed the unmet need for student loan credit in its service area during the bond-use period of that issue. To make the determination, the Authority shall first estimate the need for student loan credit in its service area according to the standards described in §§ 682.811 and 682.812, or, in the case of a refunding issue, in §§ 682.820. The Authority shall then identify the credit resources available to meet that need, and estimate the amount of credit available from those resources, according to the standards described in §§ 682.813. That portion of the estimated need which exceeds the credit available from these resources is the unmet need, as described in §§ 682.14 and 682.820. The Authority shall include in its Plan provisions to measure these elements which meet the methodology requirements in §§ 682.815 and 682.821. For each particular tax-exempt obligation, the Authority shall demonstrate to the Secretary its compliance with these requirements in the manner described in § 682.822

(20 U.S.C. 1082, 1087-1)

§ 682.811 Term, timing, and advance repayment of tax-exempt obligations.

(a) *Term of obligation:* An Authority shall issue no tax-exempt obligation with a term in excess of ten years in order to obtain funds—

(1) To make or purchase student loans, or provide funds to another for the making or purchasing of student loans;

(2) To retire an obligation issued to obtain funds for these purposes; or

(3) To retire an obligation issued to retire a prior retirement issue.

(b) *Time of issuance:* An Authority shall issue no tax-exempt obligation—

(1) Earlier than three months before the bond-use period commences, or

(2) Later than one year after the Secretary approves the determination of need for the obligation under § 682.822.

(c) *Bond-period:* (1) An Authority shall issue no tax-exempt obligation for which the bond-use period exceeds

(i) One year, if the proceeds are to be used to make loans, or

(ii) Two years, if the proceeds are to be used to purchase loans.

(2) An Authority shall use proceeds of a refunding issue promptly to retire the prior obligation.

(d) *Advance repayment with unexpended proceeds:*

At the close of the bond-use period of an issue, an Authority shall promptly repay obligations comprising that issue with all proceeds of that issue not expended in the bond-use period for the purposes in paragraph (a) of this section, except—

(1) Proceeds included in a reasonably required reserve or replacement fund, as described in 26 CFR 1.103-14(d); and

(2) Five percent of the original proceeds of the issue, as defined in 26 CFR 1.103-13(b)(2)(i).

§ 682.812 Estimating need for student loan credit.

An Authority shall estimate the reasonable need for student loans in its service area in the following manner:

(a) Establish the utilization rate for its service area for the bond-use period. This rate shall be—

(1) The utilization rate in the most recent twelve-month period for which data is available, or

(2) Such higher utilization rate as may be approved by the Secretary if an Authority demonstrates by credible evidence that a significant number of individuals were unable to attend, or to continue in attendance at, schools at which they were accepted for enrollment, because of inability to secure a student loan.

(b) Multiply the postsecondary student population in its service area during the bond-use period by the utilization rate established under paragraph (a);

(c) Multiply the number derived in paragraph (b) by the estimated cost of attendance of these students during the bond-use period; and

(d) Subtract from the product derived in paragraph (c) the total estimated financial assistance and total estimated expected family contributions for these students during the bond-use period.

(20 U.S.C. 1082, 1087-1)

§ 682.813 Estimating resources available for student loan credit.

An Authority shall estimate the amount of credit available from the

following resources for student loan credit in its service area during the bond-use period:

(a) *Credit available from direct lenders.* An Authority shall estimate the total amount of new credit expected to be made available in its service area to students by direct lenders without regard to expected purchases of loans by secondary markets. To do so, an Authority shall deduct from the total amount of loans expected to be made by such lenders (excluding any loans to be made by the Authority from proceeds of prior issues) the total amount of loans expected to be sold by those lenders to all secondary markets (including the Authority).

(b) *Credit available from an Authority.* An Authority shall include as an available resource the estimated amount, as of the beginning of the bond-use period, of—

(1) any unexpended proceeds of prior issues less amounts which are part of a reasonably required reserve or replacement fund, as described in 26 CFR 1.103-14(d),

(2) any repayments on loans held by the Authority, and

(3) any other liquid assets of the Authority to the extent that no statutory, regulatory, or contractual provision bars their use during the bond-use period for student loan credit.

