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federal register

Thursday
February 16, 1984

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Selected Subjects

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

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Presidential Documents

Title 3—

The President

Proclamation 5150 of February 13, 1984

Save Your Vision Week, 1984

By the President of the United States of America

A Proclamation

Every day we rely on vision to provide us with a clear, vivid picture of our surroundings and the people we care about. Although we use our eyesight in virtually all activities, we often take it for granted until it is endangered by disease or injury. This is unfortunate because there are steps we can take to protect our eyes and to safeguard the precious gift of sight.

As a sight-saving precaution, everyone should have regular, professional eye examinations. Most people who have these checkups will get the reassuring news that their eyes are healthy. But a few people will receive an early warning of some serious eye disease requiring prompt treatment. An eye examination revealing the need for treatment of glaucoma or some other sight-destroying disease could spare thousands of Americans visual loss each year.

People with diabetes should be particularly aware of the need to have their eyes examined regularly to prevent the blindness that sometimes stems from the disease. This is especially important because there now is a sight-saving treatment which is highly effective if applied early enough in the course of the disease.

Regular eye checkups are also of special importance for older people because many serious eye diseases tend to strike in the later years. With early warning of a need for treatment, people can obtain the required medical care and give themselves the best possible chance of retaining good vision throughout their lives. Children also need regular eye examinations in order that readily treatable problems which otherwise could needlessly affect them in school and at play may be detected.

Protecting our eyes against injury is another way to preserve vision. In work with chemicals or machinery which might be dangerous to the eyes, safety glasses, goggles, or a face mask should be worn. Protective eyewear is also important for people participating in sports.

In looking to the needs of others, we can arrange to donate our eyes after death and, in this way, offer the gift of sight to a person who needs corneal transplant surgery. We also can support the many fine organizations which are devoted to research, sight conservation, and rehabilitation of the visually handicapped.

To encourage the American people to cherish the gift of sight and take steps to protect it, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 629, 36 U.S.C. 169a), has requested the President to proclaim the first week in March as "Save Your Vision Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning March 4, 1984, as Save Your Vision Week, 1984. I urge all Americans to participate in appropriate observances and activities and to make eye care and eye safety an important part of their lives.

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

Ronald Reagan

[FR Doc. 84-4360
Filed 2-14-84; 11:53 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5151 of February 13, 1984

National Surveyors Week, 1984

By the President of the United States of America

A Proclamation

In the development of our country, the role of the surveyor has been of vital importance. In colonial days, surveyors were among the leaders in the community—statesmen, influential citizens, and shapers of cultural standards, including people such as George Washington and Thomas Jefferson. It was the surveyor's work that determined the boundaries of land, the greatest economic asset in the colonies. Thomas Jefferson chaired a committee in 1784 to devise a plan for disposing of lands west of the Thirteen Colonies. He argued that surveying before sale was necessary to prevent overlapping claims and to simplify deeds and registers. He reportedly wrote a plan which was debated in Congress, and in modified form was adopted as the Land Ordinance of May 20, 1785. The ordinance established the Public Land Survey System (PLSS)—the rectangular system that continues in effect today in 30 midwestern and western states.

Since 1785, the nature of surveying has changed dramatically. No longer is surveying limited to the description and location of land boundaries. Today, hydrographic surveys are important to the use of all our bodies of water; engineering surveys are utilized in the study and selection of engineering construction; geodetic surveys determine precise global positioning for such activities as aircraft and missile navigation; and cartographic surveys are used for mapping and charting, including the use of photogrammetry, the science of using aerial photographs for measurement and map production. Many services are provided through the use of sophisticated equipment and techniques, such as satellite-borne remote sensing devices and automated positioning, measuring, recording, and plotting equipment.

In recognition of the significant contribution made by surveyors to the United States, the Congress, by Senate Joint Resolution 44, has authorized and requested the President to designate the week beginning on March 11, 1984, as "National Surveyors Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning March 11, 1984, as National Surveyors Week. I urge the people of the United States to observe this week with appropriate ceremonies and activities paying tribute to professional surveyors and their contribution to society. I invite all Americans to look back at the historic contributions of surveying and look ahead to the new technologies which are constantly modernizing this honored and learned profession.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of Feb., in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-4361
Filed 2-14-84; 11:54 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5152 of February 13, 1984

National Agriculture Day, 1984

By the President of the United States of America

A Proclamation

The United States produces nearly one-twelfth of the total output of the world's major agricultural commodities. This abundant production enables us to feed not only our own population, but tens of millions of other people throughout the world.

Our remarkable food and fiber production links together 23 million Americans who are involved in growing, processing, and marketing hundreds of United States agricultural commodities. Our farmers and ranchers produce a wide variety of meat, fruits, vegetables, food grains, flowers, dairy products, fibers, fish, and livestock. Maintaining such production requires natural resources, fertilizers, chemicals, credit, specialized equipment, processing, transporting, marketing, and State and national policies that strengthen the system. This vast integration of production and labor—an outgrowth of our free enterprise system—has transformed agriculture into the Nation's largest industry, with assets exceeding one trillion dollars.

To honor the working men and women of agriculture in America and to achieve a greater understanding of the stake each American has in maintaining the strength of the Nation's most basic industry, the Congress, by House Joint Resolution 311 (Public Law 98–206), has authorized and requested the President to proclaim March 20, 1984, as "National Agriculture Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim March 20, 1984, as National Agriculture Day, and I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of Feb., in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84–4362
Filed 2–14–84; 11:55 am]
Billing code 3195–01–M

Presidential Documents

Proclamation 5153 of February 13, 1984

Municipal Clerk's Week, 1984

By the President of the United States of America

A Proclamation

The municipal clerk is the oldest of public servants and a critical part of efficient and responsive local government. The accurate recording, careful safeguarding, and prompt retrieval of public records are vital functions, without which effective local government could not exist.

As local government has grown in responsibility and importance through the Nation's history, so has the role of the municipal clerk. The clerk provides a direct link between past, present, and future by preserving records for posterity and implementing governmental decisions. Municipal clerks also seek better and more effective ways to perform these critical responsibilities in light of the rapid technological advances of today's world.

In recognition of the outstanding and vital services performed by municipal clerks and their dedication to public service, the Congress, by Senate Joint Resolution 92, has designated the week beginning May 13, 1984, as "Municipal Clerk's Week," and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 13, 1984, as Municipal Clerk's Week. I call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of Feb., in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-4363
Filed 2-14-84; 11:56 am]
Billing code 3195-01-M

Presidential Documents

Memorandum of February 13, 1984

Memorandum of Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

Pursuant to Section 301(a)(1) of the Trade Act of 1974, as amended (19 U.S.C. 2411(a)(1)), I have determined that the action described below is appropriate and feasible to enforce United States rights under the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code) with respect to the subsidy practices of the Government of Brazil concerning exports of soybean oil and meal. With a view toward eliminating or reducing the harmful effects of the Brazilian subsidies on soybean oil and meal exports, I am directing the United States Trade Representative to pursue the dispute settlement procedures which have already been initiated under the Subsidies Code.

This determination, together with the Statement of Reasons, shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, February 13, 1984.

STATEMENT OF REASONS

The United States Trade Representative (USTR) initiated an investigation under Section 301 on May 23, 1983 (48 FR 23947), on the basis of a petition filed by the National Soybean Processors Association. The petitioner alleged that Brazil has acted inconsistently with its obligations under the Subsidies Code by granting subsidies on the production and exportation of soybean oil and meal. These subsidies include: 1) the provision of preferential loans to oil and meal exporters for operating funds and for the purchase of raw materials to be processed and exported; 2) the partial exemption from income tax of profits from oil exports; and 3) the exemption from tax of gains from foreign hedging operations. The petitioner further alleged that as a result of the Brazilian subsidy programs, Brazilian exports of oil and meal have increased and have displaced United States exports in third country markets.

In an effort to resolve this problem, the United States held consultations with Brazil on November 21, 1983. Those consultations focussed on the United States complaint and on a subsequent Brazilian complaint against United States programs as they relate to the production and export of soybean oil and meal. During the consultation process it was learned that Brazil had suspended the application of two of its subsidy programs to soybean products. Both parties agreed to a further exchange of information regarding their respective programs which is scheduled to occur within the next month. If a resolution to the problem is not reached through consultations, the United States will continue the dispute settlement process as set forth in the Subsidies Code.

While it is disappointing that the dispute settlement process has not moved more expeditiously, I believe that the process is moving smoothly and that United States interests would be best served by following that process to its conclusion. I expect the USTR to pursue a resolution of this issue in a diligent and expeditious manner.

[FR Doc. 84-4380
Filed 2-14-84; 2:06 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 442

[Amdt. No. 2]

Prevented Planting Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) published a final rule; correction (49 FR 2225, January 19, 1984) to correct an error in omission in the Prevented Planting Crop Insurance Regulations wherein Appendix A, listing the counties where prevented planting crop insurance is otherwise authorized, was inadvertently omitted.

The correcting document, as published, omitted the portion of the listing showing those counties authorized for prevented planting insurance in Wisconsin. This notice is being published to correct that error.

EFFECTIVE DATE: February 16, 1984.

ADDRESS: Any suggestions or inquiries on this notice should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: On Thursday, January 19, 1984, FCIC published a notice to correct the Prevented Planting Crop Insurance Regulations, published as a final rule in the Federal Register on Tuesday, December 12, 1983, at 48 FR 55418. This document further corrects the final rule as follows:

On page 55421, the Appendix is corrected by inserting the words "Wisconsin: Clark, Eau Claire", after the words Ohio: Brown, Highland," and before the words "Approved by the Board of Directors on * * *".

Done in Washington, D.C., on February 6, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: February 9, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 83-4271 Filed 2-15-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 450; Correction]

Lemons Grown in California and Arizona, Limitation of Handling; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule issued February 8, 1984, establishing the quantity of California-Arizona lemons that may be shipped to the fresh market during the period February 12–18, 1984. The final rule should have established such quantity at 235,000 cartons, rather than 225,000 cartons as published. The final rule was published in the Federal Register (49 FR 5053) on February 10, 1984.

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

Accordingly, § 910.750 Lemon Regulation 450 is corrected to read 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 235,000 cartons.

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

Dated: February 10, 1984.

Russell L. Hawes,

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

[FR Doc. 84-4200 Filed 2-15-84; 8:45 am]

BILLING CODE 3410-02-M

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

13 CFR Part 400

Chrysler Corporation Loan Guarantee Program

AGENCY: Chrysler Corporation Loan Guarantee Board.

ACTION: Final rule.

SUMMARY: This rule amends portions of the regulations of the Chrysler Corporation Loan Guarantee Board dealing with the Freedom of Information Act (5 U.S.C. 552) in order to reflect (i) changes in staff functions and (ii) changes in the fee schedule.

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT: Ellen Seidman, Associate General Counsel, Chrysler Corporation Loan Guarantee Board, Room 2018 Main Treasury Building, Washington, D.C. 20220, (202) 566–2278.

SUPPLEMENTARY INFORMATION: On August 15, 1983, Chrysler Corporation repaid the debt remaining outstanding which had been guaranteed by the United States under the Chrysler Corporation Loan Guarantee Act (Pub. L. 96–185, 93 Stat. 1324), and notified the Chrysler Corporation Loan Guarantee Board (the "Board") of its intention not to seek further guarantees. As a result, the bulk of the work of the Board has been completed. The Board has therefore consolidated its staff by electing the same individual to the positions of Secretary and General Counsel. The Board's current regulations provide for initial decisions n Freedom of Information Act matters to be made by the Secretary of the Board, with appeals to the General Counsel. To provide a meaningful appeal system under the new staff designations, the Board has detemined that initial decisions will be made by the Executive Director, with appeals to the General Counsel.

On March 24, 1983, 48 FR 12351, the Department of the Treasury published

revised fee schedules for response to Freedom of Infomation Act requests. The staff of the Board is administratively a unit of the Department of the Treasury. The changes made to the fee schedules by this rule conform the Board's fee schedules to those recently adopted by the Department of the Treasury.

This rule relates solely to the agency management and procedures and is thus not subject to the Regulatory Flexibility Act (5 U.S.C. 603 *et seq.*) or the notice and comment and deferred effective date provisions of the Administrative Procedure Act (5 U.S.C. 553).

List of Subjects in 13 CFR Part 400

Freedom of Information.

PART 400—[AMENDED]

For the reasons set out in the preamble, Part 400 of Title 13, Code of Federal Regulations, is amended as set forth below.

1. The authority citation for Part 400 reads as follows:

Authority: 5 U.S.C. 552.

§ 400.7 [Amended]

2. 13 CFR 400.7 is amended by removing the word "Secretary" and inserting in its place the words "Executive Director."

3. 13 CFR 400.7(g)(6)(i) is amended by removing the number "10 cents" and inserting in its place the number "15 cents."

4. 13 CFR 400.7(g)(6)(ii) and 13 CFR 400.7(g)(6)(iii) are amended by removing the number "$5" and inserting in its place the number "$10".

By order of the Board, February 1, 1984.

Peter J. Wallison,

Secretary.

[FR Doc. 84-4197 Filed 2-15-84; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-31-AD; Amdt. 39-4810]

Airworthiness Directives: Lockheed Model L-1011 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This document amends an existing airworthiness directive (AD) applicable to Lockheed Model L-1011-385 series airplanes, which requires repetitive inspections and hydraulic leak checks in the area of the auxiliary power unit (APU) exhaust duct and shroud. This modification is required to reduce the exhaust shroud external skin temperature to an acceptable level. An excessively high exhaust shroud skin temperature is a potential ignition source for flammable fluids or vapor existing in the vicinity of the shroud.

DATE: 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: 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 FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Izumikawa, Aerospace Engineer, Propulsion Branch, ANM-140L, Federal Aviation Administration, Los Angeles Aircraft Certification Office, Northwest Mountain Region, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2835.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** April 18, 1983 (48 FR 16501), which proposed that AD 82-03-04 be amended to require the installation of insulation blankets over the APU exhaust duct and shroud in accordance with Part II of the Accomplishment Instructions of Lockheed L-1011 Service Bulletin 093-49-58, Revision 3, dated October 28, 1982. The comment period provided for the proposal closed June 7, 1983.

Amendment 39-4310, AD 82-03-04, requires repetitive inspection of the APU exhaust duct area. The possibility still exists for fuel or hydraulic leaks to occur between the leak tests and inspections required by this AD. The condition represents a potential fire hazard in an area that does not have firewalls, fire detectors, or fire extinguishers. For this reason, this amendment is considered to be necessary.

Discussion of Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. A total of six comments were received, four from domestic operators, one from a foreign operator, and one from the type certificate holder. Five of the six commenters did not object to the proposal.

The domestic operator who objected proposed continuing the leak test and inspection procedure, and to leave the modification as an option. The FAA does not agree with this position. The leak tests and inspection procedure were implemented only as an interim measure against a potentially hazardous condition until a final solution could be developed. The possibility still exists for fuel or hydraulic fluid leaks to occur between the inspection required by AD 82-03-04, which would represent a potential fire hazard in an area that does not have firewalls, fire detection, or fire extinguishing systems. Installation of the insulation blankets around the exhaust duct and shroud per Lockheed L-1011 Service Bulletin 093-049-058, Revision 3, dated October 28, 1982, will correct a design deficiency and reduce the shroud skin temperature to a safe level and eliminate the need for repetitive leak tests and inspection.

Estimated Costs

The estimated costs to accomplish the modification are as follows: Kit costs: $2,000 per airplane x 122 airplanes = $244,000. Installation costs: 12.3 manhours per airplane x $35 per manhour x 122 airplanes = $52,521. The total cost is estimated to be $296,521. 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 since no small entities operate Lockheed Model L-1011 airplanes.

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 rule as proposed.

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 amending Amendment 39-4310 (47 FR 5197, February 4, 1982), AD 82-03-04, as follows:

1. Revise the first paragraph to read as follows:

Lockheed-California Company: Applies to Lockheed Model L-1011-385 series airplanes, prior to Serial No. 1239, certificated in all categories. Compliance required as indicated, unless previously accomplished.

2. Revise paragraphs A., B., & C., by changing the word "Chief" to "Manager" and by deleting the word "Area".

3. Reidentify paragraph B. as paragraph A.3.

4. Add new paragraph B. to read as follows:

B. To reduce the APU exhaust shroud skin temperature to a safe level, within 5,000 flight hours or two (2) calendar years after the effective date of this amendment, whichever occurs first, install the APU Exhaust Duct and Shroud Insulation as specified in Part II, Accomplishment Instructions of Lockheed L-1011 Service Bulletin 093-49-058, Revision 3, dated October 28, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. This action terminates the requirements for repetitive inspections required by paragraph A., above.

5. Delete the first paragraph after paragraph D.

6. Revise the FAA Seattle address in the paragraph after paragraph D to read as follows:

FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington,

This amendment became effective March 19, 1984.

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

Note.—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 L1011 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 2, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-4190 Filed 2-15-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-45-AD; Amdt. 39-4809]

Airworthiness Directives; Sundstrand Data Control, Inc., Digital Flight Data Recorder, Model 573A

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspection of certain Sundstrand Data Control, Inc., Model 573A Digital Flight Data Recorders (DFDR) installed in transport category airplanes. This AD is necessary because some DFDR connector sockets were manufactured without retaining clips, which may cause erratic operation. Failure of a DFDR may result in loss of data necessary to investigate accidents and to develop accident prevention measures.

DATE: Effective March 19, 1984.

ADDRESSES: The applicable service information may be obtained from: Sundstrand Data Control, Inc., Overlake Industrial Park, Redmond, Washington 98052. This information may also be examined at the address listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Habbestad, Systems & Equipment Branch, ANM-130S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2942. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the inspection on certain Sundstrand Data Control, Inc. Model 573A Digital Flight Data Recorders was published in the **Federal Register** on July 11, 1983 (48 FR 31662). The comment period was closed on August 26, 1983.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

Three commenters had no objection to the AD as proposed.

One commenter stated that the compliance time of 2000 flight hours placed a high burden on the operators and proposed a compliance time of 4000 hours or, as an alternaitve, proposed that the compliance time be 2000 hours or one year. The FAA has determined that the compliance time can be adjusted to 2000 hours or one year, whichever occurs later, without compromising safety, and the rule as adopted reflects this change.

One commenter stated the intent of the AD would be accomplished regardless of the outcome of the NPRM since a service bulletin (SB) has been issued that provides the needed corrective action and only a limited number of DFDR's are defective. The FAA does not concur. Of the 950 DFDR's (not 450 as previously reported in the NPRM), two hundred forty (240) DFDR's have been examined, and thirty four (34) of those required connector replacement. That leaves seven hundred ten (710) DFDR's to be checked. The SB only identifies the potential problem with DFDR's and does not mandate all DFDR users comply with the SB. Therefore, issuance of an AD is necessary to insure all incorrect connectors which could cause erratic operation and loss of data are replaced.

It is estimated that for the 950 digital flight recorders affected by this AD, it will take approximately ¼ manhour to identify the type of sockets used and two hours to replace the connectors. Based on these figures, the maximum total cost of this AD to all operators combined is estimated to be $19,000. 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 public interest require the adoption of the rule with the change noted above.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Proposed 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:

Sundstrand Data Control, Inc.: Applies to Sundstrand Model 573A, Digital Flight Data Recorded (DFDR) Part Numbers 981-6009-001/010/011/012/013/014. To prevent loss of recorded data, accomplish the following within the next 2,000 hours time in service or 1 year after the effective date of this AD, whichever occurs later, unless already accomplished:

A. Inspect the DFDR to determine modification status. For DFDR's which have Mod 8 accomplished, but not Mod 15, accomplish Sundstrand Service Bulletin No.

23, (Document No. 012-0118-123), (Mod 15), dated August 2, 1982, or later FAA approved revisions.

B. Alternative 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.

This amendment becomes effective March 19, 1984.

(Secs. 313(a), 314(a), and 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 it involves few, if any, 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 2, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-4189 Filed 2-15-84; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-6508]

Revisions to the Resale Provisions Applicable to Securities Acquired in Registered Business Combinations

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission announces the adoption of amendments to Rule 145 under the Securities Act of 1933 to provide that certain persons receiving securities in registered business combination transactions shall not be deemed underwriters and may freely transfer such securities if they are not affiliates of the issuer and either: (1) have beneficially owned the securities for at least three years; or (2) have beneficially owned the securities for at least two years and the issuer meets the public information requirements of paragraph (c) of Rule 144. The amendments are designed to make the resale provisions applicable to securities acquired in registered business combinations consistent with the resale provisions applicable to securities acquired in exempt business combinations.

EFFECTIVE DATE: March 26, 1984.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date, Mary M. Jackley at (202) 272-2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. After the effective date, contact Ann Glickman, (202) 272-2573, Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 145 (17 CFR 230.145) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.* (1976 and Supp. IV 1980)) ("Securities Act") provides that certain transactions involving business combinations, such as mergers, consolidations and acquisitions of assets, which are submitted for the vote or consent of security holders, are subject to the registration requirements of the Securities Act. With respect to resales of securities acquired in Rule 145 transactions,[1] Paragraph (c) of Rule 145 provides that persons who are affiliates [2] of entities which are acquired in Rule 145 transactions are deemed to be underwriters within the meaning of Section 2(11) of the Securities Act. Notwithstanding the provisions of paragraph (c), a person is not deemed to be an underwriter if: (1) the securities are sold in compliance with certain provisions of Rule 144 (17 CFR 230.144); [3] or (2) such person is not an affiliate of the issuer and has held the securities for at least two years, and the issuer has been a reporting company under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.* (1976 and Supp IV 1980)) ("Exchange Act") and has filed all required reports for the preceding 12 months.[4]

On September 23, 1983, the Commission proposed amendments to Rule 145(d)(2) to permit resales by a non-affiliate who has been the beneficial owner of securities for at least two years, if the issuer meets the informational requirements of paragraph (c) of Rule 144 and proposed new paragraph (d)(3) to permit resales by a non-affiliate who has been the beneficial owner of securities for at least three years without further restriction.[5] The proposal of new paragraph (3) of Rule 145 was responsive to a comment letter received by the Commission in connection with the recent adoption of an amendment to Rule 144(k) [6] to remove, as a prerequisite to sales of restricted securities by non-affiliates who have held securities for three years, the requirement that current information be publicly available regarding the issuer. The commentator noted that the amendment to Rule 144 would establish theoretically less stringent resale requirements for restricted securities received in a business combination pursuant to a transactional exemption under the Securities Act than for registered securities acquired in a transaction subject to Rule 145 because of the 12 month reporting requirement currently prescribed by Rule 145(d).

A former affiliate of an acquired company, for example, who is not an affiliate of the acquiring company after a transaction would be able to freely transfer securities received in the exempt transaction after a three year holding period. Pursuant to Rule 145(d), the same person receiving registered securities would be able to freely transfer such securities after a three year holding period only if the issuer has been a reporting company for one year. The Commission does not believe that such a distinction between these resale provisions is either necessary or appropriate. Accordingly, it published

[1] Persons who are effecting resales of registered securities issued in Rule 145 transactions generally fall into four categories. Rule 145(d) would apply to their resales as follows: (1) Non-affiliate of acquired company who is a non-affiliate of the acquiring company after the transactions—Rule 145 (c) and (d) not applicable and securities are unrestricted; (2) Non-affiliate of acquiring company who is an affiliate of the acquiring company after the transaction—Rule 145 (c) and (d) not applicable, but Rule 144 would be, if no other exemption could be found; (3) Affiliate of acquired company who is a non-affiliate of the acquiring company after the transaction—resales may be made under Rule 145 (d) (1), (2) or (3); and (4) Affiliate of acquired company who is an affiliate of the acquiring company after the transaction—Rule 145(d)(1) applies.

[2] An "affiliate" of an entity is defined in Rule 405 (17 CFR 230.405) under the Securities Act as "a person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the [entity]."

[3] Paragraph (d)(1) of Rule 145 permits resales in accordance with paragraphs (c), (e), (f) and (g) of Rule 144. Those paragraphs require that there be current public information available about the issuer of the securities, that the amount of securities sold during any three month period not exceed certain specified limits, and that the securities be sold in brokers' transactions. The person or party reselling securities under revised paragraph (d)(2), of course, would be entitled to rely on the provisions of Rule 144(c) that permit reliance on statements made by the issuer that it has filed all required reports under the Exchange Act.

[4] Rule 145(d)(2).

[5] Release No. 33-6487 (September 23, 1983) (48 FR 44843).

[6] Release No. 33-6488 (September 23, 1983) (48 FR 44770).

for comment the proposed amendments to Rule 145 to make the resale provisions of Rule 145(d) consistent with those of Rule 144.

Six letters of comment were received which unanimously supported the Commission's intent to provide consistency in the resale provisions of Rules 144 and 145. Based on the comments received and its own experience, the Commission has determined to adopt the amendments as published for comment [7] with the following exception. As suggested by one commentator, the amendments have been revised to refer to "such person or party" to be consistent with the other provisions of Rule 145. The commentators also suggested additional revisions which will be considered as part of a comprehensive reexamination of the resale provisions of Rules 144 and 145.

Summary of Final Regulatory Flexibility Analysis

The Commission has prepared a final regulatory flexibility analysis in accordance with 5 U.S.C. 604 regarding the revision of Rule 145. A summary of the corresponding Initial Regulatory Flexibility Analysis was included in the release proposing the amendment to Rule 145 at 48 FR 44843. Members of the public who wish to obtain copies of the Final Regulatory Flexibility Analysis should contact Mary M. Jackley in the manner specified above.

List of Subjects in 17 CFR Part 230

Reporting and recordkeeping requirements, Securities.

Statutory Authority

The amendments to Rule 145 are adopted by the Commission pursuant to Sections 2(11), 4(1), 4(4), and 19(a) of the Securities Act.

(Secs. 2(11), 4(1), 4(4), 19(a), 48 Stat. 74, 77, 85; sec. 209, 48 Stat. 908; secs. 1–4, 68 Stat. 683; sec. 12, 78 Stat. 580; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77b(11), 77d(1), 77d(4), 77s(a))

Text of Amendment

Pursuant to Section 19(a), Chapter II of Title 17 of the Code of Federal Regulations is hereby amended as follows:

[7] One of the commentators asked that the Commission take action to clarify a statement made by it in Release No. 33–5932 (May 15, 1978) (43 FR 21660) that Rule 145(d) was the exclusive means for resale by persons considered underwriters under Rule 145(c). The Commission's statement in the earlier release was intended to apply only to public resales made without registration. Registered resales, of course, are not subject to Rule 145(d) limitations. Moreover, resales possibly could be made in private transactions. In making such private resales, the persons presumably would rely on the so-called "Section 4 (1½)" exemption.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising paragraph(d) of § 230.145 as follows:

§ 230.145 Reclassification of securities, mergers, consolidations and acquisitions of assets.

* * * * *

(d) *Resale provisions for persons and parties deemed underwriters.* Notwithstanding the provisions of paragraph(c), a person or party specified therein shall not be deemed to be engaged in a distribution and therefore not to be an underwriter of registered securities acquired in a transaction specified in paragraph(a) of this section if: (1) Such securities are sold by such person or party in accordance with the provisions of paragraphs (c), (e), (f) and (g) of § 230.144; (2) such person or party is not an affiliate of the issuer and has been the beneficial owner of the securities for at least two years as determined in accordance with paragraph (d) of § 230.144, and the issuer meets the requirements of paragraph (c) of § 230.144; or (3) such person or party is not, and has not been for at least three months, an affiliate of the issuer and has been the beneficial owner of the securities for at least three years as determined in accordance with paragraph(d) of § 230.144.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

February 10, 1984.

[FR Doc. 84–4205 Filed 2–15–84; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 45

[Order No. 1045–84]

Amendment of Standards of Conduct; Designation of Deputy Designated Agency Ethics Officials

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order amends Part 45, Title 28 of the Code of Federal Regulations to provide for the designation of Deputy Designated Agency Ethics Officials (DAEOs) for the Department, and describe the duties of Deputy DAEOs.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Snider, Administrative Counsel and Alternate Designated Agency Ethics Official, Justice Management Division, Department of Justice, Room 6239, 10th And Constitution Avenue, NW., Washington, D.C. 20530 (202–633–3452).

SUPPLEMENTARY INFORMATION: The Office of Government Ethics regulations at 5 CFR 738.204, interpreting Title II of the Ethics in Government Act of 1978 (Pub. L. No. 95–521, as amended), permit each DAEO appointed under the Act to appoint one or more Deputy DAEO(s). The Department has thus decided to require the head of each division (defined in 28 CFR 45.735–3(a) to include a division, bureau, service, office or board) to nominate an individual to be designated a Deputy DAEO for his or her component, to carry out the duties set forth in this order.

This regulation is exempt from the requirements of Exec. Order No. 12291 as a regulation related to agency organization and management. Furthermore, this regulation will not have a significant impact on a substantial number of small entities because its effect is internal to the Department of Justice. The index term for the part amended hereunder is "Conflict of Interests."

List of Subjects in 28 CFR Part 45

Conflict of interest.

PART 45—[AMENDED]

By virtue of the authority vested in me, as Attorney General, by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, Part 45 of Title 28, Code of Federal Regulations is hereby amended as follows:

Section 45.735–26 is amended by revising paragraphs (a) and (c) and by adding paragraphs (d) and (e) to read as follows:

§ 45.735–26 Designated Agency Ethics Official and Deputy Designated Agency Ethics Officials.

(a) The Assistant Attorney General for Administration is the "designated agency ethics official" (DAEO) for this Department. Each division head is directed to nominate an individual to be designated by the DAEO as a Deputy DAEO for the component under the division head's supervision.

* * * * *

(c) Each Deputy DAEO, under the general supervision and guidance of the DAEO, shall have responsibility for coordinating and managing the Department's Ethics Program within his or her component, including the education and counselling of employees

on matters of conduct and professional ethics.

(d) Each Deputy DAEO, within his or her component, shall:

(1) Assist in the review and certification of public financial disclosure statements filed under the Ethics in Government Act of 1978 as required by 28 CFR 45.735–27(d);

(2) Assist in the review and certification of any confidential financial disclosure reports filed by employees;

(3) Counsel employees with regard to actual or potential conflicts of interest and other ethical standards;

(4) Counsel departing and former employees on post-employment conflicts of interest standards;

(5) Provide training and education in standards of conduct for all employees;

(6) Provide for the efficient dissemination, collection and review of public and confidential financial disclosure statements required by the Ethics in Government Act of 1978 and regulations published thereunder;

(7) Report annually to the DAEO any circumstances or situations which have resulted or may result in noncompliance with ethics laws and regulations;

(8) Assist the division head in taking prompt and effective action, including administrative action, to remedy:

(i) Violations or potential violations, or appearances thereof, of the Department's standards of conduct, including post-employment regulations;

(ii) The failure to file a financial disclosure report or portions thereof;

(iii) Potential or actual conflicts of interest, or appearances thereof, which were disclosed on a financial disclosure report; and

(iv) Potential or actual violation of other laws governing the conduct or financial holdings of officers or employees of the Department;

(9) Assist the division head in ensuring that ordered remedial actions, including divestiture and disqualification, are actually taken; and

(10) Perform other duties as required by the DAEO, the Attorney General, or, when appropriate, the Office of Government Ethics.

(e) Each division head will notify the DAEO when that division's Deputy DAEO is no longer able to serve and will nominate a new Deputy DAEO to be appointed by the DAEO.

Dated: February 7, 1984.

William French Smith,

Attorney General.

[FR Doc. 84–4166 Filed 2–15–84; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 12–84–01]

Marine Parade; Pacific Inter-Club Yacht Association Opening Day Parade on San Francisco Bay; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule, correction.

SUMMARY: This correction renumbers the special local regulation for the annual Pacific Inter-Club Yacht Association Opening Day Parade on San Francisco Bay. The final rule for the special local marine parade regulation was published in the **Federal Register** on March 24, 1983 (48 FR 12351). By renumbering the regulation, the permanent special local marine parade regulations will be uniformly located at the end of PART 100 of Title 33 of the Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: LT C. A. Amen, c/o Commander (d1), Twelfth Coast Guard District, Government Island, Alameda, CA 94501, (415) 437–3330.

Accordingly, the following correction is made to FR Doc. 83–7641, published at 48 FR 12351, March 24, 1983:

1. The amendatory paragraph and the section heading of the Final Regulation are corrected to read as follows:

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding § 100.1201 to read as follows:

§ 100.1201 Opening Day Marine Parade, San Francisco Bay.

* * * * *

Dated: February 3, 1984.

C. E. Larkin,

Vice Admiral, U.S. Coast Guard Commander, Twelfth Coast Guard District.

[FR Doc. 84–4277 Filed 2–15–84; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 469

[FRL 2510–7]

Electrical and Electronic Components Point Source Category Effluent Limitations Guidelines Phase I

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today adopting as final the interim final rule and corrections that were published in the **Federal Register** on October 4, 1983 (48 FR 45249). The rule amends the compliance deadline for the best available technology economically achievable (BAT) effluent limitations guidelines for fluoride in the Electronic Crystals Subcategory. The latest possible compliance date, as determined by the permit writer, is November 8, 1985, instead of July 1, 1984.

DATES: This amendment became effective on November 17, 1983 as an interim final rule.

ADDRESS: For technical information write to Mr. David Pepson, Effluent Guidelines Division (WH–552) Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Electrical and Electronic Components Phase I. The administrative record, including all comments, is available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear) (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: David Pepson at (202) 382–7124.

SUPPLEMENTARY INFORMATION:

I. Purpose of Amendment

On April 8, 1983, EPA promulgated Clean Water Act effluent limitations guidelines, pretreatment standards, and new source performance standards for semiconductor and electronic crystal manufacturing plants. 48 FR 15382, 40 CFR Part 469. These plants comprise two subcategories within the electrical and electronics components point source category.

Among the limitations EPA established was a best available technology economically achievable (BAT) limitation for fluoride for electronic crystal manufacturing plants. EPA set a compliance deadline of "as soon as possible as determined by the permit writer, but in no event later than July 1, 1984" for this limitation. 40 CFR 469.21. EPA did not extend the compliance deadline beyond July 1, 1984, as is authorized by section 301(b)(2)(F) for nonconventional pollutants because, based on the available data in the record, EPA determined that all the direct dischargers in the subcategory had fluoride treatment in place.

Subsequent to promulgation, EPA learned that one of the direct dischargers in the Electronic Crystal Subcategory did not have fluoride treatment installed. Based on this new

information, the Agency amended the BAT compliance deadline from no later than July 1, 1984 to "as soon as possible as determined by the permit writer but in no event later than November 8, 1985." This amendment was published as an interim final rule in 48 FR 45249 (October 4, 1983). That notice should be referred to for further background information. EPA also made several typographical corrections to the April 8, 1983 regulations.

The comment period for the interim final rule closed on November 3, 1983. One comment was received and this comment supported the amendment. EPA is therefore now promulgating the interim final rule published on October 4, 1983 as a final rule.

II. Executive Order 12291 and Regulatory Flexibility Analysis

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. The primary purpose of the Executive Order (E.O.) is to ensure that regulatory agencies carefully evaluate the need for taking regulatory action. Major rules are those which impose a cost on the economy of $100 million a year or more or have certain other economic impacts. This amendment it not a major rule because its annualized cost is less than $100 million and it meets none of the other criteria specified in Section 1 paragraph (b) of the E.O.

Pub. L. 96–354 requires EPA to prepare an Initial Regulatory Flexibility analysis for all regulations that have a significant impact on a substantial number of small entities. This analysis may be done in conjunction with or as a part of any other analysis conducted by the Agency. The economic impact analysis done for the April 8, 1983 regulation indicates that this amendment would not have a significant impact on any segment of the regulated population. Therefore, a formal regulatory flexibility analysis is not required.

III. OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

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

List of Subjects in 40 CFR Part 469

Electrical and electronic equipment, Water pollution control, Waste treatment and disposal.

Dated: February 1, 1984.

William D. Ruckelshaus,

Administrator.

PART 469—[AMENDED]

The interim rule and corrections published in the **Federal Register** of October 4, 1983 (48 FR 45249) are adopted as final with the following changes:

Authority: Sections 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

2. Section 469.21 is amended by revising the second sentence to read as follows:

§ 469.21 Compliance Dates.

* * * * *

The compliance date for PSES for total toxic organics (TTO) is July 1, 1984 and for arsenic is November 8, 1985.

[FR Doc. 84–3505 Filed 2–15–84; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 7

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 296

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1312

DEPARTMENT OF DEFENSE

32 CFR Part 229

Archaeological Resources Protection Act of 1979; Final Uniform Regulations

Correction

In FR Doc. 84–346 beginning on page 1016 in the issue of Friday, January 6, 1984, the headings should read as set forth above. Also, make the following corrections:

1. On page 1018, the middle column, the first complete paragraph, the ninth line, the word "of" should read "or".

2. On page 1021, the first column, the first complete paragraph, the last line, the word "received" should read "receive".

3. On page 1022, the first column, the seventh line, the word "are" should read "un-".

4. On page 1024, the middle column, the second complete paragraph, the first line, place the word "a" before the word "utility".

5. On page 1028, the third column, in § —.3(a)(3)(iii), the seventh line, the word "ivery" should read "ivory".

6. On page 1029, the first column, in § —.3(c)(2), the second line, the word "respects" should read "respect".

7. On page 1031, the first column, the third paragraph under § —.8 should be designated "(i)".

8. On the same page, the middle column, in § —.8(a)(4), the last line, the word "deeded" should read "deemed".

9. On the same page, the third column, in § —.8(b), the fourth line, the word "manager" should read "managers".

10. On page 1032, the first column, in § —.10(b), the eighth line, insert the word "not" before the word "in".

11. On page 1034, the middle column, in the heading of § —.18, the word "or" should read "of".

BILLING CODE 1505–01–M

Bureau of Land Management

43 CFR Public Land Order 6515

[M–41513]

Partial Revocation and Modification of Stock Driveway Withdrawal; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes and modifies a Secretarial order, as modified, which withdrew lands for stock driveway purposes. Revocation of 842.92 acres is merely a record clearing action since these lands are privately owned. This action also establishes a 20-year life term for the withdrawal on 2,985.29 acres of public land. These lands have been and continue to be open to mining and mineral leasing.

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated October 28, 1920, which withdrew lands for Stock Driveway No. 22, Montana No. 3, as modified by Secretarial Order of July 21,

1923, is hereby revoked insofar as it affects the following described lands:

Principal Meridian

T. 13 S., R. 4 W.,
Sec. 4, lots 1, 2, 3, and 4, S½N½, W½SE¼, and SW¼;
Sec. 5, NE¼SW¼, S½SW¼, and SE¼.

The area described contains 842.92 acres in Beaverhead County.

2. This action will not restore the above described lands to operation of the public laws as they are in private ownership.

3. Secretarial Order dated October 28, 1920, as modified, which withdrew lands for Stock Driveway No. 22, Montana No. 3, is hereby modified to continue for a period of 20 years from the effective date of this order on the following described lands:

Principal Meridian

T. 13 S., R. 4 W.,
Sec. 1, lots 1, 2, 3, and 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, and 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, and 4, S½N½ and S½;
Sec. 4, E½SE¼;
Sec. 5, lots 1, 2, 3, and 4, S½N½ and NW¼SW¼;
Sec. 6, lots 1, 2, 3, 4, 5, 6, and 7, S½NE¼, SE¼NW¼, E½SW¼, and SE¼.

The area described contains 2,985.92 acres in Beaverhead County.

4. The lands described in paragraph 1 in Section 4, and the E½SE¼ Section 5, T. 13 S., R. 4 W., and the lands in paragraph 3 have been and continue to be open to location under the mining laws and to applications and offers under the mineral leasing laws. The remaining lands in paragraph 1 were patented without minerals reserved to the United States.

5. Pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the withdrawal of the lands in paragraph 3 will be reviewed within 20 years from the effective date of this order and, if appropriate, at subsequent 20-year intervals, to ensure that the lands are still being used for the purpose for which they were originally withdrawn.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: February 9, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-4268 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6516

[NM 44725]

Revocation of Stock Driveway Withdrawal No. 16; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order insofar as it affects the remaining 17.50 acres of public land withdrawn for a stock driveway. This action will restore the land to surface entry. The land has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: March 17, 1984.

FOR FURTHER INFORMATION CONTACT: Dolores L. Vigil, New Mexico State Office, 505-988-6635.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order of August 17, 1951, creating Stock Driveway No. 16, is hereby revoked in its entirety:

New Mexico Principal Meridian

T. 29 N., R. 13 W.,
Sec. 7, N½N½SE¼NW¼, E½SE¼SE¼NW¼, SE¼NE¼SE¼NW¼.

The area described contains 17.50 acres in San Juan County.

2. At 8 a.m. on March 17, 1984, the land will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on March 17, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The land has been and will remain open to mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Dated: February 9, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-4266 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6518

[I-14538 and I-15304]

Partial Revocation and Modification of the Secretarial Orders of July 17, 1918, and May 11, 1931; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Secretarial orders as to 34,850.75 acres of public land withdrawn for stock driveway purposes. This action restores to surface entry 34,702.53 acres which have been and remain open to mining and mineral leasing. Of the balance, 148.22 acres of surface and 80 acres of subsurface were conveyed out of Federal ownership and will not be restored to surface entry, mining, or mineral leasing. The remaining 68.22 acres of subsurface have been and remain open to mining and mineral leasing. Additionally, this action establishes a 20-year term for the continued use of 1,280.68 acres for stock driveway purposes. This continued acreage remains closed to surface entry, but open to mining and mineral leasing.

EFFECTIVE DATE: March 17, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Orders of July 17, 1918, and May 11, 1931, which withdrew public lands for stock driveway purposes, are hereby revoked insofar as they affect the following described lands:

Boise Meridian

Stock Driveway No. 29

T. 7 N., R. 3 E.,
Sec. 28, SE¼SE¼;
Sec. 33, lot 2, NE¼NW¼.
T. 2 N., R. 4 E.,
Sec. 24, lots 2, 9, N½SE¼, SW¼SE¼;
Sec. 25, W½E½.
T. 1 S., R. 6 E.,
Sec. 1, S½NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 2, lots 1, 2, 3, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 11, E½NE¼, W½E½, E½W½, SW¼NW¼, W½SW¼;
Sec. 12, N½, N½SE¼, SE¼SE¼;
Sec. 14, W½E½, W½, SE¼SE¼;
Sec. 23, E½, E½W½;
Sec. 26, E½, E½W½;
Sec. 35, NE¼, N½SE¼, SE¼SE¼.
T. 1 S., R. 7 E.,
Sec. 6, lot 7, SE¼SW¼;

Sec. 7;
Sec. 8, N½NE¼, S½N½, S½;
Sec. 9;
Sec. 13, E½E½, N½NW¼;
Sec. 17, NW¼NE¼, NW¼;
Sec. 18, N½NE¼, NE¼NW¼;
Sec. 24, E½NE¼.
T. 1 S., R. 8 E.,
Sec. 27, N½NE¼, NE¼NW¼, S½SE¼;
Sec. 33, S½NE¼, E½SW¼, SW¼SW¼, SE¼;
Sec. 34.
T. 2 S., R. 5 E.,
Sec. 22, N½SE¼, SE¼SE¼;
Sec. 23, E½NE¼, SW¼NE¼, S½;
Sec. 24;
Sec. 25, lot 1, NW¼NE¼, N½NW¼;
Sec. 26, N½N½, SW¼NW¼, NW¼SW¼;
Sec. 27, E½E½, SW¼SE¼;
Sec. 33, lot 1, NE¼SE¼;
Sec. 34, lots 1 to 4, inclusive, NE¼, E½NW¼, N½S½.
T. 2 S., R. 6 E.,
Sec. 1, lot 4;
Sec. 2, lots 1 to 4, inclusive, S½N½, N½S½, S½SW¼;
Sec. 3, SE¼NE¼, E½SE¼;
Sec. 10;
Sec. 11, W½;
Sec. 15;
Sec. 19 to 22, inclusive;
Sec. 27, N½N½;
Sec. 28, N½N½;
Sec. 29, N½N½;
Sec. 30, lot 1, N½NE¼, NE¼NW¼.
T. 2 S., R. 7 E.,
Sec. 12, S½SE¼;
Sec. 13, E½;
Sec. 24, E½;
Sec. 25, NE¼, N½SE¼, SE¼SE¼.
T. 2 S., R. 8 E.,
Sec. 4, lots 1 to 4, inclusive, S½N½, N½S½, S½SW¼, SW¼SE¼;
Sec. 5, SE¼SW¼, SE¼;
Sec. 7, lot 4, SE¼SW¼, S½SE¼;
Sec. 8, E½, E½W½, W½SW¼;
Sec. 9, NW¼, N½SW¼, SW¼SW¼;
Sec. 17, N½, N½S½;
Sec. 18, lots 1 to 4, inclusive, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 19, lots 1 to 4, inclusive;
Sec. 30, lots 1 to 4, inclusive, SE¼NW¼, E½SW¼, SW¼SE¼;
Sec. 31, lots 1 to 3, inclusive, W½E½, E½W½.
T. 3 S., R. 4 E.,
Sec. 24, lots 3 and 4;
Sec. 25, lots 1 to 4, inclusive, SW¼NE¼, SW¼, W½SE¼;
Sec. 26, SW¼SE¼;
Sec. 34, lots 1 to 4, inclusive, NE¼, E½NW¼, SW¼NW¼, N½S½;
Sec. 35, lot 4, N½, NW¼SW¼.
T. 3 S., R. 5 E.,
Sec. 3;
Sec. 4, lot 1, S½NE¼, E½SW¼, SW¼SW¼, SE¼;
Sec. 8, E½, E½SW¼, SW¼SW¼;
Sec. 9;
Sec. 10 NW¼NE¼, NW¼, W½SW¼;
Sec. 17;
Sec. 18, E½E½, SW¼SE¼;
Sec. 19, lots 2, 3, 4, E½, E½W½;
Sec. 20 N½,N½SW¼, SW¼SW¼;
Sec. 30, lots 1 to 4, inclusive, NE¼, E½W½, NW¼SE¼.
T. 3 S., R. 7 E.,
Sec. 1, W½SW¼;
Sec. 2, SE¼;
Sec. 11, E½, S½SW¼;
Sec. 12, W½W½;
Sec. 13, NW¼NW¼;
Sec. 14, N½, SW¼, NW¼SE¼;
Sec. 15, E½E½, SW¼SE¼;
Sec. 20, SE¾SE¼;
Sec. 21, NE¼, E½NW¼, SW¼NW¼, SW¼, N½SE¼, SW¼SE¼;
Sec. 22, N½, N½S½;
Sec. 23, W½NW¼, NW¼SW¼;
Sec. 28, W½;
Sec. 29, E½NE¼, S½SW¼, SE¼;
Sec. 32, N½;
Sec. 33, N½NW¼.
T. 4 S., R. 4 E.,
Sec. 2, lot 4, SW¼NW¼, W½SW¼;
Sec. 3;
Sec. 10;
Sec. 11, W½W½;
Sec. 14, W½W½;
Sec. 15;
Sec. 21, NE¼, E½SE¼;
Sec. 22;
Sec. 23, W½W½;
Sec. 26, W½NW¼;
Sec. 27, N½;
Sec. 28, E½NE¼.

Stock Driveway No. 22

T. 9 S., R. 2 W.,
Sec. 26, SW¼.
The area described contains 34,850.75 acres in Boise, Elmore and Owyhee Counties.

2. At 9 a.m. on March 17, 1984, the lands described in paragraph 1, except as provided in paragraphs 3 and 4, shall be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on March 17, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The following described lands have been conveyed out of Federal ownership and are not subject to operation of the public land laws, including the mining and mineral leasing laws:

Boise Meridian

Stock Driveway No. 29

T. 7 N., R. 3 E.,
Sec. 28, SE¼SE¼;
T. 2 S., R. 6 E.,
Sec. 27, NW¼NE¼.
The area described contains 80 acres in Boise and Elmore Counties.

4. The surface of the following described land has been conveyed out of Federal ownership and is not subject to operation of the public land laws. This federally owned subsurface has been and remains open to location and entry under the United States mining laws, and to applications and offers under the mineral leasing laws.

Boise Meridian

Stock Driveway No. 29

T. 7 N., R. 3 E.,
Sec. 33, lot 2, NE¼NW¼.
The area described contains 68.22 acres in Boise and Elmore Counties.

5. The Secretarial Order of July 17, 1918, which withdrew the following described lands, is hereby modified to expire 20 years from the effective date of this order, unless as a result of a review conducted before the effective date, pursuant to Section 204(f) of the Federal Land Policy and Management Act, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Boise Meridian

Stock Driveway No. 29

T. 6 N., R. 2 E.,
Sec. 2, SE¼SE¼;
Sec. 11, NE¼NE¼;
Sec. 12, S½NE¼, E½NW¼, NW¼NW¼, NE¼SE¼.
T. 6 N., R. 3 E.,
Sec. 4, lot 4;
Sec. 5, lots 1, 2, 3, SW¼NE¼, S½NW¼, N½SW¼, SW¼SW¼;
Sec. 6, SE¼SW¼, E½SE¼, SW¼SE¼;
Sec. 7, lots 2 and 3, E½NW¼, NE¼SW¼.
T. 7 N., R. 3 E.,
Sec. 33, lots 3 and 4, N½NE¼, SW¼NE¼, SE¼NW¼, NE¼SW¼.
The area described contains 1,280.68 acres of public land in Bingham County.

The lands described in paragraph 5 have been and remain closed to operation of the public land laws generally, but open to location and entry under the United States mining laws, and applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be directed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: February 9, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-4265 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6519

[M-41560]

Modification of Secretarial Order Dated December 5, 1941, as Amended; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order modifies a Secretarial order which withdrew

1,897.24 acres of public land for stock driveway purposes. The modification establishes a 20-year term. The lands would remain closed to surface entry, but have been and remain open to mining and mineral leasing.

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated December 5, 1941, as amended, which withdrew Stock Driveway No. 11, Montana No. 1, described below from disposal under the public land laws, is hereby modified to expire 20 years from the effective date of this order as to the following described land:

Principal Meridian

T. 12 S., R. 8 W.,
Sec. 22, E½SW¼ and SE¼;
Sec. 27, N½NE¼, SW¼NE¼, and W½;
Sec. 31, lots 3 and 4, E½SW¼ and SE¼;
Sec. 32, S½;
Sec. 33, S½;
Sec. 34, NW¼, N½SW¼ and SW¼SW¼.

The area described contains 1,897.24 acres in Beaverhead County.

2. The lands have been and remain open to location and entry under the mining laws and to applications and offers under the mineral leasing laws.

3. Pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), this withdrawal will be reviewed within 20 years from the effective date of this order and, if appropriate, at subsequent 20 year intervals to ensure that the lands are still being used for the purpose for which they were withdrawn.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: February 9, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–4267 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6520

[OR–34465]

Revocation of Executive Order of March 29, 1866; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which withdrew 47.30 acres of acquired land to establish the Cape Blanco Lighthouse Reservation. This acquired land is not subject to the surface land or mining laws; however, it has been and remains open to acquired lands mineral leasing. This is merely a record clearing action.

EFFECTIVE DATE: March 17, 1984.

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

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of March 29, 1866, which withdrew land for use by the U.S. Coast Guard for the Cape Blanco Lighthouse Reservation, is hereby revoked:

Willamette Meridian

T. 32 S., R. 16 W.,
Sec. 2, lot 1.

The area described aggregates 47.30 acres in Curry County.

2. This acquired land is not subject to operation of the public land laws, including the mining laws. The land has been and remains open to acquired lands mineral leasing.

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

Dated: February 9, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–4264 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 2

Organization, Functions, and Delegations of Authority

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This document revises the existing FEMA regulation on organization, functions and delegations of authority and describes elements of the organization of FEMA, and the general course and method by which its functions are channeled and determined. This document revises delegations of authority by the Director. The revisions result from recent realignments within FEMA

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0377.

SUPPLEMENTARY INFORMATION: This document reflects reassignment of the flood-plain management function from the Associate Director, State and Local Programs and Support to the Federal Insurance Administrator, the establishment of the Emergency Operations Directorate, and establishing Acquisition Management, Personnel, and Administrative Support as staff offices under the Executive Administrator.

This document relates to FEMA's organization and internal practices. Further, it is not a substantive rule, and it makes no substantial changes in existing arrangements. Hence, notice and public comment have been omitted and the rule has been made effective immediately upon publication in the **Federal Register.**

This rule has no effect on the economy, competition or similar matters, nor does it impact on small entities. Hence no regulatory impact analyses will be prepared under E.O. 12291 or the Regulatory Flexibility Act. Further, this document is an administrative action and thus is categorically excluded from the requirement for environmental assessments under Part 10 of this chapter. There are no collection of information requirements and thus section 3504(h) of the Paperwork Reduction Act is inapplicable.

List of Subjects in 44 CFR Part 2

Authority delegations (government agencies), Organization and functions (government agencies).

PART 2—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Accordingly, Part 2, Chapter 1, Title 44, Code of Federal Regulations, is amended as follows:

1. The Table of Contents of Part 2 of Title 44 is revised to read as follows:

Subpart A—Organization and Functions

General

Sec.
2.1 Purpose.
2.2 Organization of FEMA.