(c) *Credit available from secondary markets other than the Authority.* An Authority shall estimate the total amount of credit expected to be made available in its service area from secondary market sources. In making this estimate, an Authority shall consider the Student Loan Marketing Association to be an available resource without regard to any limitations imposed on its operations by the State in which the Authority does business or by a guarantee agency which guarantees student loans in its service area. The Authority shall include in this estimate of available credit the following amounts:

(1) The amount of loans committed to be sold to secondary markets during the bond-use period pursuant to executed loan purchase contracts of any kind, other than those to be funded by proceeds of the proposed tax-exempt obligations;

(2) The amount of loans, excluding those counted under paragraph (c)(1) of this section, that a secondary market offers to purchase by means of a formal, binding public offer. For purposes of this paragraph, a secondary market makes a formal, binding public offer to purchase to the extent that the secondary market:

(i) Publicly offers to purchase loans either at the par value of the loans or at a discount rate not exceeding one percent;

(ii) Communicates this offer to lenders in the service area, and

(iii) Publicly offers to execute a formal contract for such a purchase at the request of any lender in the service area; and

(3) The amount of loans excluding those included in paragraph (c)(1) expected to be purchased by a secondary market which has not made the public offer described in paragraph (c)(2) of this section. The Authority estimates this amount by projecting an amount of purchases during the bond-use period equal to the amount of loans purchased by that secondary market from lenders in the service area of the Authority during the most recent twelve-month period immediately preceding the date of the proposed issue for which data is available, increased or decreased by the average rate of change in that amount over the preceding three years, and reduced by those amounts included in paragraph (c)(1). For purposes of this paragraph, the average rate of change is determined by—

(i) Subtracting the sum of loan amounts purchased in the second year preceding the most recent year for which data is available from the sum of loan amounts purchased in the most recent year for which data is available and dividing that difference by three;

(ii) Adding the sums of loan amounts purchased in the most recent year for which data is available and the two preceding years and dividing that total by three; and

(iii) Dividing the average amount of change derived in subdivision (A) by the average amount purchased derived in subdivision (B).

(d) *Credit available to the Authority by means of taxable obligations.*

(1) An Authority shall estimate the amount of any funds reasonably available to the Authority from the Student Loan Marketing Association or other sources by means of taxable obligations. Credit is reasonably available by means of taxable obligations from such sources if in light of reasonable servicing and administrative costs to be incurred by the Authority in implementing its program, the Authority can meet the terms on which such credit can generally be obtained.

(2) For purposes of this paragraph,

(i) The terms on which credit can generally be obtained are those terms on which amounts of credit similar to that available from the proposed tax-exempt obligation is available from the Student

Loan Marketing Association, or if more favorable, from either of at least two lenders of the Authority's own choosing;

(ii) Servicing costs are deemed to be reasonable if

(A) they are incurred under a contract awarded through competitive bidding, or

(B) if not the result of a competitively-bid contract, they do not exceed the costs incurred under servicing contracts awarded through competitive bidding by Authorities operating similar programs; and

(iii) Administrative costs are reasonable to the extent that they do not exceed in kind or amount those incurred generally by similar Authorities and other non-profit organizations or State or local government instrumentalities receiving federal financial assistance. In considering whether such costs are reasonable, the Secretary is guided by the cost principles contained in Appendix C to 34 CFR Part 74 governing the charging of costs to Federal grants and contracts.

(20 U.S.C. 1082, 1087-1)

§ 682.814 Unmet need.

(a) Subject to paragraph (b), the amount of unmet need for student loan credit in the service area of the Authority is equal to that portion of the need for student loan credit estimated pursuant to § 682.812 which exceeds the amounts of available credit estimated under § 682.813.

(b) *Special access credit programs* (1) In addition to or in lieu of any unmet need determined under paragraph (a) of this section, an additional amount of unmet need exists if credit otherwise estimated to be available under § 682.813 will not be extended as loans to or for the benefit of particular classes of students because of prevalent lender limitations based on the school they attend, their place of residence, their academic year or course of study, or the amount they wish to borrow. The amount of such unmet need is that amount of loans estimated in accordance with § 682.812 which the Authority demonstrates will not be made because of those limitations.

(20 U.S.C. 1082, 1087-1)

§ 682.815 Methodology for measuring unmet need—new issues.

An Authority shall include the steps in this section in the methods used to estimate the reasonable need for student loan credit and the amount of resources available to meet that need.

(a) (1) *Survey of need for student loan credit.* To measure the reasonable need for student loan credit during the bond-use period, the Authority shall survey the schools and lenders in its service

area to secure information regarding the expected number of qualified applicants for loans, their estimated costs of attendance, expected family contributions, and estimated financial assistance during the bond-use period.

(2) Using the results of that survey and the standards in this subpart, the Authority shall make an estimate of the reasonable need for student loan credit for the bond-use period. In making this estimate, the Authority shall make appropriate adjustments to reflect recent historical developments in this data, the past reliability of the various sources of this data, and the accuracy of previous estimates of this data by the Authority itself

(3) An Authority shall, as part of its estimate, identify and explain the following:

(i) Any difference greater than five percent per annum between the totals of each of those data elements in—

(A) The fiscal year immediately preceding the date of the issue; and

(B) The bond-use period.

(ii) Any difference greater than five percent per annum between the totals of those data elements—

(A) As projected for any prior issues; and

(B) As actually occurring during the bond-use period for those issues.

(b) *Survey of resources available.* To measure the amount of student loan credit expected to be available in its service area during the bond-use period, the Authority shall survey lenders and secondary markets reasonably expected to be willing to extend such credit in its service area. In this survey, the Authority shall solicit an estimate from the following lenders of the amount and terms of credit they expect to make available in its service area during the bond-use period:

(1)(i) All direct lenders in the highest quartile, by loan volume, in the service area during the most recent twelve-month period preceding the survey for which data is available, and

(ii) A representative sample of all other direct lenders;

(2)(i) The Student Loan Marketing Association, and

(ii) All other secondary market sources known to the Authority to be purchasing or willing to purchase loans in its service area; and

(3) Such other sources as the Secretary may identify to the Authority.

(c) To determine the availability of credit to the Authority on the basis of taxable obligations, an Authority shall determine the specific terms on which such credit is available from the Student Loan Marketing Association and from at

least two other parties known to the Authority to have extended, or to have expressed interest in extending, such credit to Authorities. If an Authority knows of no parties that have extended such credit to Authorities, the Authority shall solicit this information from at least two credit sources which routinely offer similar or greater amounts of credit to commercial borrowers.

(d) *Use of written inquiries.* The Authority shall use written inquiries to solicit information from each school, lender, and secondary market source included in any survey conducted under this section.

(e) *Record retention.* The Authority shall maintain records, available for inspection, for three years beyond the bond-use period of all written inquiries and of all responses and failures to respond to those inquiries.

(f) *Evaluation of lender responses.* (1) If a response by a direct lender to students to the survey inquiry of the Authority does not clearly state the lender's intentions, or if no response is received from such a lender, the Authority shall consider that lender as intending to make loans in the service area during the bond-use period on the same terms and in an annual volume equal to that amount of credit extended by that lender in the most recent twelve-month period preceding the survey for which data is available, increased or decreased according to the average rate of change in the total loan volume in that area over the three preceding years.

(2) If a response by a secondary market to the survey inquiry of the Authority does not include or reflect the making of the public offer to purchase described in § 682.813(c)(2), or if no response is received from such a party, the Authority shall estimate the amount of loans it is expected to purchase in its service area during the bond-use period in the manner described in § 682.813(c)(3).