FEMA Offices

2.10 Office of the Director.

Sec.
2.11 Office of the Deputy Director.
2.12 Office of the Executive Deputy Director.
2.13 State and Local Programs and Support Directorate (SLPS).
2.14 National Preparedness Programs Directorate (NPP).
2.15 [Reserved]
2.16 Training and Fire Programs Directorate/National Emergency Training Center (TFP).
2.17 Federal Insurance Administration (FIA).
2.18 Emergency Operations Directorate (OP).
2.19 Office of the Inspector General (IG).
2.20 Office of the General Counsel (GC).
2.21 Office of Program Analysis and Evaluation (PA&E).
2.22 Office of Executive Administration.
2.23 Office of the Comptroller.
2.24 Office of Special Programs.
2.25 Office of Regional Operations.
2.26 Regional Offices.

FEMA Locations

2.30 FEMA Headquarters.
2.31 FEMA Regions.
2.32 National Emergency Training Center.

Subpart B—Delegations

General

2.50 Purpose.
2.51 Exercise of Authority.
2.52 General limitations and reservations.
2.53 Delegations not included.
2.54 Redelegation of authority.
2.56 Designation of subordinates to act.
2.55 General delegations.

Delegations to Specific Officers

2.60 Deputy Director [Reserved].
2.61 Associate Director, State and Local Programs and Support (SLPS).
2.62 Executive Deputy Director [Reserved].
2.63 Associate Director, National Preparedness Programs (NPP).
2.64 Federal Insurance Administrator (FIA).
2.65 Associate Director, Emergency Operations (OP).
2.66 Associate Director, Training and Fire Programs (TFP).
2.67 Director, Acquisition Management.
2.68 Comptroller.
2.69 General Counsel (GC).
2.70 Inspector General (IG).
2.71 Regional Directors.
2.72 Director, Administrative Support.
2.73 Director, Personnel.

Authority: 5 U.S.C. 552; Sec. 106, Reorganization Plan No. 3 of 1978; Executive Order 12127 of March 31, 1979; Executive Order 12148 of July 20, 1979, as amended.

§ 2.13 [Amended]

2. Section 2.13 is amended by removing the words "The floodplain management functions under the National Flood Insurance Act," from the first sentence.

3. Section 2.13(a) is amended by removing the last sentence.

4. Section 2.13(b) is amended by adding the following sentence at the end. "It is responsible for fire suppression assistance in coordination with the United States Fire Administration."

§ 2.15 [Reserved]

5. Section 2.15 is removed and the number reserved.

§ 2.17 [Amended]

6. Section 2.17 introductory paragraph is amended by adding a new second sentence as follows:

* * * It also is responsible for floodplain mangement functions under the National Flood Insurance Act and FEMA functions under the Coastal Barrier Resources Act, except for functions relative to the Disaster Relief Act of 1974.

7. Section 2.17 is amended by adding new paragraphs (d) and (e) as follows:

* * * * *

(d) The Office of Loss Reduction is responsible for developing, administering, and coordinating FIA's overall floodplain management policy and implementing procedures among the Federal agencies, State and local governments (including establishing and maintaining community participation in the NFIP); it provides consultative services to other Federal agencies on Executive Order 11988 (Floodplain Management); it performs lead agency duties under the Unified National Program for Floodplain Management; and it administers the NFIP property acquisition program.

(e) The Office of Risk Assessment conducts studies to produce flood risk data and hazard maps for the Nation's flood-prone communities in support of actuarial insurance rating and floodplain management activities under the National Flood Insurance Program. This includes development of technical methodology and policy, resolution of appeals of risk designations, technical assistance in the use and interpretation of risk information and operation of dissemination systems for risk data and hazard mapping.

§ 2.18 [Amended]

8. The heading of § 2.18 is amended by adding the word "Directorate" at the end.

9. The first sentence of the introductory paragraph of § 2.18 is amended by removing the words "Emergency Operations" and adding "the Directorate" in place thereof.

10. The last sentence of the introductory paragraph of § 2.18 is amended by removing the words "a Director" and adding the words "an Associate Director" in place thereof.

11. The first sentence of § 2.18(d) is amended by removing the words "Office of Program and Support" and adding "Office of Emergency Coordination and Support" in place thereof.

§ 2.19 [Amended]

12. Section 2.19 is amended by removing the word "Federal" in the third sentence.

§ 2.22 [Amended]

13. Section 2.22 is amended by adding paragraphs (b) (6), (7), and (8).

* * * * *

(b) * * *

(6) The *Office of Personnel* develops, implements, administers, and manages FEMA's personnel policies and programs, including position management and classification, recruitment, placement, salary administration, labor management relations, merit pay, special programs (NDER, DAE, Shelter Survey), performance appraisal, incentive awards, discipline, retirement, health insurance, training and career development, and in conjunction with the Equal Opportunity Office, equal employment opportunity.

(7) *The Office of Administrative Support* directs the administrative programs and systems necessary for effective management of the agency and provides the administrative services and support essential to day-to-day operations. Services and support include: space and property management; motor vehicle management; mail management; printing procurement; centralized publications management including storage/distribution; graphic arts and design for visual presentation materials; records and information systems management which encompasses the directives systems, reports and forms management, control of public information collection, and management of official records; and providing a variety of support services at FEMA Headquarters including supplies, materials, equipment and furnishings.

(8) *The Office of Acquisition Management* negotiates, awards, and administers contracts, grants, cooperative agreements, interagency agreements and purchase orders. This office is also responsible for developing and improving Agency acquisition policies and procedures, evaluating the effectiveness of all Agency procurement activities in headquarters and field levels, conducting procurement training courses for all Agency personnel involved in the procurement process, operating a procurement and assistance management information system which produces reports for Agency

management, OMB, Congress and the public, providing technical support for field procurement activities, and managing the Agency's preferential procurement program goals and achievements.

14. Section 2.55(b) is amended by revising it to read as follows:

§ 2.55 General delegations.

* * * * *

(b) The officers authorized to exercise authorities in paragraph (c) of this section are:

Federal Insurance Administrator
Associate Director, National Preparedness Programs
Associate Director, State and Local Programs and Support
Associate Director, Training and Fire Programs
Associate Director, Emergency Operations
Executive Administrator
Comptroller
Inspector General
General Counsel
Director, Office of Program Analysis and Evaluation
Directors, Staff Offices, Executive Administration
Regional Directors

* * * * *

§ 2.61 [Amended]

15. Section 2.61 is amended by removing and reserving paragraphs (h) and (i).

16. Section 2.61 is amended by revising paragraph (n) to read:

* * * * *

To carry out hazard mitigation functions, including studies and research assigned under Executive Order 12148.

17. Section 2.61 is amended by revising paragraph (m) to read:

* * * * *

To Apply the Coastal Barrier Resources Act to the Disaster Relief Act of 1974.

* * * * *

§ 2.64 [Amended]

18. Section 2.64 is amended by removing and reserving paragraph (b)(4).

19. Section 2.64 (c) and (d)(1) are amended by removing "National Flood Insurance Act of 1956" and adding "Federal Flood Insurance Act of 1956."

20. Section 2.64 (e) is amended by adding before the period at the end the following: "and with respect to the consultation function under Executive Order 11988, 'Floodplain Management,' as amended."

21. Section 2.64 is amended by removing and reserving paragraph (d)(5).

22. Section 2.64 is amended by removing paragraphs (d)(7) through (14).

23. Section 2.64 is amended by revising paragraph (e) to read as follows:

* * * * *

(e)(1) The Federal Insurance Administrator is authorized to perform the functions necessary to make flood insurance unavailable pursuant to the Coastal Barrier Resources Act (Pub. L. 97–348). The Administrator is also authorized to define the terms 'new construction, substantial improvement and new flood insurance coverage' as used in the Coastal Barrier Resources Act, and to issue any regulations necessary to implement this § 2.64(e).

(2) The Administrator shall exercise the authority under the Coastal Barrier Resources Act to determine those areas which are included in the Department of the Interior's designation of the Coastal Barrier Resources System, transpose DOI's designations onto FEMA's floodplain maps, and perform all other actions necessary to interpret DOI's maps.

* * * * *

§ 2.65 [Amended]

24. The heading of § 2.65 is amended by adding the word "Associate" before the word "Director."

25. The introductory paragraph of § 2.65 is amended by adding the word "Associate" before the word "Director".

26. Section 2.67 is revised to read as follows:

§ 2.67 Director, Acquisition Management.

The Director, Acquisition Management is authorized to:

(a)(1) Exercise authority under section 104(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 delegated to the Director by section 2(f) of Executive Order 12316;

(2) Exercise authority of the Director concerning extra-ordinary contractual actions under paragraph 21 of Executive Order 10789.

(3) Exercise authority delegated to the Director by Executive Order 12352 and act as procurement executive.

(b)(1) Make purchases and contracts by advertising for equipment and supplies, administrative equipment, office supplies, professional services, transportation of persons and property, and nonpersonal services, and determine that the rejection of all bids is in the public interest;

(2) Negotiate purchases and contracts for equipment and supplies, professional services, transportation of persons and property, and non-personal services without advertising; and make and issue determinations related thereto pursuant to section 302(c) (1)–(10), (14) and (15) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c) (1)–(10), (14) and (15)) and 40 U.S.C. 541–544 with respect to contracting for services of Architects Engineers;

(3) Enter into and administer interagency agreements under the Economy Act or any other such agreement involving obligation of funds;

(c) Notwithstanding any general delegation of statutory authority in this part to another officer of FEMA, if the authority delegated in the general statutory delegation contains procurement authority that authority is delegated solely to the Director, Acquisition Management, with authority to redelegate to any employee of FEMA. As used in this paragraph (c) the term "procurement" includes acquisition from a recipient including a State or local government, of property or services for the direct benefit or use of the Federal Government. This includes authority under section 201(h) of the Federal Civil Defense Act but excludes authority under section 1362 of the National Flood Insurance Act.

(d) Notwithstanding any general delegation of authority in this part to another officer of FEMA, other than the delegation to Regional Directors under § 2.71, if the authority delegated contains authority to award discretionary grants that authority is delegated to the Director, Acquisition Management, who is authorized to exercise the authority of the Director with respect thereto. The Director, Acquisition Management, may redelegate this authority to any employee of FEMA. Discretionary grants include those instruments which are awarded to a selected or limited number of recipients deemed best qualified based upon criteria designed for the conduct of a specific project. This can include governments. Discretionary grants do not include those awarded to recipients for which: (1) The recipient or class of recipient is mandated by legislation or regulation; (2) the amount of the instrument or the amount of the program is established by legislation and discretion in the award process is limited; or (3) there is no choice in the purpose of the award or whether to make the award. The delegation to the Regional Directors under § 2.71 to implement various programs is not affected by this delegation to the Director, Acquisition Management.

§ 2.68 [Amended]

27. Section 2.68 is amended by revising paragraph (8) to read:

* * * * *

Issue budget allocation advice to Associate Directors, Administrators, Office Directors or equivalent, and Regional Directors. Officials who receive budget allocations shall limit obligations to amounts permitted by budget allocations. Officials who incur obligations or make expenditures in excess of their budget allocations are subject to administrative disciplinary actions, as circumstances warrant.

* * * * *

28. Part 2 of Title 44 is amended by adding new §§ 2.72 and 2.73, as follows:

§ 2.72 Director of Administrative Support.

The Director, Administrative Support, is authorized to:

(a) Manage records and files within FEMA, including records creation, organization, maintenance, and disposal. Place advertisements in newspapers pursuant to 44 U.S.C. 3702;

(b) Assign and reassign real and personal property other than contributions loan property within FEMA. Exercise authority under section 201(j) of the Federal Civil Defense Act of 1950, as amended;

(c) Provide for accountability for property;

(d) Issue determinations of excess property other than contributions loan property and transfer of same as required;

(e) Make purchases and contracts for procurement of printing and binding services in accordance with the current government printing and binding regulations of the Joint Committee on Printing, and Title 44, United States Code.

§ 2.73 Director of Personnel.

Notwithstanding any general delegations of authority in this part to another officer of FEMA, if authority delegated in the general delegation contains personnel authorities, that authority is delegated to the Director of Personnel with authority to redelegate to any employee of FEMA. As used in the paragraph the term "personnel" includes development, implementation, administration and management of personnel policies and programs, including position management and classification, recruitment, placement, salary administration, labor management relations, merit pay, special program (NDER, DAE, Shelter Survey), performance appraisal, incentive awards, discipline, retirement, health insurance, training and career development, and in conjunction with the Equal Opportunity Officer, equal employment opportunity.

Dated: February 10, 1984.

Louis O. Giuffrida,

Director, Federal Management Agency.

[FR Doc. 84-4188 Filed 2-15-84; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Part 151

Reimbursement for Costs of Firefighting on Federal Property

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This regulation updates an existing regulation to reflect organizational changes resulting from the transfer of functions under the Federal Fire Prevention and Control Act from the Department of Commerce to the Federal Emergency Management Agency (FEMA), as a result of Reorganization Plan No. 3 of 1978 and Executive Order 12127 of March 31, 1979.

EFFECTIVE DATE: This rule takes effect March 19, 1984.

FOR FURTHER INFORMATION CONTACT: Arthur E. Curry, Chief, Policy Division, Office of the Comptroller, Federal Emergency Management Agency, Telephone: (202) 287-0630.

SUPPLEMENTARY INFORMATION: When issued in 1977, this regulation placed responsibilities for administration of Section 11 of the Federal Fire Prevention and Control Act in the Administrator of what became the United States Fire Administration. Reorganization Plan No. 3 of 1978 transferred the functions of the Administrator to the Director, Federal Emergency Management Agency (FEMA). The United States Fire Administration and the position of Administrator were transferred from the Department of Commerce to FEMA and are now part of the Training and Fire Programs Directorate of FEMA. The regulation needs to be amended to reflect these changes. Certain other changes were needed, such as a reference to the Court of Claims (now the U.S. Claims Court), and to 31 U.S.C. 231, now recodified.

Instead of assigning the functions to the Administrator, they have been retained in the Director, Federal Emergency Management Agency, for appropriate delegation (presently to the Comproller). The proposed rule was issued on November 3, 1983, at 48 FR 50778. Comments were due no later than January 3, 1984. No comments were received by that date. However, the regulation was reviewed by OMB under section 3504(h) of the Paperwork Reduction Act, and the collection of information requirements contained in § 151.11 approved.

FEMA has made certain changes to proposed § 151.11 to reduce records collection requirements by eliminating such requirements as evidence that the person submitting the claim is authorized to do so, copies of mutual aid agreements between the United States and the fire service, or evidence the Federal Government owns full title to the property. Other editorial changes were made.

This regulation deals with administrative matters and, hence, is categorically excluded from requirements for an environmental assessment under 44 CFR Part 10.

The rule is not a major rule as defined in Section 1(b) of Executive Order 12291 nor will it have a significant economic impact on a substantial number of small entities. Hence, regulatory impact analyses are unnecessary.

List of Subjects in 44 CFR Part 151

Claims, Government property.

Accordingly, Part 151 of Title 44, Code of Federal Regulations is revised to read as follows:

PART 151—REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

Subpart A—Purpose, Scope, Definitions

Subpart B—Submission, Determination, Appeal

Subpart C—Administration, Penalties

Authority: Secs. 11, and 21(b)(5), Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2210, and 2218(b)(5)); Reorganization Plan No. 3 of 1978 (3 CFR Part 1978 Comp. p. 379) and Executive Order 12127, dated March 31, 1979 (3 CFR Part 1979 Comp. p. 376).

Subpart A—Purpose, Scope, Definitions

§ 151.01 Purpose.

Section 11 of the Federal Fire Prevention and Control Act of 1974, provides that "each fire service that

engages in the fighting of a fire on property which is under the jurisdiction of the United States may file a claim with the Director of the Federal Emergency Management Agency for the amount of direct expenses and direct losses incurred by such fire service as a result of fighting such fire." This part, implements section 11 of the Act and governs the submission, determination, and appeal of claims under section 11.

§ 151.02 Scope.

Fire services, in any State, may file claims for reimbursement under section 11 and this part for the direct expenses and losses which are additional firefighting costs over and above normal operating costs incurred while fighting a fire on property which is under the jurisdiction of the United States. Section 11 requires that certain payments be deducted from those costs and that the Treasury Department will ordinarily pay the amount resulting from the application of that formula. Where the United States has entered into a contract (which is not a mutual aid agreement, defined in § 151.03) for the provision of fire protection, and it is the intent of the parties that reimbursement under section 11 is unavailable, this intent will normally govern. Where a mutual aid agreement is in effect between the claimant and an agency of the United States for the property upon which the fire occurred, reimbursement will be available in otherwise proper situations. However, any payments (including the value of services) rendered under the agreement during the term of the agreement (or the Federal fiscal year in which the fire occurred, if no term is discernible) shall be deducted from the costs claimed, pursuant to § 151.12.

§ 151.03 Definitions.

(a) "The Act" means the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. 2201 *et seq.*

(b) "Additional firefighting costs over and above normal operating costs" means reasonable and authorized (or ratified by a responsible Federal official) costs ordinarily associated with the function of firefighting as performed by a fire service. Such costs would normally arise out of response of personnel and apparatus to the site of the fire, search and rescue, exposure protection, fire containment, ventilation, salvage, extinguishment, overhaul, and preparation of the equipment for further use. This would also include costs associated with emergency medical services to the extent normally rendered by a fire service in connection with a fire. Not included are administrative expenses, costs of employee benefits, insurance, disability, death, litigation or health care, and the costs associated with processing claims under Section 11 of the Act and this part.

(c) "Director" means the Director of the Federal Emergency Management Agency, or his/her designee.

(d) "Claimant" means a fire service as defined in paragraph (g) of this section.

(e) "Direct expenses and losses" means expenses and losses which would not have been incurred had not the fire in question taken place. This includes salaries for specially employed personnel, overtime pay, the cost of supplies expended, and the depreciated value of equipment destroyed or damaged. It does not include such costs as the ordinary wages of firefighters, overhead costs, or depreciation (if based on other than hours of use during fires). Expenses as defined herein would normally be incurred after the first call or alarm and would normally cease upon the first of the following: return to station, report in-service and ready for further operations, or commence response to another incident.

(f) "Fire" means any instance of destructive or uncontrolled burning, including scorch burns and explosions of combustible dusts or solids, flammable liquids, and gases. The definition does not include the following except where they cause fire or occur as a consequence of fire: lightning or electrical discharge, explosion of steam boilers, hot water tanks, or other pressure vessels, explosions of ammunition or other detonating materials, overheating, mechanical failures, or breakdown of electrical equipment in power transmission facilities, and accidents involving ships, aircraft, or other vehicles. Not included in this definition are any costs associated with false alarms, regardless of cause.

(g) "Fire service" means any organization in any State consisting of personnnel, apparatus, and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire, including a private firefighting brigade. The personnel of any such organization may be paid employees or unpaid volunteers or any combination thereof. The location of any such organization and its responsibility for extinguishment and suppression of fires may include, but need not be limited to, a State, city, town, borough, parish, county, fire district, fire protection district, rural fire district, or other special district.

(h) "Mutual aid agreement" means any reciprocal agreement whether written or oral between a Federal agency and the claimant fire service, or its parent jurisdiction, for the purpose of providing fire protection for the property of the United States upon which the fire which gave rise to the claim occurred and for other property for which the claimant normally provides fire protection. Such agreement must be primarily one of service rendered for service, or must be entered into under 42 U.S.C. 1856–1856d. Not included are all other agreements and contracts, particularly those in which the intent of the parties is that the United States pays for fire protection.

(i) "FEMA" means the Federal Emergency Management Agency.

(j) "Over and above normal operating expenses" means costs, losses and expenses which are not ordinarily and necessarily associated with the maintenance, administration, and day-to-day operations of a fire service and which would not have been incurred absent the fire out of which the claim arises.

(k) "Payments to the fire service or its parent jurisdiction, including taxes or payments in lieu of taxes, the United States has made for the support of fire services on the property in question" means any Federal monies, or the value of services, including those made available through categorical or block grants, contracts, mutual aid agreements, taxes, and payments in lieu of taxes which the United States has paid to the fire service or its parent jurisdiction for fire protection and firefighting services. Such payments will be determined on the basis of the term of the arrangement, or if no such term is discernible, on the basis of the Federal fiscal year in which the fire occurred.

(l) "Property which is under the jurisdiction of the United States" means real property and Federal improvements thereon and appurtenances thereto in which the United States holds legal fee simple title. This excludes Federal leasehold interests. This likewise excludes Federal personal property on land in which the United States does not hold fee simple title.

(m) "State" means any State of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, The Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Subpart B—Submission, Determination, Appeal

§ 151.11 Submission of claims.

Any fire service in any State which believes it has a claim(s) cognizable under section 11 shall submit its claim(s) in writing within 90 days of the occurrence of the fire(s) for which a claim(s) is made. If the fire is of such duration that the claimant desires to submit a claim before its conclusion, it may do so, but only for the eligible costs actually incurred to date. Additional claims may be filed for costs later incurred. Claims shall be submitted to the Director, FEMA, Washington, D.C. 20472. Each claim shall include the following information:

(a) Name, address, jurisdiction and nature (volunteer, private, municipal, etc.) of claimant's fire service organization;

(b) Name, title, address and telephone number of individual authorized by the claimant fire service to make this claim in its behalf and his/her certification as to the accuracy of the information provided;

(c) Name and telephone number of Federal employee familiar with the facts of the event and the name and address of the Federal agency having jurisdiction over the property on which the fire occurred;

(d) Proof of authority to fight the fire (source of alarm, whether fire service was requested by responsible Federal official or whether such an official accepted the assistance when offered);

(e) Personnel and equipment committed to fighting of fire (type of equipment and number of items); and an itemized list of direct expenses (e.g., hours of equipment operation, fuel costs, consumables, overtime pay and wages for any specially hired personnel) and direct losses (e.g., damaged or destroyed equipment, to include purchase cost, estimate of the cost of repairs, statement of depreciated value immediately preceding and subsequent to the damage or destruction and the extent of insurance coverage) actually incurred in fighting the fire. A statement should be included explaining why each such expense or loss is considered by the claimant not be a normal operating cost, or to be in excess of normal operating costs;

(f) Copy of fire report which includes the location of the fire, a description of the property burned, the time of alarm, etc.;

(g) Such other information or documentation as the Director considers relevant to those considerations to be made in determining the amount authorized for payment, as set forth in § 151.12 of these regulations;

(h) Source and amount of any payments received or to be received for the fiscal year in which the fire occurred, including taxes or payments in lieu of taxes and including all monies received or receivable from the United States through any program or agreement including categorical or block grants, and contracts, by the claimant fire service or its parent jurisdiction for the support of fire services on the property on which the fire occurred. If this information is available when the claim is submitted, it should accompany the claim. If it is not, the information should be submitted as soon as practicable, but no later than 15 days after the end of the Federal fiscal year in which the fire occurred.

(Approved by Office of Management and Budget under Control No. 3067–0141)

§ 151.12 Determination of amount authorized for payment.

(a) The Director shall determine the amount to be paid on a claim (subject to payment by the Department of the Treasury). The amount to be paid is the total of eligible expenses, costs and losses under paragraph (a)(1) of this section which exceeds the amount of payments under paragraph (a)(2) of this section. The Director shall establish the reimbursable amount by determining:

(1) The extent to which the fire service incurred additional firefighting costs, over and above its normal operating costs, in connection with the fire which is the subject of the claim, i.e., the "amount of costs"; and

(2) What payments, if any, including taxes or payments in lieu of taxes, the fire service or its parent jurisdiction has received from the United States for the support of fire services on the property on which the fire occurred. The reimbursable amount is the amount, if any, by which the amount of costs, determined under paragraph (a)(1) of this section exceeds the amount of payments determined under paragraph (a)(2) of this section. Where more than one claim is filed the aggregate reimbursable amount is the amount by which the total amount of costs, determined under paragraph (a)(1) of this section exceed the amount of Federal payments (in the case of a mutual aid agreement—its term or if none is determinable, the Federal fiscal year) determined under paragraph (a)(2) of this section.

(b) The Director will first determine the costs as contemplated in paragraph (a)(1) of this section. The Director will then notify the claimant as to that amount. The claimant must indicate within 30 days its acceptance or rejection of that amount.

(1) If the determination is accepted by the claimant, this will be the final and conclusive determination of the amount of costs by the claimant in conjunction with the fire for which the claims are submitted.

(2) If the claimant rejects this amount, it must notify the Director, within 30 days, of its reasons for its rejection. Upon receipt of notification of rejection, the Director shall reconsider his determination and notify the claimant of the results of the reconsideration. The amont determined on reconsideration will constitute the costs to be used by the Director in determining the reimbursable amount.

(c) Upon receipt of documentation from the claimant on the amount of payments the Federal Government has made for the support of fire services on the property in question, the Director will, following such verification or investigation as the Director may deem appropriate, calculate the full amount to be reimbursed under the Section 11 formula as set forth in § 151.12(a). This calculation of the reimbursable amount is based upon the costs determined pursuant to § 151.12(b) and the documentation of Federal payments that the claimant submitted.

(d) The Director's determination of the reimbursable amount will be sent to the Secretary of the Treasury. The Secretary of the Treasury shall, upon receipt of the claim and determination made under § 151.12 (a), (b), and (c), determine the amount authorized for payment, which shall be the amount actually available for payment from any monies in the Treasury not otherwise appropriated but subject to reimbursement (from any appropriations which may be available or which may be made available for the purpose) by the Federal department or agency under whose jurisdiction the fire occurred. This shall be a sum no greater, although it may be less, that the reimbursable amount determined by the Director, FEMA, with respect to the claim under § 151.12 (a), (b) and (c).

(e) Upon receipt of written notification from the claimant of its intention to accept the amount authorized as full settlement of the claim, accompanied by a properly executed document of release, the Director will forward the claim, a copy of the Director's determination and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount authorized.

(f) Subject to the discovery of additional material evidence, the Director may reconsider any

determination in this section, whether or not made as his final determination.

§ 151.13 Reconsideration of amount authorized for payment.

(a) If the claimant elects to protest the amount authorized for payment, after the applicable procedures of § 151.12 have been followed, it must within 30 days of receipt of notification of the amount authorized notify the Director in writing of its objections and set forth the reasons why the Director should reconsider the determination. The Director will upon notice of protest and receipt of additional evidence reconsider the determination of the amount of Federal payments under § 151.12(a)(2) but not the determination of the amount of costs under § 151.12(a)(1). The Director shall cause a reconsideration by the Secretary of the Treasury of the amount actually available and authorized for payment by the Treasury. The Director, upon receipt of the Secretary of the Treasury's reconsidered determination, will notify the claimant in writing of the amount authorized, upon reconsideration, for payment in full settlement of the claim.

(b) If the claimant elects to accept the amount authorized, upon reconsideration, for payment in full settlement of its claims, it must within 30 days (or a longer period of time acceptable to the Director) of its receipt of that determination notify the Director of its acceptance in writing accompanied by a properly executed document of release. Upon receipt of such notice and document of release, the Director will forward the claim, a copy of the Director's final determination, and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount of final authorization.

§ 151.14 Adjudication.

If the claimant, after written notice by the Director of the amount authorized for payment in full settlement of the claim and after all applicable procedures of § 151.12 and § 151.13 have been followed elects to dispute the amount authorized, it may then initiate action in the United States Claims Court, which shall have jurisdiction to adjudicate the claim and enter judgment in accordance with Section 11(d) of the Act.

Subpart C—Administration, Penalties

§ 151.21 [Reserved]

§ 151.22 Audits.

At the discretion of the Director, all claims submitted under Section 11 of the Act and all records of the claimant will be subject to audit by the Director or his/her designee. In addition, the Comptroller General of the United States or his/her designee shall have access to all books and records of all claimants making claims under Section 11.

§ 151.23 Penalties.

Claimant's officials or others who provide information or documentation under this Part are subject to, among other laws, the criminal penalties of Title 18 of the United States Code, Section 287 and 1001, which punish the submission of false, fictitious or fraudulent claims and the making of false, fictitious or fraudulent statements and which provide for a fine of not more than $10,000 or imprisonment for not more than five years, or both. For such a violation, the person is likewise subject to the civil penalties set out in 31 U.S.C. 3729 and 3730.

Dated: February 10, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84-4170 Filed 2-15-84; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 31230-249]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; clarification of fishing restrictions and boundary revision; request for comments.

SUMMARY: This notice clarifies and supersedes the **Federal Register** notice effective January 1, 1984, which restricted fishing for the *Sebastes* complex of rockfish managed under the Pacific Coast Groundfish Fishery Management Plan, and revises the boundary line established in that notice. This action is taken to promote better understanding of the fishing restrictions and to facilitate data collection, compliance, and enforcement.

DATES: This notice is effective from 0001 Pacific Standard Time, February 12, 1984, until modified, superseded, or rescinded. Comments will be accepted through March 2, 1984.

ADDRESSES: Dr. T. E (Gene) Kruse, Acting Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115; or Mr. E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

SUPPLEMENTARY INFORMATION: Management measures to limit the levels of fishing for the *Sebastes* complex (all rockfish except Pacific ocean perch and widow, shortbelly, and *Sebastolobus* rockfishes) off Washington, Oregon, and California were published in the **Federal Register** on January 5, 1984 (49 FR 597). These measures set a harvest guideline in 10,100 metric tons (mt) for the *Sebastes* complex in the Vancouver-Columbia area (from the U.S.-Canada border to 43° N. latitude). To achieve the harvest guideline, only one landing of the *Sebastes* complex above 3,000 pounds, but not above 30,000 pounds, was allowed from each vessel per week in the Vancouver-Columbia area. South of this area, no harvest guideline was assigned and a 40,000-pound trip limit was imposed with no restriction on the number of landings.

Public comment received after these management measures became effective revealed confusion over how the trip limits were to be applied and questioned whether 43° N. latitude was an appropriate boundary between the two management areas. Because 43° N. latitude transects a major *Sebastes* fishing ground, fishermen often fish south but land north of this line. Furthermore, although 43° N. latitude is a boundary used by the International North Pacific Fisheries Commission (INPEC) for statistical purposes, resource data from the State of Oregon for the area north of the line includes data from the area south of 43° to Cape Blanco (42°50′ N. latitude).

At its January 11, 1984, meeting in Portland, Oregon, the Pacific Fishery Management Council (Council) heard testimony from concerned fishermen and processors, enforcement agents, and fishery managers, and affirmed its intention of making the trip limits for the *Sebastes* complex effective and enforceable. The Council agreed that *Sebastes* taken *or* landed in the Vancouver-Columbia area should be regulated by the more restrictive 30,000-pound, once-a-week limit, whereas *Sebastes* taken *and* landed south of this area should be covered by the 40,000-pound limit.

The Council also was concerned about changing trip limits at 43° N. latitude and asked the Groundfish Task Force for guidance. In conference by telephone on January 24, 1984, the

Council agreed with the recommendation of the Groundfish Task Force (which met January 18, 1984, in Portland, Oregon) that the 30,000-pound, once-a-week trip limit should be extended ten miles south to Cape Blanco (42°50′ N. latitude) to include the Coquille fishing area.

Council Recommendation

As a result of these two meetings, the Council recommended that the 30,000-pound, once-a-week restriction should apply to the *Sebastes* complex taken north of Cape Blanco, regardless of the place of landing, and also should apply to landings north of Cape Blanco, regardless of the place of taking. The 10,100-mt harvest guideline, extended south to Cape Blanco, would be maintained since landing between 42°50′ and 43°00′ N. latitude traditionally were included in the Columbia area. The 40,000-pound trip limit applies only to the *Sebastes* complex taken *and* landed south of Cape Blanco. As in the January 1 action, an unlimited number of landings of the *Sebastes* complex less than 3,000 pounds are allowed in all areas.

Secretarial Action

In order to promote better understanding of the fishing restrictions placed on the *Sebastes* complex and to encourage compliance and conform the regulatory boundary to the State of Oregon's statistical reporting practices, the Secretary of Commerce clarifies the management measures for the *Sebastes* complex announced at 49 FR 597 and modifies the boundary line as follows:

(1) *All areas.* There is no limit on the number of landings under 3,000 pounds (round weight) of the *Sebastes* complex allowed per week. Landings in greater amounts are allowed only as provided below.

(2) *North of Cape Blanco* (from 42°50′ N. latitude to the U.S.-Canada border).

(i) No more than 30,000 pounds (round weight) of the *Sebastes* complex may be retained per vessel at any time north of Cape Blanco.

(ii) One landing of not more than 30,000 pounds (round weight) of the *Sebastes* complex taken north of Cape Blanco is allowed per vessel per week, regardless of where the landing occurs.

(iii) One landing of not more than 30,000 pounds (round weight) of the *Sebastes* complex is allowed north of Cape Blanco per vessel per week, regardless of where the fish were taken.

(iv) The 1984 harvest guideline for the *Sebastes* complex north of Cape Blanco is 10,100 mt. This harvest guideline is not a quota.

(3) *South of Cape Blanco* (from 42°50′ N. latitude to the U.S.-Mexico border).

Except as provided in paragraph (2):

(i) No more than 40,000 pounds (round weight) of the *Sebastes* complex may be retained per vessel at any time south of Cape Blanco.

(ii) No more than 40,000 pounds (round weight) of the *Sebastes* complex may be landed south of Cape Blanco per vessel per fishing trip.

(iii) There is no limit of the number of landings allowed per week of the *Sebastes* complex taken *and* landed south of Cape Blanco.

(4) A "week" is defined as seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday local time.

(5) The above restrictions apply to all fish of the *Sebastes* complex taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking.

(6) Landings of the *Sebastes* complex in the pink shrimp, spot, and ridge-back prawn fisheries are governed by regulations at 50 CFR 663.28.

These management measures will be reviewed at the Council's April 10–12, 1984, meeting in San Francisco, California.

Classification

The determination to impose these management measures was published at 49 FR 597 and prior comment was waived for good cause. The same waiver remains in effect for this notice which is a clarification of and technical revision to the earlier notice.

The need for clarification of the regulations and modification of the boundary line was discussed at the Council's January 11–12, 1984, meeting in Portland, Oregon, at which time the public was invited to comment. Public comment also was invited by notice in the **Federal Register** and was received at the January 19, 1984, meeting of the Groundfish Task Force. Further public comments will be accepted for 15 days after publication of this notice in the **Federal Register.**

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

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: February 13, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator, for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-4310 Filed 2-13-84; 5:01 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 33
Thursday, February 16, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 60

Disposal of High-Level Radioactive Wastes in the Unsaturated Zone

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is considering amending its rules on the disposal of high-level radioactive wastes (HLW) in geologic repositories so that the technical criteria for geologic disposal in the saturated zone may be equally applicable to disposal within the unsaturated zone. The amendments are being proposed in response to public comments on the proposed technical criteria for geologic disposal in the saturated zone. Final technical criteria adopted by the Commission for disposal of HLW in the saturated zone were published in the **Federal Register** on June 21, 1983.

DATES: Comment period expires April 16, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Send comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Dr. Colleen Ostrowski, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, telephone (301) 427–4343.

SUPPLEMENTARY INFORMATION:

Background

On February 25, 1981 the Nuclear Regulatory Commission (NRC) published a rule that established procedures for licensing the disposal of HLW in geologic repositories (46 FR 13971). NRC published proposed technical criteria to be used in the evaluation of license applications under those procedures on July 8, 1981 (46 FR 35280). In response to solicitation for public comments on the proposed technical criteria NRC received 93 comment letters. The Commission considered all public comments in developing the final technical criteria which were published on June 21, 1983 (48 FR 28194).

Several commenters on the proposed rule, including the U.S. Department of Energy (DOE), the U.S. Department of the Interior, and separately the U.S. Geological Survey (USGS), took issue with a statement made by the Commission at 46 FR 35281 which explained that the proposed technical criteria were developed specifically for disposal in saturated geologic media because DOE plans at that time called for HLW disposal at sufficient depth to be situated in the hydrogeologic region termed the saturated zone. The commenters considered disposal in the unsaturated zone [1] to be a viable alternative, and noted that since the technical criteria were generally applicable without regard to the possibility of saturation, their scope and applicability should not be unduly restricted. DOE, in its comments on this issue, suggested that since opportunities may arise for exploratory studies in unsaturated geologic media, the Commission should reexamine the rule and make whatever changes are necessary to ensure that the rule will apply to all geologic media. The U.S. Department of the Interior urged that the rule be modified because, under appropriate conditions, the unsaturated zone could provide one more natural barrier to the movement of radionuclides from the geologic repository to the water table.

The Commission has determined that disposal of HLW within the unsaturated zone is a realistic alternative to disposal within the saturated zone, provided that the site and the geologic repository design are carefully selected, and are capable of meeting the performance objectives of 10 CFR Part 60. In reaching this determination, the Commission has examined the arguments presented by the public commenters as well as the analysis of the principal issues associated with unsaturated zone disposal described in the NRC staff technical support document (draft NREG–1046) prepared in conjunction with the proposed amendments. This document identifies the positive aspects and possible concerns associated with disposal in the unsaturated zone and explains why the Commission has developed the following proposed amendments. Other issues which were discussed by public commenters but which did not result in proposed changes to the final rule are also addressed in the technical support document. Upon publication, a copy of draft NUREG–1046 entitled "Disposal of High-Level Radioactive Wastes in the Unsaturated Zone: Technical Considerations" will be placed in the Public Document Room, 1717 H Street NW., Washington, DC 20555. Since this document is available to the general public,[2] only a summary discussion of these issues is presented below.

Issues Examined by the Commission

The depth to the regional water table varies throughout the United States. Potential geologic repository sites within unsaturated geologic media may be identified in arid to semi-arid geographic regions of the country because such regions generally are characterized by a deep regional water table and hence, a relatively thick unsaturated zone. The unsaturated zone in certain arid regions of the United States has been documented as extending to depths of approximately 600 meters below the ground surface. In contrast, the unsaturated zone in humid regions is often only a few meters thick, or entirely non-existent.

Perhaps the most positive aspect associated with disposal of HLW within the unsaturated zone is that the HLW would be emplaced in a relatively dry (i.e., low moisture content) geologic

[1] The definition of the term "unsaturated zone" is derived from U.S. Geological Survey Water Supply Paper 1988 (Washington, DC, 1972).

[2] Free single copies of Draft NUREG–1046 may be requested for public comment by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

medium. The Commission considers the relatively low moisture content of unsaturated sediment and rock as a positive aspect of HLW disposal in the unsaturated zone because the lack of available moisture could reduce leaching of the waste packages and thus, significantly reduce the likelihood of radionuclide transport by groundwater [3] migration. Further, it is generally recognized that vertical groundwater flux in the unsaturated zone is very small. A credible pathway for the migration of water soluble contaminants from a geologic repository located in the unsaturated zone to the accessible environment would probably be vertically downward to the underlying regional water table, and subsequently through the saturated groundwater units to the regional discharge points.

The Commission has reviewed several other issues that are of general concern to disposal of HLW in geologic repositories, regardless of the hydrogeologic zone involved. Such issues include the effects of climatic changes on the regional hydrologic systems, the potential for human intrusion into the geologic repository, and the effects of geologic processes (e.g., tectonism) on the structural stability of the geologic repository. The Commission does not believe that any of these issues would negate the generic concept of HLW disposal within the unsaturated zone. However, since the relative importance of these issues will depend upon natural conditions existing at a particular site, each must be evaluated on a site-by-site basis.

Vapor transport of contaminants has been identified by the Commission's staff as a potential concern associated with HLW disposal in the unsaturated zone. In unsaturated geologic media, water is transported in both liquid and vapor phases. The relative contribution of transport via liquid and vapor phases, and their direction of movement with respect to a geologic repository will have a direct influence on the containment of contaminants. Vapor transport, particularly when a thermal gradient is imposed may provide a possible mechanism for radionuclide migration from a geologic repository. However, positive aspects associated with vapor transport in the unsaturated zone may also be discerned since water vapor formed-near the geologic repository may flow through air-filled openings and partially drained fractures, resulting in a drying of the surrounding host rock. This drying zone may extend hundreds of meters from the geologic repository, and thus may inhibit the movement of soluble contaminants. Therefore, the Commission views vapor transport as another issue which must be evaluated on a case-by-case basis to determine its effects (whether favorable or potentially adverse) on a particular site.

[3] The Commission recognizes that the term "groundwater" is generally applied by the technical community to water which occurs beneath the water table (i.e., phreatic water) while the term "vadose water" is more accurately applied to the soil water, gravitational water and capillary water which occur in the unsaturated zone (zone of aeration, vadose zone). However, for the sake of simplicity, groundwater is defined in the proposed amendments as all water which occurs below the Earth's surface.

Other Comments Considered by NRC

The Commission has reviewed the following six issues related to HLW disposal within the unsaturated zone which were addressed in the public comments on the proposed rule, as well as in a recent USGS publication,[4] and has determined that the final rule (48 FR 28194) accommodates these concerns. More detailed discussion of these issues is presented in draft NUREG–1046.

Minimum 300-Meters Depth for Waste Emplacement

One commenter on the proposed 10 CFR Part 60 technical criteria who advocated applying the rule equally to the saturated and unsaturated zones considered it necessary to change the siting criterion which sets a minimum depth of 300 meters for waste emplacement. However, the commenter incorrectly identified this provision (see § 60.122(b)) as a requirement, rather than as a favorable condition. The Commission notes that favorable conditions are those which may enhance waste isolation potential. Hence, a minimum depth of 300 meters for waste emplacement is considered a favorable condition because the deeper the HLW is emplaced, the less likely it is to be disturbed. Viewed in that light this depth is a favorable condition, irrespective of hydrogeologic zone. Since the unsaturated zone may extend to depths of up to 600 meters, the Commission considers this favorable condition to be a realistic one for both the saturated and unsaturated zones. Therefore, this provision of the rule has not been modified.

Requirements for Sealing Shafts and Boreholes

In USGS Circular 903 the view was expressed that, with respect to a geologic repository within the unsaturated zone, sealing shafts and boreholes tightly to inhibit water movement may be undesirable. The reasoning behind this view is that although shafts and boreholes need to be carefully sealed in the saturated zone so that they do not become future conduits for radionuclide migration, they may have an entirely different relation to an unsaturated zone repository. Shafts and boreholes would increase the amount of water moving through a geologic repository located within the unsaturated zone only if they diverted a significant amount of runoff to the subsurface.

The Commission has reviewed both the arguments of the USGS and the provisions of the final rule relating to the design of seals for shafts and boreholes (§ 60.134). The provisions of § 60.134 appear to be generally applicable to seals of shafts and boreholes in both hydrogeologic zones. Therefore, the Commission does not consider it necessary to modify § 60.134 at this time.

Backfill Requirements

Another issue which has been identified both in public comments on the proposed technical criteria and in USGS Circular 903 pertains to the necessity of backfill in a geologic repository located within the unsaturated zone. The USGS expressed the view that the role of backfill in the unsaturated zone would be the opposite of that in the saturated zone. Backfill material that would inhibit the flow of water to, and radionuclide migration from, the waste packages may be highly desirable in the saturated zone. In the unsaturated zone, however, the designers of a geologic repository may wish to promote drainage. The opinion has been expressed that within the unsaturated zone backfill should allow groundwater to drain readily, rather than serve as a barrier to drainage. It was suggested in USGS Circular 903 that if backfill is necessary to perserve structural or waste package integrity, a relatively permeable material (e.g., cobble-sized rock) could be used to permit continued drainage.

The final rule published by the Commission on June 21, 1983 contained only the general functional statement that the engineered barrier system (including backfill) be designed to assist the geologic setting in meeting the performance objectives for the period following permanent closure (§ 60.133(h), 48 FR 28227). This provision, as promulgated, should be

[4] Roseboom, E. H. Jr., 1983, Disposal of High-Level Nuclear Waste Above the Water Table in Arid Regions. U.S. Geological Survey Circular 903. Washington, DC. p. 21.

responsive to the concerns discussed above.

Waste Package Design Criteria

As defined at § 60.2, the term "waste package" means "the waste form and any containers, shielding, packing and other absorbent materials immediately surrounding an individual waste container" (48 FR 28219). The point has been raised that because of the different nature of the emplacement environment designs of waste package components for the saturated and unsaturated zones may be quite different. The Commission recognizes that several characteristics of the emplacement environment (e.g., oxidation conditions, lithostatic pressure, geochemistry, contact with groundwater, etc.) may vary significantly between the two hydrogeologic zones. This variation of emplacement environment may necessitate that DOE consider alternative designs for waste packages (including waste form, canisters, overpack, etc.) for geologic disposal in the unsaturated zone. The Commission has reviewed the performance objectives which pertain to the waste package (§ 60.111 and § 60.113), and believes that the provisions, as currently written, are equally applicable to waste packages emplaced within either the saturated or unsaturated zone. Similarly, the specific design criteria for the waste package and its components (§ 60.135, 48 FR 28227) have been determined to be generally applicable to both zones. Therefore, no changes have been made to the provisions of §§ 60.111, 60.113, or 60.135.

Ventilation

The issue of restricting the number of ventilation shafts associated with a geologic repository was addressed in USGS Circular 903. In the case of the saturated zone, the number of ventilation shafts may be kept at a minimum since the shafts could constitute potential pathways to the accessible environment. In USGS Circular 903 it is stated that in the case of the unsaturated zone additional shafts for ventilation would not compromise the geologic repository's performance because sealing shafts in the unsaturated zone is much simpler and of less consequence than in the saturated zone. Several potential benefits were cited by the USGS to support this view—e.g., reducing the problem of thermal load in the early phases of the geologic repository, removal of any water vapor during the operational period, drawing large amounts of desert air through the geologic repository to promote even drier conditions and increasing worker safety by providing alternative sources of ventilation and escape routes.

The number of ventilation shafts included in any geologic repository will be decided by the designer—DOE. No provision of 10 CFR Part 60 expressly limits the number of ventilation shafts that a geologic repository may contain. What is important is that the surface facility ventilation systems comply with the design critera in § 60.132(b) (48 FR 28226) and that the underground facility ventilation system be designed in accordance with § 60.133(g) (48 FR 28227). The Commission considers the design requirements for the ventilation systems set forth in §§ 60.132 and 60.133 to be applicable to both the saturated and unsaturated zones. As long as the ventilation system complies with provisions of §§ 60.111(a), 60.132, and 60.133 and does not compromise the integrity of the site to host a geologic repository, DOE will have broad flexibility in designing the system.

Exploratory Boreholes

Provisions relating to site characterization are set forth in the final rule at § 60.10 (48 FR 28219). Section 60.10(d)(2) requires that the number of exploratory boreholes and shafts be limited to the extent practical, consistent with obtaining the information needed for site characterization. The view was expressed in USGS Circular 903 that in the unsaturated zone, if the host rock already has a high vertical permeability, there is no reason to limit the number of drill holes. Thus, the USGS noted that if necessary, a proposed geologic repository could be explored like an ore body or coal bed, with drill holes every few hundred feet on a rectangular grid.

The Commission's view on the importance of not compromising the integrity of a site during the site characterization program of testing and exploration has been clearly stated at 44 FR 70409. However, if DOE should opt for a site exploration and characterization program which includes plans for drilling numerous boreholes then DOE would have the burden of showing the Commission that the ability of the site to isolate HLW has not been compromised during these activities.

Groundwater Travel Time in the Unsaturated Zone

The concept of groundwater travel time generally is applied in evaluations of saturated flow systems, where flow is continuous and temporal fluctuations in the potential of the systems are small. In contrast, water movement in the unsaturated zone is generally discontinuous and strongly dependent upon initial conditions (e.g., magnitude and spatial and temporal distribution recharge events) and the conductive properties of the partially saturated geologic media, which vary with moisture content. Reliable calculations and predictions of groundwater travel times and velocities require knowledge of these conditions and properties. Within the unsaturated zone the movement of a given volume of water over a given distance depends very strongly upon the nature of the recharge events. Additionally, the material properties (e.g., moisture characteristic curves, porosity, irreducible saturation, etc.) and the initial conditions (e.g., saturation, capillary pressure, matric potential) may be extremely difficult to measure on a representative scale for unsaturated porous and fractured geologic media.

For these reasons, calculations of pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel through the unsaturated zone may have large associated uncertainities, and may be of questionable value in estimating the capability of the geologic setting to isolate HLW from the accessible environment.

The new definition of the term "groundwater" which the Commission is proposing would have the effect of expanding the scope of the performance objectives set forth in § 60.113 to disposal in either the saturated or unsaturated zone. Similarly, the proposed amendment to the Siting Criteria (§ 60.122(b)(7)) would have the effect of making pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment which substantially exceeds 1,000 years a favorable condition for HLW disposal within either the saturated or unsaturated zone.

The Commission's current thinking on this issue is that if DOE can demonstrate with reasonable assurance that travel time for groundwater movement through the unsaturated zone can be quantified, then DOE should be allowed to include such travel time when demonstrating compliance with § 60.113(a)(2). However, such calculations of groundwater travel times through the unsaturated zone could involve considerable uncertainty. Further, long groundwater travel time possibly may be inconsistent with the proposed amendment which identifies a host rock that provides for free drainage as a

favorable hydrogeologic condition for disposal of HLW within the unsaturated zone. It may be more appropriate for the Commission to specify another parameter upon which performance may be evaluated for a geologic setting in the unsaturated zone, or to utilize the approach set forth in § 60.113(b) which provides the Commission with the flexibility to specify variations in performance objectives on a case-by-case basis, as long as the overall system performance objective is satisifed. Therefore, to solicit input in these matters the Commission is particularly seeking public comment on the following questions:

1. How can groundwater travel time in the unsaturated zone be determined with reasonable assurance? Should the groundwater travel time performance objective be limited to groundwater movement within the saturated zone?

2. Does groundwater travel time represent an appropriate measure of performance for a site within the unsaturated zone, or would an alternative performance objective for the geologic setting, (e.g., maximum likely volumetric flow rate of groundwater through the geologic repository) be more appropriate?

Environmental Impact: Negative Declaration

Pursuant to Section 121(c) of the Nuclear Waste Policy Act of 1982, the promulgation of these criteria shall not require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969 or any environmental review under subparagraph (E) or (F) of Section 102(2) of such Act.

Paperwork Reduction Review

The proposed rule contains no new or amended recordkeeping, reporting or application requirements, or any other type of information collection requirements subject to the Paperwork Reduction Act (Pub. L. 96-511).

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The only entity subject to regulation under this rule is the U.S. Department of Energy.

List of Subjects in 10 CFR Part 60

High-level waste, Nuclear power plants and reactors, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Waste treatment and disposal.

Issuance

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Nuclear Waste Policy Act of 1982, and 5 U.S.C. 553, the Nuclear Regulatory Commission is proposing the following amendments to 10 CFR Part 60.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); sec. 121, Pub. L. 97-425, 96 Stat. 2228 (42 U.S.C. 1014).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 60.71 to 60.75 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

1. Section 60.2 is amended by adding two new definitions in proper alphabetical sequence:

§ 60.2 Definitions.

* * * * *

"Groundwater" means all water which occurs below the Earth's surface.

"Unsaturated zone" means the zone between the land surface and the deepest water table. Generally, water in this zone is under less than atmospheric pressure, and some of the voids may contain air or other gases at atmospheric pressure. Beneath flooded areas or in perched water bodies the water pressure locally may be greater than atmospheric.

* * * * *

2. Section 60.122 is amended by revising paragraph (b)(2)(iii), designating paragraph (b)(2)(iv) as (b)(7), and adding new paragraphs (b)(8), (c) (22), (23) and (24) to read as follows:

§ 60.122 Siting criteria.

* * * * *

(b) * * *

(2) * * * (iii) Low vertical permeability and low hydraulic potential between the host rock and the surrounding hydrogeologic units.

* * * * *

(7) Pre-waste-emplacement groundwater trave time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment that substantially exceeds 1,000 years.

(8) For disposal in the unsaturated zone, hydrogeologic conditions that provide—

(i) Low and nearly constant moisture flux in the host rock and in the overlaying and underlying hydrogeologic units;

(ii) A water table sufficiently below the underground facility such that fully saturated voids continuous with the water table do not encounter the underground facility;

(iii) A laterally extensive low-permeability hydrogeologic unit above the host rock that would inhibit the downward movement of water or divert downward moving water to a location beyond the limits of the underground facility;

(iv) A host rock that provides for free drainage; or

(v) A climatic regime in which the average annual historic precipitation is a small percentage of the average annual potential evapotranspiration.

* * * * *

(c) * * *

(22) Potential for the water table to rise sufficiently so as to cause saturation of an underground facility located in the unsaturated zone.

(23) Potential for existing or future perched water bodies that may have the effect of saturating portions of the underground facility or providing a faster flow path for radionuclide movement from an underground facility located in the unsaturated zone to the accessible environment.

(24) Potential for vapor transport of radionuclides from the underground facility located in the unsaturated zone to the accessible environment.

Dated at Washington, D.C., this 13th day of February 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-4306 Filed 2-15-84; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. R-84-1141; FR-1878]

Recognition of Substantially Equivalent Laws

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend 24 CFR Part 115, which provides recognition by the Department of those State and local fair housing laws that provide rights and remedies substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968 (Act), to recognize the laws of several additional State and local jurisdictions as substantially equivalent, and to withdraw recognition from one previously recognized local law.

DATES: Comment due date: April 16, 1984.