(g) In measuring the need for student loan credit, the Authorities shall ensure that its estimates of costs of attendance, expected family contributions, and expected financial assistance available do not exceed guidelines which the Secretary may establish from time to time through a Notice published in the Federal Register.

(20 U.S.C. 1082, 1087-1)

§ 682.15—682.19 [Reserved]

§ 682.820 Unmet need—refunding issues.

(a) An Authority shall determine whether the proceeds of any proposed refunding issue exceed the unmet need for student loan credit in its service area. An Authority determines whether

an unmet need exists for the proposed refunding issue by dividing the amount of the proposed issue into two portions, and assessing the availability of credit form the resources described in § 682.813 to meet the need for which each of these portions is to be used, in the following manner:

(1) An Authority shall demonstrate that an unmet need exists for that portion of the proceeds of a proposed refunding issue equal to the amount of the outstanding balances, including principal and interest of loans which are proceeds of the issue to be refunded, only to the extent that the Authority cannot sell those loans at par or at a discount not exceeding one percent of their outstanding balance; and

(2) An Authority shall demonstrate that an unmet need exists for that portion of the proceeds of a proposed refunding issue in excess of the outstanding balances, including principal and interest, of loans which are proceeds of the issue to be refunded, only to the extent that the Authority could demonstrate that, under § 682.814, an unmet need exists for a new issue.

(b) For refunding issues, an Authority shall comply with the provisions of § 682.811 regarding term and timing of issue and use of proceeds.

(20 U.S.C. 1082, 1087-1)

§ 682.821 Methods for measuring unmet need—refunding issues.

(a) The Authority shall use the methods prescribed in § 682.815 to measure the unmet need for that portion of the proceeds of a refunding issue treated as a new issue under § 682.820(a)(2).

(b) An Authority shall use the methods prescribed in § 682.815(b)(2), (d), and (e) to measure unmet need for that portion of the proceeds of a refunding issue described in § 682.820(a)(1).

(20 U.S.C. 1082, 1087-1)

§ 682.822 Procedures for approval of determination of need for a tax-exempt obligation.

(a) An Authority shall, for any proposed issue of tax-exempt obligations—

(1) Compile and maintain a record of any survey, the responses to the survey, the sources of any other data on which it bases its estimates of the reasonable need for student loan credit and the amount of credit available from sources of student loan credit, and the assumptions used in making such estimates.

(2) Submit for approval by the Secretary, no later than 30 days before the proposed date of issue,

(i) A statement of the expected amount and terms of the issue;

(ii) A copy of any official statement regarding the issue, statements of sources and application of funds for the proposed issue and any prior issue (unless already submitted), and a copy of the most recent audit of the Authority's activities;

(iii) An explanation of the estimated need for student loan credit and resources available for student loan credit in that service area, determined according to the standards established in this subpart;

(iv) A detailed description of the data, and assumptions, on which its estimates of need and available resources; and

(v) If the Authority proposes to issue a tax-exempt obligation to meet an unmet need determined under § 682.814(b) (Special access credit programs),

(A) A certification that it will use the proceeds attributable to that unmet need only to make available loans for that class of borrowers determined to have limited access to student loan credit, and

(B) A specific plan of action to implement this certification.

(b) The Secretary approves the determination of the Authority that the proceeds of a proposed tax-exempt obligation do not exceed the unmet need for student loan credit for the bond-use period in that service area if the documentation submitted under paragraph (a) of this section demonstrates a reasonable estimate based on the standards and methods in this subpart of the need for student loan credit and of the amount of such credit available from other resources.

(c)(1) An eligible lender which holds loans made or purchased with the proceeds of a tax-exempt obligation for the sole benefit of an Authority because the Authority is ineligible as a lender under the GSL or PLUS programs or for any other reason, may not rely on a approval given under paragraph (b) of this section to establish its continued entitlement to special allowance payments.