ADDRESS: Interested persons are invited to submit comments regarding the rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steven J. Sacks, Director, Federal, State and Local Programs Division, Room 5214, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 426-3500. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Recognition of Additional Laws

The Department is proposing to grant recognition to the fair housing laws of the following additional jurisdictions, in accordance with Section 810(c) of Title VIII of the Civil Rights Act of 1968: (1) The States of Florida, North Carolina and Hawaii; and (2) the localities of Allentown, Pennsylvania; Park Forest, Illinois; Pensacola, Florida; Tallahassee, Florida; Olathe, Kansas; Detroit, Michigan, and Fort Worth, Texas. The evaluation of the laws of these jurisdictions was conducted in accordance with the provisions of 24 CFR Part 115, with particular focus on §§ 115.2(a), 115.3 and 115.8. Those sections are set forth to give appropriate information to all parties with an interest in HUD's proposed action.

Section 115.2, Procedures for Recognition, provides, in paragraph (a): Recognition under this part shall be based on a consideration of the following materials and information: (1) The text of the jurisdiction's fair housing law and any regulations or directives issued thereunder; (2) the organization of the agency responsible for administering and enforcing such law; (3) the amount of funds and personnel made available to such agency for fair housing purposes during the current operating year; (4) when considering agencies which have been in operation for 1 year or more, any available indicia of the agency's ability to satisfactorily administer its law consonant with the performance standards delineated in § 115.8; and (5) any additional documents which the agency may wish to have considered.

Section 115.3, Criteria, provides: In order for a determination to be made that a State or local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to those provided in the Act, the law or ordinance must: (a) Provide for an administrative enforcement body to receive and process complaints; (b) Delegate to the administrative enforcement body comprehensive authority to investigate the allegations of complaints, and power to conciliate complaint matters; (c) Not place any excessive burdens on the complainant which might discourage the filing of complaints; (d) Not contain exemptions which substantially reduce the coverage of housing accommodations as compared to Section 803 of the Act which provides coverage with respect to all dwellings except, under certain circumstances, single-family homes sold or rented by the owner, and units in owner occupied dwellings containing living quarters for no more than four families; and (e) Be sufficiently comprehensive in its prohibitions so as to be an effective instrument in carrying out and achieving the intent and purposes of the Act, i.e., the prohibition of the following acts if they are based on discrimination because of race, color, religion, sex, or national origin:

(1) Refusal to sell or rent.

(2) Refusal to negotiate for a sale or rental.

(3) Making a dwelling unavailable.

(4) Discriminating in terms, conditions, or privileges of sale or rental, or in the provisions of services or facilities.

(5) Advertising in a discriminatory manner.

(6) Falsely representing that a dwelling is not available for inspection, sale or rental.

(7) Blockbusting.

(8) Discrimination in financing.

(9) Denying a person access to or membership or participation in multiple listing services, real estate brokers' organizations, or other services.

Provided, that a law may be determined substantially equivalent if it meets all of the criteria set forth in this section but does not contain adequate prohibitions with respect to one or more of the acts based on discrimination because of sex, or with respect to one or more of the cases described in paragraphs (e) (7), (8), and (9) of this section; (f) In addition to the factors described in paragraphs (a), (b), (c), (d), and (e) of this section, consideration will be given to the provisions of the law affording judicial protection and enforcement of the rights embodied in the law. However, a law may be determined substantially equivalent even though it does not contain express provisions for access to State or local courts.

Section 115.8, Performance Standards, provides: (a) The initial and continued recognition by the Secretary that a State or local fair housing law provides rights and remedies substantially equivalent to those provided in the Act will be dependent upon, where applicable, an assessment of the State or local agency's administration of its fair housing law to ensure that the law is in fact providing substantially equivalent rights and remedies. The performance standards set forth in paragraph (b) of this section will be used in making such assessment; (b) A State or local agency must: (1) Consistently and affirmatively seek the elimination of all prohibited practices under its fair housing law; (2) Consistently and affirmatively seek and obtain the type of relief designed to prevent recurrences of such practices; (3) Establish a mechanism for monitoring compliance with any agreements or orders entered into with or issued by the State or local agency to resolve discriminatory housing practices; (4) Engage in comprehensive and thorough investigative activities; and (5) Commence and complete the administrative processing of a complaint in a timely manner, i.e., the average complaint should, under ordinary circumstances, be investigated and, where applicable, set for conciliation within 30-45 days.

II. Withdrawal of Recognition—Fair Housing Ordinance of the City of Wichita, Kansas

On October 12, 1983, HUD notified the City of Wichita, Kansas that (1) it proposed to withdraw its recognition of that city's fair housing ordinance because HUD found that the ordinance had been amended on July 5, 1983 and no longer provided rights and remedies for alleged discriminatory housing practices which are substantially equivalent to Title VIII of the Civil Rights Act of 1968, and (2) the city had fifteen (15) days within which to submit data, views, and arguments in opposition and to request an opportunity for a conference under 24 CFR Part 115. The Department did not receive any rebuttal nor a request for a conference from the City of Wichita within the prescribed time period. Accordingly, this proposed rule includes withdrawal of the City of Wichita from the list of localities with substantially equivalent laws.

III. Other Matters

On August 9, 1983, the Department published a proposed rule (48 FR 36133) to revise 24 CFR Part 115 to simplify the process of issuing or withdrawing recognition of substantially equivalent laws. The proposed rule would provide for addition or deletion of jurisdictions through publication of rule-related notices in the **Federal Register**, although an opportunity for interested parties to comment on the actions proposed in such notices, equivalent to the public comment period permitted for proposed rule amendments, would be retained. Since the August 9, 1983 proposed rule has not yet been published as a final and effective rule, this proposed rule continues the past practice of providing for the issuance or withdrawal of recognition by rule amendment.

This proposed rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule only carries out the Department's statutory responsibility as set out in section 810(c) of the Fair Housing Act, 42 U.S.C. 3610(c).

This rule was listed as Item FH&EO-5-83 in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program numbers and titles are: 14.400, Equal Opportunity in Housing and 14.401, Fair Housing Assistance Program.

List of Subjects in 24 CFR Part 115

Fair housing, Intergovernmental relations.

PART 115—RECOGNITION OF SUBSTANTIALLY EQUIVALENT LAWS

Accordingly, it is proposed to revise 24 CFR 115.11 as follows:

§ 115.11 Jurisdictions with Substantially Equivalent Laws.

The following jurisdictions are recognized as providing rights and remedies for alleged discriminatory housing practices substantially equivalent to those in the Act, and complaints will be referred to the appropriate State or local agency as provided in § 115.6.

States

Alaska
California
Colorado
Connecticut
Delaware
Florida
Hawaii
Illinois
Indiana
Iowa
Kansas
Kentucky
Maine
Maryland
Massachusetts
Michigan
Minnesota
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
Oregon
Pennsylvania
Rhode Island
South Dakota
Virginia
Washington
West Virginia
Wisconsin

Localities

Anchorage, Alaska
Phoenix, Arizona
District of Columbia
New Haven, Connecticut
Clearwater, Florida
Metropolitan Dade County, Florida
Jacksonville, Florida
Orlando, Florida
Pensacola, Florida
St. Petersburg, Florida
Tallahassee, Florida
Bloomington, Illinois
Evanston, Illinois
Park Forest, Illinois
Springfield, Illinois
Urbana, Illinois
Columbus, Indiana
East Chicago, Indiana
Fort Wayne, Indiana
Gary, Indiana
South Bend, Indiana
Iowa City, Iowa
Kansas City, Kansas
Olathe, Kansas
Salina, Kansas
Lexington-Fayette, Kentucky
Howard County, Maryland
Montgomery County, Maryland
Prince George's County, Maryland
Detroit, Michigan
Minneapolis, Minnesota
St. Paul, Minnesota
Kansas City, Missouri
Lincoln, Nebraska
Omaha, Nebraska
New York City, New York
Charlotte, North Carolina
Mecklenberg County, North Carolina
New Hanover County, North Carolina
Raleigh, North Carolina
Winston-Salem, North Carolina
Dayton, Ohio
Allentown, Pennsylvania
Harrisburg, Pennsylvania
Philadelphia, Pennsylvania
Pittsburgh, Pennsylvania
York, Pennsylvania
Sioux Falls, South Dakota
Knoxville, Tennessee
Fort Worth, Texas
King County, Washington
Seattle, Washington
Tacoma, Washington
Beckley, West Virginia
Charleston, West Virginia
Huntington, West Virginia
Beloit, Wisconsin

Authority: Sec. 810(c) of the Civil Rights Act of 1968, 42 U.S.C. 3610, Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 31, 1984.

Antonio Monroig,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 84-4318 Filed 2-15-84; 8:45 am]

BILLING CODE 4210-28-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-185-81]

Accelerated Cost Recovery System; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the accelerated cost recovery system (ACRS) under section 168 of the Internal Revenue Code of 1954.

DATES: The public hearing will be held on Monday, May 21, Tuesday, May 22, and Wednesday, May 23, 1984, beginning at 10:00 a.m. Outlines of oral

comments must be delivered or mailed by Monday, April 30, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-185-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-fee call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 168 of the Internal Revenue Code of 1954. The proposed regulations appear in this issue of the **Federal Register** (See FR Doc. 84-3922).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Monday, April 30, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84-3861 Filed 2-9-84; 11:11 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[LR-185-81]

Accelerated Cost Recovery System

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the Accelerated Cost Recovery System (hereinafter referred to as ACRS) for recovering capital costs of eligible property. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981 (hereinafter referred to as ERTA), the Tax Equity and Fiscal Responsibility Act of 1982 (hereinafter referred to as TEFRA) and the Technical Corrections Act of 1982. Prior law allowed as a depreciation deduction a reasonable allowance for exhaustion, wear and tear, or obsolescence of eligible property. ERTA replaced this prior law depreciation system with ACRS. Generally, under ACRS cost recovery deductions are determined by the use of tables which reflect the use of accelerated methods of cost recovery over predetermined recovery periods. These recovery periods are generally unrelated to, and shorter than, prior law "useful lives." TEFRA repealed the more accelerated tables for personal property which were to be effective for property placed in service after 1984. These regulations would provide taxpayers with the guidance needed to comply with the Acts.

DATES: Written comments must be delivered or mailed by May 16, 1984. In general, these regulations apply to eligible property placed in service after December 31, 1980.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-185-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John A. Tolleris (with respect to § 1.168-4 (202-566-3590)), Joseph M. Rosenthal (with respect to the repair allowance, § 1.167(a)-11(d)(2) (202-566-6456)), or George T. Magnatta (with respect to all other provisions (202-566-3294)), of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 167, 168, 178, and 1016 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 201 and 203 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34; 95 Stat. 203, 221), sections 205 and 206 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248; 96 Stat. 427, 431), and section 102 of the Technical Corrections Act of 1982 (Pub. L. 97-448; 96 Stat. 2367). These amendments are to be issued under the authority contained in section 168 (95 Stat. 203; 26 U.S.C. 168) and section 7805 (69A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Accelerated Cost Recovery System

Section 168, as added by ERTA, is a replacement for the prior law depreciation system for recovering the capital costs of trade or business assets or investment assets. Generally, this new Accelerated Cost Recovery System (ACRS), added by section 168, provides for the recovery of capital costs of eligible property by the use of tables, which reflect the use of accelerated methods of cost recovery over predetermined recovery periods. These recovery periods are generally unrelated to, and shorter than, those under prior law. Unlike prior law ACRS does not make any distinction between new and used property. This new capital cost recovery system is mandatory for all eligible property, hereinafter referred to as "recovery property." Recovery property includes both real and personal property. Generally, to be eligible for ACRS property must be (1) tangible property of a character subject to the allowance for depreciation, (2) used in a trade or business or held for the production of income, and (3) placed in service by the taxpayer after December 31, 1980. Recovery property does not include (1) tangible depreciable property the taxpayer properly elects to depreciate under a method not expressed in terms of years, (2) public utility property where the taxpayer does not use a normalization method of accounting, and (3) certain pre-1981 property involved in post-1980 "churning" transactions to obtain the benefits of ACRS.

In addition, recovery property does not include intangible property. The Internal Revenue Service is continuing to examine the extent to which certain types of property, such as computer software and master motion picture negatives, may constitute intangible property that is ineligible for ACRS. The Internal Revenue Service is also examining the manner in which other

provisions of the Code (such as section 48(k)) may apply if such property is considered eligible for ACRS. Accordingly, these issues have been reserved in these proposed regulations and are the subject of a recently opened project, under which regulations will be issued as soon as possible. In the meantime, the Service will continue to administer the area in accordance with its current position. Comments on these questions from interested persons are welcome.

The allowable ACRS deduction is generally determined by multiplying the unadjusted basis of the property by the applicable percentage contained in the relevant ACRS tables. The prior law concept of salvage value is abolished in determining deductions under this new system. Thus, the entire cost or other basis of the property is recovered under ACRS. The proposed regulations provide rules for determining the allowable deduction when the basis of the property is redetermined (*e.g.*, where there is a readjustment of the purchase price).

Under ACRS, the cost of personal property must be recovered over a 3-year, 5-year, 10-year, or 15-year recovery period (unless the taxpayer elects a longer recovery period under rules described below). Real property is recovered over a 15-year recovery period (unless a longer period is elected). With respect to personal property, a full year's recovery deduction is allowed in the first recovery year regardless of when the asset is placed in service during that taxable year. No recovery deduction is allowed in the taxable year in which personal property is disposed of. The proposed regulations provide rules for computing the allowable deduction where the taxpayer has a taxable year of less than 12 months. In addition, for real property, the recovery for the year the asset is placed in service or is disposed of is based on the number of months the property is in service during the year, regardless of whether the taxpayer has a normal or short taxable year.

Taxpayers may elect to recover the cost of eligible property using the straight line method over that applicable recovery period or over a longer optional recovery period. For example, taxpayers may recover the capital costs of 5-year recovery property over a 5-year, 12-year, or 25-year period or the cost of real property over a 15-year, 35-year, or 45-year period, using the straight line method. Except for real property, the election applies to all recovery property of the particular class placed in service in the same taxable year. Generally, this election is irrevocable. The proposed regulations provide tables containing the applicable percentages when an optional straight line election is made.

Taxpayers may, under certain conditions, election to recover the capital costs of certain recovery property in a mass asset account. If the election is made, mass assets which have the same asset depreciation range (ADR) midpoint life as of January 1, 1981, and which are placed in service in the same taxable year, will be accounted for in a single account. As a consequence of the election, upon the disposition of an asset from that account, the taxpayer will generally include in income the full amount realized on the disposition. The unadjusted basis of the asset disposed of will continue to be included in determining the recovery deduction for the account. The proposed regulations define mass assets, provide rules for determining when dispositions occur for purposes of investment tax credit recapture, and provide rules for recovering any increases in basis resulting from such recapture. The proposed regulations also provide rules relating to the recognition of gain or loss on the disposition of recovery property other than from a mass asset account.

Under ACRS, component cost recovery is not permitted. Thus, the same recovery period and method generally must be used for a building and all structural components. The recovery period for a component generally begins at the later of the time the component or the building is placed in service.

Under the proposed regulations, a building is considered placed in service when a significant portion is made available for use in a finished condition. The taxpayer at that time begins recovery of so much of the capitalized costs as are properly allocable to the portion of the building in service. Similarly, as portions of the building are later made available, recovery of the properly allocable costs will commence.

Capitalized expenditures, which are section 1250 property, paid or incurred after the building is completed are recovered under the same period and method as are used for the building, recovery beginning when the improvement is placed in service. However, if a capitalized expenditure qualifies as a "substantial improvement," a new recovery period and method are permitted, recovery beginning when the improvement is placed in service.

Similarly, with respect to personal property, amounts paid or incurred after the property is placed in service, which are properly chargeable to capital account, are treated as newly-purchased property for ACRS purposes. That property is assigned to the same recovery class as the property to which the expenditure relates. Any applicable recovery period and method may be selected for such improvement, recovery beginning when the improvement is placed in service.

Rules are also provided clarifying the results when a lessee makes improvements on leased property.

The proposed regulations clarify the rules which prevent taxpayers from converting pre-1981 property into post-1980 recovery property. Under those rules, if the taxpayer enters into certain "churning" transactions, the methods of cost recovery provided under ACRS are not available with respect to the property.

ACRS contains special rules for property which is used predominantly outside the United States. The proposed regulations define this type of property and also provide guidance for property which ceases or begins to be used predominantly outside the United States after having been placed in service in a prior taxable year.

Similiarly, the proposed regulations provide rules for determining the deductions for other property which changes status under ACRS (*e.g.*, property which ceases to be used in connection with research and experimentation, property converted from personal to business use). Additionally, the proposed regulations provide rules for determining the deductions for property which is used both for personal and business purposes.

ACRS provides special rules for recovery property which is involved in certain nonrecognition and other transactions (section 168(f) (7), (10)). Generally, in these transactions the transferee is bound by the transferor's recovery period and method with respect to so much of the basis of the property in the hands of the transferee as does not exceed its basis in the hands of the transferor. The proposed regulations clarify the class of transactions subject to the rules and the manner of computing the deductions available to the transferor and transferee.

The proposed regulations also clarify the rules with respect to property involved in a transaction to which section 1031 or 1033 applies (section 168(f)(7)). Additionally, the proposed

regulations clarify the deductions available with respect to property transferred by gift or bequest and with respect to partnership property to which basis adjustments are made.

The proposed regulations also provide the guidance necessary for making the various elections under section 168.

Since Congress made no change to certain provisions of the Code which require (or allow) a taxpayer to compute depreciation by use of the straight line method over the property's useful life (*e.g.*, Section 163(d)(3)(C), 1016(a)(3)), the proposed regulations contain no special rules in that regard. As a result, the rules under prior law continue to apply.

Section 203(b) of ERTA terminated the class life asset depreciation range (ADR) system, authorized by section 167(m) of the Code, for recovery property placed in service after 1980. Additionally, section 201(c) of ERTA repealed the asset guideline class repair allowance, authorized by section 263(e), effective for property placed in service after December 31, 1980. The proposed regulations implement these statutory changes by amending § 1.167(a)–11 (a)(1) and (d)(2) and by making other conforming amendments. The proposed regulations also clarify that the repair allowance is continued in effect for expenditures made after December 31, 1980, for the repair, maintenance, rehabilitation, or improvement of property placed in service before January 1, 1981.

The proposed regulations provide that the taxpayer may elect the repair allowance for a taxable year by (a) making the election to apply ADR for the taxable year (even if all the property placed in service during the taxable year is recovery property to which the ADR system does not apply), and (b) making an election to apply the asset guideline class repair allowance for the taxable year.

For periods after December 31, 1980, the proposed regulations provide that expenditures that are property improvements or excluded additions under the repair allowance rules shall generally be treated as separate items of recovery property, as described above.

These regulations concerning ACRS are effective for property placed in service after December 31, 1980. A taxpayer who has filed a return and who either did not claim allowable ACRS deductions, or did not claim the full amount allowable (*e.g.*, because the taxpayer used a different rule for years following a short taxable year than is provided in these regulations), should file an amended return.

Non-Applicability of Executive Order 12291

It has been determined that this notice of proposed rulemaking is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the order dated April 29, 1983.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments—Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held in accordance with the notice of hearing published in this issue of the **Federal Register.**

Paperwork Reduction Act

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal authors of these regulations are John A. Tolleris, George T. Magnatta, Harold T. Flanagan, and Joseph M. Rosenthal of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR 1.1001–1—1.1102–3

Income taxes, Gain and loss, Basis, Nontaxable exchanges.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.167(a)–11 is amended as follows:

1. Paragraph (a)(1) is amended by adding a new sentence at the beginning thereof.

2. Paragraph (d)(2) is amended as follows:

a. A caption is added to paragraph (d)(2)(i)(*a*) and new paragraph (d)(2)(i)(*b*) is added,

b. Paragraph (d)(2)(ii) is amended by adding a new sentence at the end thereof,

c. In paragraph (d)(2)(iii)(*b*), the tenth sentence is amended by adding "property that is first placed in service (as provided in paragraph (e)(1) (i) and (ii) of this section) before January 1, 1981, and is" immediately after the phrase " 'repair allowance property' means", and

d. New paragraph (d)(2)(viii)(*d*) is added immediately after paragraph (d)(2)(viii)(*c*).

The revised and added provisions read as follows:

§ 1.167 (a)–11 Depreciation based on class lives and asset depreciation ranges for property placed in service after December 31, 1970.

(a) *In general*—(1) *Summary.* This section does not apply with respect to recovery property (within the meaning of section 168 and the regulations thereunder) placed in service after December 31, 1980.* * *

* * * * *

(d) *Special rules for salvage, repairs and retirements.** * *

(2) *Treatment of repairs*—(i) *In general—(a) Treatment of repair expenditures.** * *

(*b*) *Property placed in service after December 31, 1980.* This paragraph (d)(2) does not apply to any expenditures with respect to property first placed in service after December 31, 1980, but may apply to expenditures paid or incurred after such date with respect to property first placed in service before January 1, 1981. Expenditures with respect to property first placed in service after December 31, 1980, shall be treated as

capital expenditures or as deductible expenses for the taxable year in which paid or incurred in accordance with the general rules provided in sections 162, 212, and 263. Property is considered first placed in service for purposes of this paragraph (d)(2)(i)(*b*) under the rules of paragraph (e)(1) (i) and (ii) of this section.

(ii) *Election of repair allowance.* * * * For taxable years ending after December 31, 1980, and before February 16, 1984, notwithstanding paragraph (f)(1) of this section, the taxpayer may elect (in the original return or in an amended return) to apply this section and the asset guideline class repair allowance described in paragraph (d)(2)(iii) of this section on or before the later of the due date (including extensions) of the taxpayer's tax return for the taxable year or November 16, 1984.

* * * * *

(viii) *Treatment of property improvements and excluded additions.* * * *

(*d*) Paragraph (d)(2)(viii) (*a*), (*b*), and (c) of this section does not apply to a property improvement, excluded addition, or part thereof considered first placed in service by the taxpayer after December 31, 1980. Such property improvement, excluded addition, or part thereof shall generally be treated as a separate item of recovery property (as defined in section 168(c)(1)), and shall be assigned to the appropriate class of recovery property in accordance with section 168(c)(2). See § 1.168–2(e)(2). For taxable years ending after December 31, 1980, notwithstanding the succeeding sentence, for purposes of this paragraph (d)(2)(viii)(*d*), a property improvement, excluded addition, or part thereof is considered first placed in service under the rules provided in paragraph (e)(1) (i) and (ii) of this section and not under the rules provided in paragraph (e)(1) (iii) and (iv) of this section.* * *

* * * * *

Par. 2 Sections 1.168–1 through 1.168–6 are revised to read as follows:

§ 1.168–1 Accelerated Cost Recovery System; in general.

(a) *Cost recovery deduction allowed.* Section 168 of the Internal Revenue Code of 1954 provides a system for determining cost recovery deductions for recovery property, the Accelerated Cost Recovery System ("ACRS"). The deduction allowable under section 168 is deemed to constitute the reasonable allowance for depreciation allowed as a deduction under section 167(a). Operating rules regarding determination of the allowable cost recovery deduction are provided in § 1.168–2. The definition of recovery property and the classification of recovery property into recovery categories of 3, 5, 10, and 15 years are provided in § 1.168–3. ACRS must be applied with respect to recovery property placed in service after December 31, 1980, except for certain property which does not qualify under section 168 or which may be excluded from ACRS; § 1.168–4 provides rules regarding such exclusions and nonqualifications. Special rules regarding ACRS are provided in § 1.168–5. Rules relating to the recognition of gain or loss on dispositions are provided in § 1.168–6.

(b) *Cross references.* See § 1.167(a)–11(d)(2) regarding the election after 1980 of the repair allowance for certain property. See § 178–1 regarding the availability of ACRS deductions for, or the amortization of, improvements on leased property. See § 1.1016–3(a)(3) regarding the basis adjustment for the amount allowable where no ACRS deduction is claimed.

§ 1.168–2 Amount of deduction for recovery property.

(a) *Computation of recovery allowance*—(1) *General rule.* Except as otherwise provided in section 168 and the regulations thereunder, the recovery allowance for any taxable year equals the aggregate amount determined by multiplying the unadjusted basis (as defined in § 1.168–2(d)) of recovery property (as defined in § 1.168–3) by the appropriate applicable percentage provided in paragraph (b) of this section. For purposes of determining the recovery allowance, salvage value shall be disregarded.

(2) *No allowance in year of disposition.* Except for 15-year real property and except as otherwise provided in § 1.168–5, no recovery allowance shall be allowed in the year of disposition of recovery property.

(3) *Proration of allowance in year of disposition of 15-year real property.* In the taxable year in which 15-year real property is disposed of, the recovery allowance shall be determined by multiplying the allowance (determined without regard to this subparagraph) by a fraction, the numerator of which equals the number of months in the taxable year that the property is in service in the taxpayer's trade or business or for the production of income and the denominator of which is 12. In the case of 15-year real property that is disposed of in the first recovery year, the denominator shall equal the number of months in the taxpayer's taxable year after the recovery property was placed in service by the taxpayer (including the month the property was placed in service). If the recovery allowance for the taxable year is limited by reason of the short taxable year rules of section 168(f)(5) and paragraph (f) of this section (*e.g.*, if the taxpayer dies, or if the taxpayer is a corporation which becomes a member, or ceases being a member, of an affiliated group of corporations filing a consolidated return), then the denominator shall equal the number of months in the taxpayer's taxable year. For purposes of this subparagraph, 15-year real property shall be treated as disposed of as of the last day of the month preceding the month in which it is withdrawn from service.

(b) *Applicable percentage*—(1) *Property other than 15-year real property.* The applicable percentage for recovery property, other than 15-year real property, is as follows:

If the recovery year is:	And the class of property is:			
	3-yr	5-yr	10-yr	15-yr public utility
	The applicable percentage is:			
1	25	15	8	5
2	38	22	14	10
3	37	21	12	9
4		21	10	8
5		21	10	7
6			10	7
7			9	6
8			9	6
9			9	6
10			9	6
11				6
12				6
13				6
14				6
15				6

(2) *15-year real property.* (i) The applicable percentage for 15-year real property, other than low-income housing is as follows:

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
1	12	11	10	9	8	7	6	5	4	3	2	1
2	10	10	11	11	11	11	11	11	11	11	11	12
3	9	9	9	9	10	10	10	10	10	10	10	10
4	8	8	8	8	8	8	9	9	9	9	9	9
5	7	7	7	7	7	7	8	8	8	8	8	8
6	6	6	6	6	7	7	7	7	7	7	7	7

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
7	6	6	6	6	6	6	6	6	6	6	6	6
8	6	6	6	6	6	6	5	6	6	6	6	6
9	6	6	6	6	5	6	5	5	5	6	6	6
10	5	6	5	6	5	5	5	5	5	5	6	5
11	5	5	5	5	5	5	5	5	5	5	5	5
12	5	5	5	5	5	5	5	5	5	5	5	5
13	5	5	5	5	5	5	5	5	5	5	5	5
14	5	5	5	5	5	5	5	5	5	5	5	5
15	5	5	5	5	5	5	5	5	5	5	5	5
16			1	1	2	2	3	3	4	4	4	5

(ii The applicable percentage for 15-year real property that is low-income housing is as follows:

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
1	13	12	11	10	9	8	7	6	4	3	2	1
2	12	12	12	12	12	12	12	13	13	13	13	13
3	10	10	10	10	11	11	11	11	11	11	11	11
4	9	9	9	9	9	9	9	9	10	10	10	10
5	8	8	8	8	8	8	8	8	8	8	8	9
6	7	7	7	7	7	7	7	7	7	7	7	7
7	6	6	6	6	6	6	6	6	6	6	6	6
8	5	5	5	5	5	5	5	5	5	5	6	6
9	5	5	5	5	5	5	5	5	5	5	5	5
10	5	5	5	5	5	5	5	5	5	5	5	5
11	4	5	5	5	5	5	5	5	5	5	5	5
12	4	4	4	5	4	5	5	5	5	5	5	5
13	4	4	4	4	4	4	5	4	5	5	5	5
14	4	4	4	4	4	4	4	4	4	5	4	4
15	4	4	4	4	4	4	4	4	4	4	4	4
16			1	1	2	2	2	3	3	3	4	4

(iii) For purposes of this section, the term "low-income housing" means property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).

(iv) For purposes of this subparagraph (2), 15-year real property placed in service on or after the first day of a month shall be treated as placed in service in that month.

(c) *Election of optional recovery percentage*—(1) *Straight line method.* Except as provided by section 168(f)(2) and § 1.168–2(g) (relating to property used predominantly outside the United States), in lieu of using the applicable percentages prescribed in section 168(b)(1) and (2) and § 1.168–2(b), the taxpayer may elect (in accordance with § 1.168–5(e)), for recovery property placed in service during the taxable year, to determine the recovery allowance by using the straight line method over one of the recovery periods elected by the taxpayer and set forth in the following table:

Class of property	Recovery periods
3-yr property	3, 5, or 12 yrs.
5-yr property	5, 12, or 25 yrs.
10-yr property	10, 25, or 35 yrs.
15-yr real property	15, 35, or 45 yrs.
15-yr public utility property	Do.

Such election is irrevocable without the consent of the Commissioner. See subparagraph (4) of this paragraph for tables containing the applicable percentages to be used in computing the recovery allowance.

(2) *Election for property other than 15-year real property.* Except in the case of 15-year real property, a single recovery period must be elected under this paragraph for all recovery property which is in the same recovery class and which is placed in service in the same taxable year. A different recovery period may be elected (or the tables provided in section 168(b)(1) and § 1.168–2(b)(1) may be used) for recovery property in different recovery classes placed in service during the same taxable year, or for recovery property placed in service in different taxable years, whether or not in the same recovery class.

(3) *Election for 15-year real property.* In the case of 15-year real property, the election provided in paragraph (c)(1) may be made separately with respect to each property.

(4) *Applicable percentage.* (i) For property other than 15-Year real property—

If the recovery year is:	And the period elected is:							
	3	5	10	12	15	25	35	45
	The applicable percentage is							
1	17	10	5	4	3	2	1	1.1
2	33	20	10	9	7	4	3	2.3
3	33	20	10	9	7	4	3	2.3
4	17	20	10	9	7	4	3	2.3
5		20	10	9	7	4	3	2.3
6		10	10	8	7	4	3	2.3
7			10	8	7	4	3	2.3
8			10	8	7	4	3	2.3
9			10	8	7	4	3	2.3
10			10	8	7	4	3	2.3
11			5	8	7	4	3	2.3
12				8	6	4	3	2.2
13				4	6	4	3	2.2
14					6	4	3	2.2
15					6	4	3	2.2
16					3	4	3	2.2
17						4	3	2.2
18						4	3	2.2
19						4	3	2.2
20						4	3	2.2
21						4	3	2.2
22						4	3	2.2
23						4	3	2.2
24						4	3	2.2
25						4	3	2.2
26						2	3	2.2
27							3	2.2
28							3	2.2
29							3	2.2
30							3	2.2
31							3	2.2
32							2	2.2
33							2	2.2
34							2	2.2
35							2	2.2
36							1	2.2
37								2.2
38								2.2
39								2.2
40								2.2
41								2.2
42								2.2
43								2.2
44								2.2
45								2.2
46								1.1

(ii) For 15-year real property—

(A) For which a 15-year period is elected—

If the recovery year is:	And the month in the 1st recovery year that the property is placed in service is:						
	1	2-3	4	5-6	7-8	9-10	11-12
	The applicable percentage is:						
1	7	6	5	4	3	2	1
2	7	7	7	7	7	7	7
3	7	7	7	7	7	7	7
4	7	7	7	7	7	7	7
5	7	7	7	7	7	7	7
6	7	7	7	7	7	7	7
7	7	7	7	7	7	7	7
8	7	7	7	7	7	7	7
9	7	7	7	7	7	7	7
10	7	7	7	7	7	7	7
11	6	6	6	6	6	6	6
12	6	6	6	6	6	6	6
13	6	6	6	6	6	6	6
14	6	6	6	6	6	6	6
15	6	6	6	6	6	6	6
16		1	2	3	4	5	6

(B) For which a 35-year period is elected—

If the recovery year is:	And the month in the 1st recovery year that the property is placed in service is:		
	1-2	3-6	7-12
	The applicable percentage is:		
1	3	2	1
2	3	3	3
3	3	3	3
4	3	3	3
5	3	3	3
6	3	3	3
7	3	3	3
8	3	3	3
9	3	3	3
10	3	3	3
11	3	3	3
12	3	3	3
13	3	3	3
14	3	3	3
15	3	3	3
16	3	3	3
17	3	3	3
18	3	3	3
19	3	3	3
20	3	3	3
21	3	3	3
22	3	3	3
23	3	3	3
24	3	3	3
25	3	3	3
26	3	3	3
27	3	3	3
28	3	3	3
29	3	3	3
30	3	3	3
31	3	2	2
32	2	2	2
33	2	2	2
34	2	2	2
35	2	2	2
36	2	1	2

(C) For which a 45-year period is elected—

If the recovery year is:	And the month in the 1st recovery year that the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
1	2.3	2.0	1.9	1.7	1.5	1.3	1.2	.9	.7	.6	.4	.2
2	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
4	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
5	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
6	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
7	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
8	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
9	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
10	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
11	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
12	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
13	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
14	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
15	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
16	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
17	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
18	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
19	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
20	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
21	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
22	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
23	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
24	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
25	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
26	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
27	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
28	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
29	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
30	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
31	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
32	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
33	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
34	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
35	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
36	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
37	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
38	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
39	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
40	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
41	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
42	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
43	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
44	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
45	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
46		.3	.4	.6	.8	1.0	1.1	1.4	1.6	1.7	1.9	2.1

(iii) For purposes of this paragraph, 15-year real property that is placed in service on or after the first day of a month shall be treated as placed in service in that month.

(5) *Property financed with the proceeds of industrial development bonds.* If, in accordance with section 168(f)(12) and § 1.168–2(m), the recovery allowance for property financed with the proceeds of an industrial development bond (as described in section 103(b)) is determined using the straight line method, then an election as provided in section 168(b)(3) and this paragraph shall be deemed to have been made with respect to such property.

(d) *Unadjusted basis*—(1) *Computation.* Except as provided in paragraph (j)(6)(ii) of this section (relating to change of status), the unadjusted basis of recovery property is equal to the difference between—

(i) The basis of the property for purposes of determining gain under sections 1011 through 1024 but without regard to any adjustments to basis described in section 1016(a) (2) and (3), and

(ii) Any portion of the basis for which the taxpayer properly elects amortization in lieu of cost recovery (*e.g.*, under section 167(k)) or treatment as an expense under section 179.

The unadjusted basis of recovery property shall be first taken into account under this section for the taxable year in which the property is placed in service (as defined in paragraph(l)(2) of this § 1.168–2) as recovery property.

(2) *Reductions in basis.* (i) If an investment tax credit is determined under section 46(a)(2) with respect to recovery property, then, unless the taxpayer makes an election provided under section 48(q)(4), for purposes of this section the unadjusted basis shall be reduced by 50 percent of the amount of the credit so determined. In the case of a credit determined under section 46(a)(2) for any qualified rehabilitation expenditure made in connection with a qualified rehabilitated building (other than a certified historic structure), the unadjusted basis shall be reduced by 100 percent of the amount of the credit so determined. See section 48(q) and the regulations thereunder. For rules relating to the treatment of such basis adjustment upon the disposition of an asset from a mass asset account, see § 1.168–2(h)(4).

(ii) Subject to the rules of other applicable provisions of the Code (*e.g.*, section 280A), for recovery property which is used in the taxpayer's trade or business (or for the production of income) as well as in a personal or tax-exempt activity throughout a taxable year, the unadjusted basis shall be determined by multiplying the unadjusted basis (determined without regard to this subdivision) by a fraction, the numerator of which equals the taxpayer's use of the property during the taxable year in his trade or business (or for the production of income) and the denominator of which equals the taxpayer's total use of the property during the taxable year. For property converted from personal or tax-exempt use to use in the taxpayer's trade or

business (or for the production of income), or for property devoted to increased use in the taxpayer's trade or business (or for the production of income), see § 1.168–2(j).

(iii) The provisions of subdivision (ii) may be illustrated by the following example:

Example. In 1981, A, a calendar year taxpayer, purchases a car for $10,000 to be used in his business as well as for his personal enjoyment. During 1981, A drives the car a total of 20,000 miles of whilch 8,000 miles (*i.e.*, 40 percent) is in the course of A's business. During 1982, A drives the car a total of 30,000 miles of which 21,000 miles (*i.e.*, 70 percent) is in the course of A's business. During 1983, A drives the car a total of 10,000 miles of which 3,000 miles (*i.e.*, 30 percent) is in the course of A's business. The optional straight line method provided under § 1.168–2(c) is not elected. Thus, A's recovery allowance in 1981 equals $1,000 (*i.e.*, ($10,000×.40)×.25), in 1982 equals $2,660 (*i.e.*, ($10,000×.70)×.38) and in 1983 equals $10,000×.30)×.37). If A continues to use the car in his business after 1983, additional recovery may be allowed. See § 1.168–2(j).

(3) *Redeterminations.* (i) For the taxable year (and subsequent taxable years) in which the unadjusted basis of recovery property is redetermined (*e.g.*, due to contingent purchase price or discharge of indebtedness), the recovery allowance shall be the amount determined by multiplying the redetermined adjusted basis by the redetermined applicable percentage. For purposes of this subparagraph, the redetermined adjusted basis is the unadjusted basis reduced by the recovery allowance previously allowed or allowable to the taxpayer with respect to the property and adjusted to reflect the redetermination. The redetermined applicable percentage is the percentage determined by dividing the applicable percentage otherwise provided in paragraph (b), (c), (g), or (m) or § 1.168–2 for the recovery year by an amount equal to the unrecovered percentage (*i.e.*, 100 percent minus the applicable percentage for recovery years prior to the year in which the basis is redetermined). Thus, the increase or decrease in basis shall be accounted for over the remaining recovery years beginning with the recovery year in which the basis is redetermined.

(ii) The following examples illustrate the provisions of this subparagraph (3):

Example (1). On July 15, 1984, A places in service 5-year recovery property with an unadjusted basis of $100,000. In order to purchase the property, A borrowed $80,000 from B. On December 1, 1984, B forgives $10,000 of the indebtedness. A makes the election provided in section 108(d)(4). The recovery allowance for the property in 1984 is $15,000. Under section 1017(a), as of January 1, 1985, the adjusted basis of the property is $75,000. In 1985 the recovery allowance is $19,411.77 (*i.e.*, .22/(1.00–.15)×($100,000–($10,000+$15,000))). In 1986, 1987, and 1988 the recovery allowance is $18,529.41 in each year (*i.e.*, .21/(1.00–.15)×($100,000–($10,000 + $15,000))).

Example (2). On July 15, 1984, C purchases and places in service 5-year recovery property with an unadjusted basis of $100,000. In addition to the $100,000, C agrees to pay the seller 25 percent of the gross profits from the operation of the property in the first year. On July 15, 1985, C pays to the seller an additional $10,000. The recovery allowance for the property in 1984 is $15,000. In 1985 the recovery allowance is $24,588.23 (*i.e.*, .22/1.00–.15)×($100,000+($10,000–$15,000))). In 1986, 1987 and 1988 the recovery allowance is $23,470.59 in each year (*i.e.*, .21/(1.00–.15)×($100,000+($10,000–$15,000))).

(e) *Components and improvements*—(1) *Component cost recovery not permitted.* In general, the unadjusted basis of structural components (as defined in § 1.48–1(e)(2)) of a building must be recovered as a whole. Thus, the same recovery period and method must be used for all structural components, and such components must be recovered as consitituent parts of the building of which they are a part. The recovery period for a component begins on the later of the first day of the month in which the component is placed in service as recovery property or the first day of the month in which the building of which the component is a part is placed in service as recovery property. See subparagraph (3) of this paragraph for the treatment of components of a building which is made available in stages.

(2) *Treatment of amounts added to capital account.* (i) Sections 162, 212, and 263 provide rules for the treatment of certain expenditures for the repair, maintenance rehabilitation, or improvement of property. An expenditure which is treated as a capital expenditure under such sections (after application of the repair allowance rules of § 1.167(a)–11(d)(2)) is treated as the purchase of recovery property if the improvement for which the expenditure is made is placed in service after December 31, 1980. The recovery of such expenditure shall begin when the improvement is placed in service. See subparagraph (3) of this paragraph for the treatment of a building which is made available in stages.

(ii) For capital expenditures (which are section 1250 class property) made with respect to an improvement of a building which is recovery property, the taxpayer must use the same recovery period and method as are used with respect to the building, unless the improvement qualifies as a substantial improvement. See subparagraph (4) of this paragraph. If capital expenditures (which are section 1250 class property) are made with respect to improvements of a building which is not recovery property under section 168(e) and § 1.168–4, then the taxpayer may select any applicable recovery period and method for the recovery of the first of such expenditures. The recovery period and method so selected shall apply to each subsequent expenditure (unless the improvement qualifies as a substantial improvement).

(iii) A capital expenditure made with respect to the improvement of property, other than a building, is assigned to the same recovery class (as defined in § 1.168–3(b)) as the property of which the improvement is a part. For such an expenditure, the taxpayer need not use the same recovery period and method as are used with respect to the property of which the improvement is a part.

(3) *Recovery for a building which is made available in stages.* This subparagraph (3) (and not subparagraphs (1) and (2) of this paragraph) applies to a building which is made available in stages. For purposes of this section, a building shall be considered placed in service (and, therefore, recovery will begin) only when a significant portion is made available for use in a finished condition (*e.g.*, when a certificate of occupancy is issued with respect to such portion). If less than the entire building is made available, then the unadjusted basis which is taken into account under this section shall be that amount of the unadjusted basis of the building (including capital expenditures for any components) as is properly allocable to the portion made available. If another portion of the building is subsequently made available, then that amount of the unadjusted basis (including capital expenditures for any components) as is properly allocable to the ensuing portion shall be taken into account under this section when such portion becomes available. The taxpayer must use the same recovery period and method for all portions of the building.

(4) *Substantial improvements.* (i) A substantial improvement to a building shall be treated as a separate building. Thus, the taxpayer may use a different period and method for computing the recovery allowance for the substantial improvement than are used for computing the allowance for the building.

(ii) An improvement is a substantial improvement if—

(A) Over 24 consecutive months the aggregate expenditures properly

chargeable to the capital account for a building equal at least 25 percent of the adjusted basis of the building (disregarding adjustments provided in section 1016(a) (2) and (3)) as of the day on which the first expenditure is made, and

(B) All expenditures for the improvement are made 3 or more years after the building is placed in service by the taxpayer.

For purposes of the preceding sentence, a building acquired in a transaction to which section 1031 or 1033 applies is considered placed in service when the building that was replaced was placed in service. Similarly, a building acquired in a transaction to which section 168(f)(10)(A) applies is deemed placed in service by the transferee when such building was placed in service by the transferor. An expenditure which is allocated to a 24-month period shall not be allocated to another 24-month period. For example, an expenditure may not be part of one substantial improvement when considered together with an expenditure incurred 15 months earlier and also be part of another substantial improvement when combined with an expenditure incurred 10 months later.

(iii) It is possible that an improvement will not be part of a substantial improvement in the taxable year in which the improvement is placed in service but will become part of a substantial improvement in a subsequent taxable year. In such case, if the taxpayer uses a different method and recovery period with respect to the substantial improvement, then the tax return filed for the taxable year in which the first improvement is placed in service shall be amended accordingly.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). In 1985, A spends $10,000 to improve machinery used in his trade or business. The $10,000 is added to capital account under the principles of sections 162, 212, and 263. The machinery would be 5-year property if placed in service after 1980. The $10,000 expenditure is treated as the purchase of 5-year recovery property, placed in service in 1985. Any election made by A with respect to the underlying machinery will not affect the recovery allowance for the improvement.

Example (2). B, a calendar year taxpayer, begins constructing a 10-story office building in 1982. All floors will have approximately the same amount of usable floor space. By 1983, B has paid or incurred $10 million for the building's shell (and other items not directly related to any specific portion of the building), $4 million for work with respect to the first three floors, and $5 million for work directly related to other floors (including installation of components). In March 1983, B receives a certificate of occupancy for the first three floors and begins offering the floors for rental to tenants. The building is considered placed in service in March 1983. No deduction is allowable under this section with respect to the building for 1982. No election is made under § 1.168–2 (c) to use the optional recovery percentages. B's recovery for 1983 is the properly allocable unadjusted basis times the applicable percentage (10 percent). The properly allocable unadjusted basis is $7 million, consisting of the amount of unadjusted basis directly related to the portion of the building which is made available for use ($4 million), plus that amount of the unadjusted basis which is not directly related to any specific portion of the building ($10 million) properly allocable to the portion which is made available for use (*i.e.*, 3 floors/10 floors equals 30 percent or $3 million). No deduction is allowable in 1983 for the $5 million paid or incurred for work directly related to portions of the building not made available for use. B will recover the $7 million unadjusted basis over the 15-year recovery period, beginning in March 1983.

Example (3). The facts are the same as in example (2) except that, in January 1984, B receives a certificate of occupancy for the remaining seven floors and begins offering them for rental to tenants. B has spent an additional $7 million to complete the building as of the date on which the remaining seven floors are offered for rental. In January 1984, B takes into account as unadjusted basis the $12 million not previously taken into account, plus the $7 million of later expenditures. B will recover the $19 million unadjusted basis over a 15-year recovery period beginning in January 1984. B may not use a different recovery period and method for such amount than were used for the amount taken into account in March 1983.

Example (4). The facts are the same sas in examples (2) and (3) except that in 1990 B spends $1 million, which is added to capital account to rehabilitate certain portions of the building. The $1 million is treated as the purchase by B of 15-year real propery in 1990. B must use the same recovery period and method with respect to that improvement as were used for the underlying building. The improvement as were used for the underlying building. The improvement has a 15-year recovery period, and the recovery begins when the improvement is placed in service.

Example (5). In 1983 C spends $1 million, which is added to capital account, to rehabilitate certain portions of a building placed in service by C in 1975. The $1 million is treated as the purchase by C of 15-year real property in 1983. C may use any applicable recovery period and method with respect to such expenditure, and the recovery begins when the improvement is placed in service. The recovery period and method selected with respect to such expenditure, however, will apply to all ensuing capital expenditures made by C with respect to the building, unless an expenditure qualifies as part of a substantial improvement. The result in this example would be the same if the building were placed in service by C after 1980, but did not qualify as recovery property by reason of the provisions of section 168(e)(4) and § 1.168–4(d).

(f) *Short taxable years*—(1) *General rule.* For any recovery year in which there are less than 12 months (hereinafter in this section referred to as a "short taxable year"), the recovery allowance shall be determined by multiplying the deduction which would have been allowable if the recovery year were not a short taxable year by a fraction the numerator of which equals the number of months and part-months in the short taxable year and the denominator of which is 12. This paragraph shall not apply to 15-year real property for the year the property is placed in service or disposed of.

(2) *Subsequent years' allowance.* Recovery allowances for years in a recovery period following a short taxable year shall be determined in accordance with paragraph (a), (c), (g), or (m) of this section without reference to the short taxable year.

(3) *Unrecovered allowance.* In the taxable year following the last year in the recovery period, a recovery allowance is permitted to the extent of any unrecovered allowance. If the optional recovery percentages are elected under § 1.168–2(c) or (g)(3) and the short taxable year is the last recovery year, then the unrecovered allowance shall be allowed in the year following the short taxable year. The term "unrecovered allowance" means the difference between—

(i) The recovery allowance properly allowed for the short taxable year, and

(ii) The recovery allowance which would have been allowable if such year were not a short taxable year.

In no event shall the recovery allowance for any taxable year following the last year in the recovery period be greater than what the recovery allowance would be for the last year in the recovery period assuming that such year consists of 12 months. Any amount in excess of such recovery allowance for the last year in the recovery period shall be taken into account in the following taxable year or years in the same manner as provided in this subparagraph (3).

(4) *When a taxable year begins.* For purposes of this section, a taxable year of a person placing property in service does not include any month prior to the month in which the person begins engaging in a trade or business or holding recovery or depreciable property for the production of income. For purposes of applying the preceding sentence to an employee, an employee is not considered engaged in a trade or business by virtue of his employment except that, for purposes of applying this section to recovery property used for

purposes of employment, the taxable year includes any month during which a person is engaged in trade or business as an employee. In addition, if a person engages in a small amount of trade or business activity for the purpose of obtaining a disproportionately large recovery allowance for assets for the taxable year in which they are placed in service, and if placing those assets in service represents a substantial increase in the person's level of business activity, then for purposes of the recovery allowance for such assets the person will not be treated as beginning a trade or business until the increased amount of business activity begins. For property held for the production of income, the principle of the preceding sentence also applies.

(5) *Successive short taxable years.* In applying the rule of subparagraph (1) of this paragraph, no month shall be taken into account more than once. Thus, if a taxpayer has successive short taxable years, with one taxable year ending and the following taxable year beginning in the same calendar month, then the recovery year which is ending shall not include the month in which the taxable year terminates.

(6) *Examples.* The following examples illustrate the application of this paragraph:

Example (1). On October 10, 1983, A and B enter into an agreement to form a partnership (P), for the purpose of leasing sailboats. The partnership adopts a calendar year as its taxable year pursuant to § 1.706–1(b) (1). On November 5, 1983, P purchases four sailboats for a total of $20,000 and places the sailboats in service immediately. For purposes of section 168, P's taxable year begins on November 5, 1983. Sailboats are 5-year recovery property as defined in section 168 (c)(2). No straight line election is made under § 1.168–2(c). The recovery allowance for the sailboats in 1983, a short taxable year, is $500 (*i.e.*, .15×$20,000×$\frac{2}{12}$). In 1984, the recovery allowance is $4,400 (.22×$20,000). In 1985, 1986, and 1987, the recovery allowance is $4,200 annually (.21×$20,000). In 1988, the taxable year following the last year in the recovery period, the unrecovered allowance equal to $2,500 may be deducted by A and B.

Example (2). In November 1984, Corporation L is incorporated and places in service two race horses which it acquired for a total of $18,500. The corporation adopts a calendar year as its taxable year. For purposes of section 168, the race horses are 3-year recovery property. No straight line election is made under § 1.168–2(c). In 1984, the recovery allowance permitted to L for the race horses is $770.83 (*i.e.*, (.25×$18,500) ×$\frac{2}{12}$. At the close of business on June 30, 1985, all of the stock of L is acquired by Corporation M. M elects in accordance with section 1501 to file a consolidated return with respect to M and L. M's taxable year begins on July 1. By reason of becoming included in the consolidated return, under § 1.1502–76 L's second taxable year ending June 30, 1985, is also a short taxable year containing 6 months. In the second taxable year, L is permitted a recovery allowance equal to $3,515 (*i.e.*, .38×$18,500×$\frac{6}{12}$). In the third taxable year ending June 30, 1986, L is entitled to a recovery allowance of $6,845 (*i.e.*, .37×$18,500). Thus, the unrecovered allowance as of July 1, 1986, equals $7,369.17. Since the unrecovered allowance exceeds the recovery allowance for the third recovery year (the last year in the recovery period), the recovery allowance for the taxable year ending June 30, 1987, equals the allowance for such year, $6,845. The recovery allowance in the taxable year ending June 30, 1988, equals $524.17, the remaining unrecovered allowance.

Example (3). On August 1, 1984, Partnership M is formed and places in service a warehouse which will be leased to an unrelated person. M acquires the warehouse for $250,000. M adopts a calendar year as its taxable year pursuant to § 1.706–1(b)(1). In 1984, M has a short taxable year within the meaning of § 1.168–2(f)(1). Since the property is 15-year real property, however, the recovery allowance is computed as though 1984 were a full taxable year. Because the recovery property would have been placed in service in the eighth month of M's normal taxable year, the recovery property is deemed placed in service in the eighth month of the first recovery year. The recovery allowance in 1984 is $12,500 (*i.e.*, .05×$250,000).

Example (4). In July 1983, D, who has been an employee of Corporation N since 1982, purchases an automobile for use in the performance of his employment for N. On June 5, 1984, D purchases a truck for use in another business. D begins the new business on June 5, 1984. In 1984, D holds no other depreciable or recovery property for the production of income. D does not have a short taxable year for the automobile purchased in 1983 since the automobile is used by D in his trade or business as an employee. Since an employee is not considered engaged in a trade or business by virtue of employment, however, for purposes of determining when a taxable year begins with respect to property not used in the trade or business of employment, D has a short taxable year in 1984 for the truck purchased in that year. The recovery allowance permitted D in 1984 with respect to the truck must be adjusted in accordance with the provisions of § 1.168–2(f).

Example (5). A has been actively engaged in the trade or business of selling used cars since 1981. On July 1, 1983, A accepts employment with Corporation M and on that same date purchases a truck for $10,000 for use in the performance of his employment for M. A does not have a short taxable year for the truck because the taxable year of a person placing property in service includes all months during which that person is engaged in a trade or business.

Example (6). In 1983, C graduates from college and on July 1, 1983, is employed by N. On that same day, C purchases an automobile for $10,000 for use in the performance of his employment for N. C has a short taxable year for the automobile purchased in 1983. Although, for recovery property used for purposes of employment, the taxable year includes any month during which a person is an employee, C does not begin that trade or business until July. In addition, C is engaged in no other trade or business (and does not hold any depreciable or recovery property for the production of income) during the taxable year. The recovery allowance permitted C in 1983 with respect to the automobile must be adjusted in accordance with the provisions of § 1.168–2(f).

Example (7). Corporation X, a calendar year taxpayer, has been in the trade or business of selling household appliances since 1979. On July 1, 1983, X purchases a restaurant. On that same day, X purchases restaurant equipment for use in its new business. X does not have a short taxable year for the restaurant equipment because the taxable year of a person placing property in service includes all months during which that person is engaged in a trade or business.

(g) *Special rules for property used predominantly outside the United States.* (1) *General rule.* (i) In lieu of the deduction allowed under paragraphs (a) and (c) of this § 1.168–2, except as provided in subparagraphs (3) and (4) of this paragraph, and except as otherwise provided in section 168 and the regulations thereunder, the recovery allowance for recovery property used predominantly outside the United States (as described in § 1.168–2(g)(5)) during the taxable year equals the aggregate amount determined by multiplying the unadjusted basis (as defined in § 1.168–2(d)) of such recovery property by the applicable percentage provided in paragraph (g)(2) of this section. For purposes of determining the recovery allowance, salvage value shall be disregarded.

(ii) The recovery period for recovery property used predominantly outside the United States, other than 15-year real property, shall be the present class life. For recovery property (other than 15-year real property) which is not assigned a present class life, the recovery period shall be 12 years. For 15-year real property used predominantly outside the United States, the recovery period shall be 35 years.

(iii) Except for 15-year real property and except as otherwise provided in § 1.168–5, no recovery allowance shall be allowed in the year of disposition of recovery property described in this paragraph.

(iv) For purposes of this paragraph, rules similar to the rules of paragraph (e) of this section shall apply.

(2) *Applicable percentages. (i) For property other than 15-year real property—*

If the recovery year is:	And the recovery period is:									
	2.5	3	3.5	4	5	6	6.5	7	7.5	8
	The applicable percentage is:									
1	40	33	29	25	20	17	15	14	13	13
2	48	45	41	38	32	28	26	25	23	23
3	12	15	17	19	19	18	18	17	17	16
4		7	13	12	12	12	13	13	13	12
5				6	12	10	10	9	9	9
6					5	10	9	9	9	8
7						5	9	9	8	8
8								4	8	8
9										4

If the recovery year is:	And the recovery period is:									
	8.5	9	9.5	10	10.5	11	11.5	12	12.5	13
	The applicable percentage is:									
1	12	11	11	10	10	9	9	8	8	8
2	21	20	19	18	17	17	16	15	15	14
3	16	15	15	14	14	13	13	13	12	12
4	12	12	12	12	11	11	11	11	10	10
5	9	9	9	9	9	9	9	9	9	9
6	8	8	7	7	7	7	7	7	7	7
7	8	7	7	7	7	7	6	6	6	6
8	7	7	7	7	7	6	6	6	6	6
9	7	7	7	7	6	6	6	6	6	5
10		4	6	6	6	6	6	6	6	5
11				3	6	6	6	5	5	5
12						3	5	5	5	5
13								3	5	5
14										3

If the recovery year is:	And the recovery period is:									
	13.5	14	15	16	16.5	17	18	19	20	22
	The applicable percentage is:									
1	7	7	7	6	6	6	6	5	5	5
2	14	13	12	12	11	11	10	10	10	9
3	12	11	11	10	10	10	9	9	9	8
4	10	10	9	9	9	9	8	8	8	7
5	8	8	8	8	8	8	7	7	7	6
6	7	7	7	7	7	7	7	6	6	6
7	6	6	6	6	6	6	6	6	6	5
8	6	5	5	5	5	5	5	5	5	5
9	5	5	5	5	5	5	5	5	4	4
10	5	5	5	5	5	4	4	4	4	4
11	5	5	5	5	4	4	4	4	4	4
12	5	5	5	4	4	4	4	4	4	4
13	5	5	5	4	4	4	4	4	4	4
14	5	5	4	4	4	4	4	4	4	3
15		3	4	4	4	4	4	4	3	3
16			2	4	4	4	4	4	3	3
17				2	4	3	4	3	3	3
18						2	3	3	3	3
19							2	3	3	3
20								2	3	3
21									2	3
22										3
23										2

If the recovery year is:	And the recovery period is:						
	25	26.5	28	30	35	45	50
	The applicable percentage is:						
1	4	4	4	3	3	2	2
2	8	7	7	6	6	4	4
3	7	7	6	6	5	4	4
4	6	6	6	6	5	4	4
5	6	6	6	5	5	4	4
6	6	5	5	5	4	4	3
7	5	5	5	5	4	3	3
8	5	5	4	4	4	3	3
9	4	4	4	4	4	3	3
10	4	4	4	4	3	3	3
11	4	4	4	3	3	3	3
12	3	3	3	3	3	3	3
13	3	3	3	3	3	3	2
14	3	3	3	3	3	3	2
15	3	3	3	3	3	2	2
16	3	3	3	3	3	2	2
17	3	3	3	3	2	2	2
18	3	3	3	3	2	2	2

If the recovery year is:	And the recovery period is:						
	25	26.5	28	30	35	45	50
	The applicable percentage is:						
19	3	3	3	3	2	2	2
20	3	3	3	3	2	2	2
21	3	3	3	3	2	2	2
22	3	3	2	2	2	2	2
23	3	3	2	2	2	2	2
24	2	2	2	2	2	2	2
25	2	2	2	2	2	2	2
26	1	2	2	2	2	2	2
27		1	2	2	2	2	2
28			2	2	2	2	2
29			1	2	2	2	2
30				2	2	2	2
31				1	2	2	2
32					2	2	2
33					3	3	3
34					2	2	2
35					2	2	2
36					1	2	1

If the recovery year is:	And the recovery period is:						
	25	26.5	28	30	35	45	50
	The applicable percentage is:						
37						1	1
38						1	1
39						1	1
40						1	1
41						1	1
42						1	1
43						1	1
44						1	1
45						1	1
46						1	1
47							1
48							1
49							1
50							1
51							1

(ii) For 15-year real property—

If the recovery year is:	And the month in the 1st recovery year in which the property is placed in service is:				
	1	2,3	4,5,6	7,8	9,10,11,12
	The applicable percentage is:				
1	4	4	3	2	1
2	4	4	4	4	4
3	4	4	4	4	4
4	4	4	4	4	4
5	4	4	4	4	4
6	3	3	3	4	4
7	3	3	3	3	3
8	3	3	3	3	3
9	3	3	3	3	3
10	3	3	3	3	3
11	3	3	3	3	3
12	3	3	3	3	3
13	3	3	3	3	3
14	3	3	3	3	3
15	3	3	3	3	3
16	3	3	3	3	3
17	3	3	3	3	3
18	3	3	3	3	3
19	3	3	3	3	3
20	3	3	3	3	3
21	3	3	3	3	3
22	3	3	3	3	3
23	3	3	3	3	3
24	3	3	3	3	3
25	3	2	3	2	3
26	2	2	2	2	2
27	2	2	2	2	2
28	2	2	2	2	2
29	2	2	2	2	2
30	2	2	2	2	2
31	2	2	2	2	2
32	2	2	2	2	2
33	2	2	2	2	2
34	2	2	2	2	2
35	2	2	2	2	2
36		1	1	2	2

(3) *Election of optional recovery percentage method.* (i) In lieu of the applicable percentage provided by subparagraphs(1) and (2), the taxpayer may elect (in accordance with § 1.168–5(e)), for recovery property used predominatly outside the United States that is placed in service during the taxable year, to determine the recovery allowance by using the straight line method over one of the recovery periods elected by the taxpayer and set forth in the following table:

Class of property	Recovery period
3-yr. property	5 or 12 yrs. or present class life.
5-yr. property	12 or 25 yrs. or present class life.
10-yr. property	25 or 35 yrs. or present class life.

Class of property	Recovery period
15-yr. real property	35 or 45 yrs. or present class life.
15-yr. public utility property.	35 or 45 yrs. or present class life.

Such election is irrevocable without the consent of the Commissioner. See subdivision (iv) of this subparagraph for tables containing the applicable percentages to be used in computing the recovery allowance.

(ii) Except in the case of 15-year real property, a single recovery period must be elected under this subparagraph for all recovery property placed in service in the same taxable year which is in the same recovery class and which has the same present class life. For property other than 15-year real property the recovery period elected may not be shorter than the present class life (or, if none, 12 years). A different recovery period may be elected (or the tables provided in subparagraph (2) may be used) for recovery property in different recovery classes, or with different present class lives, placed in service during the taxable year, or for recovery property placed in service in a different taxable year, whether or not in the same recovery class or with the same persent class life.

(iii) In the case of 15-year real property, the election provided by this subparagrah may be made separately with respect to each property.

(iv) (A) For property other than 15-year real property—

If the recovery year is:	And the period elected is:								
	2.5	3	3.5	4	5	6	6.5	7	7.5
	The applicable percentage is:								
1	20	17	14	13	10	8	8	8	7
2	40	33	29	25	20	17	16	14	14
3	40	33	29	25	20	17	16	14	14
4		17	28	25	20	17	15	14	13
5				12	20	17	15	14	13
6					10	17	15	14	13
7						7	15	14	13
8								8	13

If the recovery year is:	And the period elected is:								
	8	8.5	9	9.5	10	10.5	11	11.5	12
	The applicable percentage is:								
1	6	6	6	5	5	5	5	4	4
2	13	12	11	11	10	10	9	9	9
3	13	12	11	11	10	10	9	9	9
4	13	12	11	11	10	10	9	9	9
5	13	12	11	11	10	10	9	9	9
6	12	12	11	11	10	10	9	9	8
7	12	12	11	10	10	9	9	9	8
8	12	11	11	10	10	9	9	9	8
9	6	11	11	10	10	9	9	9	8
10			6	10	10	9	9	8	8
11					5	9	9	8	8
12							5	8	8
13									4

If the recovery year is:	And the period elected is:								
	12.5	13	13.5	14	15	16	16.5	17	18
	The applicable percentage is:								
1	4	4	4	4	3	3	3	3	3
2	8	8	8	8	7	7	7	6	6
3	8	8	8	7	7	7	6	6	6
4	8	8	8	7	7	7	6	6	6
5	8	8	8	7	7	7	6	6	6
6	8	8	8	7	7	6	6	6	6
7	8	8	7	7	7	6	6	6	6
8	8	8	7	7	7	6	6	6	6
9	8	8	7	7	7	6	6	6	6
10	8	8	7	7	7	6	6	6	6
11	8	7	7	7	7	6	6	6	6
12	8	7	7	7	6	6	6	6	5
13	8	7	7	7	6	6	6	6	5
14		3	7	7	6	6	6	6	5
15				4	6	6	6	6	5
16					3	6	6	6	5
17						3	6	5	5
18								2	5
19									2

If the recovery year is:	And the period elected is:							
	19	20	22	25	26.5	28	30	35
	The applicable percentage is:							
1	3	3	2	2	2	2	2	1
2	6	5	5	4	4	4	4	3
3	6	5	5	4	4	4	4	3

If the recovery year is:	And the period elected is:							
	19	20	22	25	26.5	28	30	35
	The applicable percentage is:							
4	6	5	5	4	4	4	4	3
5	6	5	5	4	4	4	4	3
6	6	5	5	4	4	4	4	3
7	5	5	5	4	4	4	4	3
8	5	5	5	4	4	4	4	3
9	5	5	5	4	4	4	4	3
10	5	5	5	4	4	4	4	3
11	5	5	5	4	4	4	3	3
12	5	5	5	4	4	4	3	3
13	5	5	5	4	4	4	3	3
14	5	5	4	4	4	4	3	3
15	5	5	4	4	4	4	3	3
16	5	5	4	4	4	4	3	3
17	5	5	4	4	4	3	3	3
18	5	5	4	4	4	3	3	3
19	5	5	4	4	4	3	3	3
20	2	5	4	4	4	3	3	3
21		2	4	4	4	3	3	3
22			2	4	3	3	3	3
23				4	3	3	3	3
24				4	3	3	3	3
25				4	3	3	3	3
26				2	3	3	3	3
27					3	3	3	3
28						3	3	3
29						2	3	3
30							3	3
31							2	3
32								2
33								2
34								2
35								2
36								1

If the recovery year is:	And the period elected is:	
	45	50
	The applicable percentage is:	
1	1.1	1
2	2.3	2
3	2.3	2
4	2.3	2
5	2.3	2
6	2.3	2
7	2.3	2
8	2.3	2
9	2.3	2
10	2.3	2
11	2.3	2
12	2.2	2
13	2.2	2
14	2.2	2
15	2.2	2
16	2.2	2
17	2.2	2
18	2.2	2
19	2.2	2
20	2.2	2
21	2.2	2
22	2.2	2
23	2.2	2
24	2.2	2
25	2.2	2
26	2.2	2
27	2.2	2
28	2.2	2
29	2.2	2
30	2.2	2
31	2.2	2
32	2.2	2
33	2.2	2
34	2.2	2
35	2.2	2
36	2.2	2
37	2.2	2
38	2.2	2
39	2.2	2
40	2.2	2
41	2.2	2
42	2.2	2
43	2.2	2
44	2.2	2
45	2.2	2
46	1.1	2
47		2
48		2

If the recovery year is:	And the period elected is:	
	45	50
49		2
50		2
51		1

(B) *For 15-year real property—(1)* If a 35-year period is elected—

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
1	2.3	2.0	1.9	1.7	1.5	1.3	1.2	.9	.7	.6	.4	.2
2	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
4	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
5	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
6	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
7	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
8	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
9	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
10	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
11	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
12	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
13	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
14	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
15	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
16	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
17	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
18	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
19	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
20	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
21	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
22	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
23	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
24	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
25	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
26	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
27	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
28	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
29	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
30	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
31	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
32	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
33	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
34	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
35	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
36	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2

(2) If a 45-year period is elected—

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:		
	1-2	3-6	7-12
	The applicable percentage is:		
1	3	2	1
2	3	3	3
3	3	3	3
4	3	3	3
5	3	3	3
6	3	3	3
7	3	3	3
8	3	3	3
9	3	3	3
10	3	3	3
11	3	3	3
12	3	3	3
13	3	3	3
14	3	3	3
15	3	3	3
16	3	3	3
17	3	3	3
18	3	3	3
19	3	3	3
20	3	3	3
21	3	3	3
22	3	3	3
23	3	3	3
24	3	3	3
25	3	3	3
26	3	3	3
27	3	3	3
28	3	3	3
29	3	3	3
30	3	3	3
31	2	2	2
32	2	2	2
33	2	2	2
34	2	2	2
35	2	2	2
36		1	2

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
37	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
38	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
39	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
40	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
41	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
42	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
43	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
44	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
45	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
46		.3	.4	.6	.8	1.0	1.1	1.4	1.6	1.7	1.9	2.1

(4) *Rules for year of disposition and placement in service of 15-year real property.* (i) In the taxable year in which 15-year real property is disposed of, the recovery allowance shall be determined by multiplying the allowance (determined without regard to this subdivision) by a fraction, the numerator of which equals the number of months in the taxable year that the property is in service in the taxpayer's trade or business or for the production of income and the denominator of which is 12. In the case of 15-year real property that is disposed of during the first recovery year, the denominator shall equal the number of months in the taxpayer's taxable year after the property was placed in service by the taxpayer (including the month the property was placed in service). If the recovery allowance for the taxable year is limited by reason of the short taxable year rules of section (*e.g.*, if the taxpayer dies, or if the taxpayer is a corporation which becomes a member, or ceases being a member, of an affiliated group of corporations filing a consolidated return), then the denominator shall equal the number of months in the taxpayer's taxable year.

(ii) For purposes of this paragraph—

(A) 15-year real property that is placed in service on or after the first day of a month shall be treated as placed in service in that month; and

(B) 15-year real property that is disposed of during the recovery year shall be treated as disposed of as of the last day of the month preceding the month in which it is withdrawn from service.

(5) *Determination of whether property is used predominantly outside the United States.* (i) The determination of whether property is used predominantly outside the United States (as defined in section 7701(a)(9)) during the taxable year shall be made by comparing the period in such year during which the property is physically located outside of the United States with the period during which the property is physically located within the United States. If the property is physically located outside the United States during more than 50 percent of the taxable year, such property shall be considered used predominantly outside the United States during the year. If property is placed in service after the first day of the taxable year, the determination of whether such property is physically located outside the United States during more than 50 percent of the taxable year shall be made with respect to the period beginning on the date on which the property is placed in service and ending on the last day of such taxable year.

(ii) This paragraph applies whether recovery property is used predominantly outside the United States by the owner or by the lessee of the property. For recovery property which is leased, the determination of whether such property is physically located outside the United States during the taxable year shall be made with respect to the taxable year of the lessor.

(iii) For purposes of this § 1.168–2(g), the following property is not "property used predominantly outside the United States":

(A) Any aircraft which is registered by the Administrator of the Federal Aviation Agency, and which (*1*) is operated, whether on a scheduled or nonscheduled basis, to and from the United States, or (*2*) is operated under contract with the United States, provided that the use of the aircraft under the contract constitutes its principal use outside the United States during the taxable year. The term "to and from the United States" shall not exclude an aircraft which makes flights from one point in a foreign country to another such point, as long as such aircraft returns to the United States with some degree of frequency;

(B) Rolling stock which is used within and without the United States and which is (*1*) of a domestic railroad corporation subject to part I of the Interstate Commerce Act or (*2*) of a United States person (other than a corporation subject ot part I of the Interstate Commerce Act) but only if the rolling stock is not leased to one or more foreign persons for periods totaling more than 12 months in any 24-month period. For purposes of this subdivision (iii) (B), the term "rolling stock" means locomotives, freight and passenger train cars, floating equipment, and miscellaneous transportation equipment on wheels, the expenditures for which are of the type chargeable to the equipment investment accounts in the uniform system of accounts for railroad companies prescribed by the Interstate Commerce Commission;

(C) Any vessel documented under the laws of the United States which is operated in the foreign or domestic commerce of the United States. A vessel is documented under the laws of the United States if it is registered, enrolled, or licensed under the laws of the United States by the Commandant, United States Coast Guard. Vessels operated in the foreign or domestic commerce of the United States include those documented for use in foreign trade, coast-wise trade, or fisheries;

(D) Any motor vehicle of a United States person (as defined is section 7701(a)(30)) which is operated to and from the United States with some degree of frequency;

(E) Any container of a United States person which is used in the transportation of property to and from the United States;

(F) Any property (other than a vessel or an aircraft) of a United States person which is used for the purpose of exploring for, developing, removing, or transporting resources from the outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act, as amended and supplemented, 43 U.S.C. section 1331), *e.g.*, offshore drilling equipment;

(G) Any property which (*1*) is owned by a domestic corporation (other than a corporation which has an election in effect under section 936 or which is entitled to the benefits of section 934(b)), by a United States citizen (other than a citizen entitled to the benefits of section 931, 932, 933, or 934(c)), or by a domestic partnership, all of whose partners are domestic corporations (none of which has an election in effect under section 936 or is entitled to the benefits of section 934(b)) or United States citizens (none of whom is entitled to the benefits of section 931, 932, 933, or 934(c), and (*2*) which is used predominantly in a possession of the United States during the taxable year by such a corporation, citizen, or partnership, or by a corporation created or organized in, or under the law of, a possession of the United States. The determination of whether property is used predominantly in a possession of the United States during the taxable year shall be made under principles similar to those

described in subdivision (i) of this subparagraph. For example, if a machine is placed in service in a possession of the United States on July 1, 1981, by a calendar year taxpayer and if it is physically located in such a possession during more than 50 percent of the period beginning on July 1, 1981, and ending on December 31, 1981, then such machine shall be considered used predominantly in a possession of the United States during the taxable year 1981;

(H) Any communications satellite (as defined in section 103(3) of the Communications Satellite Act of 1962, 47 U.S.C. 702(3)), or any interest therein, of a United States person;

(I) Any cable, or any interest therein, of a domestic corporation engaged in furnishing telephone service to which section 46(c)(3)(B)(iii) applies (or of a wholly owned domestic subsidiary of such corporation), if such cable is part of a submarine cable system which constitutes part of a communications link exclusively between the United States and one or more foreign countries;

(J) Any property (other than a vessel or an aircraft) of a United States person which is used in international or territorial waters within the northern portion of the Western Hemisphere for the purpose of exploring for, developing, removing, or transporting resources from ocean waters or deposits under such waters. The term "northern portion of the Western Hemisphere" means the area lying west of the 30th meridian west of Greenwich, east of the international dateline, and north of the Equator, but not including any foreign country which is a country of South America; and

(K) Any property described in section 48 (l)(3)(A)(ix) which is owned by a United States person and which is used in international or territorial waters to generate energy for use in the United States.

(h) *Mass asset accounts.* (1) *In general.* In accordance with the provisions of § 1.168–5(e), a taxpayer may elect to account for mass assets (as defined in § 1.168–2(h)(2)) in the same mass asset account, as though such assets were a single asset. If such treatment is elected, the taxpayer, upon disposition of an asset in the account, shall include as ordinary income (as defined in section 64) all proceeds realized to the extent of the unadjusted basis in the account (as defined in paragraph (d) of this section), less any amounts previously so included, and shall include as capital gain any excess, unless gain on such disposition is not recognized under another provision of the Code. With respect to the recovery allowance, the account shall be treated as though the asset were not disposed of.

(2) *Definition.* For purposes of this section, the term "mass assets" means a mass or group of individual items of recovery property (i) not necessarily homogenous, (ii) each of which is minor in value relative to the total value of such mass or group, (iii) numerous in quantity, (iv) usually accounted for only on a total dollar or quantity basis, (v) with respect to which separate identification is impracticable, (vi) with the same present class life, and (vii) placed in service in the same taxable year.

(3) *Election.* The election under this paragraph shall be made for the taxable year in which the assets in the account are placed in service. The election shall apply, with respect to the account, througout the applicable recovery period and for all subsequent taxable years. The taxpayer is not bound by such election with respect to assets placed in service in other taxable years, or with respect to other assets placed in service in the same taxable year, which may properly be included in another mass asset account (*e.g.*, assets with a different present class life).

(4) *Recovery of an increase in basis.* To the extent that § 1.168–2(d)(2)(i) (relating to reductions in basis) applies, if as a result of early disposition of an asset in a mass asset account (determined in accordance with the provision of subparagraph (5) of this paragraph), the investment tax credit is recaptured (in accordance with section 47 and the regulations thereunder), then the basis of the account shall be increased by an amount equal to one-half of the amount of the recapture. Such increase shall be treated in a manner similar to § 1.168–2(d)(3), relating to redeterminations. For purposes of subparagraph (1) of this paragraph, such increase will be taken into account as unadjusted basis in determining the inclusion of proceeds as ordinary income.

(5) *Identification of dispositions for purposes of basis increase.* For purposes of subparagraph (4) of this paragraph, disposition of assets from a mass asset account shall be determined by the use of an appropriate mortality dispersion table. If the taxpayer adopts recordkeeping practices consistent with his prior practices and consonant with good accounting and engineering practices, and supplies such reasonable information as may be required by the Commissioner, the mortality dispersion table may be based upon an acceptable sampling of the taxpayer's actual experience or other acceptable statistical or engineering techniques. Alternatively, the taxpayer may use the following standard mortality dispersion table:

STANDARD MORTALITY DISPERSION TABLE

[Percentage of basis of mass asset account considered disposed of each 12-mo period after the account is placed in service]

Present class life	1st	2d	3d	4th	5th	6th	7th	8th	9th	10th
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
2.5	3.59	23.84	45.14	23.84	3.59					
3	2.28	13.59	34.13	34.13	13.59	2.28				
3.5	1.62	8.23	23.51	33.28	23.51	8.23	1.62			
4	1.22	5.46	15.98	27.34	27.34	15.98	5.46	1.22		
5	.82	2.77	7.92	15.91	22.58	22.58	15.91	7.92	2.77	.82
6	.62	1.66	4.40	9.19	14.98	19.15	19.15	14.98	9.19	4.40
6.5	.55	1.33	3.38	7.25	12.00	16.39	18.20	16.39	12.00	7.25
7	.51	1.11	2.74	5.49	9.64	13.87	16.64	16.64	13.87	9.64
7.5	.47	.92	2.20	4.49	7.79	11.55	14.65	15.86	14.65	11.55
8	.44	.78	1.85	3.61	6.46	9.52	12.91	14.43	14.43	12.91
8.5	.40	.70	1.52	2.97	5.16	8.19	10.87	13.05	14.28	13.05
9	.38	.61	1.29	2.47	4.43	6.69	9.27	11.93	12.93	12.93
9.5	.37	.52	1.13	2.07	3.69	5.57	8.13	10.44	11.72	12.72
10 and 10.5	.35	.47	.97	1.80	3.09	4.83	6.90	9.01	10.79	11.79
11 and 11.5	.32	.39	.75	1.35	2.24	3.64	5.10	6.82	8.51	10.24
12 and 12.5	.30	.32	.60	1.06	1.73	2.67	3.88	5.31	6.79	8.19
13 and 13.5	.28	.27	.49	.84	1.34	2.04	3.12	4.13	5.37	6.63
14	.27	.24	.40	.71	1.06	1.68	2.32	3.17	4.38	5.26
15	.26	.21	.35	.57	.89	1.31	1.89	2.60	3.43	4.36
16 and 16.5	.25	.18	.29	.49	.75	1.10	1.48	2.13	2.83	3.83
17	.24	.16	.28	.42	.60	.92	1.30	1.67	2.34	2.82
18	.23	.15	.24	.37	.51	.78	1.08	1.39	1.93	2.50
19	.23	.14	.20	.32	.47	.66	.92	1.15	1.61	2.08
20 to 24	.22	.13	.19	.28	.40	.57	.77	1.03	1.36	1.73
25 to 29	.20	.09	.12	.18	.23	.31	.41	.53	.67	.85
30 to 50	.19	.07	.09	.12	.15	.20	.25	.32	.40	.49

Present class life	11th	12th	13th	14th	15th	16th	17th	18th	19th	20th
	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)
2.5										
3										
3.5										
4										
5										
6	1.66	.62								
6.5	3.38	1.33	.55							
7	5.49	2.74	1.11	.51						
7.5	7.70	4.49	2.20	.92	.47					
8	9.52	6.46	3.61	1.85	.78	.44				
8.5	10.87	8.19	5.16	2.97	1.52	.70	.40			
9	11.93	9.27	6.69	4.43	2.47	1.29	.61	.38		
9.5	11.72	10.44	8.13	5.57	3.69	2.07	1.13	.52	.37	
10 and 10.5	11.79	10.79	9.01	6.90	4.83	3.09	1.80	.97	.47	.35
11 and 11.5	10.64	10.64	10.24	8.51	6.82	5.10	3.64	2.24	1.35	.75
12 and 12.5	9.28	9.87	9.87	9.28	8.19	6.79	5.31	3.88	2.67	1.73
13 and 13.5	7.77	8.62	9.10	9.10	8.62	7.77	6.63	5.37	4.13	3.12
14	6.62	7.25	8.32	8.32	8.32	8.32	7.25	6.62	5.26	4.38
15	5.32	6.23	7.04	7.61	7.93	7.93	7.61	7.04	6.23	5.32
16 and 16.5	4.22	5.30	6.11	6.80	6.89	7.54	7.54	6.89	6.80	6.11
17	3.71	4.48	4.94	5.93	6.51	6.54	7.14	7.14	6.54	6.51
18	3.12	3.57	4.46	4.81	5.71	6.19	6.21	6.75	6.75	6.21
19	2.60	2.97	3.76	4.37	4.96	5.48	5.53	6.19	6.36	6.36
20 to 24	2.17	2.66	3.18	3.72	4.25	4.76	5.22	5.57	5.83	5.96
25 to 29	1.06	1.29	1.55	1.85	2.18	2.50	2.84	3.19	3.54	3.84
30 to 50	.59	.72	.87	1.02	1.20	1.40	1.60	1.83	2.06	2.30

Present class life	21st	22d	23d	24th	25th	26th	27th	28th	29th	30th
	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)	(30)
2.5										
3										
3.5										
4										
5										
6										
6.5										
7										
7.5										
8										
8.5										
9										
9.5										
10 and 10.5										
11 and 11.5	.39	.32								
12 and 12.5	1.06	.60	.32	.30						
13 and 13.5	2.04	1.34	.84	.49	.27	.28				
14	3.17	2.32	1.68	1.06	.71	.40	.24	.27		
15	4.36	3.43	2.60	1.89	1.31	.89	.57	.35	.21	.26
16 and 16.5	5.30	4.22	3.63	2.83	2.13	1.48	1.10	.75	.49	.29
17	5.93	4.94	4.48	3.71	2.82	2.34	1.67	1.30	.92	.60
18	6.19	5.71	4.81	4.46	3.57	3.12	2.50	1.93	1.39	1.08
19	6.19	5.53	5.48	4.96	4.37	3.76	2.97	2.60	2.08	1.61
20 to 24	5.96	5.83	5.57	5.22	4.76	4.25	3.72	3.18	2.66	2.17
25 to 29	4.13	4.38	4.58	4.70	4.78	4.78	4.70	4.58	4.38	4.13
30 to 50	2.54	2.78	3.01	3.23	3.42	3.61	3.75	3.86	3.95	3.98

For purposes of applying the standard mortality dispersion table, all assets in a mass asset account placed in service during a taxable year are considered to be placed in service on the same day. If the taxpayer uses the standard mortality dispersion table for a taxable year, such table must be used for all subsequent taxable years unless the taxpayer obtains the consent of the Commissioner.

(6) *Transitional rule.* Unless the taxpayer establishes to the contrary (by statistical methods or otherwise), all proceeds realized upon the disposition of assets from one or more mass asset accounts shall be considered realized with respect to accounts placed in service by the taxpayer after December 31, 1980.

(i) [Reserved]

(j) *Changes in use*—(1) *Conversion from personal use or use in tax-exempt activity.* If property which was previously used by the taxpayer for personal purposes or in a tax-exempt activity is converted to use in a trade or business or for the production of income during the taxable year, then the recovery allowance for the taxable year (and subsequent taxable years) shall be determined as though the property were placed in service by the taxpayer as recovery property on the date on which the conversion occurs. Thus, the recovery allowance shall be determined by multiplying the unadjusted basis (as provided in subparagraph (6)(ii) of this paragraph) by the applicable percentage.

(2) *Increased business use of property.* If a taxpayer uses property in a trade or business (or for the production of income) and for personal (or tax-exempt) purposes during a recovery period, and increases the business (or income-producing) use of such property after the recovery for that period is completed, then a recovery allowance shall continue to be allowed with respect to such property. The amount of the allowance shall be determined as though, to the extent of the increase in business (or income-producing) use, the property were placed in service by the taxpayer as recovery property at the beginning of the taxable year in which such increased use occurs. Thus, the recovery allowance for the taxable year shall be determined first by multiplying the unadjusted basis (as provided in subparagraph (6)(ii) of this paragraph) by the applicable percentage, and then by the excess of the percentage of the business (or income-producing) use during the taxable year over the average of such use during the prior recovery period (or periods). The combined recovery under this subparagraph and subparagraph (1) shall not exceed the original cost of the property. See Example (2) of subparagraph (7) of this paragraph.

(3) *Domestic property changing recovery classes.* (i) When the class of recovery property not used predominantly outside the United States changes during the taxable year, and the property continues to be used as recovery property by the taxpayer (*e.g.*, when property ceases to be used predominantly in connection with research and experimentation) the following rules apply.

(A) If the change results in the property's being assigned to a class with a shorter recovery period, then the recovery allowance for the taxable year in which the change occurs (and subsequent taxable years) shall be determined as though the property were placed in service as recovery property in the year of the change. Thus, the recovery allowance shall be determined by multiplying the unadjusted basis (as provided in subparagraph (6)(ii) of this paragraph) by the applicable percentage. Alternatively, the taxpayer may continue to treat the property as though the change had not occurred.

(b) If the change results in the property's being assigned to a class with

a longer recovery period, then the recovery allowance for the taxable year of the change (and subsequent taxable years) shall be determined as though the property has originally been assigned to that longer recovery class. Proper adjustment shall be made under the principles of § 1.168–2 (d)(3) (relating to redeterminations) to account for the deductions allowable to the taxpayer with respect to the property prior to the year of the change in excess of those which would have been allowable had the taxpayer used the applicable percentages for the longer recovery class for those years.

(4) *Foreign property.* (i) If recovery property ceases being used predominantly outside the United States during a taxable year, and the property continues to be used as recovery property by the taxpayer, then the recovery allowance for the taxable year (and subsequent taxable years) shall be determined as though the property were placed in service as recovery property in the year of the cessation. Thus, the recovery allowance shall be determined by multiplying the unadjusted basis (as provided in subparagraph (6)(ii) of this paragraph) by the applicable percentage. Alternatively, the taxpayer may continue to treat the property as though the cessation had not occurred. See §§ 1.168–5(e)(5) and 1.1016–3(a)(3)(iii) and (iv).

(ii) If the recovery property begins to be used by the taxpayer predominantly outside the United States during a taxable year after having been used otherwise by the taxpayer as recovery property in the previous taxable year, then the recovery allowance for the taxable year in which the change occurs (and subsequent years) shall be determined as though the property had originally been placed in service by the taxpayer as recovery property used predominantly outside the United States. Proper adjustment shall be made under the principles of § 1.168–2(d)(3) to account for the difference between the deductions allowable with respect to the property prior to the year of the change and those which would have been allowable had the taxpayer used the applicable percentages for property used predominantly outside the United States for those years.

(5) *Low income housing.* If 15-year real property begins or ceases to be low income housing (as defined in § 1.168–2(b)(2)(iii)) during a taxable year, then the recovery allowance for the taxable year in which the change occurs (and subsequent taxable years) shall be determined under the principles of paragraph (j)(3)(i)(B) and (4)(ii) of this section.

(6) *Special rules.* (i) For purposes of this paragraph, if, prior to a change in status, the taxpayer used the optional applicable percentages (under paragraph (c) or (g) (3) of this section) with respect to recovery property, then similar optional percentages shall be used with respect to the property after the change.

(ii) For purposes of subparagraphs (1) and (2) of this paragraph, the unadjusted basis shall be the lesser of the fair market value or the adjusted basis of the property (taking into account the adjustments described in section 1016(a)(3)) at the time of the conversion to use in the taxpayer's trade or business (or for the production of income), or at the beginning of the taxable year in which the increase in business (or income-producing) use occurs, as the case may be. For purposes of subparagraphs (3)(i)(A) and (4)(i) of this paragraph, the unadjusted basis shall be the adjusted basis of the property (taking into account the adjustments described in section 1016(a)(2) and (3) at the begining of the year in which the change or cessation occurs.

(7) *Examples.* The following examples illustrate the application of this paragraph:

Example (1). A, a calendar year taxpayer, purchases a house in 1981 which he occupies as his principal residence. In June 1985, A ceases to occupy the house and converts it to rental property. Under paragraph (j)(1) of this section, for purposes of determining the recovery allowance, A is deemed to have placed the house in service as recovery property in June 1985. A does not elect to compute the recovery allowance by use of the optional recovery method provided in § 1.168–2(c). Thus, A's recovery allowance under section 168 for 1985 is determined by multiplying the unadjusted basis of the property by .07. Under paragraph (j)(6)(ii) of this section, the unadjusted basis is the lesser of the property's basis or its fair market value in June 1985. See also section 280A and the regulations thereunder.

Example (2). In 1981, B (a calendar year taxpayer) purchases an automobile for $10,000. In taxable years 1981 through 1983, B's business use of the automobile is 60 percent of his total use. B does not elect use of the optional percentages provided in § 1.168–2(c). The fair market value of the automobile at the beginning of 1984 is $7,500. In 1984, B's business use of the automobile is 70 percent of the total. B's allowable deduction for 1984 is $187.50, computed as follows: $7,500 (lesser of basis or fair market value) × .25 (applicable percentage) × .10 (increase in the percentage business use in 1984 (70 percent) over the average business use during 1981–1983 (60 percent)). In 1985, B's business use of the automobile is 50 percent of the total. B is entitled to no recovery allowance with respect to the automobile for 1985 since B's business use of the automobile in that year does not exceed the average business use during 1981–1983 (60 percent). In 1986, B's business use of the automobile is 75 percent of the total. B's allowable deduction for 1986 is $416.25 computed as follows: $7,500 (lesser of basis or fair market value in 1984) × .37 (applicable percentage) × .15 (increase in the percentage business use in 1986 (75 percent) over the average business use during 1981–1983 (60 percent)).

Example (3). In 1981 C, a calendar year taxpayer, purchases for $20,000 and places in service section 1245 class property used predominantly in connection with research and experimentation. C does not elect to compute the recovery allowance by use of the optional method as provided in § 1.168–2(c). In 1981 C's allowable deduction is $5,000 (*i.e.*, .25 × $20,000). In 1982 C continues to use the property as recovery property, but not predominantly in connection with research and experimentation. As a result, in 1982 the property is treated as 5-year property. C's recovery allowance for 1982 (and subsequent taxable years) is determined as though C had placed the property in service in 1981 as 5-year property. The excess recovery allowance allowed in 1981 is accounted for in accordance with § 1.168–2(d)(3). Thus, the difference between the recovery allowance which would have been allowed had the applicable percentage for 5-year property been used (*i.e.*, .15 × $20,000 = $3,000) and the recovery allowance in 1981 (*i.e.*, .25 × $20,000 = $5,000) equals $2,000 and is accounted for as follows:

Unadjusted basis × applicable percentage for second recovery year ($20,000.00 × .22)	$4,400.00
Excess allowable × applicable percentage for second recovery year ÷ the sum of the remaining unused applicable percentages (($2,000.00 × .22)/.85)	−517.65
Difference—allowable deduction for 1982	3,882.35

Example (4). In 1981 D, a calendar year taxpayer, places in service 5-year recovery property with an unadjusted basis of $100,000 and a present class life of 8 years. D uses the property predominantly outside the United States in 1981, 1982, and 1983. D does not elect to compute the recovery allowances by use of the optional method as provided in § 1.168–2(g)(3). In 1984 D uses the property as recovery property but not predominantly outside the United States. D's allowable deduction for 1984 (and subsequent taxable years) is determined as though D placed the property in service in 1984 as recovery property not used predominantly outside the United States. The basis of the property is deemed to be the adjusted basis in 1984. Thus, D's allowable deduction for 1984 is $7,350 (*i.e.*, .15 × $49,000 (basis)) and for 1985 is $10,780 (*i.e.*, .22 × 49,000 (basis)). If D elected to use the optional method based on the present class life, D would use the optional percentages based on a 5-year recovery period. Alternatively, D may continue to treat the property as though it continued to be used predominantly outside the United States. If so treated D's allowable

deductions for 1984 and 1985 would be $12,000 (*i.e.*, .12×$100,000) and $9,000 (.09×$100,000), respectively.

Example (5). The facts are the same as in exemple (4) except that the recovery property is not used predominantly outside the United States for 1981 through 1983. In 1984, however, D begins using the property predominantly outside the United States. D's allowable deduction for 1984 is determined as though D placed the property in service in 1981 as property used predominantly outside the United States. Additionally, D accounts for the difference between the recovery allowance for 1981 through 1983 ($58,000) and the allowance which would have been allowable for those years had the applicable percentages for property used predominantly outside the United States been used ($51,000) in accordance with § 1.168–2(d)(3). Thus, the recovery allowance in 1984 is $10,285.71, determined as follows:

Unadjusted basis × applicable percentage for 4th recovery year for property with an 8-year present class life ($100,000.00×.12).....	$12,000.00
Excess recovery from 1981 through 1983 × applicable percentage for 4th recovery year ÷ the sum of the remaining unused applicable percentages (($7,000.00×.12)/.49).....	−1,714.29
Difference.....	10,285.71

If, for 1981 through 1983, D elected to use the optional method based on a 5-year recovery period, then the allowable deduction for 1984 and subsequent taxable years would be determined using the optional percentages over the 8-year present class life.

(k) *Ratable inclusion rule*—(1) *General rule.* In general, the recovery allowance provided by section 168 and this section shall be considered as accruing ratably over the taxable year. Thus, for example, the distributive share of the recovery allowance for each partner in a partnership in which a partner's partnership interest varies so as to be subject to section 706(c)(2)(B) shall be determined by allocating to each partner a pro rata share of such allowance for the entire taxable year of the partnership. This paragraph does not apply, however, in determining the recovery allowance for the taxable year in which 15-year real property is placed in service or disposed of.

(2) *Example.* The provisions of this subparagraph are illustrated by the following example:

Example. In 1978 A and B each acquire 50 percent interests in partnership P which is in the business of renting and managing beach resort property. On December 1, 1983, C and D each acquire from the partnership 25 percent interests in the partnership. On December 15, 1983, the partnership acquires for rental and places in service two sailboats (5-year recovery property) for $10,000 each. No election is made to use the optional recovery percentages provided by § 1.168–2(c). The recovery allowance for P for the sailboats in 1983 equals $3,000 (i.e., .15×$20,000). The recovery allowance, however, must be allocated pro rata over the taxable year. As such, the distributive share of the recovery allowance for A and B is $1,437.50 each. The distributive share of the recovery allowance for C and D is $62.50 each.

(l) *Definitions.* For purposes of section 168 and §§ 1.168–1 through 1.168–6—

(1) *Disposition.* The term "disposition" means the permanent withdrawal of property from use in the taxpayer's trade or business or use for the production of income. Withdrawal may be made in several ways, including sale, exchange, retirement, abandonment, or destruction. A disposition does not include a transfer of property by gift or by reason of the death of the taxpayer. See § 1.168–5(f) (3) and (4). A disposition also does not include the retirement of a structural component of 15-year real property. The manner of disposition (*e.g.*, ordinary retirement, abnormal retirement) is not a consideration. For rules relating to nonrecognition transactions see section 168(f) (7) and (10) and the regulations thereunder. For rules relating to the recognition of gain or loss on dispositions, see § 1.168–6.

(2) *Placed in service.* The term "placed in service" means the time that property is first placed by the taxpayer in a condition or state of readiness and availability for a specifically assigned function, whether for use in a trade or business, for the production of income, in a tax-exempt activity, or in a personal activity. In the case of a building which is intended to house machinery and equipment, such readiness and availability shall be determined without regard to whether the machinery or equipment which the building houses, or is intended to house, has been placed in service. However, in an approrpriate case, as, for example, where the building is essentially an item of machinery or equipment, or the use of the building is so closely related to the use of the machinery or equipment that it clearly can be expected to be replaced or retired when the property it initially houses is replaced or retired, the determination of readiness or availability of the building shall be made by taking into account the readiness and availability of such machinery or equipment. For a building which becomes available for use in separate stages, see paragraph (e)(3) of this section.

(3) *Recovery year.* The term "recovery year" means the taxable year during which recovery property is placed in service by the taxpayer and each subsequent taxable year for which a deduction is allowable to the taxpayer under this section with respect to such property.

(4) *Recovery period.* The term "recovery period" means the actual period of years assigned, or elected by the taxpayer, for the computation under this section of the recovery allowance with respect to the unadjusted basis of the recovery property (*e.g.*, 3 years, 5 years, 12 years, present class life). The recovery period does not include any year after the end of the period assigned or elected, even though under paragraph (c), (g)(3), or (m) of this section a year following the recovery period may be a recovery year (as defined in subparagraph (3)).

(m) *Limitation on property financed with proceeds of industrial development bonds.* [Reserved]

(n) *Application to adjustment to basis of partnership property under sections 734(b) and 743(b)—(1) Increases in basis.* (i) If, under section 734(b) (relating to the optional adjustment to the basis of undistributed partnership property) or section 743(b) (relating to the optional adjustment to the basis of partnership property), the basis of a partnership's recovery property is increased as a result of the distribution of property to a partner or the transfer of a partnership interest (as the case may be), then the increased portion of the basis shall be taken into account under this section as if it were newly-purchased recovery property placed in service when the distribution or transfer occurs. Any applicable recovery period and method may be used to determine the recovery allowance with respect to the increased portion of the basis. No change shall be made for purposes of determining the recovery allowance under this section for the portion of the basis for which there is no increase.

(2) *Decreases in basis.* If, under section 734(b) or section 743(b), the basis of a partnership's recovery property is decreased as a result of the distribution of property to a partner or the transfer of a partnership interest (as the case may be), then such decrease shall be taken into account under the principles of paragraph (d)(3) of this section (relating to redeterminations). See also § 1.755–1.

(3) *Example.* The provisions of this paragraph may be illustrated by the following example.

Example. On January 1, 1984, A, a partner who owns a 20 percent interest in partnership X, sells his entire interest to B for $400,000. Partnership X has one asset, a building which is recovery property, placed in service by X after 1980. A's adjusted basis in his partnership interest, allocable entirely to the building, is $100,000. A valid election under section 754 is in effect with respect to the sale of the partnership interest. Accordingly,

partnership X makes an adjustment, pursuant to section 743(b), to increase the basis of the building with respect to B from $100,000 to $400,000. The amount of the basis adjustment with respect to partner B ($300,000) is taken into account under this section as if it were newly-purchased recovery property placed in service on January 1, 1984. Any applicable period and method may be used with respect to such portion of the basis. Accordingly, if the optional applicable percentages provided under § 1.168–2(c) are not used, the recovery with respect to the basis adjustment for 1984 is $36,000 *(i.e.,* $300,000 × .12). Such portion of the basis will have a 15-year recovery period, beginning January 1, 1984. No change is made with respect to the calculation of the recovery allowance for the portion of the basis of the partnership property *(i.e.,)* $100,000) not affected by the basis adjustment under section 743.

§ 1.168–3 Recovery property.

(a) *Recovery property*—(1) *In general.* Except as provided in § 1.168–4, "recovery property" to which ACRS applies means tangible property of a character subject to the allowance for depreciation which is—

(i) Used in a trade or business, or

(ii) Held for the production of income.

Property is considered recovery property only if such property would have been depreciable under section 167. Thus, ACRS applies only to that part of the property which is subject to wear and tear, to decay or decline from natural causes, to exhaustion, and to obsolescence. ACRS does not apply to inventories or stock in trade, works of art, or to land apart from the improvements or physical development added to it. ACRS does not apply to natural resources which are subject to the allowance for depletion provided in section 611. No deduction shall be allowed under ACRS for automobiles or other vehicles used solely for pleasure, for a building used by the taxpayer solely as his residence, or for furniture or furnishings therein, personal effects, or clothing; but properties and costumes used exclusively in a business, such as a theatrical business, may be recovery property. For rules regarding the recovery allowance for property which is used partly for business and partly for personal purposes, or which is converted from personal to business use, see §§ 1.168–2(d)(2)(ii) and 1.168–2(j) (1) and (2).

(2) *Intangible property. [Reserved]*

(3) *Boilers fueled by oil or gas.* The term "recovery property" includes property described in section 167 (p), relating to boilers fueled by oil or gas, if such property otherwise qualifies as "recovery property" under section 168 and subparagraph (1) of this paragraph.

(b) *Classes of recovery property.* Each item of recovery property shall be assigned to one of the following classes of property:

(1) 3-year property,

(2) 5-year property,

(3) 10-year property,

(4) 15-year real property, or

(5) 15-year public utility property.

Any property which is treated as included in a class of property by reason of paragraph (c) (1), (2), (3), (4), or (5) of this § 1.168–3 shall not be treated as property included in any other class.

(c) *3-, 5-, 10-, and 15-year recovery property; definitions*—(1) *3-year property.* The following recovery property is included in the 3-year class:

(i) Section 1245 class property (as defined in paragraph (c) (6) of this § 1.168–3) with a present class life (as defined in paragraph (c) (8)) of 4 years or less,

(ii) Section 1245 class property predominantly used in connection with research and experimentation (as described in section 174 and § 1.174–2(a)). Property is used in connection with research and experimentation if the property is used (A) by its owner to conduct research and experimentation in its owner's trade or business, (B) by its owner to conduct research and experimentation for another person, (C) by a lessee to conduct research and experimentation in its trade or business, or (D) by the lessee to conduct research and experimentation for another person, and

(iii) Any race horse which is more than 2 years old at the time the horse is placed in service and any other horse which is more than 12 years old at the time the horse is placed in service. A horse is more than 2 (or 12) years old after 24 (or 144) months after its actual birthdate.

Examples of 3-year recovery property are automobiles and light-duty trucks.

(2) *5-year property.* The following recovery property is included in the 5-year class: Section 1245 class property which is not 3-year property (as defined in paragraph (c)(1)), or 10-year property (as defined in paragraph (c)(3)), or 15-year public utility property (as defined in paragraph (c) (5) and (10)). Included in the 5-year recovery property class are horses which are not included in the 3-year recovery property class, property which, prior to January 1, 1981, may have been depreciated under the retirement-replacement-betterment method (subject to the provisions of § 1.168–5(a)), single-purpose agricultural and horticultural structures, and storage facilities (other than buildings and their structural components) used in connection with the distribution of petroleum or any of its primary products. Primary products of petroleum are products described in § 1.993–3(g)(3)(i).

(3) *10-year property.* The following recovery property is included in the 10-year class:

(i) Public utility property with a present class life of more than 18 years but not more than 25 years, other than section 1250 class property (as defined in paragraph (c) (7)) or 3-year property,

(ii) Section 1250 class property with a present class life of 12.5 years or less,

(iii) Railroad tank cars,

(iv) Manufactured homes (as defined in 42 U.S.C. section 5402 (6)) which are section 1250 class property used as dwelling units, and

(v) Qualified coal utilization property (as defined in paragraph (c) (9)) which would otherwise be 15-year public property.

A building (and its structural components, if any) is not treated as having a present class life of 12.5 years or less if, in its original use (as defined in paragraph (c)(11) of this § 1.168–3), the building (and its structural components, if any) does not have a present class life of 12.5 years or less. Thus, for example, a theme park structure is considered 10-year property only if the original use of such structure is as a theme park structure.

(4) *15-year real property.* Fifteen-year real property is section 1250 class property which does not have a present class life of 12.5 years or less (including section 1250 class property which does not have a present class life). Examples of 15-year real property are office buildings and elevators and escalators.

(5) *15-year public utility property.* Fifteen-year public utility property is public utility property, other than section 1250 class property or 3-year property, with a present class life of more than 25 years. Examples of 15-year public utility property are: most property in electric utility steam production plants, gas utility manufactured gas production plants, water utility property, and telephone distribution plants.

(6) *Section 1245 class property defined.* For purposes of section 168 and §§ 1.168–1 through 1.168–6, section 1245 class property is tangible property described in section 1245(a)(3) (other than subparagraphs (C) and (D)). See § 1.168–4 for exclusion of certain "section 1245 class property" from recovery property.

(7) *Section 1250 class property defined.* For purposes of section 168 and §§ 1.168–1 through 1.168–6, section 1250 class property is property described in section 1250(c) and property described in section 1245(a)(3)(C). See § 1.168–4 for

exclusion of certian "section 1250 class property" from recovery property.

(8) *Present class life defined.* (i) For purposes of section 168 and §§ 1.168–1 through 1.168–6, present class life is the asset depreciation range (ADR) class life ("midpoint" or "asset guideline period") (if any) applicable with respect to the property as of January 1, 1981, published in Rev. Proc. 83–35. No changes will be made to the classes or class lives which are set forth in Rev. Proc. 83–35.

(ii) The application of subdivision (i) may be illustrated by the following example:

Example. X purchases a light-duty truck to be used in his trade or business. The ADR midpoint life of this asset as of January 1, 1981, determined under Rev. Proc. 83–35 is 4 years. Since this truck is section 1245 class property with a present class life of 4 years or less, it is 3-year recovery property under section 168.

(9) *Qualified coal utilization property.* See section 168 (g)(8) for the definition of "qualified coal utilization property".

(10) *Public utility property.* (i) For purposes of section 168 and §§ 1.168–1 through 1.168–6, the term "public utility property" means property used predominantly in the trade or business of the furnishing or sale of—

(A) Electrical energy, water, or sewage disposal services,

(B) Gas or steam through a local distribution system,

(C) Telephone services, or other communication services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. section 701), or

(D) Transportation of gas or steam by pipeline, if the rates for such furnishing or sale, as the case may be, are regulated, *i.e.*, are established or approved by a State (including the District of Columbia) or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof. A taxpayer's rates are "regulated" if they are established or approved on a rate-of-return basis. Rates regulated on a rate-of-return basis are an authorization to collect revenues that cover the taxpayer's cost of providing goods or services, including a fair return on the taxpayer's investment in providing such goods or services, where the taxpayer's costs and investment are determined by use of a uniform system of accounts prescribed by the regulatory body. A taxpayer's rates are not "regulated" if they are established or approved on the basis of maintaining competition within an industry, insuring adequate service to customers of an industry, insuring adequate security for loans, or charging "reasonable" rates within an industry since the taxpayer is not authorized to collect revenues based on the taxpayer's cost of providing goods or services. Rates are considered to be "established or approved" if a schedule of rates is filed with a regulatory body that has the power to approve such rates, even though the regulatory body takes no action on the filed schedule or generally leaves undisturbed rates filed by the taxpayer.