(20 U.S.C. 1082, 1087-1)

(2) A holder of loans made or purchased with the proceeds of a tax-exempt obligation, other than the Authority itself or a lender described in paragraph (c)(1), may rely in good faith on the approval by the Secretary given under paragraph (b) of this section to establish the continued entitlement to special allowance payments by the Secretary for those loans which it acquires without notice of—

(i) Any action by the Secretary to disapprove an issue or a Plan of the Authority, or

(ii) Any material misrepresentation by the Authority to the Secretary regarding the issue from the proceeds of which the loans were made or purchased.

(20 U.S.C. 1082, 1087-1)

§ 682.823 Sanctions for material misrepresentation regarding unmet need.

(a) If the submission to the Secretary for approval required under § 682.822 contains a material misrepresentation, the Secretary may take any of the following actions:

(1) The actions described in § 682.806;

(2) Determining that any loans made or purchased by the Authority with the unexpended proceeds of the issue with respect to which the misrepresentation was made are ineligible for special allowance payments; or

(3) Requiring reimbursement from the Authority for special allowance payments made or to be made to holders of those loans other than the Authority, in addition to any reimbursements required under § 682.806(a)(3).

(b) The Secretary's decision to require repayment of funds by an Authority, to withhold payments of special allowance, or to take any of the actions in § 682.806 does not become final until the Secretary provides the Authority with written notice of the intended action and an opportunity to be heard thereon. However, the Secretary may withhold payments or suspend approval of the Plan prior to giving notice and opportunity to be heard if the Secretary finds such emergency action necessary to prevent substantial harm to Federal interests.

(c) Once final, the Secretary's decision to require repayment of funds or to take

other remedial action against an Authority under this section is conclusive and binding on the Authority and subsequent holders of its loans.

(20 U.S.C. 1082, 1087-1)

(Note.—A decision by the Secretary under this section is currently subject to judicial review under 5 U.S.C. 706 and 41 U.S.C. 321-322.)

(20 U.S.C. 1082, 1087-1)

2. Paragraph (a) of § 682.302 is revised to read as follows:

§ 682.302 Special allowance payments to lenders.

(a)(1) The Secretary pays a special allowance to lenders on:

(i) GSLP loans disbursed prior to October 1, 1981; and

(ii) GSLP loans disbursed on or after October 1, 1981 that qualify for interest benefits.

(2) The special allowance is equal to a percentage determined under paragraph (c) of this section of the average unpaid balance, including capitalized interest, on those GSLP loans described in paragraph (a)(1) held by a lender during any three-month period ending on March 31, June 30, September 30, or December 31 of each year.

3. Paragraph (c) of § 682.302 is revised to read as follows:

(c)(1) The percentage rate for the special allowance for a loan for a three-month period is determined by—

(i) Determining the average of the bond equivalent rates of the 91-day Treasury bills auctioned during the three-month period;

(ii) Subtracting the applicable interest

rate for that loan, as specified in the Act;

(iii) Adding 3.5 percent to the resulting percentage;

(iv) For a loan made prior to October 1, 1981, rounding the result upward to the nearest one-eighth of one percent; and

(v) Dividing the resulting percentage by four.

(2)(i) Subject to paragraph (c)(2)(ii) of this section, the percentage rate for the special allowance is one-half the rate determined under paragraph (c)(1) for a loan disbursed on or after October 1, 1980 and made or purchased with funds obtained by the holder from.

(A) Issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code.

(B) Funds obtained from collections or payments by a guarantor on a loan described in paragraph (c)(2)(i).

(C) Interest or special allowance payments on a loan described in paragraph (c)(2)(i).

(ii) The special allowance rate used for loans described in paragraph (c)(2)(i) is not less than the following:

(A) 2.5 percent per year on a loan for which the applicable interest rate is seven percent;

(B) 1.5 percent per year on a loan for which the applicable interest rate is eight percent; or

(C) 0.5 percent per year on a loan for which the applicable interest rate is nine percent.