(ii) Public utility property includes property which is leased to others by a taxpayer, where the leasing of such property is part of the lessor's public utility activity, as described in subdivision (i). Public utility property also includes property leased to a person who uses such property predominantly in a public utility activity, as described in subdivision (i).

(11) *"Original use".* The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer.

§ 1.163–4 Exclusions from ACRs.

(a) *Property placed in service by the taxpayer before January 1, 1981.* ACRS does not apply with respect to property placed in service by the taxpayer before January 1, 1981. See § 1.168–2(l)(2) for when property is placed in service. As provided in paragraph (d) of this section, ACRS does not apply with respect to property placed in service before January 1, 1981, which is transferred in certain "churning" transactions. If property is excluded from ACRS, the provisions of section 167 (and related provisions) apply in determining the allowable depreciation deduction with respect to such property.

(b) *Property amortized or depreciated other than in term of years*—(1) *Depreciation.* If—

(i) Property can properly be depreciated under a method not expressed in a term of years (such as unit-of-production) which, before January 1, 1981, was a recognized method within the particular industry for the type of property in question, and

(ii) The taxpayer properly elects such treatment for such property in accordance with section 168(f)(4) and § 1.168–5(e) for the first taxable year for which an ACRS deduction would (but for this election) be allowable with respect to such property in the hands of the taxpayer,

then such property shall be entirely excluded from ACRS so long as it remains in the hands of such taxpayer. A taxpayer may elect to apply a depreciation method not expressed in a term of years (and thereby exclude the property from ACRS) with respect to some or all property within the same recovery class and placed in service in the same taxable year.

(2) *Amortization.* If—

(i) The basis of a recovery property may be amortized, in lieu of being depreciated, under any section of the Code (such as section 167(k), relating to expenditures to rehabilitate low-income rental housing, or section 169, relating to pollution control facilities), and

(ii) The taxpayer properly elects to amortize such property in accordance with the relevant amortization provision,

then the amount subject to such amortization shall be excluded from the property's unadjusted basis as defined in section 168(d)(1)(A) and § 1.168–2(d). A taxpayer may elect amortization with respect to one property (or a portion thereof) and apply ACRS with respect to other property (or the remaining portion) within the same recovery class and placed in service in the same taxable year.

(c) *Special rule for public utility property.* [Reserved]

(d) *Anti-churning rules for certain transactions in property placed in service before 1981*—(1) *In general.* To be eligible for ACRS, property must be placed in service by the taxpayer after 1980. The anti-churning rules of section 168(e)(4) and this paragraph (d) are designed generally to deny ACRS to property in service before 1981 in the absence of a significant change in ownership or use.

(2) *Section 1245 class property*—(i) *In general.* Section 1245 class property, as defined in section 168(g)(3) and § 1.168–3(c)(6), acquired by the taxpayer after December 31, 1980, will not qualify for ACRS if—

(A) The property was owned or used at any time during 1980 by the taxpayer or a related person,

(B) The property is acquired from a person who owned such property at any time during 1980, and, as part of the transaction, the user of the property does not change,

(C) The property is leased by the taxpayer for more than 3 months to a person (or a person related to such person) who owned or used such property at any time during 1980, or

(D) The property is acquired in a transaction in which the user of such property does not change, and the property does not qualify for ACRS in the hands of the person from whom the property is so acquired due to

subdivisions (B) and (C) of this paragraph (d)(2)(i).

See section 168(e)(4)(D) and subparagraph (6) of this paragraph (d) for definition of the term "related person". See subparagraph (3) of this paragraph (d) for the treatment of the acquisition of section 1245 class property acquired incidental to the acquisition of section 1250 class property. See subparagraph (4) of this paragraph (d) for other special rules.

(ii) *Change in user.* For purposes of subdivision (i) of this paragraph (d)(2), the user of a section 1245 class property shall not be considered to have changed as part of a transaction if the property is physically used, for more than 3 months after its transfer, by the same person (or a related person) who used such property before the transfer, or if such person, pursuant to a plan, resumes use of the property after the transfer. If the former owner (or a related person) continues to operate section 1245 class property through an arrangement such as a management contract for more than 3 months after the transfer, then all facts and circumstances will be taken into account in determining whether the user of the property has changed as part of such transaction for purposes of section 168(e)(4)(A) and subdivision (i) of this paragraph (d)(2). Among the factors which would indicate that the user of section 1245 property has changed in such case are—

(A) The arrangement in question is a customary commercial practice,

(B) The transaction in question has been arranged at arm's length, and

(C) The new owner has assumed all benefits and burdens of ownership. For purposes of this subdivision (ii)(C), the former owner will not be considered to have retained any benefits and burdens of ownership solely by reason of receiving contingent payments if such payments—

(*1*) Represent the real value of services rendered,

(*2*) Are reasonable in amount, and

(*3*) Are ordinary and customary in both nature and amount within the industry and region for the transaction in question.

(3) *Section 1250 class property.* A section 1250 class property, as defined in section 168(g)(4) and § 1.168–3(c)(7), acquired by the taxpayer after December 31, 1980, will not qualify for ACRS if—

(i) The property was owned at any time during 1980 by the taxpayer or a related person,

(ii) The property is leased by the taxpayer for more than 3 months to a person (or a person related to such person) who owned such property at any time during 1980, or

(iii) The property is acquired in an exchange described in section 1031 (relating to exchange of property held for productive use or investment), section 1033 (relating to involuntary conversions), section 1038 (relating to certain reacquisitions of real property), or section 1039 (relating to certain sales of low-income housing projects), to the extent that the basis of such property includes an amount representing the adjusted basis of other property owned by the taxpayer or a related person at any time during 1980. The excess of the basis of the property acquired over the adjusted basis of such other property shall be considered a separate item of property, eligible for ACRS, provided that the exchange is not otherwise treated as a "churning" transaction under section 168(e)(4) and this paragraph. Property which does not qualify for ACRS under this subdivision shall be considered, for purposes of this section, as owned by the taxpayer during 1980.

See section 168(e)(4)(D) and subparagraph (6) of this paragraph (d) for definition of the term "related person". If, in a transaction, section 1245 class property is acquired incidental to the acquisition of section 1250 class property, then the rules of section 168(e)(4)(B) and this subparagraph shall apply with respect to the section 1245 property acquired in such transaction instead of the rules of section 168(e)(4)(A) and paragraph (d)(2) of this section. The preceding sentence will not apply in transactions where section 1245 property constitutes a significant portion of the property acquired.

(4) *Special rules.*—(i) *Property under construction during 1980.* For purposes of paragraph (d) (2) and (3) of this section, a taxpayer shall not be deemed to own property under construction during 1980 until it is placed in service, as described in § 1.168–2(l)(2).

(ii) *Entire property excluded.* Except as provided in paragraph (d)(3)(iii) of this section (relating to excess basis in substituted basis transactions), subdivision (iii) of this paragraph (d)(4) (relating to the lease of a portion of section 1250 class property), and paragraph (d)(6)(ii)(C) of this section (relating to transactions between persons related by reason of the application of § 1.267(b)–1(b)), if property is acquired in a transaction described in paragraph (d) (2) or (3) of this section, the entire property shall be excluded from ACRS.

(iii) *Lease of portion of section 1250 class property.* Paragraph (d)(3)(ii) of this section (relating to the lease of section 1250 class property) shall apply only with respect to that portion of the property (determined on a fair market value basis) that is leased to the person (or to a person related to such person) who owned the property during 1980. The portion of the property excluded from ACRS shall not exceed the portion of the property which was owned by the lessee (or a person related to the lessee) during 1980.

(iv) *Undivided interests.* Subject to the provisions of paragraph (d)(7) of this section (relating to avoidance), if an undivided interest in property is acquired, and the resulting arrangement is not a partnership for tax purposes, then such interest shall be treated as a separate item of property for purposes of paragraph (d) (2) and (3) of this section.

(v) *Acquisition by or lease to 1980 owner or user.* If recovery property is acquired by, or leased to, its 1980 owner (or, in the case of section 1245 class property, its 1980 owner or user), or a related person, then the property shall cease to qualify for ACRS.

(vi) *Sale-leaseback of disqualified property.* If property which does not qualify for ACRS under this section becomes the subject of a sale-leaseback transaction, then the property shall not become ACRS property by virtue of that transaction.

(5) *Certain nonrecognition transactions*—(i) *In general.* With respect to property placed in service by the transferor or distributor before January 1, 1981, and which is acquired by the taxpayer after December 31, 1980, in a nonrecognition transaction described in section 168(e)(4)(C) and in subdivision (ii) of this paragraph (d)(5), ACRS shall not apply to the extent that the property's basis in the hands of the taxpayer is determined by reference to its basis in the hands of the transferor or distributor. In such a transaction, the taxpayer shall be treated as the transferor or distributor for purposes of computing the depreciation allowance under section 167 with respect to so much of the basis of the acquired property in the hands of the taxpayer as does not exceed its adjusted basis in the hands of the transferor or distributor. However, the taxpayer shall treat the portion of the basis of the acquired property which exceeds the adjusted basis in the hands of the transferor or distributor as a separate item of property, eligible for ACRS, provided that sale of exchange of such property by the transferor or distributor to the taxpayer would not be treated as a

"churning" transaction under section 168(e)(4) and this paragraph.

(ii) *Nonrecognition transactions affected.* Subdivision (i) of this paragraph (d)(5) applies to transactions described in any of the following provisions:

(A) Section 332 (relating to distributions in complete liquidation of an 80 percent or more controlled subsidiary corporation) except where the basis of the assets distributed is determined under section 334(b)(2) (as in effect on August 31, 1982);

(B) Section 351 (relating to transfer to a corporation controlled by transferor);

(C) Section 361 (relating to exchanges pursuant to certain corporate reorganizations);

(D) Section 371(a) (relating to exchanges pursuant to certain receivership and bankruptcy proceedings);

(E) Section 374(a) (relating to exchanges pursuant to certain railroad reorganizations);

(F) Section 721 (relating to transfers to a partnership in exchange for a partnership interest); and

(G) Section 731 (relating to distributions by a partnership to a partner.

A distribution of property by a partnership to a partner in liquidation of the partner's interest in the partnership (where the basis of the distributed property to the partner is determined under section 732(b)) is not a transaction described in section 168(e)(4)(C) and this subdivision (ii) since, in such case, the base of the property is determined by reference to the partner's adjusted basis in his interest in the partnership and not by reference to the basis of the property in the hands of the partnership. However, such distribution may be described in paragraph (d) (2) or (3) of this section.

(iii) *Successive application.* Property which does not qualify for ACRS by reason of its acquisition in a nonrecognition transaction will not qualify for ACRS if it is subsequently transferred in another nonrecognition transaction. The preceding sentence shall apply to the extent that the basis of the property in the hands of the transferee does not exceed the basis that does not qualify for ACRS in the hands of the transferor.

(6) *Related person defined*—(i) *In general.* For purposes of this paragraph (d) except as provided in section 168(e)(4)(E) and in subparagraph (11) of this paragraph (d), persons are related if—

(A) They bear a relationship specified in section 267(b) or section 707(b)(1) and the regulations thereunder, or

(B) They are engaged in trades or businesses under common control (as defined by subsections (a) and (b) of section 52 and the regulations thereunder).

For purposes of applying section 267(b) and 707(b)(1) with respect to this paragraph (d)(6), "10 percent" shall be substituted for "50 percent".

(ii) *Special rules.* (A) In general, persons are related if they are related either immediately before or immediately after the taxpayer's acquisition of the property in question. When a partnership's acquisition of property results from the termination of another partnership under section 708(b)(1)(B), whether the acquiring partnership is related to such other partnership shall be determined by comparing the ownership of the acquiring partnership immediately after the acquisition with that of the terminated partnership as it existed immediately before the event resulting in such termination occurs. Similarly, when the acquisition of property by a partner results from the termination of a partnership under section 708(b)(1)(A), whether the acquiring person is related to the partnership shall be determined immediately before the event resulting in such termination occurs.

(B) If a person would be related to a corporation, partnership, or trust which owned (or, in the case of section 1245 class property, owned or used) property during 1980 but for the fact that such corporation, partnership, or trust is no longer in existence when the taxpayer acquires such property, then for purposes of this subparagraph (6), such corporation, partnership, or trust is deemed to be in existence when the taxpayer acquires such property. Similarly, when a taxpayer leases property to a newly-created corporation, partnership, or trust, and a person who owned (or, in the case of section 1245 class property, owned or used) such property during 1980 would be related to the lessee but for the fact that such corporation, partnership, or trust is not in existence when the taxpayer acquires such property, then for purposes of this subparagraph (6), such corporation, partnership, or trust is deemed to be in existence when the taxpayer acquires such property.

(C) If persons are related by reason of the application of § 1.267(b)–1(b), then only a portion of the property shall be excluded from ACRS, consistent with the principles of § 1.267(b)–1(b). See, however, paragraph (d)(7) of this section (relating to avoidance).

(D) If persons are not considered to be engaged in trades or businesses under common control (as defined by subsections (a) and (b) of section 52 and the regulations thereunder), but are considered to be related persons by substituting "10 percent" for "50 percent" within the provisions of section 267(b) or 707(b)(1), then such persons are considered to be related persons for purposes of this subparagraph (6).

(7) *Avoidance purpose indicated.* Property acquired by the taxpayer after December 31, 1980, does not qualify for ACRS if it is acquired in a transaction one of whose principal purposes is to avoid the operation of the effective date rule of section 168(e)(1) and the "anti-churning" rules of section 168(e)(4), and the rules of this section. A transaction will be presumed to have a principal purpose of avoidance if it does not effect a significant change in ownership or use of property in service before 1981 commensurate with that otherwise required for ACRS to apply. Among the circumstances in which a principal avoidance purpose may be indicated, and in which the property involved in the transfer may therefore be ineligible for ACRS, are—

(i) The same person owns (other than as a nominee), directly or indirectly, more than a 10 percent interest in the taxpayer (or the taxpayer's lessee) and in a person who owned (or, in the case of section 1245 class property, owned or used) the property during 1980;

(ii) There is a mere change in form of the ownership of property owned by a person during 1980 (such as from a partnership to undivided interests);

(iii) The taxpayer (or the taxpayer's lessee) and a person who owned (or, in the case of section 1245 class property, owned or used) the property during 1980 are engaged in trades or businesses under common control within the meaning of section 52 (a) and (b) and the regulations thereunder, substituting a 25 percent test for the 50 percent tests of § 1.52–1 or there is a similar 25 percent common ownership in the property (or in a leasehold of the property) and in a person who owned (or, in the case of section 1245 class property, owned or used) the property during 1980;

(iv) The taxpayer (or the taxpayer's lessee) is related during 1980 to the person who owned (or, in the case of section 1245 class property, owned or used) the property during 1980;

(v) Section 1250 class property is operated by a person who owned such property during 1980 (or by a related person) under a management contract and, had such property been section 1245 class property instead of section 1250 class property, the user would be considered not to have changed as part

of the transaction (see § 1.168–4(d)(2)(ii));

(vi) The taxpayer leases section 1250 class property to a person and, through one or more subleases, the property is leased to a person who owned such property during 1980 (or to a related person); or

(vii) Section 1245 class property is acquired in an exchange described in section 1031, relating to exchange of property held for productive use or investment, to the extent that the basis of such property includes an amount representing the adjusted basis of other property owned by the taxpayer or a related person at any time during 1980. In the case of property which does not qualify for ACRS under this subdivision, rules similar to those of paragraph(d)(3)(iii) of this section shall apply.

In general, the avoidance intent indicated in subdivisions (i) through (vii) may be rebutted by evidence of an overrriding business purpose (or purposes) for the transaction. However, even if the taxpayer demonstrates an overriding business purpose (or purposes) for the transaction, the property will not qualify for ACRS if the Internal Revenue Service establishes that one of the principal purposes of the transaction is to avoid the operation of the effective date rule of section 168(e)(1) and the "anti-churning" rules of section 168(e)(4), and the rules of this section.

(8) *Adjustment to basis of partnership property.* ACRS shall not apply with respect to any adjustment to the basis of partnership property made under section 734(b) (relating to the optional adjustment to the basis of undistributed partnership property) or section 743(b) (relating to the optional adjustment to the basis of partnership property) if the partnership property itself does not qualify for ACRS because of section 168(e) and this section. If a partnership has property which qualifies for ACRS, see § 1.168–2(n) for the application of ACRS to the adjustments, pursuant to section 734(b) or 743(b), to the basis of such property.

(9) *Acquisitions by reason of death.* Property acquired by the taxpayer after December 31, 1980, by reason of death, for which the basis is determined under section 1014(a), is eligible for ACRS.

(10) *Reduction in unadjusted basis.* The unadjusted basis of property for purposes of section 168(d)(1) and § 1.168–2(d) shall be reduced to the extent that such property does not qualify for ACRS due to the application of this paragraph (d). The basis not taken into account for ACRS purposes pursuant to the preceding sentence shall be taken into account by the taxpayer for purposes of other provisions of the Code.

(11) *Certain corporate transactions.* For purposes of section 168(e)(4) and § 1.168–4(d)(6), a corporation is not related to a distributee (or, in the case of a transaction described in section 338, the new target corporation) if—

(i) Such corporation is a distributing corporation in a transaction to which section 334(b)(2)(B) (as in effect on August 31, 1982) applies, or is a target corporation for which an election under section 338 is made, and at least 80 percent of the stock of such corporation (as described in section 334(b)(2)(B) or 338(d)(3)) is acquired by purchase after December 31, 1980, or

(ii) Such corporation is a distributing corporation in a complete liquidation to which section 331(a) applies, or a partial liquidation to which section 331(a) (as in effect on August 31, 1982) applies, or to which section 302(b)(4) applies, and the distributee (or a related person) by himself or together with one or more persons acquires the amount of stock specified in subdivision (i) of this paragraph (d)(11) by purchase after December 31, 1980.

(e) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). In 1978 A buys a house which he uses as his family residence. In 1983, A's family moves out, and A converts the house into rental property. A may not use ACRS with respect to the property because he placed it in service before 1981. A must depreciate the property in accordance with section 167 and the regulations thereunder, subject to the other applicable provisions of the Code.

Example (2). In 1982 X Corp. purchases and places in service two major pieces of manufacturing equipment. One is newly constructed, while the other is a used machine expected to produce only 5,000 additional units. X elects to depreciate the used machine under the unit-of-production method. Such method was properly used with-in X's industry before 1981. Assuming that X has met the requirements of section 168(f)(4) and § 1.168—5(e), the used machine will not be recovery property as defined in section 168(c)(1) and § 1.168—3(a). X will apply ACRS with respect to the new machine even though it properly elected to apply the unit-of- production method with respect to the used machine.

Example (3). On November 15, 1984, B, a calendar year taxpayer, places in service in 10-unit apartment building for individuals and families of low income under section 8 of the United States Housing Act of 1937. B acquired the building for $100,000 and has incurred an additional $100,000 of expenditures for its rehabilitation, which B elects to amortize under section 167(k). In 1984, B is entitled to an allowance under ACRS of $2,000 (*i.e.*, .02×$100,000). The $100,000 which B amortizes under section 167(k) is not included in the unadjusted basis and therefore is not recovered under the provisions of ACRS.

Example (4). C is an individual engaged in the trucking business. On February 1, 1983, C purchases a new truck from a dealer. As in his normal business practice, C financed the transaction partly by trading in a truck C had used in his business for the previous 3 years. Although this transaction is described in section 1031, it does not have as one of its principal purposes avoidance of the rules of section 168(e)(1) and (4). C therefore will use ACRS with respect to the entire unadjusted basis of the truck purchased in 1983, including cash paid, indebtedness incurred, and the amount attributable to the adjusted basis of the used truck traded in.

Example (5). On June 1, 1983, in a transaction described in section 1031, Corporation M exchanges a corporate jet, acquired before 1981, for a very similar corporate jet owned and also acquired before 1981 by unrelated Corporation N. There is no significant difference to M or N in the use of the jet acquired from that of the jet exchanged, and the operations of each corporation do not change significantly as a result of the transaction. These facts and circumstances indicate that one of the principal purposes of this transaction is to avoid the principles of paragraphs (1) and (4) of section 168(e). Thus, absent evidence of an overriding business purpose (or purposes) for the transaction, neither of the jets will be treated as recovery property. Further, even if an overriding business purpose (or purposes) for the transaction is (or are) demonstrated, the property will not be eligible for ACRS if the Internal Revenue Service establishes that one of the principal purposes of the transaction is to avoid the principles of paragraphs (1) and (4) of section 168(e). The result in this example would be the same if, after the exchange, M or N sold the acquired property and leased it back, or sold the property to a related person.

Example (6). Z Corp., owner and largest occupant of the Z Building since 1965, sells this building to an institutional investor, M Corp., on May 1, 1983. After this sale, 25 percent of the Z building is leased to Z until May 1, 1985. Because 25 percent of the Z building is leased for more than 3 months by Z, which owned the building during 1980, M may not take ACRS deductions with respect to this 25 percent portion. Such portion must be depreciated in accordance with section 167. However, ACRS will apply with respect to the portion of the Z Building which is not leased by Z for more than 3 months after the above-described sale. If Z had leased the building only until July 31, 1983, then M Corp. would apply ACRS with respect to the entire building.

Example (7). During 1980 O Corp. undertakes construction of a department shore which becomes available for its assigned business function on April 1, 1981. For purposes of section 168 (e)(4)(B), O is not treated as owning the department store building under construction until it placed it in service on April 1, 1981. Accordingly,

ACRS will apply with respect to the building, beginning on the day it is placed in service.

Exampe (8). On June 1, 1983, P Corp. sells an undivided 70 percent interest in a building it has owned since March 1, 1980, To Q Corp. which is not related to P. R Corp., which is not related to P, has occupied the building as a tenant since June 1980 and will continue to occupy it after this sale. P and Q will own the building as tenants-in-common. Q, but not P, will take ACRS deductions with respect to its portion of the building. The fact that the user of the building did not change will not affect this result. However, if P and Q had formed a partnership which owned the building after the sale, no portion of the building would qualify for ACRS because the taxpayer acquiring the property after 1980 (the partnership) would be related under section 168(e)(4)(D) to a person (P) which owned the building in 1980.

Example (9). On January 1, 1984, D, a 20 percent partner in Partnership W, sells his entire partnership interest in E for $400,000. Partnership W has one asset, a building it placed in service before 1981. D's adjusted basis in his partnership interest, allocable entirely to the building, is $200,000 when it is sold. A valid election under section 754 is in effect with respect to the sale of the partnership interest. Accordingly, Partnership W makes an adjustment pursuant to section 743(b) to increase the basis of the building with respect to E from $200,000 to $400,000. Under the provisions of § 1.168–4(d)(8) no portion of the increase in the basis of the partnership property with respect to E is eligible for ACRS because the partnership property itself does not qualify for ACRS due to the provisions of section 168(e)(1) and § 1.168–4(a).

Exampe (10). In 1983, F, an individual, sells a piece of business equipment he placed in service in 1980 to X, a partnership in which F owns a 20 percent interest. No portion of such equipment will qualify for ACRS since it was acquired after 1980 by the taxpayer (Partnership X) and was owned during 1980 by a related person (partner B). The result in this example would not be changed if F owned no interest in X in 1980.

Exampe (11). G, an individual, has owned an apartment building containing furnished apartments since 1979. On June 1, 1983, G sells the building and its furnishings to unrelated Partnership Y. The furniture was purchased by G before 1981. Most of these apartments will continue to be occupied by the same tenants who occupied them before the sale. For purposes of section 168(e)(4)(I) and § 1.168–4(d)(3), the furniture is acquired incidential to the acquisition of the building. Therefore, ACRS will apply with respect to the furniture, notwthstanding that many of the tenants who used the furniture do not change as part of the transaction.

Example (12). On June 1, 1983, Partnership Z purchases a factory which has been leased by Corporation S, an unrelated person, since 1979. Corporation S continues to use this factor for more than 3 months after the sale. The pre-1981 section 1245 class property transferred in this transaction, such as machinery and equipment, represents a significant portion of the unadjusted basis of the property purchased by Z. Since the unadjusted basis of such section 1245 class property is significant in relation to the factory's unadjusted basis, for purposes of section 168(e)(4)(I) and § 1.168–4 (d)(3), the machinery and equipment are not acquired incidential to the acquisition of the factory. Since the user of such machinery and equipment does not change as part of the transaction, Partnership Z may not use ACRS with respect to such section 1245 class property. However, Z will use ACRS with repsect to the factory and the other section 1250 class property acquired.

Example (13). Partnership W, in which Partner E holds a 25 percent interest, has as its sole asset an office building it placed in service in 1980. On May 1, 1983, E dies, and his partnership interest, whose basis is determined under section 1014, passes to his daughter, D. ACRS is not available with respect to any increase in the basis of the partnership property with respect to D, because the partnership property itself does not qualify for ACRS due to the provisions of section 168(e) (1) and § 1.168–4(a).

Example (14). On July 1, 1983, Corporation X sells a building it had owned in 1980 to Corporation Y, an unrelated person. X retains an option to repurchase this building within 5 years. This building qualifies as recovery property in Y's hands, and Y will take ACRS deductions under section 168 with respect to it. On July 1, 1985, X exercises its option and repurchases the building. When X repurchases the building, it ceases to be recovery property because the taxpayer (X) owned the building during 1980. X may not take ACRS deductions with respect to the repurchased building. Instead, X must depreciate it under section 167 and the regulations thereunder.

Example (15). F, an individual, sells his business (including section 1245 class property owned in 1980) to G, on August 1, 1983. Under their arrangement, F. continues to manage the business for G, using the same equipment he had previously used. F receives as compensation for managing the business a fixed salary plus 5 percent of the gross profits. The arrangement follows customary commercial practice and was negotiated by F and G at arm's length. In addition, the amounts received (including the 5 percent of gross profits) represent the real value of the services rendered by F and are reasonable in amount. Further, receipt of 5 percent of gross profits under these circumstances is an ordinary and customary feature in the sale of a business in the industry and region in question. This arrangement results in a sufficient change in the ownership and use of the equipment that G will recover the cost of such equipment under ACRS.

Example (16). Individuals J and K each own a 50 percent interest in Partnership X, whose only asset is a building placed in service before 1981. On August 1, 1983, H, an individual, purchases a 25 percent interest each from J and K. Partnership X is deemed under section 708(b)(1)(B) to have terminated when H purchases the 50 percent interest. The building is not eligible for ACRS because the taxpayer acquiring the property after 1980 (the new partnership formed by H, J, and K) is related to the person who owned the property during 1980 (the old partnership), since J and K own more than a 10 percent interest in each of the two partnerships.

Example (17). In 1980, individual A owns all of the stock of Corporation T, which in turn owns depreciable property. In 1982, A sells the stock of T to unrelated Corporation V. Shortly thereafter, T sells some of the depreciable property it owned in 1980 to A. Under section 168(e)(4)(D), the property is not owned during 1980 by a person related to the taxpayer (A) since A is not related to the 1980 owner (T) when A acquires the property. However, an avoidance purpose is indicated under § 1.168–4(d)(7)(iv) since A was related in 1980 to the 1980 owner (T). Also, A broke the relationship with T shortly before acquiring the property. Accordingly, A may not use ACRS with respect to the property acquired, unless he can demonstrate an overriding business purpose (or purposes) for the transaction. Further, even if an overriding business purpose (or purposes) for the transaction is (or are) demonstrated, the property will not be eligible for ACRS if the Internal Revenue Service establishes that one of the principal purposes of the transaction is to avoid the principles of paragraphs (1) and (4) of section 168(e).

Example (18). In 1980, individual B owns all of the stock of Corporations X and Y. In 1980, X owns depreciable property. In 1981, X liquidates. In 1982, B sells to Y property owned by X in 1980. Y may not use ACRS with respect to the acquired property. Since the taxpayer (Y) would be related to the 1980 owner (X) but for the fact that X is no longer in existence when Y acquires the property, then, under § 1.168–4(d)(6)(ii)(B), X is considered to be in existence for purposes of determining whether the property was owned (or used) by a related person during 1980.

Example (19). In 1980, individual C owns all of the stock of Corporation M, which in turn owns all of the stock of Corporation N. In 1980, N owns depreciable property. In 1981, N distributes such 1980 property to M. In 1982, M sells the N stock to an unrelated person. In 1983, M distributes to C the property it received from N. Under section 168(e)(4)(D), the property is not owned during 1980 by a person related to the taxpayer (C), since C is not related to the 1980 owner (N) when C acquires the property. However, under § 1.168–4(d)(7)(iv) an avoidance purpose is indicated since the taxpayer (C) is related in 1980 to the 1980 owner (N). Also, upon acquisition, C is related to the person from whom the property is acquired (M). Therefore, C may not use ACRS with respect to the property unless he demonstrates an overriding business purpose (or purposes) for the transaction. Further, even if an overriding business purpose (or purposes) will not be eligible for ACRS if the Internal Revenue Service establishes that one of the principal purposes of the transaction is to avoid the principles of paragraphs (1) and (4) of section 168(e).

Example (20). D owns 20 percent of Corporation X and a 20 percent interest in Partnership P. X owns depreciable property in 1980. In 1981, X sells the property to P. Under § 1.267(b)–1 (b), the sale is considered as occurring between X and the members of the partnership (including D) separately.

Accordingly, under the principles of § 1.267(b)–1 (b), 20 percent of the unadjusted basis of the property is excluded from ACRS. In addition, under § 1.168–4(d)(7)(i) and avoidance purpose is indicated since D owns more than a 10 percent interest in the taxpayer (P) and the person who owned the property during 1980 (X). Therefore, ACRS is not available with respect to the remainder of the unadjusted basis of the property unless an overriding business purpose (or purposes) for the transaction is (or are) demonstrated. Further, even if an overriding business purpose (or purposes) for the transaction is (or are) demonstrated, the property will not be eligible for ACRS if the Internal Revenue Service establishes that one of the principal purposes of the transaction is to avoid the principles of paragraphs (1) and (4) of section 168(e).

Example (21). In 1980, E leases section 1245 class property to F. In 1982, at the termination of the lease, F purchases the property from E and continues to use it for more than 3 months after the sale. F is not entitled to use ACRS with respect to the property since, as part of the transaction, the user of the property did not change. The result in this example would be the same if, instead of selling the property to F, E sold the property to G, subject to F's lease, with F's use continuing for more than 3 months after the sale.

Example (22). In 1980, H and I each own section 1245 class property which they use in their respective businesses. In 1981, H and I swap titles to the property, with the parties continuing to use the same property as before the exchange. Neither H nor I is entitled to use ACRS with respect to the acquired property, since the user of the property does not change as part of the transaction.

Example (23). A owns section 1250 class property in 1980. In 1981, A sells the property to B who leases it back to A. B later sells the property to C, subject to A's lease. ACRS is not available with respect to the property in the hands of C since the taxpayer (C) leases the property to a person who owned it during 1980 (A).

Example (24). D owns section 1250 class property in 1980. In 1981, D transfers the property to E (an unrelated person) in exchange for property of a like kind in a transaction described in section 1031. Subsequently, D sells to and leases back from F the property acquired from E. Under § 1.168–4(d)(3)(iii), the property acquired from E is considered to have been owned by D in 1980. Therefore, ACRS is not available with respect to such property in the hands of F since the taxpayer (F) leases the property to a person who owned it during 1980(D). The result in this example would be the same if, instead of selling the property to F, D sold it to G (regardless of whether G leased it back to D), a person related to D under section 168(e)(4)(D) and § 1.168–4(d)(6).

Example (25). In 1980, Corporation X places in service section 1245 class property. In 1981, X merges into Corporation Y in a transaction described in section 368(a)(1)(A). Subsequently, Y sells to and leases back from Z the 1980 section 1245 class property acquired from X in the merger. Under § 1.168–4(d)(4)(vi), ACRS is not available with respect to the property in the hands of Z.

§ 1.168–5 Special rules.

(a) *Retirement-replacement-betterment (RRB) property*—(1) RRB replacement property placed in service before January 1, 1985. (i) Except as provided in subdivision (ii), the recovery deduction for the taxable year for retirement-replacement-betterment (RRB) replacement property (as defined in subparagraph (3) of this paragraph (a)) placed in service before January 1, 1985, shall be (in lieu of the amount determined under section 168(b)) an amount determined by applying to the unadjusted basis (as defined in § 1.168–2(d)) of such property the applicable percentage determined in accordance with the following table:

If the recovery year is:	And the year the property is placed in service is:			
	1981	1982	1983	1984
	The applicable percentage is:			
1	100	50	33	25
2		50	45	38
3			22	25
4				12

(ii) The provisions of subparagraph (1)(i) do not apply to any taxpayer who did not use the RRB method of depreciation under section 167 as of December 31, 1980. In such case, RRB replacement property placed in service by the taxpayer after December 31, 1980, shall be treated as other 5-year recovery property under section 168.

(2) *RRB replacement property placed in service after December 31, 1984.* RRB replacement property placed in service after December 31, 1984, is treated as other 5-year recovery property under section 168.

(3) *RRB replacement property defined.* RRB replacement property, for purposes of section 168, means replacement track material (including rail, ties, other track material, and ballast) installed by a railroad (including a railroad switching or terminal company) if—

(i) The replacement is made pursuant to a scheduled program for replacement,

(ii) The replacement is made pursuant to observations by maintenance-of-way personnel of specific track material needing replacement,

(iii) The replacement is made pursuant to the detection by a rail-test car of specific track material needing replacement, or

(iv) The replacement is made as a result of a casualty.

Replacements made as a result of a casualty shall be RRB replacement property only to the extent that, in the case of each casualty, the replacement cost with respect to the replacement track material exceeds $50,000.

(4) *Recovery of adjusted basis of RRB property as of December 31, 1980.* The taxpayer shall recover the adjusted basis of RRB property (as defined in section 168(g)(6)) as of December 31, 1980, over a period of not less than 5 years and not more than 50 years, using a rate of recovery consistent with any method described in section 167(b), including the method described in section 167(b)(2), switching to the method described in section 167(b)(3) at a time to maximize the deduction. For purposes of determining the recovery allowance under this subparagraph, salvage value shall be disregarded. Upon disposition of such RRB property, the usual rules of §§ 1.168–2(a)(2) and 1.168–6 or, at the taxpayer's election, the rules of § 1.168–2(h)(1) (relating to mass assets) will apply. The election to use the rules of § 1.168–2(h)(1) shall be made in accordance with the provisions of paragraph (e) of this section, except that the election shall be made on the taxpayer's income tax return for the first taxable year in which a disposition affected by the election occurs. If such return is filed on or before May 16, 1984 the election may be made on a return, as amended, filed within the time prescribed by law (including extensions) for filing the return for such taxable year, or on an amended return for such taxable year. An election under § 1.168–2(h)(1) with respect to RRB property shall apply throughout the applicable period of recovery and for all subsequent taxable years.

(5) *RRB property (which is not RRB replacement property) placed in service after December 31, 1980.* Property placed in service by the taxpayer after December 31, 1980, which is not RRB replacement property and which, under the taxpayer's method of depreciation as of December 31, 1980, would have been depreciated by the taxpayer under the RRB method, is treated as other property under section 168.

(b) *Transferee bound by transferor's period and method in certain transactions*—(1) *In general.* In the case of recovery property which is transferred in a transaction described in section 168(f)(10)(B) and subparagraph (2) of this § 1.168–5(b), the transferee shall be treated as the transferor for purposes of computing the recovery allowance under section 168(a) and § 1.168–2 with respect to so much of the basis of such property in the hands of the transferee as does not exceed its adjusted basis (determined before the application of the section 48(q)(2) adjustment, if any) in the hands of the transferor immediately before the transfer.

(2) *Transactions covered.* The provisions of subparagraph (1) of this paragraph (b) apply to the following transactions:

(i) A transaction described in—

(A) Section 332 (relating to distributions in complete liquidation of an 80 percent or more controlled subsidiary corporation) except where the basis of the assets distributed is determined under section 334(b)(2) (as in effect on August 31, 1982);

(B) Section 351 (relating to transfer to a corporation controlled by transferor);

(C) Section 361 (relating to exchanges pursuant to certain corporate reorganizations);

(D) Section 371(a) (relating to exchanges pursuant to certain receivership and bankruptcy proceedings);

(E) Section 374(a) (relating to exchanges pursuant to certain railroad reorganizations);

(F) Section 721 (relating to transfers to a partnership in exchange for a partnership interest); and

(G) Section 731 (relating to distributions by a partnership to a partner);

(ii) An acquisition (other than one described in subdivision (i) of this paragraph (2)) from a related person (as defined in section 168(e)(4)(D) and § 1.168–4(d)(6)). Property acquired from a decedent is not property acquired in a transaction included in this subdivision (ii); and

(iii) An acquisition followed by a leaseback to the person from whom the property is acquired. A leaseback does not exist for purposes of this subdivision (iii) if the former owner in turn subleases the property to another person.

(3) *Transactions excluded.* The provisions of section 168(f)(10)(A) and paragraph (b)(1) of this section do not apply—

(i) To recovery property which is transferred within 12 months after the property is placed in service by the transferor. The exception of this subdivision (i) shall not apply in the case of a transaction also described in section 168(f)(7) (*i.e.*, a transaction in which gain or loss is not recognized in whole or in part); or

(ii) To any transaction described in section 168(e)(4) and § 1.168–4(d).

(4) *Allowable deduction when transferor and transferee are calendar year taxpayers or have the same fiscal year.* When the transferor and transferee are calendar year taxpayers or when both the transferee and transferor have the same fiscal year—

(i) *Allowable deduction in year of transfer.* The allowable deduction for the recovery year in which the property is transferred shall be prorated between the transferor and the transferee on a monthly basis. For property other than 15-year real property, the transferor's deduction for such year is the deduction allowable to the transferor (determined without regard to this subdivision) multiplied by a fraction, the numerator of which is the number of months in the transferor's taxable year before the month in which the transfer occurs, and the denominator of which is the total number of months in the tranferor's taxable year. The remaining portion of the transferor's allowable deduction for the taxable year of the transfer (determined without regard to this subdivision) shall be allocated to the transferee. For property transferred in a transaction described in section 332, 361, 371(a), 374(a), or 731, the two preceding sentences shall be applied by disregarding that the taxable year of the transferor may end on the date of the transfer. In the case of 15-year real property, the transferor's deduction for the year of the transfer is the deduction allowable to the transferor under the disposition rules or § 1.168–2(a)(3) or (g)(4) (as the case may be). The remaining portion of the transferor's allowable deduction for the taxable year of the transfer (determined as if the transfer had not occurred) shall be allocated to the transferee. See subdivision (ii) of this paragraph (4) for a special rule applicable to certain nonrecognition transactions.

(ii) *Special rule for certain nonrecognition transactions occurring as of the close of business on the last day of any calendar month.* For purposes of this paragraph (b), in the case of a transaction described in section 168(f)(10)(B)(i) and paragraph (b)(2)(i) of this section, if the transfer occurs as of the close of business on the last day of any calendar month, such transfer is deemed to occur on the first day of the next calendar month.

(iii) *Transferee's allowable deduction for a taxable year subsequent to the year of transfer.* The allowable deduction to the transferee for taxable years subsequent to the year of transfer shall be determined as if the cost of the property were being recovered in the transferor's hands (*i.e.*, by multiplying the transferor's applicable recovery percentage for the current recovery year by the transferor's unadjusted basis in the transferred property).

Thus, for example, A, a calendar year taxpayer, purchases for $30,000 and places in service 15-year real property (other than low income housing) on February 15, 1981, and transfers the property to partnership B, a calendar year partnership, on March 15, 1981, in a transaction described in section 721. A does not elect to use the optional recovery percentages provided in § 1.168–2(c). For 1981, A's allowable deduction is $300 (*i.e.*, $30,000×.11×1/11). B's allowable deduction for 1981 and 1982 are $3,000 (*i.e.*, $3,300−$300) and $3,000 (*i.e.*, .10×$30,000), respectively.

(5) *Allowable deduction when transferor and transferee have different taxable years.* When the transferor and the transferee have different taxable years—

(i) *Transferor's allowable deduction.* The allowable deduction to the transferor for any taxable year in which the property is transferred shall be determined as under paragraph (b)(4)(i) and (ii) of this section.

(ii) *Transferee's allowable deduction.* In computing the transferee's allowable deduction for the year of transfer and for subsequent taxable years, the property shall similarly be treated as if its cost were being recovered by the transferor. However, the allowable deduction for any taxable year shall be allocated to the transferee based on the transferee's taxable year.

Thus, for example, B, a calendar year taxpayer, purchases for $30,000 and placed in service 15-year real property (other than low income housing) on February 15, 1981. B's allowable deduction for 1981 is $3,300 (*i.e.*, .11×$30,000). B transfers the property to C on March 15, 1982, C's taxable year is a fiscal year ending June 30. For 1982, B's allowable deduction is $500 (*i.e.*, $30,000×.10×2/12). For fiscal year 1982, C's allowable deduction is $1,000 (*i.e.*, the remainder of B's 1982 deduction ($2,500), allocated to the period March 1 through June 30, 1982 (4 months /10 months)). For fiscal year 1983, C's allowable deduction is $2,850 (*i.e.*, the remainder of B's allowable 1982 deduction ($1,500), plus $1,350 which is B's allowable 1983 deduction $2,700 ($30,000×.09) allocated to the period January 1 through June 30, 1983 (*i.e.*, $2,700×6 months/12 months).

(6) *Transferee's basis lower than transferor's.* If the adjusted basis of the property in the hands of the transferee is lower than the adjusted basis of the property in the hands of the transferor immediately before the transfer, see § 1.168–2(d)(3) for rules relating to redeterminations of basis.

(7) *Portion of basis in hands of transferee which exceeds transferor's adjusted basis.* The transferee shall treat as newly purchased ACRS property that portion of the basis of the

property in the hands of the transferee that exceeds the adjusted basis (determined before the application of the section 48(q)(2) adjusted, if any) of the property in the hands of the transferor immediately before the transfer. Thus, such excess shall be treated as recovery property placed in service by the transferee in the year of the transfer. The transferee may choose any applicable recovery period and recovery methods with repect to such excess and need not use the transferor's recovery period and recovery method.

(8) *Examples.* The application of this paragraph (b) may be illustrated by the following examples:

Example (1). In 1981, A, a calendar year taxpayer, purchases for $12,000 and places in service 3-year recovery property. Under section 168(b)(1) and § 1.168–2(b)(1), the recovery allowances for the first and second recovery years are $3,000 (*i.e.*, .25×$12,000) and $4,560 (*i.e.*, .38×$12,000), respectively. On February 15, 1983, A transfers the property to M Corporation, a calendar year taxpayer, in exchange for M's stock and $2,000 cash in a transaction described in section 351. A's recovery allowance for 1983 is $370 (*i.e.*,(½×.37)×$12,000). A's adjusted basis immediately before the exchange is $4,070 (*i.e.*, $12,000−$7,930). Assume A recognizes gain of $2,000 on the transaction. The basis attributable to the property under section 362 is determined to be $6,070 in the hands of M Corporation. Under the provisions of section 168(f)(10)(A) and this paragraph (b), M, the transferee, is treated the same as A, the transferor, with respect to $4,070, which is so much of M's basis as does not exceed A's adjusted basis. However, in computing the deduction allowable with respect to such basis, A's unadjusted basis ($12,000) is used. Thus, in the third recovery year, M may deduct $4,070 (*i.e.*, (1½×$12,000) under section 168(f)(10)(A) and § 1.168–5(b) (1) and (4). The remaining $2,000 of basis in the property is treated as newly purchased ACRS property placed in service in 1983. M may choose any applicable recovery period and recovery method with respect to such $2,000 and need not use A's recovery period and recovery method.

Example (2). In 1983, B, a calendar year taxpayer, purchases for $12,000 and places in service 5-year recovery property. Under section 46, B's investment tax credit for such property is $1,200. Under section 48(q)(1) and § 1.168–2(d)(2), B reduces his basis by $600 (*i.e.*, .50×$1,200). Therefore, B's unadjusted basis for purposes of section 168 is $11,400 (*i.e.*, $12,000−$600). Under section 163(b)(1) and § 1.168–2(b)(1), the recovery allowances for the first and second recovery years are $1,710 (*i.e.*, .15×$11,400) and $2,508 (*i.e.*, .22×$11,400), respectively. On February 15, 1985, B sells the property for $13,000 to C, a related party (as defined in section 168(e)(4)(D) and § 1.168–4(d)(6)) who is a calendar year taxpayer. B's recovery allowance for 1985 is $199.50 (*i.e.*, (½×.21)×$11,400). B's adjusted basis (determined without regard to the section 48(q)(2) adjustment), immediately before the sale is $6,982.50 (*i.e.*, $11,400−$4,417.50). The basis of the property under section 1012 is $13,000 in C's hands. Under the provisions of section 168(f)(10)(A) and this paragraph (b), C, the transferee, is treated the same as B, the transferor, with respect to $6,982.50, which is so much of C's basis as does not exceed B's adjusted basis. However, in computing the deduction allowable with respect to such basis, B's unadjusted basis ($11,400) is used. Thus, in the third recovery year, C may deduct $2,194.50 (*i.e.*, (1½×.21)×$11,400) under section 168(f)(10)(A) and § 1.168–5(b) (1) and (4). In the fourth and fifth recovery years, C may deduct $2,394 (*i.e.*, .21×$11,400) each year. The remaining basis of $6,017.50 (*i.e.*, $13,000−$6,982.50) in the property is treated as newly purchased ACRS property placed in service in 1985. C may choose any applicable period and recovery method with respect to such amount and need not use B's recovery period and recovery method.

Example (3). In 1981, D, a calendar year taxpayer, purchases for $12,000 and places in service 5-year recovery property. Under section 168(b)(1) and § 1.168–2(b)(1), the recovery allowances for the first and second recovery years are $1,800 (*i.e.*, .15×$12,000) and $2,640 (*i.e.*, .22×$12,000), respectively. On March 15, 1983, D transfers the property to N Corporation, a taxpayer having a fiscal year ending June 30, in exchange for N's stock and $2,000 cash in a transaction described in section 351. D's recovery allowance for 1983 is $420 (*i.e.*, (7/12×.21)×$12,000). D's adjusted basis in the property immediately before the exchange is $7,140 (*i.e.*, $12,000−$4,860). Assume D recognizes gain of $2,000 on the transaction. The basis attributable to the property under section 362 is determined to be $9,140 in the hands of N Corporation. Under the provisions of section 168(f)(10)(A) and this paragraph (b), N, the transferee, is treated the same as D, the transferor, with respect to $7140, which is so much of N's basis as does not exceed D's adjusted basis. However, in computing the deduction allowable with respect to such basis, D's unadjusted basis ($12,000) is used. Thus, in the fiscal year 1983, N Corporation's allowance deduction with respect to the carryover basis is $840 (*i.e.*, (7/12×.21)× $12,000). For fiscal years 1984 and 1985, N Corporation's allowable deduction is $2,520 (*i.e.*, [(5/12×.21)+(7/12×.21)]×$12,000). For fiscal year 1986, N Corporation's allowable deduction is $1,260 (*i.e.*, (5/12×.21)×$12,000). The remaining $2,000 of basis in the property is treated as newly purchased ACRS property. N may choose any applicable recovery period and recovery method with respect to such basis and need not use D's recovery period and recovery methods. N elects to use the optional recovery percentage based on a 5-year recovery period with respect to the $2,000 of basis which is treated as newly purchased ACRS property. For fiscal years 1983, 1984, 1985, 1986, 1987, and 1988, N's recovery allowances with respect to such $2,000 basis are $200, $400, $400, $400, $400, and $200, respectively. If N's fiscal year ending June 30, 1983, were a short taxable year, the provisions of § 1.168–2(f) would apply with respect to the $2,000 considered newly purchased ACRS property, but not with respect to N's basis carried over from D.

Example (4). On May 1, 1981, E, a calendar year taxpayer, purchases for $100,000 and places in service 5-year recovery property. On April 1, 1982, E sells the property for $100,000 to F who leases it back to E. Under the provisions of paragraph (b)(3), section 168(f)(10)(A) and § 1.168–5(b)(1) do not apply. Thus, F may choose any applicable recovery period and recovery method with respect to its unadjusted basis of $100,000, with recovery beginning in 1982.

Example (5). Assume the same facts as in example (4) except that the property is sold to F and leased back to E on June 15, 1982. Assume further that F's fiscal year ends on July 31, 1982. For 1981, E's allowable deduction is $15,000 (*i.e.*, $100,000×.22×5/12). E's adjusted basis in the propety immediately before the transfer is $75,833.33 (*i.e.*, $100,000−$24,166.67). Under the provisions of section 168(f)(10)(A) and this paragraph (b), F, the transferee, is treated the same as E, the transferor, with respect to $75,833.33 which is so much of F's basis as does not exceed E's adjusted basis. However, in computing the deduction allowable with respect to such basis, E's unadjusted basis ($100,000) is used. Thus, in the fiscal year ending July 31, 1982, F's allowable deduction with respect to the carryover basis is $3,666.66 (*i.e.*, 7/12×.22× $100,000)). For fiscal year 1983, F's allowable deduction is $21,416.67 (*i.e.*, (5/12×.22× $100,000)+(7/12×.21×$100,000)). For fiscal years 1984 and 1985, F's allowable deductions are $21,000 (*i.e.*, (.21×5/12×$100,000)+ (.21×7/12×$100,000)). For the fiscal year ending July 31, 1986, F's allowable deduction is $8,750 (*i.e.*, 5/12×.21×$100,000). The remaining $24,166.67 of basis is treated as newly-purchased property, placed in service by F in 1981. F may choose any applicable recovery period and method for such amount and need not use E's recovery period and method.

Example (6). On January 1, 1981, G, a calendar year taxpayer, purchases for $1 million and places in service 15-year real property (other than low income housing). On July 15, 1988, G sells the property to H for $1.5 million, who leases it back to G. H's taxable year is a fiscal year ending September 30. G does not elect use of the optional percentages provided by § 1.168–2(c). For 1988, G's allowable deduction is $30,000 (*i.e.*, .06×$1,000,000×6/12). H is treated the same as G with respect to $390,000, which is so much of the basis of the property in the hands of H as does not exceed its adjusted basis to G immediately before the transfer (*i.e.*, $1,000,000−$610,000). H's allowable deduction for its fiscal year ending September 30, 1988, with respect to such basis is $15,000 (*i.e.*, the remainder of G's allowable deduction for 1988 ($30,000) allocated to the period July 1 through September 30, 1988 (3 months/6 months)). For H's fiscal year ending September 30, 1989, H's allowable deduction is $60,000 (*i.e.*, the remainder of G's allowable 1988 deduction ($15,000) plus G's allowable 1989 deduction ($60,000) allocated to the period January 1 through September 30, 1989 (9 months/12 months) or $45,000). For H's fiscal year ending September 30, 1990, H's allowable deduction is $52,500 (*i.e.*, the remainder of G's

allowable deduction for 1989 ($15,000), plus G's allowable deduction for 1990 ($50,000), allocated to the period January 1 through September 30, 1990 (9 months/12 months), or $37,500). For H's fiscal year ending September 30, 1996, H is entitled to G's allowable deduction for 1995 ($50,000), allocated to the period October 1 through December 31, 1995 (3 months/12 months), or $12,500. The amount of H's basis in excess of G's adjusted basis (*i.e.*, $1,500,000 less $390,000, or $1,110,000) is treated as newly purchased ACRS property placed in service by H on July 15, 1988. H may use any applicable recovery period and method with respect to such basis. Thus, assuming H does not elect the optional percentages provided by § 1.168–2(c), H has an additional allowable deduction for its year ending September 30, 1988, of $33,000 (*i.e.*, .03 × $1,110,000). For its fiscal year ending September 30, 1989, H's allowable deduction with respect to such basis is $122,100 (*i.e.*, .11 × $1,110,000).

Example (7). On January 1, 1981, partnership P, a calendar year taxpayer, purchases for $1,000,000 and places in service 15-year real property (other than low income housing) which is the only asset of the partnership. At no time does the partnership have an election under section 754 in effect. P is owned equally by partners A, B, and C. On April 18, 1985, individual D purchases the interests of B and C for $1,500,000, thereby terminating the partnership under section 708(b)(1)(B). The deduction allowable with respect to the property for 1985 prior to the termination is $17,500 (*i.e.*, $1,000,000×.07×3/12). The partnership's adjusted basis in the property immediately before the termination is $592,500 (*i.e.*, $1,000,000 – $407,500). Under the provisions of section 168(f)(10)(A) and § 1.168–5(b)(1), the new partnership which is created by A and D is treated the same as the old partnership with resepct to $592,500, which is so much of the adjusted basis of the property to the new partnership as does not exceed its adjusted basis to the old partnership. However, in computing the allowable deduction with respect to such basis the old partnership's unadjusted basis ($1,000,000) is used. Thus, for 1985, the deduction allowable to the new partnership with respect to such basis is $52,500 (*i.e.*, $1,000,000×.07×9/12) and for 1986 is $60,000 (*i.e.*, $1,000,000×.06). This result would be the same if D purchased a 95 percent interest in the partnership. Recovery of such basis will be completed in 1995. The new partnership's basis in the property in excess of that of the old partnership is taken into account under ACRS as if it were newly-purchased recovery property placed in service in 1985. Any applicable period and method may be used with respect to such basis.

Example (8). In 1981, Corporation X, a calendar year taxpayer, purchases for $100,000 and places in service 5-year recovery property. Under section 168(b)(1) and § 1.168–2(b)(1), X's recovery allowance for 1981 is $15,000. On March 15, 1982, X merges into Corporation Y in a transaction described in section 368(a)(1)(A) solely in exchange for Y stock. Y's taxable year is a fiscal year ending August 31. X's recovery allowance for 1982 is $3,666.66 (*i.e.*, 2/12 ×.22×$100,000). Under section 362, Y's basis in the property is the same as the property's adjusted basis in the hands of X immediately before the transfer. Therefore, for fiscal year 1982, Y's allowable deduction is $11,000 which is the remainder of X's allowable deduction for 1982, $18,333.34 (*i.e.*, $22,000 – $3,666.66) allocated to the period March 1, 1982, through August 31, 1982 (*i.e.*, 6 months/10 months). For fiscal year 1983, Y's allowable deduction is $21,333.34 which is the remainder of X's allowable deduction for 1982 ($7,333.34) plus the deduction which would be allowable to X in 1983 (*i.e.*, $100,000×.21, or $21,000) allocated to the period January 1 through August 31, 1983 (*i.e.*, $21,000×8 months/12months or $14,000). In computing the deductions allowable to X and Y, the fact that X's taxable year ends on the date of the merger is disregarded.

(c) *Recovery property reacquired by the taxpayer*—(1) *In general.* Recovery property which is disposed of and then reacquired by the taxpayer shall be treated (for purposes of computing the allowable deduction under section 168(a) and § 1.168–2) as if such property had not been disposed of by the taxpayer. This paragraph (c)(1) generally applies only to such much of the taxpayer's adjusted basis in the reacquired property as does not exceed his adjusted basis at the time he disposed of the property.

(2) *Taxpayers to whom provisions apply.* The provisions of section 168(f)(10)(C) and paragraph (c)(1) of this section apply only to a taxpayer who, at the time of the disposition of the property, anticipates a reacquisition of the same property.

(3) *Exceptions.* Section 168(f)(10)(C) and paragraph (c)(1) of this section shall not apply—

(i) To recovery property which is disposed of during the same taxable year that the property is placed in service by the taxpayer, or

(ii) To any transaction described in section 168(e)(4) and § 1.168–4(d).

(4) *Taxpayer resumes prior recovery.* For purposes of paragraph (c)(1) of this § 1.168–5, the reacquiring taxpayer shall resume the recovery under § 1.168–2 applicable at the time of the disposition. For example, if the taxpayer originally uses a 3-year recovery period and the applicable percentages prescribed in section 168(b)(1) and § 1.168–2(b)(1), in the year of reacquisition the recovery allowance is computed by applying the applicable percentage for the year of disposition to the original unadjusted basis (*i.e.*, the unadjusted basis at the time the taxpayer originally placed the recovery property in service).

(5) *Portion of unadjusted basis in reacquired property which exceeds taxpayer's adjusted basis at the time of disposition.* That part of the unadjusted basis in the reacquired property which exceeds the taxpayer's adjusted basis in the property at the time of disposition shall be treated generally as newly purchased ACRS property. For property other than a building, any appropriate recovery period and method may be used with respect to such excess. For a building, the taxpayer must use the same recovery period and method with respect to such excess would qualify as a substantial improvement under § 1.168–2(e)(4) if paid or incurred by the taxpayer for an improvement if he had continued to own the building.

(6) *Unadjusted basis in reacquired property lower than taxpayer's adjusted basis at time of disposition.* If the unadjusted basis in the reacquired property is lower than the taxpayer's adjusted basis in the property at the time of disposition, see § 1.168–2(d)(3) for rules relating to redetermination of basis.

(7) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). In 1981 A, a calendar year taxpayer, purchases for $6,000 and places in service 3-year recovery property. A does not elect an optional recovery percentage under § 1.168–2(c). Under section 168(b)(1) and § 1.168–2(b)(1), A's recovery allowance for 1981 is $1,500 (*i.e.*, .25 x $6,000). A wants to change his method of cost recovery from the use of the accelerated percentages to the use of the optional straight line percentages. To effectuate this change, A sells the property to B in 1982 for $7,000 anticipating that B will sell the property back to A. B does not elect to use an optional recovery percentage. B's recovery deduction for 1982 is $1,750 (*i.e.*, .25 x $7,000). In 1983 A reacquires the property from B for $9,000. With respect to that portion of A's unadjusted basis in the reacquired property which does not exceed the adjusted basis at the time of disposition (*i.e.*, $4,500), A's recovery allowance for 1983 is determined as if A had not disposed of the property, that is, by applying the percentage (38 percent) applicable for the second recovery year (*i.e.*, 1982, the year of disposition) to the original unadjusted basis ($6,000). Thus, A's allowable deduction is $2,280 (*i.e.*, .38 x $6,000). That portion of the unadjusted basis in the reacquired property which exceeds A's adjusted basis at the time of disposition (*i.e.*, $4,500) is treated as newly purchased ACRS property placed in service in 1983. A may use any appropriate recovery period and method for such excess. Thus, if A uses the tables under § 1.168–2(b)(1), A's recovery allowance for 1983 also includes $1,125 (*i.e.*, .25 x $4,500). A's recovery allowances for 1984 are $2,220 (*i.e.*, .37 x $6,000) plus $1,710 (*i.e.*, .38 x $4,500). A's recovery allowance for 1985 is $1,665 (*i.e.*, .37 x $4,500).

Example (2). In 1981 C, a calendar year taxpayer, purchases for $15,000 and places in service 3-year recovery property and elects under § 1.168–2(c) the optional 5-year

recovery period using the straight line method. Under § 1.168–2(c)(4), C's recovery allowance for 1981 is $1,500 (*i.e.*, .10 x $15,000). C wants to change his method of cost recovery from the use of the optional straight line percentages to the use of the accelerated percentages. Consent to change is not granted to C under section 168(f)(4). Therefore, C tries to effectuate this change by selling the property to D in 1982 for $16,000 anticipating that D will sell the property back to C. D does not elect to use the optional recovery percentages. D's recovery allowance for 1982 is $4,000 (*i.e.*, .25 x $16,000). In 1983, C reacquires the property from D for $17,000. With respect to that portion of C's unadjusted basis in the reacquired property that does not exceed the adjusted basis at the time of disposition (*i.e.*, $13,500), C must use the optional recovery percentages originally elected. C's recovery allowances for 1983, 1984, 1985, 1986, and 1987 are determined as if C had not disposed of the property, that is, by applying the applicable percentages beginning in the second recovery year to the original unadjusted basis ($15,000). Thus, C's allowable deductions are $3,000, $3,000, $3,000, $3,000, and $1,500, respectively. With respect to that portion of the unadjusted basis in the reacquired property which exceeds C's adjusted basis at the time of disposition (*i.e.*, $3,500), C may use any appropriate recovery period and method. Cost recovery for this portion of the reacquired property begins in 1983 as if C placed the property in service in that year.

Example (3). On February 15, 1981, E, a calendar year taxpayer, purchases for $30,000 and places in service 15-year real property (other than low income housing) and does not elect the optional straight line percentages under § 1.168–2(c). Under § 1.168–2(b)(2), E's recovery allowance for 1981 is $3,300 (*i.e.*, .11 x $30,000). E wants to change his method of cost recovery from the use of the accelerated percentages to the use of the optional straight line percentages. To effectuate this change, E sells the property to F on February 15, 1983, anticipating that F will sell the property back to E. E's recovery allowance for 1982 is $3,000 (*i.e.*, .10 x $30,000) and for 1983 is $225 (*i.e.*, .09 x 1/12 x $30,000). In 1985 E reacquires the property from F for $28,000. With respect to that portion of E's unadjusted basis in the reacquired property which does not exceed the adjusted basis at the time of disposition (*i.e.*, $23,475) E's recovery allowance for 1985 is determined as if E had not disposed of the property, that is, by applying the percentage (9 percent) applicable for the third recovery year to the original unadjusted basis ($30,000). The recovery for the year of reacquisition must be adjusted to reflect the number of months the property is used by the taxpayer in that year as recovery property. Thus, if E reacquired the property in July, E's recovery allowance for 1985 would be $1,350 (*i.e.*, .09 x 6/12 x $30,000). The unrecovered allowance for the third recovery year, $1,125 ($30,00 x .09 x 5/12), must be recovered in the year following the last recovery year. With respect to that portion of the unadjusted basis at the time of disposition (*i.e.*, $4,525), E may not elect an optional recovery period. Cost recovery for this portion of the reacquired property will begin in 1985. Thus, if the reacquisition occurred in July, E's allowable deduction for 1985 with respect to this portion would be $271.50 (*i.e.*, .06 x $4,525).

(d) *Treatment of leasehold improvements*—(1) *In general.* Capital expenditures made by a lessee for the erection of buildings or the construction of other permanent improvements on leased property are recoverable through ACRS deductions or amortization deductions. If the recovery period of such improvements in the hands of the taxpayer is equal to or shorter than the remaining period of the lease, the allowances shall take the form of ACRS deductions under section 168. If, on the other hand, the recovery period of such property in the hands of the taxpayer would be longer than the remaining period of such lease, the allowances shall take the form of annual deductions from gross income in an amount equal to the unrecovered cost of such capital expenditures divided by the number of years remaining on the term of the lease. Such deductions shall be in lieu of ACRS deductions. See section 162 and the regulations thereunder.

(2) *Determination of recovery period.* For purposes of determining whether the recovery period is longer than the lease term, an election of an optional recovery period under section 168(b)(3) or (f)(2)(C) shall be taken into account.

(3) *Determination of the effect given to lease renewal options; related lessee and lessor.* Section 178 governs the effect to be given renewal options in determining whether the recovery period of the improvements exceeds the remaining period of the lease. Section 178 also provides rules for determining the period of a lease when the lessee and lessor are related. In making any determination under section 178, the "recovery period" of the improvement shall be taken into account in lieu of its useful life. See § 1.178–1.

(4) *Improvements made by lessor.* If a lessor makes an improvement to the leased property, the cost of the improvement must be recovered under the general provisions of section 168. The provisions of 168(f)(6) and this paragraph (d) do not apply to improvements made by the lessor.

(5) *Example.* The application of this paragraph may be illustrated by the following example:

Example. In 1981, A leases B's land for a term of 99 years. The lease provisions do not include any options to renew the lease. In 2034, A places in service 15-year real property which he built on the leased premises. Since the remaining term of the lease (46 years) is longer than any recovery period which A could select under section 168 (*i.e.*, 15, 35, or 45 years), A must recover the costs of the improvement under section 168.

(e) *Manner and time for making election*—(1) *Elections to which this paragraph applies.* The rules in this paragraph apply to the following elections provided under section 168:

(i) Section 168(b)(3)(A) and (B)(i) and § 1.168–2(c) (1) and (2), relating to election of optional recovery percentage with respect to property in the same recovery class (*i.e.*, all 3-year recovery property);

(ii) Section 168(b)(3)(A) and (B)(ii) and § 1.168–2(c) (1) and (3), relating to election of optional recovery percentage on a property-by-property basis for 15-year real property;

(iii) Section 168(d)(2)(A) and § 1.168–2(h), relating to election to account for mass assets in the same mass asset account and to include in income all proceeds realized on disposition;

(iv) Section 168(e)(2) and § 1.168–4(b), relating to election to exclude property from ACRS by use of a method of depreciation not expressed in a term of years;

(v) Section 168(f)(2)(C)(i) and (ii)(I) and § 1.168–2(g)(3) (i) and (ii), relating to election of optional recovery percentage for property used predominantly outside the United States in the same recovery class and with the same present class life (*i.e.*, 3-year recovery property with a present class life of 4 years); and

(vi) Section 168(b)(2)(C) (i) and (ii)(II) and § 1.168–2(g)(3) (i) and (iii), relating to election of optional recovery percentage on a property-by-property basis for 15-year real property used predominantly outside the United States.

Use by a taxpayer of a method of cost recovery described in section 168(b) (1) and (2) and § 1.168–2(b) (1) and (2) or section 168(f)(2) (A) and (B) and § 1.163–2(g) (1) and (2) (relating to the use of the accelerated percentages) is not an election for purposes of section 168 and this paragraph (e). Thus, no consent will be granted to change from such a method to another method described in section 168. The provisions of section 168(f)(4) and this paragrah (e) do not apply to elections which must be made under another section of the Code. Thus, for example, if a taxpayer wants to amortize property under section 167(k), the rules under section 167(k) apply with respect to such election and the revocation of such election.

(2) *Time for making elections.* Except as provided in subparagraph (4) or (5), the elections specified in subparagraph (1) of this paragraph (e) shall be made on the taxpayer's income tax return filed

for the taxable year in which the property is placed in service as recovery property (as defined in § 1.168–3(a)) by the taxpayer. If the taxpayer does not file a timely return (taking into account extensions of the time for filing) for such taxable year, the election shall be made at the time the taxpayer files his first return for such year. The election may be made on a return, as amended, filed within the time prescribed by law (including extensions) for filing the return for such taxable year. A separate election may be made for each corporation which is a member of an affiliated group (as defined in section 1504) and which joins in the making of a consolidated return in accordance with section 1502 and the regulations thereunder. See § 1.1502–77.

(3) *Manner of making elections.* Except as provided in subparagraph (5), Form 4562 is provided for making an elelction under this paragraph and for submitting the information required. The taxpayer must specify in the election—

(i) The name of the taxpayer;

(ii) The taxpayer's identification number;

(iii) The year the recovery property was placed in service (or, in the case of 15-year real property, the month the property was placed in service);

(iv) The unadjusted basis of the recovery property; and

(v) Such other information as may be required.

An election will not be rendered invalid so long as there is substantial compliance, in good faith, with the requirements of this subparagraph (3).

(4) *Special rule for qualified rehabilitated buildings.* In the case of any qualified rehabilitated building (as defined in section 48(g)(1)), an election under section 168(b)(3) and § 1.168–2(c) (relating to election of optional recovery percentage) may be made at any time before the date 3 years after the building was placed in service by the taxpayer.

(5) *Special rule for foreign taxpayers*—(i) *Foreign corporations subject to section 964.* In the case of a foreign corporation whose earnings and profits are determined under section 964, the elections specified in subparagraph (1) of this paragraph (e) shall be made at the time and in the manner provided in § 1.964–1(c). Except as provided in the regulations under section 952 and section 1248, any election made under this subdivision (i) shall apply with respect to the recovery property affected by the election from the taxable year in which such property is placed in service. Such election may be revoked only as provided in § 1.964–1(c)(7) and subparagraph (9) of this paragraph.

(ii) *Foreign taxpayers other than corporations subject to section 964.* In the case of a foreign taxpayer other than a corporation described in subdivision (i) of this subparagraph (5), the elections specified in subparagraph (1) of this paragraph (e) shall be made at the time and in the manner provided in subparagraphs (2) and (3) of this paragraph, except that the election shall be made on the taxpayer's income tax return for the later of the taxable year in which the property is placed in service as recovery property by the taxpayer or the first taxable year in which the taxpayer is subject to United States tax. Any election made under this subdivision (ii) shall apply with respect to the recovery property affected by the election from the taxable year in which such property is placed in service. Such election may be revoked only as provided in subparagraph (9) of this paragraph. No election may be made under this subdivision (ii) by a taxpayer who was required to, but did not make the election at the time and in the manner prescribed under subdivision (i). For purposes of this subdivision (ii)—

(A) "Foreign taxpayer" means a taxpayer that is not a United States person as defined in section 7701(a)(30), and

(B) "United States tax" means tax under subtitle A of the Code (relating to income taxes) other than sections 871(a)(1) and 881 thereof.

(6) *Failure to elect optional recovery percentages.* If a taxpayer does not elect to use the optional recovery percentages within the time and in the manner prescribed in subparagraphs (2), (3), (4), and (5) (or is not considered to have elected under § 1.168–2(c)(5)), the amount allowable under section 168 must be determined under section 168(b)(1) or (2) (or under section 168(f)(2) (A) or (B), where applicable) for the year in which the recovery property is placed in service and for all subsequent recovery years. Thus, no election to use such optional percentages may be made by the taxpayer in any other manner (*e.g.*, through a request under section 446(e) to change the taxpayer's method of accounting).

(7) *Individuals, partnerships, trusts, estates, and corporations.* Except as provided in subparagraph (8) of this paragraph with respect to transactions to which section 168(f)(10) (A) and (B) applies, and subject to other applicable provisions of the Code and regulations, if recovery property is placed in service by an individual, trust, estate, partnership, or corporation, an election under this paragraph shall be made by the individual, trust, estate, partnership, or corporation placing such property in service.

(8) *Transactions to which section 168(f)(10) (A) and (B) applies.* In a transaction to which sections 168(f)(10) (A) and (B) and paragraph (b) of this § 1.168–5 apply, the transferee is bound by the transferor's election (or nonelection) under this paragraph with repect to the property so acquired. The rule of the preceding sentence shall apply only with respect to so much of the basis of the property in the hands of the transferee as does not exceed the adjusted basis of the property in the hands of the transferor immediately before the transfer.

(9) *Revocation of election.* An election under this paragraph, once made, may be revoked only with the consent of the Commissioner. Such consent will be granted only in extraordinary circumstances. Requests for consent must be filed with the Commissioner of Internal Revenue, Washington, D.C. 20224.

(f) *Treatment of certain nonrecognition transactions*—(1) *Section 1033 transactions*—(i) *Allowable deduction for section 1033 converted property.* For any taxable year in which a transaction described in section 1033 occurs, the full year's allowable deduction shall be prorated on a monthly basis under the principles of paragraph (b)(4)(i) of this section. Thus, for example, on March 3, 1981, A, a calender year taxpayer, purchases for $25,000 and places in service 3-year recovery property. On August 14, 1981, the property is converted. A's 1981 allowable deduction for the converted property is $3,645.83 (*i.e.*, $\$25{,}000 \times .25 \times \frac{7}{12}$). If the property were 15-year real property (other than low income housing) A's 1981 allowable deduction for the converted property would be $1,250 (*i.e.*, $\$25{,}000 \times .10 \times \frac{5}{10}$).

(ii) *Allowable deduction for section 1033 replacement property in year of replacement and subsequent taxable years.* (A) Replacement property acquired in a transaction to which section 1033 applies, which qualifies as recovery property, shall be treated the same as the converted property. Thus, the replacement property shall be recovered over the remaining recovery period using the same recovery method as the converted property. The preceding sentence applies only with respect to so much of the basis (as determined under section 1033(b)) in the replacement property as does not exceed the adjusted basis in the converted property. Any excess of the unadjusted basis of the replacement property over the adjusted basis of the

converted property shall be treated as newly purchased ACRS property. Any excess of the adjusted basis of the converted property over the unadjusted basis of the replacement property shall be recovered under the principles of § 1.168–2(d)(3) (relating to redeterminations).

(B) The allowable deduction for the replacement property in the year of replacement (whether such replacement year is the same as the year of conversion or a later year) shall be based on the number of months the replacement property is in service as recovery property during the replacement year.

(*1*) If the number of months in the conversion year after the property is converted (including the month of conversion) is greater than or equal to the number of months the replacement property is in service during the replacement year, the allowable deduction for the replacement year shall equal—

$$(a/b\times c)\times d$$

where

a=number of months replacement property is in service as recovery property during replacement year,

b=12 or, in the case of 15-year real property converted in the first recovery year, the number of months in the taxpayer's taxable year after the converted property was placed in service by the taxpayer (including the month the property was placed in service),

c=applicable recovery percentage for converted property in year of conversion, and

d=unadjusted basis of converted property.

An allowance is permitted to the extent of any unrecovered allowance in the taxable year following the final recovery year. The term "unrecovered allowance" means the difference between—

(*i*) The sum of recovery allowances for the year of the conversion and the year of the replacement, and

(*ii*) The recovery allowance which would have been allowable in the year of conversion had such conversion not occurred.

In a year following the year of replacement, the allowable deduction shall be computed by multiplying the applicable recovery percentage for the next recovery year to the unadjusted basis of the converted property.

(*2*) If the number of months in the conversion year after the property is converted (including the month of conversion) is less than the number of months the replacement property is in service during the replacement year, the allowable deduction for the replacement year shall equal—

$$[a/b\times c)+(d/12\times e)]\times f$$

where

a=number of months in conversion year after the property is converted (including the month of conversion).

b=12 or, in the case of 15-year real property converted in the first recovery year, the number of months in the taxpayer's taxable year after the converted property was placed in service by the taxpayer (including the month the property was placed in service),

c=applicable recovery percentage for converted property in the year of conversion,

d=number of months replacement property is in service as recovery property during the replacement year minus a,

e=applicable recovery percentage for the next recovery year, and

f=unadjusted basis of converted property.

An allowance is permitted to the extent of any unrecovered allowance in the taxable year following the final recovery year. The term "unrecovered allowance" means the difference between—

(*i*) The sum of the recovery allowances for the year of conversion and the year of replacement, and

(*ii*) The sum of the recovery allowances which would have been allowable in the year of conversion and the next recovery year had such conversion not incurred.

In a year following the year of replacement, the allowable deduction shall be computed by multiplying the unadjusted basis of the converted property by the applicable recovery percentage for the second recovery year after the year of conversion.

(iii) *Examples.* The provisions of paragraph (f)(1) (i) and (ii) may be illustrated by the following examples:

Example (1). On January 1, 1981, A, a calendar year taxpayer, purchases for $40,000 and places in service recovery property which is 15-year real property (other than low income housing). Under section 168(b)(2) and § 1.168–2(b)(2), the allowable deductions for the first and second recovery years are $4,800 (*i.e.*, .12×$40,000) and $4,000 (*i.e.*, .10×$40,000). On March 3, 1983, A's property is involuntarily converted. Under the provisions of subdivision (i), A's 1983 allowable deduction for the converted property is $600 (*i.e.*, 2/12×.09×$40,000). On May 15, 1984, A acquires replacement property. A's unadjusted basis in the replacement property is the same as his adjusted basis in the converted property (*i.e.*, $30,600). Under the provisions of subdivision (ii), the replacement property is treated the same as the converted property with respect to such $30,600 of basis. However, in computing the allowable deduction with respect to such basis, A's unadjusted basis in the converted property ($40,000) is used. Thus, A's allowable deduction for 1984 is $2,400 (*i.e.*, 8/12×.09×$40,000). Under the provisions of subdivision (ii)(B)(*1*), the unrecovered allowance is $600 (*i.e.*, $3,600−$3,000), and it must be recovered in the taxable year following the final recovery year, that is, in the taxable year following the fifteenth recovery year. A's allowable deduction for 1985 is $3,200 (*i.e.*, .08×$40,000).

Example (2). Assume the same facts as in example (1) except that A acquires the replacement property on January 1, 1984. A's allowable deduction for 1984 is $3,533.33 (*i.e.*, [(10/12×.09)+(2/12×.08)]×$40,000). Under the provisions of subdivision (ii)(B)(*2*), the unrecovered allowance is $2,666.67 (*i.e.*, $6,800−$4,133.33), and it must be recovered in the taxable year following the final recovery year, that is, in the taxable year following the fifteenth recovery year. A's allowable deduction for 1985 is $2,800 (*i.e.*, .07×$40,000).

Example (3). Assume the same facts as in example (1) except that A acquires the replacement property on the same day as the conversion (March 3, 1983). A's allowable deduction for 1983 for the converted property is $600 (*i.e.*, (2/12×.09)×$40,000). A's allowable deduction for 1983 for the replacement property is $3,000 (*i.e.*, (10/12×.09)×$40,000). A's allowable deduction for 1984 is $3,200 (*i.e.*, $40,000×.08).

Example (4). On February 3, 1981, B, a calendar year taxpayer, purchases for $100,000 and places in service recovery property which is 15-year real property (other than low income housing). On June 25, 1981, B's property is involuntarily converted. On that same day B acquires replacement property with the same basis as the converted property. B's allowable deduction for 1981 for the converted property is $4,000 (*i.e.*, 4/11×11.×$100,000). B's allowable deduction for 1981 for the replacement property is $7,000 (*i.e.*, 7/11×.11×$100,000). B's allowable deduction for 1982 is $10,000 (*i.e.*, $100,000×.10).

(2) *Section 1031 transactions*—(i) *Allowable deductions.* In a transaction to which section 1031 applies, the allowable deduction for the exchanged and acquired properties shall be determined under the principles of subparagraph (1) of this paragraph. Similarly, any excess of the unadjusted basis of the acquired property over the adjusted basis of the exchanged property shall be treated as newly purchased ACRS property, and any excess of the adjusted basis of the exchanged property over the unadjusted basis of the acquired property shall be recovered under the principles of § 1.168–2(d)(3) (relating to redeterminations).

(ii) *Examples.* The provisions of paragraph (f)(2)(i) may be illustrated by the following examples:

Example (1). In 1981 A, a calendar year taxpayer, purchases for $12,000 and places in service recovery property which is 3-year recovery property. Under section 168(b)(1) and § 1.1.68–2(b)(1), the allowable deductions for the first and second recovery years are $3,000 (*i.e.*, .25×$12,000) and $4,560 (*i.e.*, .38×$12,000), respectively. On March 3, 1983,

A exchanges this property and $1,000 cash for property of a "like kind." A's 1983 allowable deduction for the exchanged property is $740 (*i.e.*, 1/12×.37×$12,000). A's basis in the acquired property is $4,700. The acquired property is treated the same as the exchanged property with respect to $3,700, which is so much of the bais in the acquired property as does not exceed the adjusted basis in the exchanged property. However, in computing the allowable deduction with respect to such basis, A's unadjusted basis in the exchanged property ($12,000) is used. Therefore, A's 1983 allowable deduction for the acquired property with respect to the substituted basis is $3,700 (*i.e.*, 10/12×.37×$12,000). The remaining $1,000 of basis in the acquired property is treated as newly purchased ACRS property placed in service in 1983. A may choose any applicable recovery period and recovery method for such basis and need not use the same recovery period and recovery method used for the exchanged property. If A uses the tables provided in section 168(b)(1) and § 1.168–2(b)(1), for 1983, 1984, and 1985, A is entitled to additional allowable deductions of $250, $380, and $370, respectively.

Example (2). On February 8, 1981, B, a calendar year taxpayer, purchases for $80,000 and places in service 15-year real property (other than low income housing). Under the provisions of section 168(b)(2) and § 1.168–2(b)(2), the allowable deduction for 1981 is $8,800 (*i.e.*, .11×$80,000). On March 3, 1982, B exchanges this property and $20,000 cash for property of a "like kind." B's 1982 allowable deduction for the exchanged property is $1,333.33 (*i.e.*, (2/12×.10×$80,000). B's basis in the acquired property is $89,866.67. The acquired property is treated the same as the exchanged property with respect to $69,866.67, which is so much of the basis in the acquired property as does not exceed the adjusted basis in the exchanged property. However, in computing the allowable deduction with respect to such basis, B's unadjusted basis in the exchanged property ($80,000) is used. Therefore, B's 1982 and 1983 allowable deductions for the acquired property with respect to the substituted basis are $6,666.66 (*i.e.*, 10/12×.10×$80,000) and $7,200 (*i.e.*, .09×$80,000), respectively. The remaining $20,000 of basis in the acquired property is treated as newly purchased ACRS property placed in service in March 1982. B may choose any applicable recovery period and recovery method for this basis and need not use the same period and method used for the exchanged property. If B uses the tables prescribed in § 1.168–2(b)(2), B's 1982 allowable deduction for this basis is $2,000 (*i.e.*, $20,000×.10).

(3) *Transfers of property by gift*—(i) *Allowable deductions.* With respect to recovery property which is transferred by gift (where the donee's basis is determined under section 1015), the allowable deduction for the taxable year of the gift shall be apportioned between the donor and donee under the principles of paragraphs (b) (including paragraph (b)(4)(ii)) and (f)(1) of this section, and the donee shall be treated as the donor for subsequent taxable years to the extent that the donee's basis is carried over from the donor. That portion of the donee's basis (as determined under section 1015) in the property that exceeds the donor's adjusted basis immediately preceding the gift shall be treated as newly purchased ACRS property. The donee may choose any applicable recovery period and recovery method with respect to such excess and need not use the donor's recovery period and recovery method.

(ii) *Example.* The provisions of paragraph (f)(3)(i) may be illustrated by the following example:

Example. In 1981, A, a calendar year taxpayer, purchases for $12,000 and places in service 5-year recovery property. Under section 168(b)(1) and § 1.168–2(b)(1), the allowable deduction for 1981 is $1,800 (*i.e.*, .15×$12,000). On March 15, 1982, A transfers the property by gift to B (another calendar year taxpayer) who continues to use it as recovery property. A's 1982 allowable deduction is $440 (*i.e.*, 2/12×.22×$12,000). Under section 1015, B's basis in the property is determined to be $11,000. In the hands of B, the donee, the property is treated the same as in the hands of the donor with respect to $9,760, which is so much of the carryover basis as does not exceed the donor's adjusted basis in the property immediately preceding the gift. However, in computing the allowable deduction with respect to such basis, the donor's unadjusted basis ($12,000) is used. Therefore, B's 1982 allowable deduction with respect to such basis is $2,200 (*i.e.*, 10/12×.22×$12,000). The remaining $1,240 (*i.e.*, $11,000−$9,760) of basis is treated as newly purchased ACRS property. B may choose any applicable recovery period and recovery method for such basis and need not use the donor's recovery period and recovery method.

(4) *Transfers of property by reason of death.* Where recovery property is transferred by reason of the death of the taxpayer, the allowable deduction for the taxpayer's taxable year which ends upon his death shall be governed by the rules applicable to short taxable years. See § 1.168–2(f).

§ 1.168–6 Gain or loss on dispositions.

(a) *General rule.* Except as provided in § 1.168–2(h) (relating to mass assets), where recovery property is disposed of during a taxable year, the following rules shall apply;

(1) If the asset is disposed of by sale or exchange, gain or loss shall be recognized as provided under the applicable provisions of the Code.

(2) If the asset is disposed of by physical abandonment, loss shall be recognized, in the amount of the adjusted basis of the asset at the time of the abandonment. For a loss of quality for recognition under this subparagraph (2), the taxpayer must intend to discard the asset irrevocably so that he will neither use the asset again, nor retrieve it for sale, exchange, or other disposition.

(3) If the asset is disposed of other than by sale or exchange or physicial abandonment (as, for example, where the asset is transferred to a supplies or scrap account), gain shall not be recognized. Loss shall be recognized in the amount of the excess of the adjusted basis of the asset over its fair market value at the time of the disposition. No loss shall be recognized upon the conversion of property to personal use.

(b) *Definitions.* (1) See § 1.168–2(l)(1) for the definition of "disposition," which excludes the retirement of a structural component of 15-year real property. Thus, no loss shall be recognized on such retirement and the unadjusted basis of the property under § 1.168–2(d) shall not be reduced. For example, if a taxpayer replaces the roof on 15-year real property, no loss is recognized upon the retirement of the replaced roof, and the unadjusted basis of the property continues to be recovered over the remaining period. For determination of the deductions allowable under section 168 with respect to the expenditures paid or incurred to replace the roof, see § 1.168–2(e).

(2) The adjusted basis of an asset at the time of its disposition is its unadjusted basis, as provided in § 1.168–2, adjusted as prescribed in § 1.1011–1.

Par. 3. Section 1.178–1 is amended as follows:

1. Paragraph (a) is amended by removing the term "section 167 or 611" and inserting "section 167, 168, or 611" in its place.

2. Paragraph (b) (1)(i) and (3) is amended by removing the term "estimated useful life" wherever it appears and by inserting "estimated useful life or, in the case of recovery property (as defined in section 168), the recovery period (including, where applicable, any optional recovery period under section 168 (b)(3) or (f)(2)(C))" and removing the term "section 167" in the one place it appears in paragraph (b)(3) and by inserting "section 167 or 168", in its place.

3. Paragraph (b)(2) is amended by removing the term "(or depreciation)" and by inserting "(or depreciation under section 167 or accelerated cost recovery under section 168)" in lieu thereof.

4. Paragraph (d)(1)(i) is amended by removing the term "remaining estimated useful life" and by inserting "remaining estimated useful life or, in the case of recovery property (as defined in section 168), the recovery period (including, where applicable, any optional recovery

period under section 168 (b)(3) or (f)(2)(C)) in its place.

5. Paragraph (b) (6) is amended by adding two examples immediately after example (5), which read as follows:

§ 1.178–1 Depreciation or amortization of improvements on leased property and cost of acquiring a lease.

* * * * *

(b) *Determination of amount of deduction.* * * *

(6) * * *

Example (6). Lessee C, a calendar year taxpayer, constucts a building on land leased from lessor D. The construction is completed and the building is placed in service on January 1, 1984, at which time C has 8 years remaining on the lease with no options to renew. On January 1, 1988, D grants C an option to renew the lease for a 10-year period. As of January 1, 1988, the date the renewal option is granted, section 178(a) and paragraph (b)(1) of this section become applicable, since the portion of the term of the lease remaining upon completion of the building (8 years) is less than 60 percent of any recovery period applicable to the building (60 percent of the shortest recovery period (15 years) is 9 years). As of January 1, 1988, the term of the lease shall be treated as including the remaining portion of the original lease (4 years) and the 10-year renewal, or 14 years, unless C can establish that, as of the close of 1988, it is more probable that the lease will not be renewed than that it will be. In such case, since the term of the lease as of January 1, 1988 (14 years) is less than the ACRS recovery period, a deduction is not allowed under section 168 with respect to such building.

Example (7). The facts are the same as in example (6), except that the option to renew is for 15 years. If, as of the close of 1988, C cannot establish that it is more probable that the lease will not be renewed than that it will be, the term of the lease as of January 1, 1988, will be 19 years. Since the term of the lease would be longer than the ACRS recovery period (unless a 35- or 45-year optional recovery period were desired), the provisions of section 168 will be applicable with respect to this building. For purposes of section 168, C is considered as having placed the building in service on January 1, 1988, with a 15-year recovery period extending from that time. C's unadjusted basis for purposes of section 168 is the adjusted basis in the building as of January 1, 1988.

Par. 4. Paragraph (a)(3) of § 1.1016–3 is redesignated as (a)(4), and a new paragraph (a)(3) is added to read as follows:

§ 1.1016–3 Exhaustion, wear and tear, obsolescence, amortization, and depletion for periods since February 28, 1913.

(a) *In general.* * * *

(3) *Adjustment for amount allowable where no cost recovery deduction claimed under section 168.* (i) Except as provided in subdivision (iii) of this subparagraph (3), if the taxpayer has not taken a deduction under section 168 (hereinafter referred to as ACRS deduction) either in the taxable year or for any prior taxable year, the adjustments to basis of the property for the ACRS deduction allowable shall be determined by using the recovery method described in section 168(b) (1) or (2) or, where applicable section 168(f)(2) (A) or (B).

(ii) If the taxpayer with respect to any recovery property has properly taken an ACRS deduction under one of the methods provided in section 168 for one or more years but has omitted the deduction in other years, the adjustment to basis for the ACRS deduction allowable in such a case will be the deduction under the method which was used by the taxpayer with respect to that property. Thus, for example, A acquired property in 1981 for which he properly elected to compute his ACRS deduction by use of one of the optional straight line percentages described in section 168(b)(3) for the first recovery year but did not take a deduction in the second and third years of the asset's recovery period. The adjustment to basis for the ACRS deduction allowable for the second and third recovery years will be computed using the optional straight line percentages which were elected.

(iii) If the taxpayer has made an election under § 1.168–5(e)(5) (relating to special election rules for foreign taxpayers) to use an optional straight line percentage with respect to recovery property, the adjustments to basis of the property for the ACRS deduction allowable shall be determined pursuant to that election.

(iv) The provisions of subdivision (iii) of this subparagraph (3) may be illustrated by the following example:

Example. In 1981, Corporation F (a calendar year taxpayer) purchases for $100,000 and places in service in a foreign country 5-year recovery property which has a present class life of 7.5 years. F is not subject to United States income tax, other than under section 881, and is not required to compute earnings and profits under section 964. On January 1, 1983, F begins engaging in a trade or business in the United States (making it subject to tax under section 882), and uses the property in the United States in connection with that trade or business. Under § 1.168–5(e)(5)(ii), F may elect to use the optional recovery percentages with respect to the property placed in service in 1981 by submitting the requisite information on its income tax return for the taxable year beginning in 1983. That election will apply with respect to such property from the taxable year in which it is placed in service. Thus, if F elects the optional recovery percentages based on a 12-year recovery period under § 1.168–2(g)(3), the allowable ACRS deductions for 1981 and 1982 would be $4,000 (*i.e.*, .04×$100,000) and $9,000 (*i.e.*, .09×$100,000) respectively, and F's adjusted basis in the property on January 1, 1983, would be $87,000 (*i.e.*, $100,000−$13,000). For the deduction allowable to F with respect to the property in 1983, see § 1.168–2 (j)(4)(i) and (j)(6) (relating to change in status).

* * * * *

Par. 5. Section 1.1016–4 is amended by adding a new sentence at the end of paragraph (b) thereof, to read as follows:

§ 1.1016–4 Exhaustion, wear and tear, obsolescence, amortization, and depletion; periods during which income was not subject to tax.

* * * * *

(b) * * * For purposes of this section, the amount that would have been allowable as a deduction shall be determined without reference to section 168.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–3922 Filed 2–9–84; 11:10 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Public Comment Period and Opportunity for Public Hearing on Proposed Modifications to the Maryland Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and hearing on the substantive adequacy of certain program amendments submitted by the State of Maryland as modifications to its permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Maryland submission contains revisions to the State's regulations at Sections .07 and .40 under the code of Maryland Regulations (COMAR) 08.13.09 concerning permitting requirements and performance standards for coal exploration activities and inspection and enforcement procedures.

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

may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing.

DATE: Written comments must be received on or before 4:00 p.m. on March 19, 1984 to be considered. A public hearing on the proposal will be held upon request from 7:00 p.m. to 9:00 p.m. on February 21, 1984, at the Maryland Bureau of Mines listed below under "**ADDRESSES.**"

Any person interested in making an oral or written presentation at the hearing should contact Mr. David H. Halsey at the OSM Charleston field Office by the close of business on February 13, 1984. If no one has contacted Mr. Halsey to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Halsey, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and enforcement, Charleston Field Office, Attention: Maryland Administrative Record, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

The public hearing will be held upon request at: Maryland Bureau of Mines 69 Hill Street, Frostburg, Maryland 21532.

See "**SUPPLEMENTARY INFORMATION**" for addresses where copies of the Maryland program, the amendments and the administrative record on the Maryland program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendments by contacting the OSM Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: David H. Halsey, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

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

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5315, Washington, D.C. 20240, Telephone: (202) 343–7896

Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136

In addition, copies of the proposed amendments are available for inspection and copying during regular business hours at the following location: Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, Morgantown, West Virginia 26505, Telephone: (304) 291–4004.

On March 3, 1980, OSM received a proposed regulatory program from the State of Maryland. This proposed program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FR 79430–79451). On February 18, 1982, following submission of program amendments to satisfy the conditions of approval, the Maryland program was fully approved by the Secretary (47 FR 7214–7217).

On January 13, 1984, the State of Maryland submitted proposed statutory and regulatory revisions to its approved program (Administrative Record No. MD 229). The Maryland submission contains revisions to the State's regulations at Sections .07 and .40 under the Code of Maryland Regulations (COMAR) 08.13.09 concerning permitting requirements and performance standards for coal exploration activities and inspection and enforcement procedures concerning the following: right-of-entry, public participation, notices of violation and cease and desist orders. It also contains revisions to Sections 7–506, 7–507, 7–514.6 and 7–907 of Title 7 of the Annotated Code of Maryland including provisions (1) requiring that an operator, rather then the department, publish notice of the release of a bond for a permitted strip mine; (2) authorizing the department to enter on private property for purposes of access to any open-pit mining or prospecting operation, subject to certain notice to property owners and subject to judicial order where necessary; (3) requiring that the Bureau of Mines shall reimburse a property owner for any damages resulting from such entry on private property; (4) authorizing the department to extend beyond 90 days the abatement time scheduled for a strip mining violaton; and (5) altering requirements concerning prospecting for coal—

—to provide for written approval of the Bureau only where prospecting will result in substantial disturbance of the land or harm to water supplies or water quality, subject to certain bond requirements,

—to place a certain limit on the amount of coal which may be removed during prospecting,

—to establish certain procedures where written approval is necessary, and

—to protect trade secrets or confidential commercial or financial information submitted by a prospector.

The State's submission also includes a statutory change to provide that the department is authorized to place a lien on all abandoned mine reclamation projects conducted under Title 7 and is precluded from placing a lien on such projects under certain conditions. As this change pertains to the State's approved abandoned mine land program under Title IV of SMCRA rather than the State's regulatory program, OSM will not be considering it under this rulemaking.

In accordance with the provisions of 30 CFR 732.15 and 30 CFR 732.17, OSM is seeking comments from the public on the adequacy of the proposed modifications. Comments should address the issues of whether the enforcement procedures portions of the proposed amendments are the same or similar as OSM's and whether the other portions of the proposed amendments are no less effective than OSM's regulations. Comments on the proposed amendments must be submitted prior to the close of the public comment period on March 19, 1984.

Additional Determinations

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

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action, OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action is exempt from regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements

established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 920

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

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: February 13, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–4274 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 935

Public Comment Procedures and Opportunity for Public Health on Proposed Amendment to the Ohio Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of a program amendment submitted by Ohio as an amendment to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment consists of proposed changes to the Ohio regulations concerning the prime farmland investigation information required in the permit application. This notice sets forth the times and locations that the Ohio program and proposed amendment will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public must be received by 4:30 p.m., March 19, 1984 to be considered in the decision on whether the proposed amendment should be approved and incorporated into the Ohio regulatory program. A public hearing on the proposed amendment will be held only if requested. If no one requests a public hearing, none will be held. If only one person requests a public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record. If a hearing is requested and scheduled, a notice announcing the time and location of the hearing will be announced in the **Federal Register.** Requests for a public hearing should be directed to Ms. Nina Rose Hatfield at the address or telephone number listed below by 4:00 p.m., March 2, 1984.

ADDRESSES: Written comments and requests for a hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbia Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

Copies of the Ohio program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the Office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register.**

II. Submission of Revisions

By letter dated January 30, 1984, Ohio submitted regulatory amendments to revise the prime farmland investigation requirement in the permit application.

Specifically, the proposed revision is to paragraph (K) of Ohio rule 1501:13–4–13 relating to prime farmland investigation. Paragraph (K) is revised to substitute the phrase "area proposed to be affected by surface operations and facilities" for the phrase "permit and adjacent area."

The full text of the proposed program amendment submitted by Ohio is available for public inspection at the addresses listed above. The Director now seeks public comment on whether the proposed amendment is no less effective than the Federal regulations. If approved, the amendment will become part of the Ohio program.

III. Procedural Requirements

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

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

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

Accordingly, 30 CFR Part 935 is proposed to be amended as set forth herein.

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

Dated: February 13, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–4273 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 08-83-02]

Drawbridge Operation Regulations; Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposed rule regarding a change to the regulations (33 CFR 117.540) for nine Louisiana Department of Transportation and Development (LDOTD) drawbridges. This proposal is being withdrawn because of major changes needed in the proposed rule. The changes became apparent as a result of substantive comments received from concerned parties.

FOR FURTHER INFORMATION CONTACT: Perry F. Haynes, Bridge Administrator, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130, (504) 589-2965.

SUPPLEMENTARY INFORMATION: In the June 9, 1983 issue of the **Federal Register** (48 FR 26625), the Coast Guard published a proposed rule (Docket No. CGD 08-83-02) regarding changes to the regulations for nine LDOTD drawbridges.

It was proposed that:

(1) At least four hours advance notice be given for an opening of the draw at all times, for the:

Amite River, mile 6.0, LA 22 swing bridge at Clio.
Belle River, mile 43.5, LA 70 pontoon bridge near Belle River.
Lower Grand River, mile 25.9, LA 977 pontoon bridge at Pigeon.
Pierre Pass, mile 1.0, LA 70 swing bridge at Pierre Part.
Plaquemine Bayou, mile 6.5, Spur 3066 swing bridge at Indian Village.
West Pearl River, mile 7.9, U.S. 90 lift bridge near Pearlington.

(2) At least four hours advance notice be given for an opening of the draw from 9:00 p.m. to 5:00 a.m. and to open on signal at all other times, for the:

Kelso Bayou, mile 0.7, LA 27 swing bridge at Hackberry.
Mermentau River, mile 7.1, LA 82 swing bridge at Grand Chenier.

(3) At least four hours advance notice be given for an opening of the draw from 6:00 p.m. to 6:00 a.m. and to open on signal at all other times, for the Superior Oil Company Canal, mile 6.3, LA 82 swing bridge in Cameron Parish.

Interested persons were given until July 25, 1983 to comment. This proposal was also disseminated by Commander, Eighth Coast Guard District Public Notice No. CGD8-9-83 dated June 15, 1983.

Many of the comments received in response to the notices addressed substantive issues regarding the proposed rule. After review of these comments, several areas of the proposed rule were identified as requiring significant modification before the LDOTD request for changes to the existing drawbridge regulations could be pursued further. In light of the foregoing, the Coast Guard has decided to withdraw the proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

Accordingly, the proposed rule published in the **Federal Register** (48 FR 26625) on June 9, 1983 is hereby withdrawn.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: February 6, 1984.

W. H. Stewart,

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

[FR Doc. 84-4276 Filed 2-15-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 716

[OPTS-84008; BHFRL 2497-3]

Health and Safety Data Reporting Submission of Lists and Copies of Health and Safety Studies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: The Environmental Protection Agency is proposing the addition of five chemicals to the list of chemical substances and designated mixtures subject to the requirements of the Health and Safety Data Reporting Rule (40 CFR Part 716), which was promulgated under the authority of section 8(d) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(d). The chemicals are: 2-methylpyridine, 3-methylpyridine, 4-methylpyridine, methylpyridine, and maleic anhydride. Section 8(d) would require manufacturers and processors of these chemicals to submit lists and copies of unpublished health and safety studies to EPA. The information received by the Agency will be used to support a more detailed assessment of the health and environmental risks of these chemicals.

DATE: Comments on this proposed rule must be submitted on or before March 19, 1984.

ADDRESSES: Written comments should bear the document control number OPTS-84008, and should be submitted to the following address: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

All written comments filed under this proposal will be available for public inspection in Rm. E-107 at the address given above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., 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: OMB Control Number: 2070-0004.

I. Legal Authority

Section 8(d) of TSCA authorizes the Administrator of the Environmental Protection Agency to require chemical manufacturers and processors to submit lists and copies of health and safety studies on chemical substances and mixtures. Under the authority of section 8(d), EPA issued regulations in the **Federal Register** of September 2, 1982 (46 FR 38780), requiring the submission of unpublished studies for chemicals that are listed in the rule. The rule established standardized reporting requirements with regard to health and safety studies, and provides for amendment of the list of chemicals subject to the rule. EPA may add chemicals to the rule in order to gather data for the assessment of those chemicals.

The EPA Administrator has delegated his authority to approve certain section 8(d) reporting requirements to the Assistant Administrator for Pesticides and Toxic Substances. This rule falls within that delegation of authority.

II. Reporting Requirements

This rule proposes that five chemicals be added to the list of chemicals subject to section 8(d). The chemical names of these substances are as follows:

1. 2-Methylpyridine (CAS No. 109-06-8).

2. 3-Methylpyridine (CAS No. 108-99-6).

3. 4-Methylpyridine (CAS No. 108–89–4).

4. Methylpyridine (CAS No. 1333–41–1).

5. Maleic anhydride (CAS No. 108–31–6).

Manufacturers (including importers) and processors of these chemicals would be required to provide EPA with lists and copies of any unpublished health and safety studies on the chemicals, subject to the provisions of 40 CFR Part 716, Subpart A. A company that manufactures or processes a methyl pyridine but is unable to identify the particular insomer that it produces would still be required to submit health and safety data for unspecified methylpyridine (CAS No. 1333–41–1). The same requirement would apply to a company that produces a combination of two or more methyl pyridine isomers.

III. Agency Objectives

A. Methyl Pyridines

EPA first became concerned with methyl pyridines through its Current Awareness Program, which involves an ongoing survey of current published literature on chemical substances. The Agency found data indicating that methyl pyridines are potentially toxic to humans. From this starting point, EPA began an initial evaluation of the health and environmental risks posed by methyl pyridines as part of its ongoing Existing Chemicals Assessment Program. In doing so, EPA utilized additional data from published literature and other Agency sources.

However, the Agency has found that methyl pyridines have not been extensively studied by the scientific community. EPA has little data on their potential for adverse health and environmental effects. The limited information that so far has been available to EPA indicates that these chemicals represent a potential health and environmental risk of unknown magnitude. It is necessary for the Agency to obtain more information on methyl pyridines in order to adequately assess the degree of risk posed by these chemicals. EPA therefore has determined that the current lack of data is sufficient justification for this proposed information-gathering rule.

In terms of the potential health effects of methyl pyridines, toxicological studies currently available to EPA indicate that their primary impact is likely to be on the central nervous system, particularly at high levels of concentration. At moderate levels of concentration, methyl pyridines may cause irritation and depression of the central nervous system. Existing studies indicate that methyl pyridines also may have neurotoxic effects at low concentrations, but the current data are inconclusive on this point. Methyl pyridines are easily absorbed into the body through several routes. They may accumulate over time in body tissue, and because of their toxicity may have adverse effects on a number of body functions. Other possible toxic effects of methyl pyridines, such as carcinogenicity, mutagenicity, teratogenicity, and reproductive effects, are not known at this time, according to data available to EPA.

EPA also has very little data about the possible environmental effects of methyl pyridines. It is known, however, that these chemicals are extremely water soluble, and although they are biodegradable, the rate of degradation is slow. These compounds are capable of being absorbed into the soil, penetrating to groundwater supplies and concentrating in aquatic systems. Methyl pyridine isomers have been detected in groundwater. In addition, these isomers have been detected in surface water and process water at oil shale and tar and pitch plants. They have also been found in effluents from coke oven operations, coal gasification processes, chemical manufacturing plants, and in wastes from such plants.

In spite of the limited amount of health and environmental effects data available with regard to methyl pyridines, their likely neurotoxic effects, and particularly their unknown effects at low levels of concentration, are a primary source of the Agency's concern with regard to these chemicals. This concern is heightened by the possible release of methyl pyridines into some water supplies. EPA wishes to use this rule to supplement its limited data on methyl pyridines, because the Agency seeks to ensure that it has all existing health and safety data before undertaking a more detailed assessment of these chemicals. There may be additional health studies, currently unknown to the Agency, which may provide valuable information about the degree of exposure necessary to cause neurotoxic effects, or the possibility that methyl pyridines may cause other health or environmental effects.

B. Maleic Anhydride

EPA is also proposing the addition of maleic anhydride to the section 8(d) rule, under the Agency's existing chemicals evaluation program. By obtaining health and environmental effects data on maleic anhydride, the Agency will be better able to assess the potential risks posed by that chemical.

Maleic anhydride is produced in large quantities, and large numbers of individuals may be exposed to the chemicals. In 1979, the industry-wide production volume of maleic anhydride was approximately 350 million pounds. Most of this quantity was used as a chemical intermediate in the manufacture of polyester resins, agricultural chemicals, and lubricating oil additives. In addition, the National Institute for Occupational Safety and Health (NIOSH) has estimated that over 70,000 persons are employed at plants that manufacture or process maleic anhydride.

Despite the significant exposure potential of maleic anhydride, EPA has limited health and safety data on that chemical. The Agency was able to locate only one mutagenicity study, one teratogenicity study, and one oncognenicity study of maleic anhydride. The mutagenicity test was positive for chromosomal aberrations. The teratogenicity study was judged by EPA to be inconclusive, because the study was available only as an abstract and the Agency did not have sufficient details of experimental procedures or results. The one significant oncogeneticity study located by EPA was negative. This limited health effects data base restricts the Agency's ability to make an adequate assessment of the teratogenicity, mutagenicity, and carcinogenicity of maleic anhydride.

With regard to environmental effects data, maleic anhydride is known to be water soluble and biodegradable; bioaccumulation is not expected to occur. However, there are significant data gaps on the toxicity of maleic anhydride to soil microorganisms, plants, aquatic algae, invertebrates, and wildlife. EPA is therefore unable to make a comprehensive assessment of environmental risk.

As with the methyl pyridines, EPA wishes to supplement the existing health and environmental effects data on maleic anhydride with any unpublished health and safety studies that may exist, in order to ensure a comprehensive data base with which to assess potential risk.

IV. Economic Impact

EPA estimates that the establishment of section 8(d) reporting requirements for methyl pyridines and maleic anhydride will cost the chemical industry approximately $31,600. This cost estimate is relatively high, because the Agency is uncertain about the likely number of respondents to the rule. Although EPA has used the best available data to make its economic projections, much of those data are not

current. Therefore, if the Agency's estimate of regulatory impact is somewhat inaccurate, EPA intends to overestimate rather than underestimate that impact.

Nevertheless, the cost of this rule is low in comparison with its potential benefits. Health and safety studies concerning methyl pyridines and maleic anhydride would improve EPA's ability to identify potential public health and environmental problems with regard to these chemicals. The Agency therefore would be better able to determine whether further regulatory action would be necessary.