(20 U.S.C. 1082, 1087-1)

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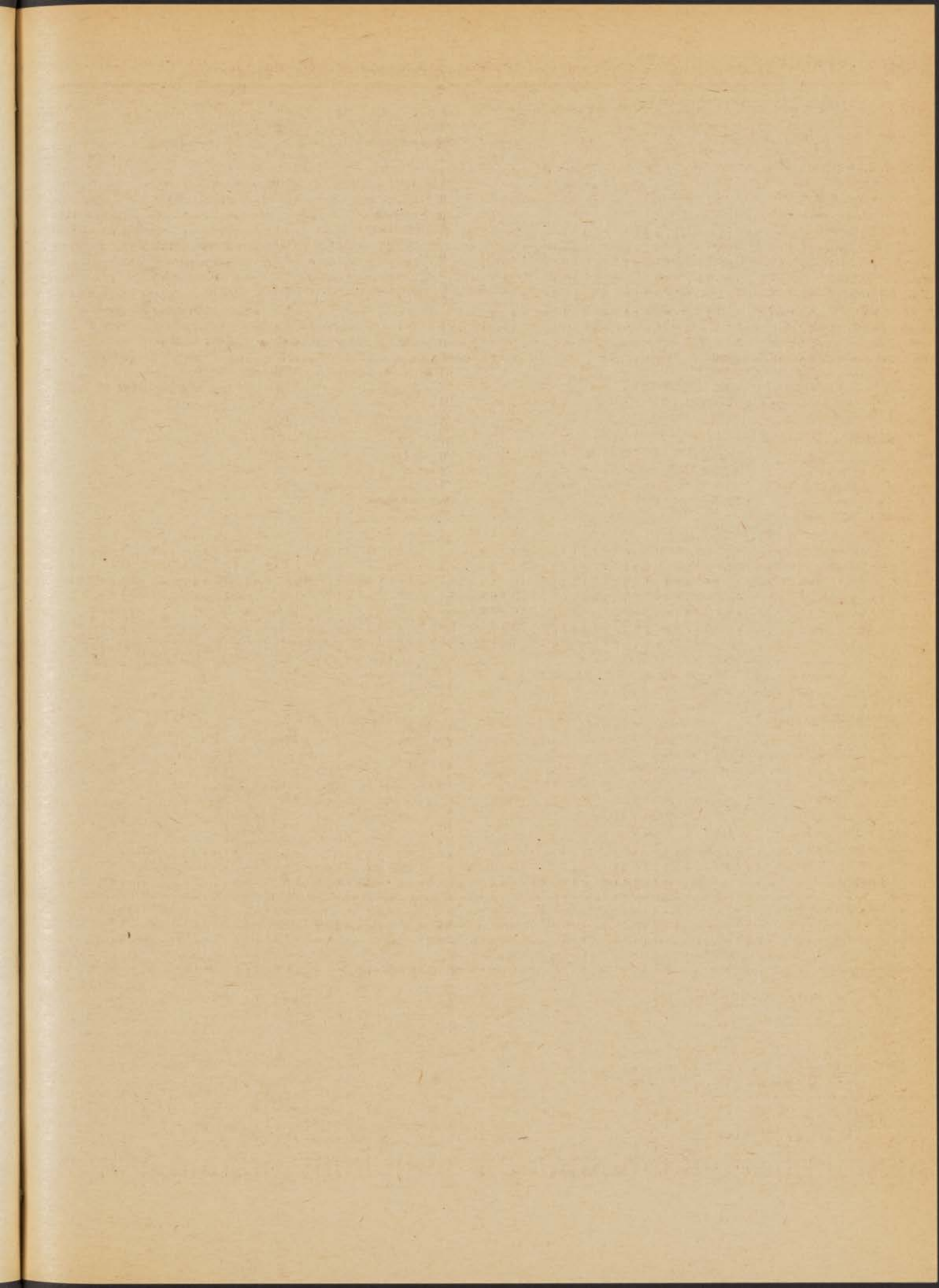
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