The total industry cost estimate is broken down as follows:

Corporate review	$15,750
File search	5,400
Title listing	234
Photocopying	1,265
Managerial review	7,700
Ongoing reporting	1,260
Total	31,609

Assuming a ±30 percent margin of error for the total industry cost estimate, the range of probable cost would be from $22,100 to $41,100. Based on this total industry cost estimate, the approximate cost for each company required to make an initial submission of health and safety data would be $1,470. With a ±30 percent margin of error, the range of probable cost per reporting firm would be from $1,030 to $1,920.

V. Regulatory Assessment Requirements—Paperwork Reduction Act, Regulatory Flexibility Act, Executive Order 12291

The Office of Management and Budget (OMB) has approved the information collection requirements of the final section 8(d) rule (to which the chemicals in this proposed rule would be added) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. *et seq.* The OMB control number is 2070–0004. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

Only a small number of companies are expected to report under this rule. Therefore, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA has determined that this proposed amendment to the section 8(d) rule will not have a significant economic impact on a substantial number of small entities.

The proposed rule was submitted to OMB for review as required by Executive Order 12291.

VI. Rulemaking Record

The following documents constitute the administrative record for this rule (docket number OPTS–84008). All documents are available to the public in the OTS Reading Room, 8:00 a.m. to 4:00 p.m. weekdays (Rm. E–107, 401 M St., SW., Washington, D.C.). This record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record includes the following:

(1) Health and Safety Study Reporting Regulations (40 CFR Part 716), Public Record, Docket No. 084003.

(2) Reports Impact Analysis for 40 CFR Part 716 and this rulemaking.

EPA anticipates adding the following types of information to the rulemaking record:

1. All comments on this proposed amendment.

2. All relevant support documents and studies.

3. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. This does not include any inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record. EPA will identify the complete rulemaking record on or before the date of promulgation of this rule, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between the date of this notice and that designation. The final rule will also permit persons to identify errors or omissions in the record. (Sec. 8(d), Pub. L. 94–469, 90 Stat. 2029, (15 U.S.C. 2607(d)).)

List of Subjects in 40 CFR Part 716

Chemicals, Health and safety, Environmental protection, Hazardous materials Recordkeeping and reporting requirements.

Dated: December 20, 1983

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR 716.17 be amended by adding paragraph (a)(6) to read as follows:

PART 716—[AMENDED]

§ 716.17 Substances and designated mixtures to which this subpart applies.

(a) * * *

(6) As of the date of publication of this amendment as a final rule in the **Federal Register**, the following chemical substances are added to this subpart.

Substances	CAS Numbers
2-Methylpyridine	109-06-8
3-Methylpyridine	108-99-6
4-Methylpyridine	108-89-4
Methylpyridine	1333-41-1
Maleic anhydride	108-31-6

* * * * *

[FR Doc. 84–4220 Filed 2–15–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 8

National Security Information

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth FEMA procedures delegating original classification authority and for systematic and mandatory review for declassification of classified information. This proposed rule is necessary to implement the requirements of section 5.3(b) of Executive Order 12356, National Security Information.

DATE: Comments are due April 16, 1984.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 835, 500 C Street SW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Arlan L. Kinney, Director, Office of Security, FEMA, Telephone (202) 287–0700.

SUPPLEMENTARY INFORMATION: This proposed regulation provides information to the public for obtaining information that may be declassified. This proposed regulation is not a major rule within the terms of Executive Order 12291, nor does it have significant economic impact on a substantial number of small businesses. Hence no regulatory impact anaylses are being prepared. It deals with administrative matters and has no impact on the environment and is within categorical exemption clauses under 44 CFR part 10. There are no collection of information requirments, hence the proposed regulation is not subject to 3504(e) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 8

Classified information.

Accordingly Chapter 1 of Title 44 Code of Federal Regulations is proposed

to be amended by adding a new Part 8 as follows:

PART 8—NATIONAL SECURITY INFORMATION

Sec.
8.1 Purpose.
8.2 Original Classification Authority.
8.3 Senior FEMA Official Responsible for the Information Security Program.
8.4 Mandatory Declassification Review Procedures.

Authority: Reorganization Plan No. 3 of 1978, Executive Orders 12148 and 12356.

§ 8.1 Purpose.

(a) Section 5.3(b) of Executive Order (EO) 12356, "National Security Information" requires agencies to promulgate implementing policies and regulations. To the extent that these regulations affect members of the public, these policies are to be published in the **Federal Register.**

(b) This notice provides public notification of the FEMA procedures for processing requests for the mandatory review of classified information, Section 3.4(d) of E.O. 12356.

§ 8.2 Original Classification Authority.

(a) The Director, Federal Emergency Management Agency (FEMA), has the authority to classify information originally as TOP SECRET, as designated by the President in the **Federal Register,** Vol 47, No. 91, May 11, 1982, in accordance with Section 1.2(a)(2), E.O. 12356.

(b) In accordance with section 1.2(d)(2), E.O. 12356, the following positions have been delegated ORIGINAL TOP SECRET CLASSIFICATION AUTHORITY by the Director, FEMA:

(1) Deputy Director, FEMA.

(2) Associate Director, Emergency Operations Directorate, FEMA.

(3) Director, Office of Security.

(c) The positions delegated ORIGINAL TOP SECRET CLASSIFICATION AUTHORITY in paragraph (b) of this section, are also delegated ORIGINAL SECRET AND CONFIDENTIAL CLASSIFICATION AUTHORITY by virtue of this delegation. Any further delegation of original classification authority, for any classification level, will be accomplished only by the Director of FEMA.

§ 8.3 Senior FEMA Official Responsible for the Information Security Program.

The Director of Security, FEMA, has been designated as the senior official to direct and administer the FEMA information security program, in accordance with section 5.3(a), EO 12356.

§ 8.4 Mandatory Declassification Review Procedures.

(a) All information classified by FEMA under E.O. 12356 or predecessor orders shall be subject to a review for declassification if such a request is made by a United States citizen or permanent resident alien, a Federal agency or a State or local government.

(b) Requests for declassification review shall be submitted to the Office of Security, Federal Emergency Management Agency, Washington, D.C. 20472.

(c) If within 30 days the requestor does not respond to the agency's request for classification or additional information, the FEMA Office of Security shall notify the requestor that no further action can be taken on the request. If the requestor's response to the agency's initial request is inadequate, the Office of Security shall notify him or her that no further action will be taken until such time as the agency is provided with adequate information concerning the request. In addition, the agency's response will set forth the agency's explanation of the deficiencies of the request.

(d) Once a request meets the foregoing requirements for processing, it will be acted upon as follows:

(1) Receipt of all requests shall be acknowledged within ten (10) working days.

(2) FEMA action upon a request shall be completed with sixty (60) calendar days.

(e) The Director of Security shall designate a FEMA component to conduct the declassification review. This will normally be the originating component. The designated program or staff office shall conduct the review and forward its recommendation to the Office of Security. Information no longer requiring protection under E.O. 12356 shall be declassified and released unless with-holding is otherwise authorized under applicable law. When information cannot be declassified in its entirety, FEMA will make a reasonable effort to release those declassified portions of the requested information that constitute a coherent segment. If the information may not be released in whole or part, the requestor shall be given a brief statement as to the reason for the denial, a notice of the right to appeal the determination to the Director of FEMA and a notice that such an appeal must be filed within sixty (60) calendar days to be considered.

(f) Requests for mandatory declassification review of classified documents that contain foreign government information shall be processed and acted upon in accordance with the provisions outlined above. However, FEMA is not authorized to declassify or release foreign government information. Foreign government information will only be declassified and/or released if concurrence can be obtained from the appropriate foreign government classification authority.

(g) If the request requires the rendering of services for which fees may be changed under 31 U.S.C. 9701, such fees may be imposed in accordance with the provisions of 44 CFR part 5, subpart C.

(h) The following procedures shall be following when denials of requests for declassification are appealed:

(1) The Director shall, within fifteen (15) working days of receipt of the appeal, convene a meeting of the FEMA Information Security Oversight Committee (ISOC). Representation on the FEMA ISOC shall include the Director of Security or his representative, a representative of the component that denied the original request, a representative from the Office of General Counsel, a representative from the Office of Public Affairs and the Special Assistant for Security Policy.

(2) If the ISOC upholds the appeal in its entirety, the information will be released in accordance with the provisions of Section 8.4(e), above.

(3) If the ISOC denies the appeal, in part of in its entirety, then it will forward the appeal with their recommendation(s) to the Director of FEMA, for a final determination. A reply will be forwarded to the requestor enclosing the declassified releasable information if any, and an explanation for denying the request in whole or in part.

(4) Final action on appeals shall be completed within thirty (30) working days of receipt of appeal.

Dated: February 10, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84-4167 Filed 2-15-84; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Findings on Pending Petitions and Description of Progress on Listing Actions

Correction

In FR Doc. 84-1210, beginning on page 2485, in the issue of Friday, January 20,

1984, in Table 1, on pages 2486 and 2487, in the last column "Warranted", "Yes.*" Should have read "Yes.", in the following entries: "Squirrel Chimney cave shrimp; Uncompaghre fritillary butterfly; Bay checkerspot butterfly; Weist's sphinx moth; San Francisco tree lupine moth; Bliss Rapids snail; Snake River physa snail; Ozark cavefish; Niangua darter; Shoshone sculpin; Bonneville cutthroat trout; Marianas crow; Marianas Fruit dove; Marianas gallinule; Guam Micronesian kingfisher; Guam rail; Interior least tern; Least Bell's vireo; Truk greater white-eye; Woodland caribou; Choctawhatchee beach mouse; Alabama beach mouse; Perdido Key beach mouse; and Silver rice rat.

BILLING CODE 1505-01-M

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50 CFR Part 17

Experimental Populations; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of comment period.

SUMMARY: The Service extends the comment period for the proposed rule implementing the Experimental Population regulation for an additional 30-day period. The experimental population designation is a new management approach for the recovery of listed species. As such the Service wishes to insure that all interested parties have ample opportunity to comment on this regulation. This extension will provide them that opportunity.

DATES: Comment should be received on or before March 12, 1984.

ADDRESSES: Interested persons or organizations are requested to submit comments to: Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20204, Attention: Experimental Populations.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20204 (703/235-2771).

SUPPLEMENTARY INFORMATION: The proposed Experimental Population regulation published in the January 9, 1984, **Federal Register** (49 FR 1166-1169) has a comment period that would expire on February 9, 1984. The Service has extended this to March 12, 1984. Comments received after that date may still be considered.

The proposed rule of January 9 implemented Section 10(j) of the 1982 Amendments to the Endangered Species Act, which established procedures for the designation of specific populations of listed species as an "experimental population."

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: February 10, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-4275 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-07-M

Notices

Federal Register
Vol. 49, No. 33
Thursday, February 16, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking, Committee on Regulation; Public Meetings

Committee on Rulemaking

Date: Monday, February 27, 1984. Time: 1:30 p.m. Location: Office of Hughes, Hubbard and Reed, 1201 Pennsylvania Avenue, NW., Suite 300, Washington, D.C. Agenda: Consideration of (1) draft study by Dean Paul Verkuil of adjudication procedures in the immigration setting; (2) legislative review of agency rules following the Supreme Court's legislative veto decisions; and (3) the status of Professor Thomas McGarity's study of agency implementation of regulatory impact analysis requirements. Contact: Michael W. Bowers, 202–254–7065.

Committee on Regulation

Date: Tuesday, February 6, 1984. Time: 9:30 a.m. to 12 noon. Location: 2120 L Street, NW., Washington, D.C., Lower Level, Hearing Room 1. Agenda: Consideration of revised recommendation on procedures for siting of large scale industrial projects. Consultant: Gregory L. Ogden. Contact: William C. Bush, 202–254–7065.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with a committee before, during, or after the meeting. Minutes of the meetings will be available on request to the contact persons. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. These meetings are subject to the Federal Advisory Committee Act (Pub. L. 92–463.

Richard K. Berg,
General Counsel.
February 10, 1984.
[FR Doc. 84–4162 Filed 2–15–84; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Medicine Bow National Forest Grazing Advisory Board; Meeting

The annual meeting of the Medicine Bow National Forest Grazing Advisory Board will be March 12, 1984, at 10 a.m. in the Medicine Bow National Forest Supervisor's Office, 605 Skyline Drive, Laramie, Wyoming.

The agenda for the meeting will include: (1) Accepting new board members; (2) acquaint new members with the function of the Board; (3) recommendations concerning the development of allotment management plans and the utilization of range betterment funds; (4) location and agenda for the summer tour; and (5) amend by-laws for ways to select a board member in case of tie vote.

The meeting will be open to the public. Persons who wish to attend and participate should notify Ladd Frary (307/745–8971) Laramie, Wyoming, prior to the meeting. Public members may participate in discussions at any time during the meeting, or may file a written statement following the meeting.

Dated: February 7, 1984.

Ladd G. Frary,
Acting Forest Supervisor.
[FR Doc. 84–4164 Filed 2–15–84; 8:45 am]
BILLING CODE 3410–11–M

Packers and Stockyards Administration

Proposed Posting of Stockyard; Nashville Livestock

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock market named below is a stockyard as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AR–160 Nashville Livestock Comm., Inc.
Nashville, Arkansas

Notice is hereby given that pursuant to authority under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*), it is proposed to designate the stockyard named above as a posted stockyard subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by March 2, 1984.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 10th day of February, 1984.

Jack W. Brinckmeyer,
Chief, Financial Protection Branch, Livestock Marketing Division.
[FR Doc. 84–4201 Filed 2–15–84; 8:45 am]
BILLING CODE 3410–02–M

Deposting of Stockyard; Council Grove Livestock Commission Company

It has been ascertained, and notice is hereby given, that the livestock market named herein, originally posted on the respective date specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer comes within the definition of a stockyard under said Act and is, therefore, no longer subject to the provisions of the Act.

Facility No., Name, and Location of Stockyard

KS–116 Council Grove Livestock Commission Company

Date of Posting

March 31, 1950

Notice or other public procedure has not proceded promulgation of the foregoing rule. There is no legal

justification for not promptly depositing a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register.** This notice shall become effective upon publication in the **Federal Register.**

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 10th day of February, 1984.

Jack W. Brinckmeyer,

Chief Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84-4202 Filed 2-15-84; 8:45 am]

BILLING CODE 3410-02-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 7:30 a.m. and will end at 9:30 a.m., on March 13, 1984, at the Connecticut Education Association, 27 Oak Street, Hartford, Connecticut 06106. The purpose of the meeting is to continue work on a followup report on battered women.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Ms. Judith H. Holmes, at (203) 247-9211 or the New England Regional Office at (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 13, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-4316 Filed 2-15-84; 8:45 am]

BILLING CODE 6335-01-M

New Hampshire Advisory Comitttee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S.Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 7:30 a.m. and will end at 9:30 a.m., on March 21, 1984, at the District Court, Court Room 1, City Hall Annex, Market Street Entrance, Manchester, New Hampshire 03101. The purpose of this meeting is to continue work on the Committee's study of civil rights enforcement in block grant programs.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Andrew T. Stewart, at (603) 523-4882 or the New England Regional Office at (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 13, 1984.

John I. Binkley,

Advisory Commmittee Management Officer.

[FR Doc. 84-4317 Filed 2-15-84; 8:45 am]

BILLING CODE 6335-01-M

Washington Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Washington Advisory Committee will convene at 10:00 a.m. and will end at 12:00 p.m., on March 9, 1984, at the Federal Building, 915 Second Avenue, Room 1848, Seattle Washington. The purpose of this meeting is to discuss program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Katharine M. Bullitt, at (206) 447-9800 or the Northwestern Regional Office at (306) 442-1245.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 13, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-4315 Filed 2-15-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 3-84]

Proposed Foreign-Trade Zone—Albuquerque, New Mexico, With Subzone for Summa Medical Corp.; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Albuquerque, New Mexico, requesting authority to establish a general-purpose foreign-trade zone and a special-purpose subzone for Summa Medical Corporation in Albuquerque, within the Albuquerque Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 30, 1984. The applicant is authorized to make this proposal under Section 3-18-29, New Mexico Statutes Annnotated, 1978.

The proposed general-purpose zone will be located at 1414—12th Street, NW., Albuquerque. Covering 2.5 acres, the site has an existing 50,000 square foot warehouse building available for zone activity. The City has selected FTZ Operators of New Mexico to administer the zone project. Albuquerque Assembly and Distribution Freeport Warehouse Corporation will operate the zone warehousing services.

The application contains evidence of the need for general-purpose zone services in the Albuquerque area. Several firms have expressed an interest in using zone procedures to warehouse/distribute products, such as electronic articles, instruments, pesticides, transportation components, apparel and food products. No requests for manufacturing in the general-purpose zone are being made at this time; such requests would be made to the Board on a case-by-case basis.

The proposed subzone will be located at Summa Medical Corporation's research and production facility, 4272 Balloon Park Road, Albuquerque. It occupies 2,000 square feet in an industrial park building. The special "clean room" facility is used to develop and manufacture oncologic pharmaceuticals. Summa purchases special bio-chemical raw materials from foreign sources. The company will begin exporting the products on a commercial basis upon FDA approval. Future plans call for substantial sales to the domestic market after FDA certifies the drugs.

Zone procedures will exempt the company from duty payments on the foreign items it uses for its exports. In the future, secondary savings will result from deferral of duty and possible duty rate adjustment on products destined for the domestic market. These savings will help encourage Summa to continue production operations in the U.S. and create the environment for the possible increase in operations, adding up to 35 persons to the current workforce of 15.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of

Commerce, Washington, D.C. 20230; Donald Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe Street, Houston, TX 77057; and Lt. Colonel Julian E. Plyant, Jr., District Engineer, U.S. Army Engineer District Albuquerque, P.O. Box 1580, Albuquerque, NM 87103.

As part of its investigation, the examiners committee will hold a public hearing on March 14, 1984, beginning at 9:00 a.m., in the Otto Miller Room of the Albuquerque Convention Center, 401 Second Street.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by March 7. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through April 13, 1984.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, Suite 1015, 505 Marquette Avenue, NW., Albuquerque, NM 87102

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: February 10, 1984.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-4239 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-DS-M

Foreign-Trade Zone Board

[Docket No. 21-83]

Proposed Foreign-Trade Zone; Providence and North Kingston, Rhode Island; Amendment to Application

Notice is hereby given that the application submitted to the Foreign-Trade Zones Board (the Board) on April 5, 1983, by the Rhode Island Port Authority and Economic Development Corporation for a general-purpose foreign-trade zone with sites in Providence and North Kingston, Rhode Island (48 FR 32205, 7/14/83), has been amended to include an additional site covering 100 acres at the Quonset State Airport in North Kingston. The zone plan, which was discussed at the August 17 public hearing, remains otherwise unchanged.

Because of this amendment, the record is reopened for comments until March 15, 1984. Written comments should be addressed to the Executive Secretary at the address below. The application, hearing transcript, and amendment material are available for public inspection at the following locations:

U.S. Customs Service, District Director's Office, 24 Weybosset Street, Providence, R.I. 02903.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania, NW, Room 1872, Washington, D.C. 20230.

Dated: February 13, 1984.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 84-4309 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 243]

Resolution and Order Approving Application of Port Authority of New York and New Jersey for a Foreign-Trade Subzone at Ford's Auto Plant in Edison, New Jersey, Within New York Customs Port of Entry; Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone 49 in Newark/Elizabeth, New Jersey, filed with the Foreign-Trade Zones Board (the Board) on July 27, 1983, requesting special-purpose subzone status at Ford Motor Corporation's auto assembly plant in Edison, New Jersey, within the New York Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Edison, New Jersey, Within the New York Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone No. 49, Newark/Elizabeth, New Jersey has made application (filed July 27, 1983, Docket No. 27–83, 48 FR 37504) in due and proper form to the Board requesting a special-purpose subzone at the Ford Motor Corporation automobile manufacturing plant in Edison, New Jersey, within the New York Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, Therefore, in accordance with the application filed July 27, 1983, the Board hereby authorizes the establishment of a subzone at Ford's Edison, New Jersey plant, designated on the records of the Board as Foreign-Trade Subzone No. 49A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits

shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 6th day of February 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-4312 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 242]

Resolution and Order Approving Application of Toledo-Lucas County Port Authority for a Foreign-Trade Subzone at Jeep Corporation Plant in Toledo, Ohio; Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Toledo-Lucas County Port Authority, grantee of Foreign-Trade Zone 8, filed with the Foreign-Trade Zones Board (the Board) on June 6, 1983, requesting special-purpose subzone status for the vehicle manufacturing facilities of Jeep Corporation in Toledo, Ohio, within the Toledo Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Toledo, Ohio, Within the Toledo Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, and Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Toledo-Lucas County Port Authority, grantee of Foreign-Trade Zone No. 8, Toledo, Ohio, has made application (filed June 6, 1983, Docket No. 20–83, 48 FR 27590) in due and proper form to the Board requesting a special-purpose subzone at the Jeep Corporation vehicle manufacturing facilities in Toledo, Ohio, within the Toledo Customs port of entry;

Whereas, notice of said application has been given and published, and full opportuntiy has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed June 6, 1983, the Board hereby authorizes the establishment of a subzone at Jeep's Toledo, Ohio plant, designated on the records of the Board as Foreign-Trade Subzone No. 8A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 6th day of February 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 84-4311 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-570-002]

Final Determination of Sales at Less Than Fair Value: Chloropicrin From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that chloropicrin from the People's Republic of China (PRC) is being sold in the United States at less than fair value and that "critical circumstances" do not exist with respect to exports of chloropicrin from the PRC. The U.S. International Trade Commission (ITC) will determine, within 45 days of publication of this notice, whether these

imports are materially injuring, or are threatening to materially injure, a United States industry.

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–2613.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that chloropicrin from the PRC is being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act).

We found that the foreign market value of chloropicrin from the PRC exceeded the United States price on 100 percent of sales. These margins ranged from 38 percent to 63 percent. The overall weighted-average margin on all sales compared is 58 percent *ad valorem*.

Case History

On April 6, 1983, we received a petition from counsel for LCP Chemicals & Plastics, Inc., and Niklor Chemical Company, Inc., filed on behalf of the United States chloropicrin industry. In accordance with the filing requirements of 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of chloropicrin from the PRC 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 threaten to materially injure, a United States industry. The petitioners also alleged that critical circumstances exist with respect to imports of chloropicrin from the PRC. After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on May 2, 1983 (48 FR 19765). On June 2, 1983, the ITC found that there is a reasonable indication that imports of chloropicrin are materially injuring a United States industry (48 FR 24798).

A questionnaire are presented to counsel for China National Chemicals Import and Export Corporation (SINOCHEM) on June 3, 1983. Responses were received on August 15 and October 7, 1983.

We published a preliminary determination of sales at less than fair value on September 19, 1983 (48 FR 41799). We published a Notice of Postponement of Final Antidumping Determination on October 7, 1983 (48 FR 45816). On December 3–19, we conducted verifications in the PRC of the responses submitted by SINOCHEM and in India of the data used to value the PRC factors of production. Our notice of the preliminary determination provided interested parties with an opportunity to submit views orally or in writing. On December 14, 1983, we held a public hearing.

As discussed under the "Foreign Market Value" section, we determined that the PRC is a state-controlled-economy country for the purposes of this investigation.

Scope of Investigation

The merchandise covered by this investigation is chloropicrin, also known as trichloronitromethane. A major use of the product is as a pre-plant soil fumigant. Chloropicrin is currently classifiable under item numbers 408.1600, 408.2900 and 425.5290 of the *Tariff Schedules of the United States Annotated* (TSUSA).

This investigation covers the period from November 1, 1982, to April 30, 1983. SINOCHEM is the only known PRC exporter of chloropicrin to the United States. We examined 100 percent of SINOCHEM's sales to the United States made during the period of investigation.

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 based on the FOB Chinese port of CIF Hongkong price to unrelated purchasers. We made deductions for PRC inland freight and where applicable for ocean freight and marine insurance.

Foreign Market Value

In accordance with section 773 of the Act, and § 353.8(c) of the Commerce Regulations, we determined foreign market value by constructing a value for chloropicrin based on surrogate country costs. The petitioner alleged that the economy of the PRC is state-controlled to the extent that sales of the subject merchandise from that country do not permit a determination of foreign market value under section 773(c) of the Act. After analyzing the PRC's economy and considering briefs submitted by the parties, we concluded that the PRC is a state-controlled economy country for purposes of this investigation. Among the factors involved in so determining were: (1) Output quotas for purchase by the state are set and prices are administered at least up to the quota level so that prices cannot be considered useful for the proper allocation of resources, (2) profits are misleading, and (3) there is not adequate representation of the costs of production.

As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchandise in a "non-state-controlled economy" country. Section 353.8 of the Commerce Regulations establishes a preference for foreign market value based upon sales prices. The regulations further provide that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled economy" country at a stage of economic development comparable to the country with the state-controlled economy.

Japan and France are the only non-state-controlled-economy-countries other than the United States which produce chloropicrin. Yet neither Japan or France is a suitable surrogate for purposes of this determination, because neither country is at a stage of economic development comparable to the PRC.

Therefore, pursuant to § 353.8(c) of the Commerce Regulations, we proceeded to construct a value based on specific components or factors of production in the PRC, valued on the basis of prices and costs in a non-state-controlled-economy country "reasonably comparable" in economic development to the PRC. After analyzing those non-state-controlled economies most similar to the PRC, we concluded that India was a comparable economy for valuation of the PRC factors of production. Valuation of the PRC raw materials, labor, energy and factory overhead was based on information obtained from several chemical companies in India. To these values we added amounts for general expenses and profit as required by section 773(e)(1)(B) of the Act, and the cost of all containers and coverings and other expenses, as required by section 773(e)(1)(C) of the Act.

Verification

In accordance with Section 776(a) of the Act, we verified data used in making this determination by using verification

procedures which included on-site inspection of manufacturer's facilities and examination of company records and selected original source documentation containing relevant information.

Negative Determination of Critical Circumstances

Counsel for petitioner alleged that imports of chloropicrin from the PRC present "critical circumstances." Under section 735(a)(3) of the Act, for the purposes of a final determination, critical circumstances exist when we find that: (1)(a) There is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value; and (2) there have been massive imports of the merchandise under investigation over a relatively short period.

For a preliminary determination under section 733(e)(1) of the Act, on the other hand, we determine only "whether there is a *reasonable basis to believe or suspect"* that such elements are present (emphasis added). The standard for a final affirmative determination is more stringent, since we must make an actual finding of whether the necessary elements exist.

In our preliminary determination in this case, we made an affirmative critical circumstances determination. We found a reasonable basis to believe or suspect that imports were massive over a relatively short period, and that importers knew or should have known that the exporter was selling chloropicrin at less than fair value. (We found no history of dumping.) The basis for our belief or suspicion regarding knowledge of dumping was solely the fact that prices on chloropicrin from the PRC were 25% less than prices for domestically produced chloropicrin. In the absence of U.S. imports from any other country, we felt that comparing PRC and U.S. prices was a reasonable basis for a belief or suspicion about knowledge of dumping. In reaching that affirmative preliminary determination, we resolved any doubts in favor of an affirmative determination in order to preserve our options for the final determination.

For purposes of this final determination, we still have found no history of dumping of chloropicrin, based on our review of: (1) Antidumping findings of the Department of the Treasury, (2) Department of Commerce antidumping duty orders, and (3) antidumping actions of other countries made available to us through the Antidumping Code Committee established by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade.

To determine finally whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise at less than fair value, we considered all information on the record. In investigations involving a product from a state-controlled economy country, it is more difficult to impute to importers knowledge of sales at less than fair value. We must make a determination on a case-by-case basis using the available information and drawing upon market conditions in the industry which is the subject of the investigation. In this case the only sources for chloropicrin in the United States are domestically produced product and chloropicrin from the PRC, since producers in other countries do not export this product to the United States. If chloropicrin were imported from third countries, importers might be able to use the price of such imports as a fair value benchmark to determine whether the PRC imports were sold at less than fair value. The absence of any third country imports significantly increases an importer's difficulty in making such a determination. Based upon the facts of the investigation, we therefore determine that the person by whom or for whose account the merchandise was imported did not know, and could not reasonably be expected to know, that the exporter was selling chloropicrin for export to the United States at less than its fair value.

Having made such a finding, we need not finally consider whether there have been massive imports of chloropicrin over a relatively short period.

For the above reasons, we determine that critical circumstances do not exist with respect to imports of chloropicrin from the PRC.

Petitioner's Comments

Comment 1

A constructed value under § 353.8(c) should not be used in this case because of the impossibility of accurately measuring the objective factors of production.

DOC Position

We conducted a verification of the factors of production for chloropicrin by applying our usual tests and other procedures, which included review and analysis of financial statements and records, verification to source documents, and inspection of manufacturing facilities. These are the same tests and procedures which we use for the verification of cost-of-production data in non-state-controlled-economy countries. We found that financial statements and other underlying financial records support the data submitted by SINOCHEM. We are satisfied that the quantities, adjusted when necessary, which SINOCHEM used in the calculations of the factors of production were adequately verified.

Comment 2

The price of Japanese chloropicrin is the most appropriate basis for a foreign market value.

DOC Position

We agree that there is latitude within the Act and Regulations to base foreign market value on domestic prices in a non-state-controlled-economy country, such as Japan, at a higher level of economic development than the PRC. Such a methodology is provided for in § 353.8(b)(2) of the Regulations. However, § 353.8(b)(2) also requires that if such a method is employed then the prices in the surrogate county must be "suitably adjusted for known differences in the costs of material and labor". Due to the impracticality of making such adjustments in this case, we used the constructed value approach based on factors of production valued in a surrogate country at a comparable level of economic development.

Comment 3

The petitioners argue that India is not a proper choice as a surrogate country to provide fair market values for factors of production because: (1) The Indian dye intermediates industry is state-controlled and (2) Indian prices for dye intermediates, including chlorobenzene, are not suitable elements of a constructed value because they have been depressed by Chinese imports.

Doc Position

In past antidumping investigations involving products from India, the DOC has determined that "there is not sufficient government control to classify India's economy as state-controlled". While there is evidence of a degree of government involvement in the chemical dye intermediate industry, the government does not set prices within the industry. Furthermore, information concerning many of the factors of production which were valued in India was obtainable from companies which

are not chemical dye intermediate producers. With regard to the petitioners' assertion that chlorobenzene prices in India are depressed by PRC imports, none of the Indian chlorobenzene producers which the Department contacted mentioned having any difficulty with imports from the PRC. Furthermore, these companies are profitable in their chlorobenzene business.

Comment 4

Chlorine from the Dalian plant's chlor-alkali facility is not a true waste product and should be fully valued.

DOC Position

We agree. The chlorine and the caustic soda were considered to be co-products and therefore cholorine was valued at its proportional share of the joint costs.

Comment 5

Costs of the land and buildings at the Dalian plant must be included in a constructed value.

DOC Position

We agree. The costs of land and buildings used by the Dalian plant are included in our constructed value calculation. The cost of the buildings was included as depreciation; the cost of land was included as financing charges.

Comment 6

The production of cloropicrin and intermediate products impose unavoidable costs of disposal of waste products.

DOC Position

Costs incurred for the disposal of waste products produced during the manufacturing process were included as part of the factory overhead.

Comment 7

No commercial value exists for spent sulfuric acid which is not purified.

DOC Position

The spent sulfuric acid resulting from the production of chloropicrin is recycled at the Dalian plant and either reused for production of chloropicrin or used in other manufacturing processes at the Dalian plant. A credit for the spent acid used in other manufacturing processes at the Dalian plant was included in the calculation of the costs of chloropicrin.

Comment 8

The petitioners argue that the general expenses and profits ordinarily reflected in the sale of specialty chemicals such as chloropicrin amount to at least 61.6% of production costs. Therefore, in calculating constructed value, we should make an addition in this amount for general expenses and profit.

DOC Position

We have used the general expenses and profit incurred by a manufacturer of dyestuffs in India. General observations concerning the financial results of 13 U.S. companies involved to some degree in the production of "specialty chemicals" and possessing some foreign operations were submitted by the petitioners. However, since we selected India as a "surrogate" for the PRC and the data submitted by the petitioners was not relevant to India, did not appear to directly pertain to "specialty chemicals" only, and was not specific as to the type of costs included in the classifications of "general expense", we used for our determination information independently obtained in India during our investigation.

Comment 9

The costs of containers and other expenses incident to shipment must be included in a constructed value.

DOC Position

In the case of one of the two sales to the United States, the customer provided the containers. In this case no addition was made for packing in calculating constructed value. In the other sale, the seller provided the containers. In this case we valued the seller's factors of production for the packing in India and added the amounts so calculated to the constructed value. In both cases, labor hours associated with packing the marchandise for export to the United States were included in the factors of production.

Comment 10

Depreciation of the plant and equipment is a production cost, not a general expense.

DOC Position

We agree.

Comment 11

No adjustment should be made for excess labor used at the Dalian plant.

DOC Position

We agree.

Comment 12

No adjustmens for the factors of production found in India should be made to the sources of fresh water and boiler fuel at the Dalian plant.

DOC Position

We agree.

Importer's Comments

Comment 1

The importer argues that our preliminary affirmative determination with regard to critical circumstances was incorrect.

DOC Position

As noted above under "Negative Determination of Critical Circumstances," we have determined tht critical circumstances do not exist with respect to chloropicrin from the PRC.

Comment 2

The importer argues that the DOC was incorrect in determining that the economy of the PRC is state-controlled to an extent sales of chloropicrin in the PRC do not permit a determination of foreign market value.

DOC Position

For the reasons noted above in the Foreign Market Value section of this notice, we have determined that the PRC is a state-controlled economy country for purposes of this investigation. No evidence has been presented which lessens the validity of our reasons for so determining. Furthermore, in an official statement dated November 30, 1983, submitted in conjunction with the countervailing duty investigation of textiles, apparel and related products from the PRC, a PRC Ministry of Foreign Economic Relations and Trade spokesman stated, among other things, that: "The People's Republic of China is a country with a planned economy. Import and export trade is carried out in compliance with the state plan and takes up only a small proportion of our gross national product." Further along in the statement, the spokesman said: "Export commodities are purchased at domestic prices and sold at prices prevailing on the international market. Import goods are bought at international prices and sold at domestic prices. There is no direct relation between the domestic and international prices of import and export commodities."

Our determination is not that the PRC chloropicrin is totally state-controlled. Rather, we have determined that the economy of the PRC is state-controlled to an extent that sales of such or similar merchandise in the PRC do not permit a determination of foreign market value.

Comment 3

DOC Position

The importers contends that for our preliminary determination, we should have used cost of production data submitted by SINOCHEM and "the

statutory constructed value factors for general expenses and profit as the basis of foreign market value."

DOC Position

As noted above we determined that for the purposes of this investigation, the PRC is a state-controlled-economy country. The Act does not permit using constructed value based on a state-controlled-economy country's costs as the basis for foreign market value.

Comment 4

DOC Position

The importer argues that we should adjust the value of the chlorobenzene found in India downward because one of the two grades of chlorobenzene used by the PRC producer is of a lower grade than the Indian chlorobenzene.

DOC Position

No such adjustment is warranted. The India value used in an average value. No information is available as to the average grade of chlorobenzene sold in India.

Comment 5

The importer argues that the cost of Indian chlorine should be substantially reduced because the PRC producer uses chlorine that is an unavoidable by-product of other operations and that the actual cost of the chlorine is that of collecting it and piping it to the chloropicrin workshop.

DOC Position

We do not agree that chlorine is an unavoidable by-product. For this determination we have ascertained the factors of production of the chlorine used to produce chloropicrin and valued those factors based on information obtained in India.

Comment 6

The importer argues that the value of caustic soda should be proportionally adjusted if the concentration of the Indian caustic soda for which values were obtained was different from the concentration of the PRC caustic soda.

DOC Position

In this determination we have valued caustic soda at a market price. Rather, we have ascertained the factors of production of the caustic soda to produce chloropicrin and valued those factors.

Comment 7

The importer argues that the PRC factor of production for labor hours should be reduced if it is found that wage rates in India are higher than in the PRC.

DOC Position

Inasmuch as the PRC has been determined to be a state-controlled economy country for the purposes of this investigation, the wage rates paid in the PRC are not a relevant item for consideration. For the valuation of the PRC factors of production, including labor hours, all that is required is to find values in a country at a comparable level of economic development, which we have done.

Comment 8

The importer argures that the wage rates we have obtained in India are too high and perhaps are daily, rather than hourly rates.

DOC Position

The hourly wage rates which are the subject of the comment were provided by a finance officer of a major Indian chemical company. Furthermore, when extrapolated to monthly rates, they are comparable to the monthly rates provided by two other companies in India. We are therefore satisfied that the wage rates used in our analysis are correct.

Comment 9

The importer argues that in calculating Indian values for the PRC raw material factors of production, we should not include the amounts of central excise duty applicable in India to such raw materials, because under certain circumstances, central excise duties paid on raw materials are rebated to producers upon the exportation of finished products incorporating such raw materials.

DOC Position

The DOC experience with the Indian statute relating to the rebate of central excise duties is that an exporter does not receive a full rebate for all of the excise duty he has paid on an exported product's raw material inputs. A different rate of rebate (drawback) is determined for each exported product. Chloropicrin is not produced and the exported from India. Therefore, to our knowledge, no drawback rate exists for chloropicrin. Since we have no reasonable way to ascertain what amount of excise duty rebate would be applicable to chloropicrin, we have included the full amount of such duty in our calculations of Indian values for PRC raw material factors of production.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs service to continue to suspend liquidation of all entries of chloropicrin from the PRC subject to this investigation which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the preliminary determination in the **Federal Register** (September 19, 1983). Because we have determined that critical circumstances do not exist with respect to imports of chloropicrin from the PRC, liquidation is no longer suspended, nor are cash deposits or bonds required, with respect to chloropicrin from the PRC entered, or withdrawn from warehouse for consumption, prior to September 19, 1983. With respect to entries or withdrawals made on or after September 19, 1983, the Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The bond or cash deposit amount established in our preliminary determination of September 19, 1983, remains in effect with respect to entries or withdrawals made prior to the date of publication of this notice in the **Federal Register**. With respect to entries or withdrawals made on or after the publication of this notice, the bond or cash deposit amount required is 58 percent of the FOB China price.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. 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 administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to

assess an antidumping duty on chloropicrin from the PRC entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: February 1, 1984.

William T. Archey,

Acting Assistant Secretary for Import Administration.

[FR Doc. 84-4206 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-DS-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Pyott-Boone Electronics

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant Pyott-Boone Electronics, having a place of business at Tazewell, Virginia, an exclusive right to manufacture, use, and sell products embodied in the invention, "Sub-Micron Particle Detector," U.S. Patent 4,053,776. The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84-4285 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License; Seton Co.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Seton Company, having a place of business at Newark, New Jersey, an exclusive right to manufacture, use, and sell products embodied in the invention, "Process for Producing Granular and Fibrous Collagen Dispersions," U.S. Patent No. 3,665,988. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84-4286 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISISON

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of request for approval.

Section 236 of the Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2294, 2300 (1983), requires that the Commodity Futures Trading Commission "* * * conduct a study of (A) the nature, extent, and effects of trading in representative futures markets by persons possessing material information not generally available to the public regarding present or anticipated cash or futures transactions. * * * The Commission shall * * * transmit * * * a report describing the results of the study and including any recommendations for legislative action * * *" to Congress. As part of this study, the Commission intends to solicit from large commercial firms in livestock, grain, metal, energy and financial markets certain information concerning their policies regarding personal futures trading by directors, officers, and employees of the firm. This information will be collected through a one-time mail survey.

The Commission has submitted to the Director of the Office of Management and Budget ("OMB"), pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. Ch. 35), an explanation and details of this information collection. Interested members of the public may obtain a complete copy of these information collection proposals by contacting Joseph Salazar at (202) 254–9735. Persons wishing to comment on the Paperwork Reduction Act implications of these proposals are asked to send a copy of their comments to Mr. Salazar at the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, and to the OMB desk officer for the agency, Katy Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, (202) 395–7231. In this respect, persons wishing to comment on this matter should note that although OMB has 60 days upon which to act, the Commission has requested expedited approval of this information collection. 44 U.S.C. 3507 and 5 CFR 1320.12.

Issued in Washington, D.C. on February 10, 1984.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-4153 Filed 2-15-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 8, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on Strategic Reconnaissance Technologies will meet at the Pentagon, Washington, D.C. on March 8, 1984.

The purpose of the meeting will be to study the future of strategic reconnaissance technologies. The meeting will convene at 8:00 a.m. to 5:00 p.m.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-4152 Filed 2-15-84; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

February 10, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on Effects of HEMP on Military will meet at the Pentagon, Washington, D.C. on March 2, 1984.

The purpose of the meeting will be to gather information on the effects of HEMP on C^3. The meeting will convene at 8:00 a.m. to 5:00 p.m.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–4151 Filed 2–15–84; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplement to the Environmental Impact Statement (DSEIS); Operation and Maintenance (O&M) of the East Fork, Tombigbee River, Itawamba County, Mississippi

AGENCY: US Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DSEIS.

SUMMARY: The East Fork Flood Control Project was constructed from 1938–39. The improvements consisted of clearing the banks of trees and underbrush to flood stage, removing drift jams, and excavating cutoff channels. Prior to 1971, no OM work was accomplished on this project. Limited O&M activities were performed from 1971–1973. Then on May 25, 1973, a Final Environmental Impact Statement (FEIS) for the continued O&M project was filed with the Council on Environmental Quality. This FEIS addressed the removal and disposal of snags, overhanging trees and log jams and bank clearing operations. From 1974–1983 the project was periodically maintained in selected areas.

During the 1970's increased sedimentation occurred in the East Fork, contributed primarily from several channelized streams tributary to the project area. Siltation problems have resulted in the preparation of two Environmental Assessments (EA) to cover specific sediment removal and disposal operations. However, sediment accumulation has continued and has been accelerated by recent record floods. Sediment accumulation in the channel and with log jams has effectively blocked the flow of water in some areas, and is causing out-of-bank flooding at low flow conditions. Other accumulations are affecting channel efficiency during floods which has resulted in severe bank erosion. In order to perform the needed O&M activities, a supplement to the existing O&M EIS will be prepared to specifically cover the potential impacts of sediment removal and disposal in the project area.

1. *Proposed Action.* The proposed action is to renovate the East Fork Channel by removing sediment and associated debris that are restricting channel capacity or causing out-of-bank flow. Log jams, overhanging trees and fallen, yet rooted, trees that are impacting flow will also be removed. All material will be placed on an adjacent bank in upland sites. Some bank clearing will be required for equipment access and material disposal. Isolated areas of severe bank erosion will also be restored and protected with riprap. Excavation methods will involve waterbased equipment such as a barge mounted dragline, an amphibious dragline, and a portable dredge in addition to limited blasting.

2. *Alternatives.* Plans for the following O&M alternatives will be developed and considered.

a. No action. (Continuing the O&M practices as covered under the existing EIS.)

b. Use land based excavation equipment.

c. Sedimentation and erosion control or tributary stream systems.

3. *Scoping Process.* Scoping is not required, nevertheless a scoping process will be undertaken consisting of coordination and consultation by telephone and letters with concerned Federal, State and local agencies and interested persons that may wish to provide input. No formal scoping meetings will be conducted during this process. The previous EA's prepared for the project have been coordinated with the agencies and made available to the public, and their views on these EA's will be considered in the preparation of the DSEIS.

4. *DSEIS Preparation.* It is anticipated that the DSEIS will be available to the public in March 1984. Question or imput regarding the proposed action and DSEIS can be addressed to: Mr. Kenneth R. Sims, US Army Engineer District, Mobile, Post Office Box 2288, Mobile, AL 36628, (205) 690–2722 or FTS 537–2722.

Dated: Febraury 8, 1984.

Patrick J. Kelly,

Colonel, CE District Engineer.

[FR Doc. 84–4241 Filed 2–15–84; 8:45 am]

BILLING CODE 3710–GX–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS); Proposed Small Flood Control Project at Willoughby Hills, Lake County, OH

AGENCY: U.S. Army Engineer District, Buffalo, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

Proposed Action: The proposed action would involve the implementation of nonstructural measure to reduce flood damages within the Chagrin River flood plain.

Alternatives Considered: Three alternatives will be evaluated. These three are:

a. *Relocation*—This plan consists of the relocation of some or all flood plain residences and the conversion of the evacuated areas to recreational uses. Homes and property in the flood plain would be purchased and owners reimbursed up to $15,000 apiece for moving costs, the difference in mortgage interest costs, and the difference in price between similar houses inside and outside of the flood plain. Once the homes have been razed or salvaged, a park would be developed along the river and maintained by local authorities.

b. *Flood Warning System*—This plan would involve the upgrading of the existing local flood warning system (i.e., an informal network of people who watch river stages during periods of flooding threats) to an automatic warning system with reporting gages.

c. *No Action Plan*—This alternative would mean no Federal involvement in flood protection along the river.

Scoping Process: A Reconnaissance Report was completed in 1979 and agency coordination was initiated. Scoping of the DEIS will include continued coordination with interested local, State, and Federal agencies, as well as other interested parties. A public meeting is tentatively scheduled for Spring 1984. Interested parties are urged to participate actively in the scoping process by submitting their concerns to the Buffalo District as soon as possible.

Significant issues to be addressed in the DEIS include, but are not limited to, health and safety; community cohesion; community growth; tax revenues; recreation; water quality; and fish and wildlife resources.

Availability: The DEIS is expected to be available for public and agency review in September 1984.

Address: Questions about the proposed action and DEIS can be answered by Mr. William E. Butler, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, New York 14207.

Dated: February 9, 1984.

Robert R. Hardiman,

Colonel, Corps of Engineers, District Commander.

[FR Doc. 84-4159 Filed 2-15-84; 8:45 am]

BILLING CODE 3710-GP-M

Department of the Navy

Naval Research Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Working Group on Amphibious Operations will meet on March 13 and 14, 1984, at the Office of Naval Research, Arlington, Virginia. The first session of the meeting will commence at 9:30 a.m. and terminate at 12:30 p.m. on March 13, 1984. The second session will commence at 12:30 p.m. and terminate at 2:30 p.m. on March 13, 1984. The third session will commence at 2:30 p.m. and terminate at 4:30 p.m. on March 13, 1984. The fourth session will commence at 8:30 a.m. and terminate at 11:30 a.m. on March 14, 1984. All sessions of the meeting will be held in room 915, Office of Naval Research. The second session from 12:30 p.m. to 2:30 p.m. on March 13, 1984 will be open to the public. The remaining three sessions will be closed to the public.

The purpose of the meeting is to discuss lightweight protection such as armor and other materials in general, amphibious logistics and cover and deception. The open session will generally cover a presentation on amphibious logistics. The remaining sessions of the meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The Secretary of the Navy has therefore determined in writing that the public interest requires that the first, third, and fourth sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696-4870.

Dated: February 10, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Alternative Federal Register Liaison Officer.

[FR Doc. 84-4226 Filed 2-15-84; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations, Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on March 8–9, 1984, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of the meeting is to evaluate alternative strategic planning methods for developing future naval warfare capabilities. The entire agenda for the meeting will consist of discussions of key issues related to the rapid development and fielding of cost-effective, integrated warfighting capabilities. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Alexandria, Virginia 22311. Telephone: (703) 756-1205.

Dated: February 10, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-4225 Filed 2-15-84; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations Executive Panel Advisory Committee, Cost Technology Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Cost Technology Task Force will meet on March 6–7, 1984, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of the meeting is to review alternative platform contractual architectures and man-machine interface strategies. The entire agenda for the meeting will consist of discussions of key issues related to cost growth and cost technology of naval strategic and tactical systems and platforms and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Alexandria, Virginia 22311. Telephone: (703) 756-1205.

Dated: February 10, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-4224 Filed 2-15-84; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Working Group on Navy-Supported University Laboratories will meet on March 8, 1984, at the Applied Physics Laboratory, Pennsylvania State University, State College, Pennsylvania. The first session of the meeting will commence at 8:30 a.m. and terminate at 1:00 p.m. on March 8, 1984. The second session will commence at 1:00 p.m. and terminate at 4:30 p.m. on March 8, 1984. All sessions of the meeting expect the tour will be held in the Eric Walker Conference Room. The first session from 8:30 a.m. to 1:00 p.m. on March 8, 1984 will be open to the public. The remaining session will be closed to the public.

The purpose of the meeting is to review various Navy-sponsored programs conducted by APL, Penn State. The open session will generally cover a presentation on meeting objectives, laboratory overview, and a tour of the laboratory. The remaining session of the meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The Secretary of the Navy has therefore determined in writing that the public interest requires that the second session of the meeting be closed to the public because it will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696–4870.

Dated: February 10, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 84–4223 Filed 2–15–84; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Discussion of Policy Issues or Providing Access to the Pacific Northwest-Pacific Southwest Intertie; Request for Comments

AGENCY: Bonneville Power Administration (BPA), Department of Energy.

ACTION: Discussion of policy issues, environmental issues and request for comments.

File No. TIE–1

SUMMARY: The Pacific Northwest-Pacific Southwest (PNW-PSW) Intertie is used to transmit electricity between the PNW Region and Northern and Southern California. BPA built a large portion of the Intertie facilities north of the Oregon border and controls access with respect to that portion of the Intertie. BPA holds the most extensive rights to use of Intertie facilities of any Pacific Northwest entity. Details of Intertie ownership and rights to use of it are provided in the Appendix to this discussion paper. BPA's use of the Intertie is guided by Congressional direction contained in the Public Appropriations Act of 1965, the Federal Columbia River Transmission System Act, Pub. L. 93–454; the Pacific Northwest Preference Act, Pub. L. 88–552 and the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501 (Regional Act).

BPA intends to establish a policy for use of Intertie facilities for BPA's own transmission needs and those of other parties, within the context of existing contractual obligations. A notice of Intent to Develop Intertie Policy was published July 22, 1983. At that time, BPA requested recommendations from the public. Fifty-five parties responded with written recommendations. Copies of recommendations and a summary of responses are available from BPA's Public Involvement Office. This discussion covers issues raised by BPA and by others in oral and written responses to that notice.

DATES: BPA will accept comments for consideration in developing a proposed Intertie Access Policy through March 16, 1984. Written comments should be postmarked by that date. In addition, BPA will continue to endeavor to meet with interested persons. To request such a meeting, interested persons should contact the BPA Area or District Manager in their locality, the Public Involvement Offices, or the Responsible Official (listed below).

ADDRESSES: Comments should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212. Recommendations also may be submitted orally at the phone numbers listed below.

Responsible Official

The official responsible for development of the Intertie Access Policy is James L. Jones, Deputy Power Manager.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048.

Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2581

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3860.

Mr. Ronald K. Rodewald, Wenatchee District Manger, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379

Mr. Richard D. Casad, Puget Sound Area Manager, West 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar Walla Walla, Washington 99362, 509–525–5500, extension 701

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706

Mr. Fred Rettenmund, Boise District Manager, Owyee Plaza Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9137.

SUPPLEMENTARY INFORMATION:

Reason for Policy Development

BPA presently has resources surplus to its existing loads and most PNW utilities are in a similar surplus condition. Thus, there likely will be more demand for use of the Intertie than available Intertie capacity. Several utilities, resource developers, and other parties have asked BPA for firm or nonfirm contractual access to BPA's portion of the Intertie. BPA must view these requests in the context of several concerns, the central one of which is BPA's own need to use the Intertie for its power marketing program. To the extent Intertie transmission arrangements supersede or displace BPA transactions, there are adverse impacts on BPA ratepayers. BPA must examine the use of its transmission facilities in light of BPA objectives for its power marketing program.

Description of Current Intertie Transactions, Practices and Contracts

Information was made available in connection with BPA's July 22, 1983 Notice of Intent to Develop Intertie Policy and is being provided as an Appendix to this issue discussion. The Appendix includes narrative describing Intertie facilities, ownership, some major contracts and practices, and a table of "Current Long-Term Electric Power Import Export Transactions."

Comments Requested on Intertie Access Policy Issues

BPA invites comment on the following discussion of issues identified to date for consideration on formulating a proposed Intertie Access Policy. In addition, BPA seeks advice and

recommendations from interested persons on alternatives for resolving those issues and on additional issues not addressed herein.

Comments Requested on Environmental Issues

Public input on potential environmental impacts associated with this policy will help BPA determine the appropriate National Environmental Policy Act (NEPA) process. To date, BPA has identified three areas for analysis: resource development, system operations and transmission development. Comments specifically related to environmental issues should be clearly identified.

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BPA Intertie Access Policy Issues

Introduction

Many entities and groups requested meetings with BPA officials pursuant to the July 22, 1983 Notice to discuss the development of a new Intertie Access Policy. In these meetings, BPA explained the current operations and described the major concepts which must be involved in a new policy. A description of current operations was provided with the BPA Notice of Intent to Develop Intertie Policy and is included as an Appendix to this discussion. There are a number of long term contracts for use of the Intertie. Some major agreements are the Exportable Energy Agreement (explained in the Appendix), contracts granting priority Intertie transmission rights to PGE and PP&L, two long term firm wheeling contracts between the Washington Water Power Company (WWP) and California utilities, and BPA's power sales contracts.