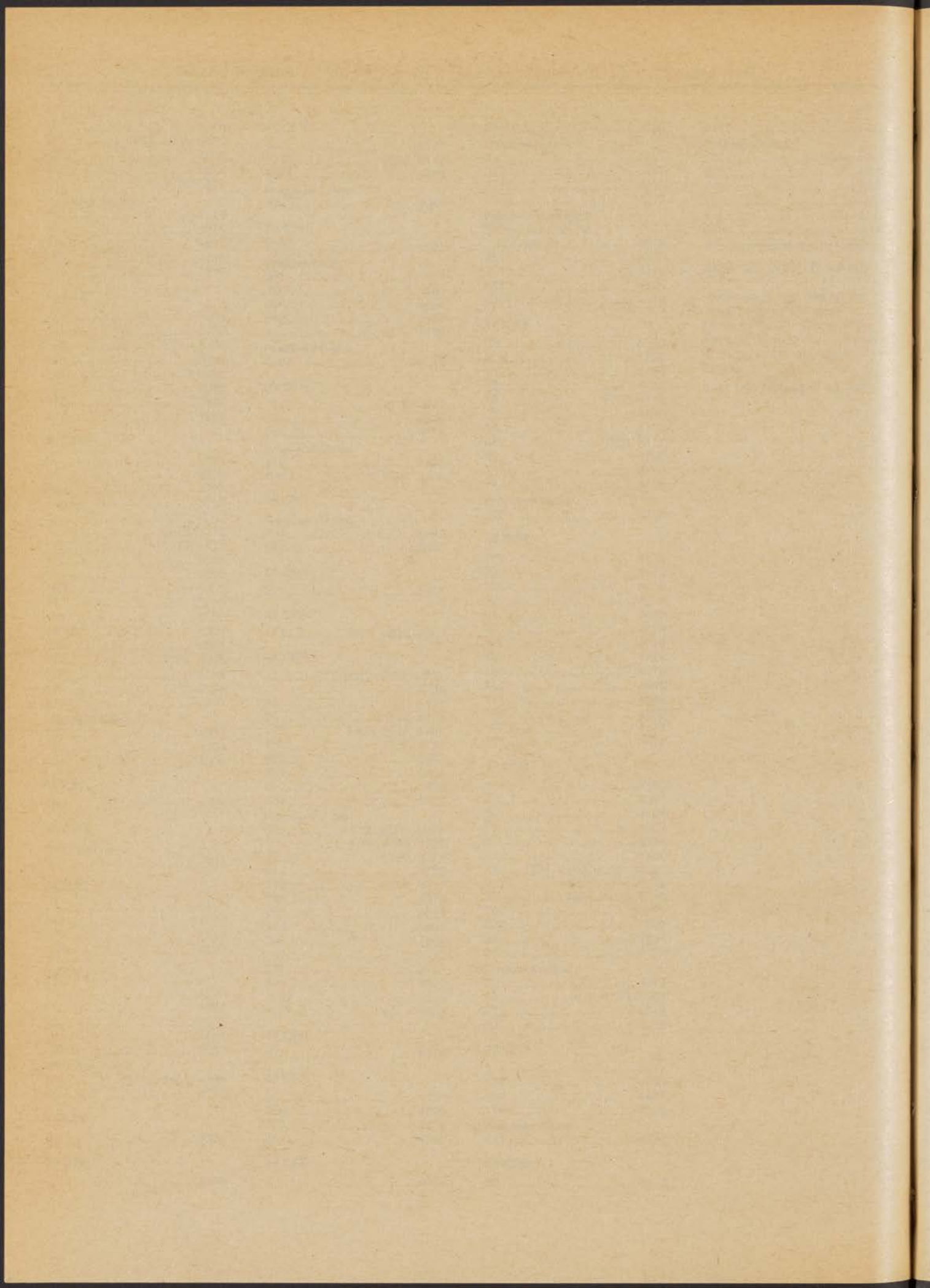
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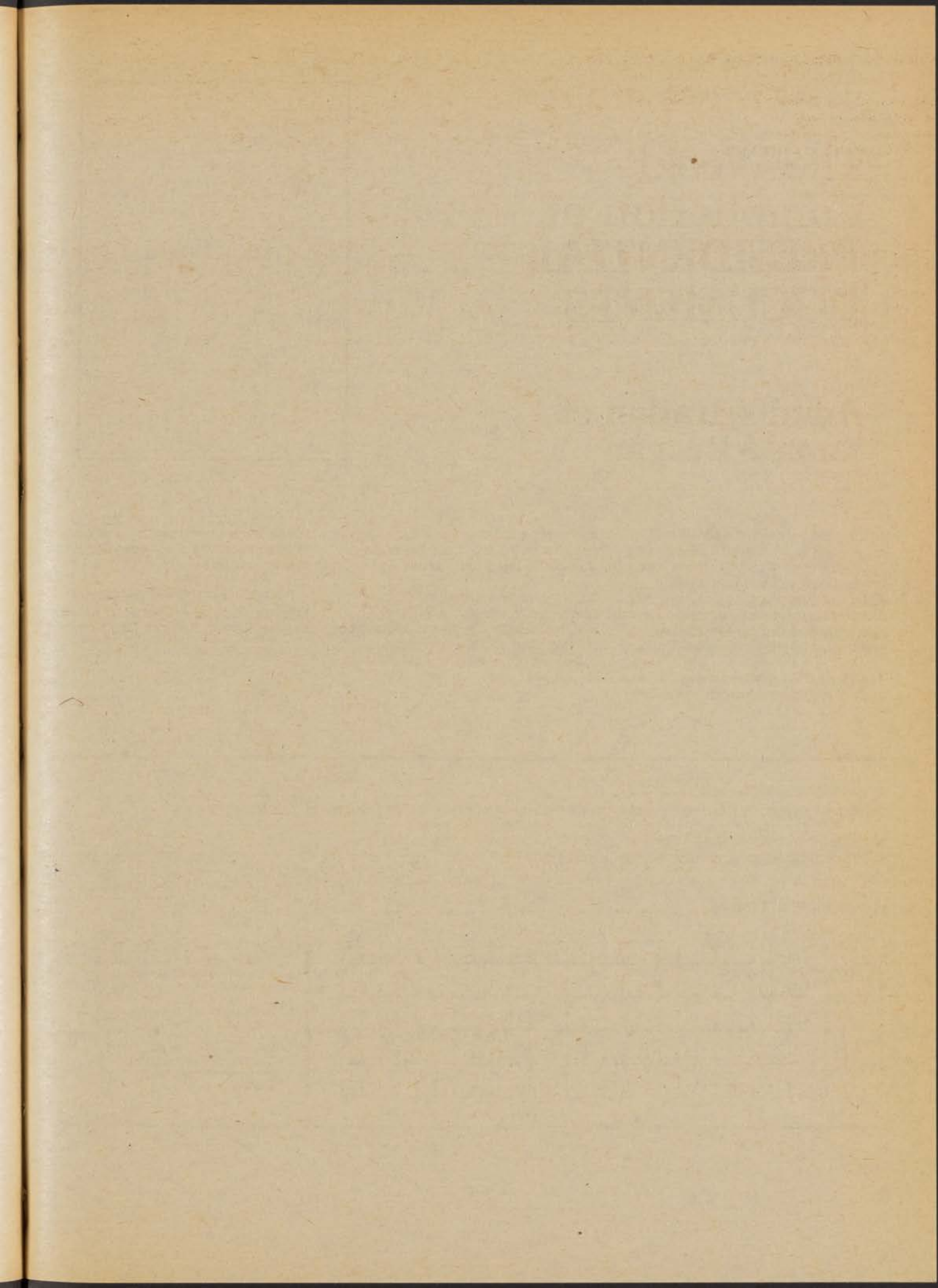
LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List December 19, 1983.







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