In addition, there are a number of agreements for use of the Intertie which do not include BPA as a party. These are also shown in the table provided with the Appendix.

One such agreement is the power sales contract between Western Area Power Administration (WAPA) and Basin, shown under "Firm Power Sales" as "BEC–WAPA (CVP)." Under this contract, WAPA agreed to purchase from Basin a 185 MW share of the Antelope Valley generating resource with some obligation to pay a share of costs even if it does not take delivery of power. A significant obligation of the United States could be created if Intertie transmission is not provided for this power.

The use of the Intertie is not always controlled by the Exportable Agreement or other contracts with BPA. Transactions are arranged on a bilateral basis between Pacific Northwest sellers and Pacific Southwest buyers based on BPA's Intertie access practices. Under these practices, BPA schedules transmission for transactions in the amounts agreed on by buyers and sellers, unless the Exportable Agreement allocations are being made. When the Exportable Agreement allocations are being made, only the allocated Exportable Agreement transactions made by parties pursuant to that agreement are scheduled. The mechanism for this allocation is explained in detail in the Appendix. During times when the Exportable Agreement is not in effect, BPA may have power available which it is unable to sell. This can occur because other Pacific Northwest parties have made sales at prices below established BPA rates and below the full cost of resources, using the Intertie to make their deliveries. This adversely affects BPA's ability to recover adequate revenues to keep rates for its power customers as low as would otherwise be possible, consistent with sound business principles.

BPA's power marketing program may be impacted if BPA is not assured use of its own transmission lines to deliver BPA power. BPA must solve two key problems:

1. How to determine, on a planning basis, the amount of Intertie capacity necessary for transmission of BPA power pursuant to the objectives of a prudent power marketing program; and

2. How to determine and apportion the amount, if any, of excess Intertie capacity that is then available to other entities after providing for BPA needs.

The following discussions will treat these and related ideas. BPA's own needs for Intertie transmission will depend on the amount of BPA firm and nonfirm surplus. Excess capacity is the Intertie capacity not needed for BPA's power and not already committed pursuant to other contracts such as those identified in the table attached to the Appendix. The following discussion, BPA considers a priority system for access to excess capacity. In addition, BPA raises the separate issue of allow whether to access to Intertie capacity for transactions that reduce BPA's surplus or reduce the region's surplus including that of BPA.

1. What Should Be the Scope of BPA's Intertie Access Policy?

The Intertie Access Policy will establish guidelines and priorities for firm and nonfirm access to BPA-owned Intertie capacity. The policy also would govern access to any BPA-owned Intertie capacity which might be built or acquired in the future. However, joint investment in new facilities may require agreements for use of such increased Intertie capacity.

The following principles are considered important with respect to the new policy:

a. To insure adequate transmission to carry out BPA's power marketing program on a planning basis;

b. To provide access to others to excess BPA Intertie capacity on a fair and equitable basis consistent with applicable laws;

c. To meet short range requirements and recognize the need to respond to changing circumstances over time.

2. What is the Schedule for Policy Finalization in Context With Environmental Review?

Final policy adoption must be preceded by completion of review of potential environmental impacts of the proposed policy. If significant environmental impacts are found to

result from implementation of the proposed policy, BPA would issue a Notice of Intent to Prepare an Environmental Impact Statement (EIS). Preparation, review, and approval of an EIS could take until the spring of 1985. BPA plans to adopt an interim policy pending completion of the NEPA process and adoption of a final policy. In that case, BPA would offer interim contracts. Alternatively, if no significant environmental impacts are found, BPA would prepare an Environmental Assessment (EA) and, after a Finding of No Significant Impact, finalize the policy as soon as possible, probably summer 1984. Public comment is requested to help determine impacts to air, land, and water quality if any.

3. May BPA Grant Firm or Nonfirm Access to the Intertie if Providing That Service Would Substantially Interfere With the Administrator's Power Marketing Program?

BPA's use of its transmission lines is governed by various laws. These laws also require BPA to provide transmission and other services to utilities. A new standard was created by section 9(i)(3) of the Regional Act;

> The Administrator shall furnish services including transmission, storage and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations.

This language must be analyzed together with the provisions of earlier legislation such as the Pacific Northwest Regional Preference Act, which states that interregional transmission capacity "which is not required for the transmission of Federal energy" shall be made available for the transmission of other electric energy. However, section 9(i)(3) of the Regional Act requires that BPA use and reserve its transmission capacity, on a planned basis to substantially achieve BPA's power marketing program objectives.

The Regional Act refers to this concept again in section 9(i)(1) which provides:

> At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable * * *
>
> (B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the Region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

a. *BPA Power Marketing Program.* The term "BPA's power marketing program" does not refer to the title of a single identifiable BPA program. It describes instead the aggregate of various BPA marketing actions taken to further BPA's statutory obligations and policy directives. These actions share the theme of permitting BPA to exercise the Administrator's broad authorities to act, consistent with sound business principles, to recover adequate revenue to repay the Federal investment in BPA's system while, at the same time, encouraging the widest possible diversified use of electric power at the lowest possible rates to BPA customers. These actions are dynamic by their nature and change over time to reflect changed circumstances. BPA's intertie access policy directly impacts BPA's power marketing program since BPA must recover its annual revenue requirement. Failure to collect sufficient revenues to recover BPA's annual revenue requirement would have adverse rate impacts on BPA's wholesale power customers.

The following processes contribute to the formation of BPA's power marketing program:

(1) BPA annually revises 20-year long-range load resource balance for use in aid to firm resource planning.

(2) BPA forecasts its revenue requirement to establish for BPA rate adjustments. Sales at various rates must be estimated to develop the appropriate rate levels that will collect the amount of the revenue requirement.

(3) BPA's resource acquisition program uses BPA's long-range forecast of loads and resources and other variables such as the Regional Act priorities and the Regional Council's Plan.

(4) Submittals are made by BPA and all other parties to the Pacific Northwest Coordination Agreement demonstrating firm load carrying capability during the operating year beginning on each July 1.

(5) BPA makes short-range determinations of the availability of the firm surplus, i.e., unsold firm energy load carrying capability for several months in the future. These determinations may be the basis for offers of sale of firm surplus to BPA customers in the PNW Region and California.

(6) Determinations of nonfirm energy are made based on the best currently available data on BPA loads and available resources. The determination of the amounts of nonfirm available is used to calculate Exportable Agreement allocations. In a typical year, there is a high probability that BPA could fill a substantial portion of available capacity for significant periods of time, with its available nonfirm energy.

(7) Nonpower constraints on the Federal Columbia River Power System are used to shape the operations program for Federal resources for every operating year. Such nonpower constraints included flood control, operations in support of fish flows, recreational uses, etc. Some important factors, such as reservoir levels, are not determined by BPA, but are set by the Corps of Engineers and the United States Bureau of Reclamation (USBR).

b. *Present Practices.* The following are the most significant features of BPA's present Intertie access practices:

1. BPA has refused to grant firm transmission on the PNW–PSW Intertie to other entities. In the past 2 years, BPA has refused requests from entities for firm Intertie access.

2. BPA provides nonfirm transmission on any hour, except during periods when capacity is allocated under the Exportable Agreement (see Appendix), if BPA determines Intertie capacity is available for a selling utility that has a California buyer.

3. Intertie schedules are subject to all existing contractual commitments, including displacement by power scheduled pursuant to the Exportable Agreement.

Under the present practices, BPA schedules power for other utilities on an access capacity basis (except during allocation of capacity under the Exportable Agreement) without regard to the impact that such service has on the Administrator's power marketing program. As a result, access to the northern portion of the Intertie is often available to any requesting utility. Access to the southern end of the Intertie is limited to a small number of utilities that have ownership rights to fixed portions of capacity. Since competition among southern purchasers is restricted, the resources of northern utilities, including BPA, have been sold at prices below full cost and below the economic value of such resources.

Some entities which responded to BPA's July 22, 1983, Notice of Intent believe that BPA should not limit use by others of BPA's Intertie capacity to prevent substantial interference with BPA's power sales. The California Energy Commission, Pacific Gas and Electric, and San Diego Gas and Electric recommended a continuation of the status quo in which BPA sales could be displaced by another seller. The Pacific Power and Light Company (PP&L) recommended that BPA not use its Intertie capacity to give itself a market advantage over PNW utilities. The

Montana Public Service Commission recommended that BPA give a priority to higher cost, longer term resources from PNW entities, and not provide access to utilities selling at a price below the fixed and variable cost of the selling utilities most expensive resource.

c. *Effect of Failure to Market Surplus Power.* BPA's FY 1983 revenues were $278 million less than forecasted in setting rates. This undercollection was caused by many factors including BPA's inability to sell its surplus firm energy at the Surplus Power (SP–1) rate of 32.1 mills/kWh, or its Surplus Energy (SE–1) rate of 28.4 mills/kWh.

In the rate case which established rates for FY 1983, BPA forecasted sales of 548 average MW at the SP–1 rate. Actual sales were only 102 average MW at the SE–1 rate. Thus, BPA's inability to sell its surplus firm power resulted in an undercollection of approximately $94.7 million in FY 1983.

BPA's experience during this period was that Northwest utilities were consistently utilizing the BPA-owned Intertie capacity to make sales at prices below established BPA rates and below the full cost of the resources being sold.

In BPA's rate case that established rates for the period from November 1, 1983, to June 30, 1985, BPA took several actions to improve its ability to market surplus energy. These actions included more flexible firm surplus rates (SP–83 and SE–83) as well as guarantees for delivery of nonfirm energy for limited periods. BPA forecasted sales for fiscal year 1984 of 420 average MW at the SP–83 rate of 31.1 mills/kWh.

However, after 4 months of experience, BPA now forecasts sales of approximately 200 average MW, even with more flexible rates. This will result in an undercollection from firm power sales during fiscal year 1984 of approximately $33.4 million.

This forecasted undercollection is especially troublesome because BPA's inability to make required payments to the United States Treasury in recent years has come under increasing criticism and scrutiny by Congressional Committees, the Government Accounting Office, FERC, and others.

In establishing the rates effective November 1983, BPA forecast that it would be unable to sell 768 average MW of firm surplus at the SP–83 or the SE–83 rate during operating year 1984 (July 1, 1983 to June 31, 1984). BPA assumed that this power would be sold at nonfirm rates averaging about 14 mills/kWh. The difference between surplus firm sales and nonfirm sales was $115 million. The impact of this unsold surplus firm raised wholesale power rates to BPA's direct service industrial (DSI) customers by approximately 2 mills/kWh.

Two mills/kWh is equivalent to an additional 1.5–1.6 cents per pound in the cost of producing aluminum at regional smelters. This additional cost has contributed to the economic situation that make the PNW smelters "swing plants." Swing plants will be among the first to reduce operating levels when aluminum markets are depressed. Also, several of the nonaluminum DSI's are currently in economically precarious situations. If DSI loads are reduced, a greater portion of BPA costs must be absorbed in rates paid by other customer groups.

In July 1985, BPA's rate directives in the Regional Power Act change. One impact of these changes is that the cost of unsold surplus is potentially borne by all ratepayers.

In BPA's 1983 rate case BPA proposed an alternative Intertie transmission rate that would have applied to wheeling non-BPA firm energy. The rate was to be established at a level equal to the estimated lost revenue to BPA in mills per kilowatthour as a result of BPA's inability to use Intertie capacity for BPA sales. Estimates of this alternative rate were between 4.5 mills to approximately 6 mills per kWh. BPA did not include this alternative rate proposal in its final transmission rate adjustment because a revision of the Intertie Access Policy was planned that would potentially change the situation. However, the discussion of the proposed "lost revenue" transmission rate in the rate case served to express the Administrator's very serious concern about potential interference of Intertie access practices with BPA's marketing program.

4. How Could BPA Establish a Policy Which Would Provide Intertie Transmission to Utilities Without Substantial Interference With the Administrator's Power Marketing Program?

As a general principle, BPA should first use the Intertie for transactions that market the Administrator's surplus and serve to keep rates to BPA customers as low as possible consistent with sound business principles. Transactions that reduce BPA's firm surplus and at the same time reduce the surplus of utilities in the PNW should also be granted Intertie access. For example, a multiparty sale of BPA and non-BPA resources to the Southwest that would reduce both BPA's surplus and the surplus of PNW utilities should receive access to the Intertie. For such a sale, Intertie access could be provided using excess capacity for the non-BPA resources. The power supplied by BPA for such a sale would use a portion of BPA's reserved Intertie capacity. This concept of Intertie transmission for a sale of resources from BPA and others is discussed in greater detail in Issue No. 5.

a. *Determination of Excess Capacity.* BPA would determine prospectively, on an annual basis, the amount of excess Intertie capacity available to other entities. This would be the amount of Intertie capacity available after reserving sufficient capacity for the sale of BPA surplus firm and nonfirm energy. Subsection b below discusses this determination. The excess capacity would be reduced further by any pre-existing commitments that conveyed rights on BPA-owned Intertie capacity to others. For further discussion of these commitments on Intertie facilities, see subsection c below and the Appendix.

The excess capacity portion of the Intertie could then operate much as the northern end of the PNW–PSW Intertie now operates, with the addition of possible priorities categories as discussed in Issues 5, 8, and 9. Sale of firm and nonfirm energy could be made between utilities, and scheduled by BPA with transmission provided on an excess capacity basis.

The amount of excess Intertie transmission capacity available would be adjusted periodically to take into account fluctuations in the amount of available BPA surplus firm and nonfirm energy. Subsection b below discusses the problems presented by these fluctuations.

Availability of excess capacity for specific transactions would be governed by priorities established in the Intertie Access Policy. Exemples of transactions that could have priority for firm access to the excess capacity would be: 9(i)(3) resources; resources to which BPA has acquired an option (discussed in Issues 8 and 9); or a regional sale of surplus which includes BPA power and therefore benefits BPA's power marketing program (discussed in Issue 5). BPA would provide Intertie access for transactions that would reduce the Administrator's firm surplus and not adversely impact BPA's ability to generate required revenues.

b. *Determination of BPA's Need for Intertie Capacity.* Any reduction in BPA's ability to use the Intertie could potentially interfere with BPA's ability to market its surplus firm and nonfirm energy, and, therefore, with the power marketing program. Even if BPA were able to predict exactly the average amount of its nonfirm energy available to sell to PSW buyers for a particular month, the distribution of the nonfirm

energy within the month would vary. Therefore, if BPA reserved only the Intertie capacity needed to transfer the average amount of nonfirm energy in a month, BPA would risk having to spill rather than sell the total actual amount. Assessment of this risk will be a continuing task during development of this policy.

Another uncertainty arises because PSW utilities recently have not purchased all available PNW nonfirm energy on light load hours due to conditions within their own systems. In the future, PSW utilities may not purchase as much nonfirm energy as they have in the past during light load hours due to baseload nuclear plants coming online. In order to deliver energy during the limited hours when it will be accepted, BPA would require, in some months, more Intertie capacity during peak hours than offpeak hours inorder to sell all its available firm surplus power and nonfirm energy.

BPA has studied methods for determining the Intertie transmission needs of its power marketing program taking into account the risks involved in estimating available power. Generally, it has been assumed that BPA's power marketing program should include the following: (1) BPA firm surplus resources in excess of its firm loads; and (2) an estimate of nonfirm energy which could be sold using transmission to the PSW. It has also been assumed that BPA would operate under current Exportable Agreement practices. The level of firm surplus would be shaped across months of the year.

An estimate of BPA's nonfirm energy which would be available to sell to the PSW would involve several factors. First, the monthly amount of nonfirm energy available to sell to the PSW after meeting the needs of the PNW market must be estimated for different water conditions. On the basis of historical data on water availability BPA could estimate the probability of occurrence of different water levels and, therefore, the probability of having more or less nonfirm energy available to sell to the SW in different months. An additional risk factor could be incorporated for the uncertainty of the distribution of the water within a month and for PSW light load limitations.

c. *Transmission Services.* As a general principle, BPA should offer wheeling services to other parties where such services would not interfere with BPA's power marketing program. Therefore, "firm transmission" in its most commonly used sense may not be the form of transmission service that BPA should offer. Rather, qualified interruptibility requirements may be imposed as well as the transmission demand levels being subject to monthly decreases.

One existing Intertie transmission contract with the WWP for wheeling of power to Southern California Edison may provide a potential model for future Intertie transmission services. Deliveries of power under the contract are firm, although the energy may be displaced by Exportable Energy if an allocation has been made. However, WWP has a right to purchase from BPA a portion of BPA's allocation of nonfirm Exportable Energy as an alternative to interruption. This concept could be used to support transmission agreements guaranteeing a firm delivery of power although the resource seller would have to replace its own source of generation with BPA system generation during some periods.

5. Are There Circumstances Under Which BPA Could Grant Firm Transmission on Intertie Capacity for Transactions Which Are Compatible With the Administrator's Power Marketing Program?

a. *Agency Agreements and Intertie Transmission.* BPA believes that section 9(i)(1)(B) of the Regional Power Act and other statutory authorities clearly grant BPA authority to act as the agent of the Administrator's customers. Section 9(i)(1) states:

> At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—(A) * * *; and (b) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

Such transactions offer the potential to conclude marketing arrangements beneficial to BPA, its customers, and the region as a whole. It may therefore be appropriate to grant firm access on a pro rata basis both to excess Intertie capacity and the capacity reserved for the Administrator's power marketing program.

b. *Other Transactions.* There are various circumstances in which the Intertie transmission for another utility could be compatible with BPA's power marketing program. If a utility purchased BPA firm surplus for use in its own system, this could reduce BPA's need for Intertie capacity. Also, if BPA and another utility supplied surplus power from both their systems for a joint sale to the PSW, BPA could provide Intertie access to the participating utility.

As another example, a utility requesting Intertie access could reduce the BPA firm surplus by reducing BPA's residential exchange load through a sale of that utility's residential exchange power to another buyer. The needs of BPA's power marketing program would be correspondingly reduced because BPA's surplus is reduced and Intertie capacity could be made available to that utility.

6. Are There Any Circumstances Under Which BPA Could Grant Nonfirm Transmission on Intertie Capacity That Had Otherwise Been Reserved for the Administrator's Power Marketing Program?

In general, nonfirm transmission could be provided by BPA to others on an hourly basis to the extent capacity is not required by BPA for firm or nonfirm sales. Nonfirm schedules from other entities could potentially be accepted on reserved BPA capacity to the extent BPA energy was unavailable for that hour.

When BPA firm or nonfirm energy is available, BPA's power marketing program is best served by maintaining priority access for BPA power. This could result in unused Intertie capacity if BPA power were not purchased at the offered price. This is not likely to happen because BPA has the rate flexibility to offer energy at rates that are economically advantageous to California buyers when compared to the cost of operating thermal resources.

7. Should BPA Apply Conditions to Other Entities for Obtaining Intertie Access?

If transmission and services should be provided by BPA so as to avoid interference with its power marketing program, there are a number of possible conditions that might be prerequisites for Intertie access for other entities.

a. *Relationship to the Regional Council's Plan.* An issue to be resolved is the extent to which the Intertie Access Policy should be used to enforce the Regional Council's Plan. In order to encourage compliance with the Regional Council's Plan, BPA could refuse to provide Intertie access for sales of resources which are not consistent with the Plan. This approach could discourage development of nonconforming resources for sale outside the Region and minimize the risk of adverse environmental and resource cost impacts.

The National Resources Defense Council recommended that BPA refuse

to provide access for Intertie transmission for any utility unless that utility's resource development planning is in full compliance with the Regional Council's Plan, particularly with respect to conservation standards.

b. *Relationship to BPA's Fish and Wildlife Responsibilities.* The National Wildlife Federation recommended that BPA's Intertie Access Policy deny Intertie access to utilities or developers whose surplus for export is created by resources which are inconsistent with the fish and wildlife policies of the Regional Act. This concept raised the possibility that furtherance of BPA fish and wildlife responsibilities should go beyond limiting Intertie access for a specific facility to limiting even the indirect use of such a project to make power from other resources that are available for export. Specifically, BPA could refuse to provide Intertie access for power produced or made available by operations of hydroelectric projects which do not meet the conditions of section 1200 of the Columbia River Basin Fish and Wildlife Program or Appendix E of the Regional Council's Plan.

c. *Residential Exchange Costs.* BPA may refuse Intertie access for transactions that would have the effect of increasing BPA's residential exchange costs which must be borne by other ratepayers. For instance, BPA could consider a requirement that residential exchange costs be unaffected by impacts of a sale made at less than fully allocated costs.

d. *Relationship to the Exportable Agreement.* Since the execution of the Exportable Agreement (see Appendix), BPA has not granted any firm transmission rights which supersede the transmission of exportable energy under the terms of the contract. This practice has been questioned in recommendations to BPA on the Intertie Access Policy. The relationship to the Exportable Agreement of an existing Intertie transmission agreement held by the WWP mentioned in Issue 5 above has been offered as an example for the new policy. It provides that WWP's transmission to the Southern California Edison Company over the Intertie may be interrupted when the Exportable Agreement is in effect. However, WWP has the prerogative to purchase from BPA's allocation of exportable energy to avoid having WWP's own sale displaced. This concept could be expanded to provide a sharing of benefits by all Exportable Agreement parties.

Another recommendation has been to provide firm transmission agreements that are not interruptible in favor of the Exportable Agreement in order to provide the most advantageous climate for a firm sale at the fully allocated cost of the resource sold.

e. *Non-Pacific Northwest Regional Resources.* The BPA transmission system is also interconnected with utilities to the east and north of the PNW Region. Resources from the east or from Canadian utilities to the north also are potential PNW–PSW Intertie users. The issue raised is whether or not transmission of these resources would present substantial interference with the BPA power marketing program. Pass-through wheeling of non-PNW resources could interfere with the BPA power marketing program in the absence of some other compensating factors. On the other hand, a simultaneous purchase by the non-regional utility of BPA's firm surplus power could further the objectives of the power marketing program in such a manner that Intertie wheeling would present no substantial interference. Other questions would be relative priority between non-Regional resources and PNW Regional Resources, including 9(i)(3) priority holders, discussed in Issue 8.

8. How Should BPA Apportion Access To Intertie Capacity Not Needed for BPA's Power Marketing Program?

It is likely that the requests for Intertie wheeling will be greater than the amount of capacity not needed for BPA power. Apportionment of the available capacity will be addressed in the context of statutory provisions on transmission priority.

Priority of access to transmission, including Intertie wheeling, was addressed in section 9(i)(3) of the Regional Act. This provision gives priority status to resources that were under construction on the date of the Regional Act and that were offered to BPA for acquisition but were not acquired. Section 9(i)(3) priority may provide an export advantage to utilities which have made relatively expensive recent investments prior to the Regional Act to develop resources in anticipation of projected imminent regional deficits. However, priority access to transmission cannot guarantee a sale of the resource.

At the present time, no resources meet the 9(i)(3) requirement that the facilities be offered to BPA for acquisition. BPA has determined that actual offers to sell have not yet been made.

Another priority category could be resources for which BPA holds an option to meet BPA's future needs. These facilities would be resources that conform to the Regional Act priorities and the Plan. The advantage of gaining present access to markets outside the Region during PNW surplus would be reasonable because such option resources would be important to flexible long-range planning. Issue 9 also deals with a specific application of this concept with respect to cogeneration resources.

9. Should Resources Such as Cogeneration Facilities That Are Subject to a BPA Option To Purchase Be Given Priority To Intertie Access?

The Regional Council has recommended as part of its Plan that BPA provide Intertie access to cogeneration resources. Followup discussions with the Regional Council have led to the suggestion that BPA provide Intertie access for new cogeneration facilities which might be lost to the PNW Region if not marketed and which are under a BPA option for future purchase.

This suggestion is consistent with BPA's concerns with respect to all non-BPA resources. Transmission for non-BPA resources should not cause substantial interference with the BPA power marketing program.

Owners of cogeneration resources would probably need to arrange for scheduling services in aid of transmission on the Intertie as discussed in Issue 10.

10. Should BPA's Policy on Intertie Access Differentiate Between Utilities Which Have the Ability To Schedule Power and Operate a Generation Control Area, and Those Utilities or Other Entities That Do Not?

It has been recommended that BPA accept Intertie schedules only from utilities that operate generation control facilities. This would require an entity without generation control facilities to arrange for services from the utility which operates the generation control for the area where the resource is located. Prudent utility operating practices do not seem to provide any alternative for this situation. The effect is not to prevent other entities from gaining Intertie access, but to recognize the need for development of various services, over and above usual transmission services which are necessary for scheduling of Intertie transmission. If such a resource were located inside BPA's generation control area, BPA would be the appropriate utility to provide resource services in aid of Intertie transmission. If the facility were located in the generation control area of another utility, the sponsor would contact that utility for services before Intertie scheduling could be accepted.

11. How Should BPA Intertie Policy Interact With the Administration of the Exportable Energy Agreement?

Most recommendations contemplate that the administration of the Exportable Agreement would not be changed for the rest of its term. As mentioned previously, BPA has not provided any firm transmission on the Intertie that supercedes Exportable Agreement schedules since that agreement was signed. However, in the future it might be possible to make exportable market allocations of Intertie capacity without consideration of the selling price of the offering utility. In that scenario, once Intertie capacity were allocated among offering parties, the supplying utility could adjust its selling price to fill as much as possible of its allocated capacity. If the capacity were not filled for lack of a buyer at the offered price, the allocated amount would go unused.

In addition, it has been suggested that the terms of the Exportable Agreement do not prohibit BPA from providing firm transmission users with priority over Exportable schedules. BPA firm transactions or firm power sales contracts of other PNW utilities could have priority, with exportable allocations applying to the remaining capacity.

Yet another recommendation from Snohomish County Public Utility District was that the present membership of the Exportable Agreement be expanded to all requesting PNW utilities.

12. Should BPA Intertie Access Policy Provide Guidelines for the Period Following the Expiration of the Exportable Agreement?

The Exportable Agreement expires on January 1, 1989. New demands on BPA hydro resources may justify a reconsideration the present Exportable Agreement principles. For instance, BPA operating requirements for fish operations and implementation of the water budget may justify a higher priority for BPA power during certain periods. It has been recommended that the Exportable Agreement be extended in its present form. The Inter Company Pool recommended that a successor to the Exportable Agreement be open to all scheduling utilities within the area described by the Pacific Northwest Regional Preference Act. Experience with Intertie transactions under the Intertie Access Policy may suggest other export principles which are compatible with BPA power marketing program. Comment is sought on future potential vehicles for providing transmission for PNW nonfirm power to PSW purchasers.

Issued in Portland, Oregon, on February 1, 1984.

Peter T. Johnson,

Administrator.

Appendix

Background of PNW-PSW Intertie Facilities

The PNW-PSW Intertie consists of three high-voltage transmission lines: two 500-kilovolt (kV) alternating current (ac) lines and one 800-kV direct current (dc) line.

The ac lines extend from John Day Substation (John Day) near John Day Dam on the Columbia River to the Lugo Substation (Lugo) near Los Angeles. They are interconnected with other transmission lines at eight points, including the Malin Substation (Malin) near the Oregon/California border. Malin is the contractual ac delivery point of Northwest power delivered to California and vice versa. The ac legs of the Intertie can transmit electricity between the Northwest and Northern or Southern California, or to a limited extent between points on the line within either Region.

The dc line runs directly from the Celilo Converter Station near The Dalles Dam to the Sylmar Converter Station near Los Angeles. The dc line transmits power directly between the Northwest and Southern California. Power is then redistributed throughout California on the ac line.

Present capability of the three Intertie lines is 4,360 megawatts (MW), 2,800 of which is on the two ac lines and 1,560 of which is on the dc line. The ac lines are being upgraded in California between Malin and Table Mountain Substation to 3,200 MW, an increase of 400 MW. BPA will utilize this 400 MW increase at the northern end of the PSW Intertie by using the Government's additional capacity in the 500 kV Buckley-Summer Lake-Malin line. The ac lines from Malin north will remain at 2,800 MW. The dc line is being upgraded and will have a scheduling capability of 1,956 MW in 1985.

Use of the Intertie is partly governed by contracts among utilities which built portions of the lines and among other utilities which have contracted for use of the Intertie with one or more Intertie owners.

PNW-PSW Intertie Ownership

The Northwest ac portion of the Intertie is primarily owned by the Government through BPA, and by the Portland General Electric Company (PGE). PP&L, PGE, and the Government (through BPA and the Western Area Power Administration (Western)) invested in facilities at the Malin Substation. PGE constructed the 500 kV Grizzly-Malin No. 2 line and connected it to one of the Government's 500 kV lines from Grizzly Substation to John Day. Contractually, the parties exchanged rights in each other's line portion. These rights are currently in dispute and are being negotiated.

Ownership south of the Malin Substation is as follows: PP&L owns a line section from Malin to Indian Spring; the Government (through Western) owns a line section from Malin to Round Mountain Substation; Pacific Gas & Electric (PG&E) owns everything else south to Midway Substation; from Midway south, Southern California Edison (SCE) owns the facilities to Lugo, which is the southern terminus.

The use of ac Intertie capacity in California is controlled by separate agreements to which BPA is not a party. The State of California Department of Water Resources (DWR) has 300 MW of firm capacity and Western has 400 MW of firm capacity south of Malin. The Sacramento Municipal Utility District (SMUD) has a contract with PG&E, SCE, and San Diego Gas & Electric (SDG&E) which provides SMUD 200 MW of firm capacity south of Malin. PG&E disputes SMUD's rights. However, SMUD recently won a ruling from the Federal Energy Regulatory Commission (FERC) confirming SMUD's right to such firm Intertie capacity. PG&E, SCE, and SDG&E split the balance of the ac capacity plus any unused portion of the DWR and Western capacity based on each party's respective percentages of 50, 43, and 7.

The dc Intertie was constructed by BPA and the City of Los Angeles. The Government owns the dc lines in Oregon. Ownership of the dc in California is split 50/50 public/private, and the percentages are divided among seven parties, as follows: PG&E 25.0 percent; SCE 21.5 percent; SDG&E 3.5 percent; Los Angeles (LADWP) 40.0 percent; Burbank 3.86 percent; Glendale 3.86 percent; and Pasadena 2.28 percent.

Practices and Contracts Governing Use of the PNW-PSW Intertie

Use of the PNW-PSW Intertie is largely governed by discretionary practices developed over time. There are a small number of BPA contracts which provide wheeling use to others. BPA's Intertie Access Policy will be developed within the framework of these contracts, explained briefly below.

(a) The most significant contract currently governing use of the Intertie is

the Exportable Agreement, Contract No. 14–03–73155. BPA and 14 Northwest utilities are parties to this agreement. At times, the Northwest's hydroelectric/thermal system is capable of producing more energy than can be marketed in the Region at any established rate and the total amount of energy available exceeds the capability of the Intertie or the available California market. At such times, the Exportable Agreement allocation provisions go into effect.

Under the Exportable Agreement, BPA schedules the Government's apportionment of surplus nonfirm energy over the Intertie to entities outside the Region. It has been the practice that such energy is sold at the lowest rate specified under BPA's Wholesale Nonfirm Energy Rate Schedule. Any other party to the Exportable Agreement may schedule its apportionment of energy that is excess to its need under section 5(b) and 5(d) of this agreement provided that such party is willing to sell at applicable BPA rates. When a party schedules its apportioned "Exportable Energy" to BPA, such party's energy is combined with all other Exportable Energy, and sold by BPA as Federal energy to California utilities under BPA's existing power sales contracts at the lowest rate specified under BPA's Wholesale Nonfirm Energy Rate Schedule. The scheduling party is credited by BPA (i.e., paid) for its "sale" of Exportable Energy to BPA at the referenced rate. Under section 5(c) of the Exportable Agreement, a party may sell all or part of its apportioned share of an Exportable Energy schedule on a bilateral basis to a specific California entity. The rate for this bilateral transaction may be different than the applicable BPA nonfirm rate according to the power sales contract between the parties.

Until January 1, 1989, the expiration date of the Exportable Agreement, when Exportable Energy is scheduled by parties over available ac and dc Intertie capacity under the Exportable Agreement, such schedules take priority over all other schedules on the Intertie except those made pursuant to contracts described below:

(b) Until January 1, 1986, PGE is entitled to wheel an annual maximum of 1,100,000 MWh on the Intertie pursuant to Contract No. 14–03–55063. This may be used in conjunction with PGE's rights to Exportable Energy schedule as it wishes, up to the annual limit of its priority right and subject to any priority sharing arrangement with PP&L. Every PGE Intertie schedule between the Northwest and Southwest counts against its priority right until such annual right is exhausted. It should be noted that PGE must use any capacity of its own before it utilizes BPA's capacity on a priority basis.

(c) Until January 1, 1987, PP&L is entitled to use its annually renewed 270,000 MWh Intertie access priority right described in Contract No. 14–03–56379 with BPA to absorb as much of any Exportable Energy schedule as it wishes, up to the limit of its priority right and subject to any priority sharing arrangement with PGE. Every PP&L Intertie schedule between the Northwest and Southwest counts against its priority right until such annual right is exhausted.

(d) Until April 1, 1988, the WWP has a firm, noninterruptible right to schedule 40 average NW per week (112 peak) of combined ac and dc line capacity to San Diego Gas & Electric under Contract No. 14–03–79101 with BPA. This agreement was executed prior to the Exportable Agreement.

In addition, there is another WWP wheeling agreement which is interruptible by the Exportable Agreement, but provides for an option to escape interruption of the sale without decreasing exportable sales. Until July 1, 1991, WWP has a right to schedule 60 MW to Southern California Edison (SCE) under Contract No. DE–MS79–81BP90185, subject to displacement by the Exportable Agreement. WWP may purchase exportable energy from BPA to avoid such displacement.

When the Exportable Agreement is not in effect; i.e., when the Federal Hydro-System is not spilling or in imminent danger of spilling, and when the total power offered for sale does not exceed Intertie capacity or the available California market, BPA provides hour-by-hour access to available Intertie capacity to all PNW and Canadian utilities, for sales to PSW utilities as agreed to by buyers and sellers in the market.

The majority of generating utilities in the northwest United States, southwest Canada, and the southwest United States have scheduled energy over the BPA portion of the Intertie on a relatively short-term basis over capacity that BPA determines may be available during a given hour.

Other BPA Uses of the Intertie

BPA must make firm capacity available, upon request, under provisions of several Peak/Energy Exchange Agreements between BPA and several California utilities. The sum of the maximum contract demands of these utilities is a total of 1,202 MW throughout the year. In addition, PG&E has the right to 600 NM of firm capacity from BPA during the period May through October (billed under Contract No. 14–03–54132, at BPA's CF–2 Wholesale Firm Capacity Rate Schedule).

These contracts expire on the following dates:

Utility	Contract No. (14–03–)	Expiration date	Contract demand (MW)
Burbank	53290	05/05/87	42
Glendale	53295	12/30/86	52.5
Los Angeles	50323	07/19/86	525
PG&E*	54134	07/31/87	0
Pasadena	53297	01/24/88	31.5
San Diego G&E*	58638	12/29/87	0
SCE	54126	07/31/87	550

* Note.—PG&E and SDG&E are not requesting or receiving any exchange capacity from BPA under these agreements.

BPA's scheduling of firm capacity to fulfill its obligations to five California utilities (Burbank, Glendale, Los Angeles, Pasadena, and SCE) provides BPA with a firm energy resource and benefits Northwest utilities by creating an additional market for secondary energy. These California utilities must provide to BPA peaking replacement energy and exchange energy (firm energy resource for BPA) pursuant to the capacity Energy Exchange Agreements. This exchange energy is often purchased from Northwest utilities for delivery to BPA for the account of the California utility.

Non-BPA Contracts—California Sales, Exchanges, Transfers

There are a number of contractual arrangements between and among Northwest and Southwest utilities to which BPA is not a party. A listing of long-term arrangements (5 years or more) involving import/export transactions is contained in this Appendix entitled "Current Long-Term Electric Power Import-Export Transactions."

TABLE II-2.—CURRENT LONG-TERM ELECTRIC POWER IMPORT-EXPORT TRANSACTIONS[a]

Contract (transaction) type	Contract provisions				Month	Price	Expiration
	Export capacity[b] (MW)	Import capacity[b] (MW)	Export energy[c] (MW)	Import energy[c] (MW)			
Firm Capacity/Energy Exchanges:							
BPA—LADWP	525	0	0	2,500/MWh demand/yr	All	N/A	7/19/86.
BPA—City of Burbank	42	0	0	2,500/MWh demand/yr	All	N/A	5/5/87.
BPA—City of Glendale	52.5	0	0	2,500/MWh demand/yr	All	N/A	12/30/86.
BPA—City of Pasadena	31.5	0	0	2,500/MWh demand/yr	All	N/A	1/24/88.
BPA—SCE	550	0	0	2,500/MWh demand/yr	All	N/A	7/31/87.
BPA—SDGE[d]	0	0	0	2,500/MWh demand/yr	All	N/A	12/29/87.
BPA—PG&E[d]	0	0	0	2,500/MWh demand/yr	All	N/A	7/31/87.
BPA—MPC	100	0	0	16	All	N/A	8/21/87.
WWP—SDGE	112	0	0	32	All	N/A	8/9/88.
Firm Capacity/Capacity Exchange:							
WWP—SCE	60	0	0	0	Mar. to Nov.	N/A	6/30/90.
	0	80	0	0	Dec. to Feb.	N/A	-
Firm Capacity Sales:							
BPA—PG&E	600	0	0	0	June to Oct.	$11.76/kW/season	7/31/87.
PGE—SCE	100	0	0	0	May 16 to Sept. 15	To be supplied	Evergreen.[e]
PGE—PG&E	400	0	0	0	May 16 to Sept. 15	To be supplied	Evergreen.[e]
Firm Energy/Energy Exchanges:							
EWEB—So. California Municipals.	0	0	60 MkWh	60 MkWh	Seasonal	N/A	Open.[f]
Firm Power Sales:							
CSPE[g]—State of California	150	0	63	0	All	$125/MW of gross capacity[h]	3/31/83.
WPP—APS	0	20	0	20	All	37 mills/kWh	10/11/85.
BEC—WAPA (CVP)[i]	185	185	185	185	Pending	Pending	Pending.
Surplus Energy Sales:[j]							
BPA—City of Anaheim	0	0	0	0	As available	Adjustable	6/8/98.
BPA—City of Riverdale	0	0	0	0	As available	Adjustable	6/8/98.
BPA—City of Biggs[k]	0	0	0	0	As available	Adjustable	9/7/98.
BPA—City of Alameda[k]	0	0	0	0	As available	Adjustable	8/10/98.
BPA—City of Gridley[k]	0	0	0	0	As available	Adjustable	10/6/98.
BPA—City of Healdsburg[k]	0	0	0	0	As available	Adjustable	9/12/98.
BPA—City of Lodi[k]	0	0	0	0	As available	Adjustable	7/14/98.
BPA—City of Lompoc[k]	0	0	0	0	As available	Adjustable	8/11/98.
BPA—City of Roseville[k]	0	0	0	0	As available	Adjustable	10/17/98.
BPA—City of Ukiah[k]	0	0	0	0	As available	Adjustable	8/10/98.
BPA—City of Santa Clara[k]	0	0	0	0	As available	Adjustable	8/14/98.
BPA—City of Plumas Sierra REC[k].	0	0	0	0	As available	Adjustable	6/23/98.
BPA—CDWR	0	0	0	0	As available	Adjustable	9/5/87.
BPA—SMUD	0	0	0	0	As available	Adjustable	8/22/87.
PGE—PG&E	333	0	0	0	All	39.94 mills/kWh	Evergreen.[e]
Intra-Company Transfers:[l]							
PPL&L:							
1982-83	205	1,492	98	1,009	N/A	N/A	N/A.
1984-85	221	1,357	105	908	N/A	N/A	N/A.
1989-90	269	1,273	124	905	N/A	N/A	N/A.
1994-95	To be supplied						-
1999-00	To be supplied						-
MPC:							
1982-83	0	560	0	364	N/A	N/A	N/A.
1984-85	0	600	0	392	N/A	N/A	N/A.
1989-90	0	698	0	459	N/A	N/A	N/A.
1994-95	To be supplied						-
1999-00	To be supplied						-
UPL:							
1982-83	0	225	0	159	N/A	N/A	N/A.
1984-85	0	233	0	163	N/A	N/A	N/A.
1989-90	0	253	0	175	N/A	N/A	N/A.
1994-95	To be supplied						-
1999-00	To be supplied						-
Miscellaneous:							
BPA to MPC: Geographical Preference.[m].	50	0	5	0	All	(n)	8/21/87.
BPA to MPC: Hanford Extension.[o].	0	0	49	0	Sept. to May	$5.2 million[p]	6/30/83.
BPA to MPC: Restoration[o]	0	0	6	0	All		6/30/03.
BPA to MPC: WNP1 or Replacement.[r].	80	0	69	0	All	$13 million	6/30/96.

[a] Contract information from D. Jones, R. Schlewe, D. Faulkner (BPA), D. Young (WWP), R. Scales (EWEB), D. Dyer (PGE).
[b] January peak capacity unless otherwise stated in "Month" column.
[c] Average annual energy unless otherwise stated in "Month" column.
[d] This contract has never been invoked.
[e] Open-ended contracts which can be cancelled with 5 years notice.
[f] Open-ended contracts which can be cancelled with 3 years notice.
[g] Columbia Storage Power Exchange: Chelan Co. PUD, Grant Co. PUD, Douglas Co. PUD, (Canadian Entitlement Exchange Agreement).
[h] Gross capacity is approximately 157 MW.
[i] Basin Electric Cooperative, South Dakota. This is a power wheeling arrangement which is included in this table because final negotiations may include BPA's ability to preempt part or all of the 185 MW (see Section 4.3).
[j] These transactions can include provisional energy.
[k] This contract was created to permit transactions with BPA should they be desirable at some future date. They are currently not invoked.
[l] Coistrip, Jim Bridger, and Valmy transactions are discussed in Volume XI, Coal. Prices are provided by the forecasting/supply demand equilibrium model being developed for the Power Council by Charles River Associates, Inc., at the average annual generation cost for private utilities.
[m] The Bureau of Reclamation operates the Hungry Horse Dam in Montana and BPA markets the power with the stipulation that some of the generation is to remain in Montana.
[n] Included as part of the BPA-MPC exchange agreements (see above).
[o] As long as the Hanford N Reactor continues to operate MPC owns 10 percent of the power generated. Under current renegotiation, a new contract will be designated as the Hanford Continuation, extending for 10 years after it is signed. The N reactor is shut down approximately April through May each year.
[p] The price for 1982-1983 percentage of generation.

* When the Columbia Storage Power Exchange agreement was exercised it was determined that while most interconnected power systems would benefit from the new hydraulic coordination, some might lose capacity. MPC has such a system and consequently has 6 MW of the average annual energy "restored" to it for the life of the agreement.
* MPC pays 10 percent of the estimated operating costs of WNP #1 and in return receives the equivalent energy at appropriate firm rates.

[FR Doc. 84-4313 Filed 2-15-84; 8:45 am]

BILLING CODE 6450-01-M

Program Budget Levels Request for Comments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Request for Comments. *BPA File No.*: PB-84

SUMMARY: BPA is beginning the process of determining program levels for the period of time to be covered by the next rate filing. Any adjustments in BPA's wholesale power and/or transmission rates as a result of this rate filing will take effect July 1, 1985. The program levels established for BPA's various programs (e.g., energy conservation, resource planning, construction programs, etc.) determine the revenue requirements which BPA must satisfy over the rate period. By this notice, BPA is soliciting comments from interested parties on the various program areas in which BPA is involved.

Responsible Officials: Mr. Paul O. Crabtree, Jr. and Ms. Norma L. Pizza, of the Division of Planning and Budget are the officials responsible for this request for comments.

DATES: Written comments on program level estimates will be accepted until March 19, 1984.

ADDRESSES: Written comments should be submitted to the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement office, at the above address, 503-230-3478. Oregon callers outside of Portland may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208-334-9138.

SUPPLEMENTARY INFORMATION:

I. Background

BPA's Fiscal year (FY) 1985 budget recently went to the U.S. Congress as part of the Budget of the United States for FY 1985. That budget contains not only program estimates and detailed information for FY 1985, but also contains estimates for the years 1986-1989. The 1986 and 1987 program estimates are currently being reviewed by BPA program managers to determine revenue requirements for the next rate filing, for rates which will take effect beginning July 1, 1985. The program level decisions made by the BPA Administrator will be reflected in the Revenue Requirement Study filed with BPA's initial rate proposal in late summer 1984.

II. Public Comment Procedures

BPA welcomes comments from the public on its estimated program levels for FY 1986 and 1987, the fiscal years relevant for the next rate filing. For your use in making comments, BPA will make available, upon request, BPA's budget for FY 1985 and related documents. The 1985 budget document contains detailed information on BPA's various programs. A similar breakdown can be assumed for FY 1986 and 1987.

Copies of the budget document will be available for viewing at the Area and District offices listed in the addresses section of this notice. Copies will also be available in the Public Reference Room, located in the BPA Headquarters building in Portland. BPA suggests potential commenters review this budget material at field locations, if it is convenient for them to do so. If commenters then wish to receive a personal copy of the document, it can be obtained by contacting the Public Involvement office at the address or telephone numbers indicated in the addresses section of this notice. All comments and suggestions will be submitted to the BPA Administrator for his consideration in determining program levels.

Issued in Portland, Oregon, on February 9, 1984.

Peter T. Johnson,

Administrator.

[FR Doc. 84-4373 Filed 2-15-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP84-227-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

February 10, 1984.

Take notice that on February 7, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-227-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Virginia Linen Services, Inc. (Virginia Linen) under the authorization issued in Docket No. CP83-76-000 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.

Specifically, Columbia proposes to transport up to 140 million Btu of natural gas per day for Virginia Linen for a term of one year. It is stated that the gas to be transported would be purchased from Resources Exploration, Inc. (Resources), and would be used for boiler fuel in Virginia Linen's Petersburg, Virginia, plant.

It is indicated that Columbia has released certain gas supplies of Resources and that these supplies are subject to the ceiling provisions of Section 108 of the Natural Gas Policy Act of 1978. It is further indicated that Virginia Linen has made arrangements to purchase this released gas from Resources. Columbia states that it would receive the gas from Resources in Guernsey and Harrison Counties, Ohio and redeliver the gas to Commonwealth Gas Pipeline Corporation, which would redeliver the gas to Commonwealth Gas

Services, the distributor serving Virginia Linen in Petersburg, Virginia. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

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. 84-4289 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-230-000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Request Under Blanket Authorization

February 10, 1984.

Take notice that on February 8, 1984, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325-1273, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84-230-000 a joint request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that they propose to transport natural gas on behalf of W. R. Grace and Co., Davis Chemical Division (W. R. Grace), for use as boiler and process fuel under authorizations issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, 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.

Columbia and Columbia Gulf propose to transport for one year up to 4,500 dt equivalent of natural gas per day for W. R. Grace. It is indicated that Exxon Corporation (Exxon) would deliver natural gas to Columbia Gulf and that Columbia Gulf would transport and deliver equivalent volumes to Columbia. It is further stated that in turn Columbia would transport and deliver equivalent volumes of natural gas to Baltimore Gas and Electric Company (BG&E) in Baltimore, Maryland. Columbia states that it has released this gas and that these supplies are subject to the ceiling price provisions of Sections 102 and 103 of the Natural Gas Policy Act of 1978. It is further indicated that W. R. Grace would purchase this released natural gas from Exxon and that BG&E is the distribution company serving W. R. Grace in Baltimore, Maryland.

For this transportation it is stated that Columbia Gulf would charge W. R. Grace its average system-wide onshore or offshore transmission cost, exclusive of company-use and unaccounted-for gas, currently 26.19 cents per dt and 44.63 cents per dt, respectively. Columbia Gulf would retain 2.58 percent and 3.33 percent of the gas delivered to it from onshore and offshore, respectively, for company-use and unaccounted-for gas. It is also stated that Columbia would charge W. R. Grace its average system-wide storage and transmission cost, exclusive of company-use and unaccounted-for gas, currently 40.11 cents per dt. In addition Columbia would retain 2.85 percent of the gas delivered to it for company-use and unaccounted-for gas. It is further stated that Columbia would collect the GRI funding unit charge of 1.21 cents per dt.

Columbia states that in Docket No. CP84-54-000 it requested authority to transport up to 4,500 million Btu of natural gas per day for W. R. Grace from POI Energy, Inc. (POI). It is stated that Columbia and Columbia Gulf would transport up to 4,500 million Btu of gas to W. R. grace from either POI or Exxon or a combination of the two.

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. 84-4288 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-11913-000, et al.]

Mobil Producing Texas & New Mexico Inc., et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]

February 10, 1984.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidations for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and Location	Price per 1,000 ft ³	Pressure base
G-11913-000, D, Feb. 6, 1984	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Tennessee Gas Pipeline Co., Piedre Lumbre Field, Duvall, Tex.	(1)	
G-11947-000, D, Feb. 6, 1984	do	Tennessee Gas Pipeline Co., Hagist Ranch and N. Government, Wells Field, Duvall, Tex.	(1)	
G-15814-000, E, Jan. 31, 1984	Anadarko Production Company (successor in interest to Delmer Daves), P.O. Box 1330, Houston, Tex. 77251.	Kansas Nebraska Natural Gas Co., Gilbert No. 1 and Gilbert No. 2 Wells, Section 8-2N-19ECM, Texas County, Okla.	(3)	
G-19563-000, E, Jan. 31, 1984	do	Kansas Nebraska Natural Gas Co., Tharp "B" No. 1 Well, Section 17-2N-19ECM, Texas County, Okla.	(3)	
CI61-569-000, E, Jan. 31, 1984	do	Panhandle Eastern Pipe Line Co.,Schooffield No. 1-17 Well, Section 17-6N-9ECM, Cimarron County, Okla.	(4)	
CI61-1421-000, D, Feb. 6, 1984	Shell Offshore Inc., P.O. Box 4480, Houston, Tex. 77210.	Tennessee Gas Pipeline Co., South Pass Block 27, Plaquemines Parish, La.	(5)	
CI63-1229-000, D, Feb. 1, 1984	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Natural Gas Pipeline Co. of America, South Lundell Field, Duval County, Tex.	(5)	
CI63-1299-000, D, Feb. 6, 1984	do	Natural Gas Pipeline Co. of America, South Lundell Field, Duval County, Texas.	(1)	
CI64-766-000, E, Jan. 31, 1984	Anadarko Production Company (successor in interest to Delmer Daves), P.O. Box 1330, Houston, Tex. 77251.	Panhandle Eastern Pipe Line Co., Martin No. 1-28 and Minns A No. 1 Wells, Sections 28-4N-9ECM and 20-4N-9ECM, Cimarron County, Okla.	(8)	
CI84-190-000 (CI77-90), B, Jan. 23, 1984.	Exxon Corp., P.O. Box 2180, Houston, Tex. 77252-2180.	Columbia Gas Transmission Corp., Lake Sand Field, St. Mary and Iberia Parishes, La.	(9)	
CI84-191-000 (CI71-886), B, Jan. 23, 1984.	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Tex. 75221-2880.	Transcontinental Gas Pipe Line Corp., Vinton Field, Calcasieu Parish, La.	(10)	
CI84-192-000 (CI75-719), B, Jan. 27, 1984.	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., Eugene Island Block 208, Offshore La.	(11)	
CI84-193-000 (CI75-717), B, Jan. 27, 1984.	Tenneco Exploration, Ltd., P.O. Box 2511, Houston, Tex. 77001.	Tenneco Oil Co., Eugene Island Block 208, Offshore Louisiana.	(11)	
CI84-194-000, B, Jan. 27, 1984	U.S. Department of the Army, Corps of Engineers, successor to James A. Hughes.	Equitable Gas Co., Skin Creek District, Lewis County, W. Va.	(12)	
CI84-195-000 (G-17264), B, Feb. 6, 1984.	Shell Offshore Inc., P.O. Box 4480, Houston, Tex. 77210.	Tennessee Gas Pipeline Co., Atchafalaya Bay Field, St. Mary and Terrebonne Parishes, La.	(13)	
G-3357-000, E, Feb. 2, 1984	Phillips Oil Co. (successor to Phillips Petroleum Co.), 336 HS&L Building, Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Jal Field, Lea County, N. Mex.	(14)	
G-8837-003, D, Feb. 8, 1984	Shell Offshore Inc., P.O. Box 4480, Houston, Tex. 77210.	Tennessee Gas Pipeline Co., Halter Island, South Pass Block 24 and South Pass Block 27 Fields, Plaquemines and Terrebonne Parishes, La.	(15)	
G-11732-000, E, Feb. 3, 1984	Phillips Oil Co. (successor to Phillips Petroleum Co.), 336 HS&L Building, Bartlesville, Okla. 74004.	Columbia Transmission Corp., North Erath Field, Vermilion Parish, La.	(16)	
G-12004-003, D, Feb. 8, 1984	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Transcontinental Gas Pipeline Corp., West Gueydan Field, Vermilion Parish, La.	(17)	
G-12334-000, E, Feb. 7, 1984	Phillips Oil Co. (successor to Phillips Petroleum Co.), 336 HS&L Building, Bartlesville, Okla. 74004.	Southern Natural Gas Co., Eloi Bay 5750' and 6450' Sand Units, St. Bernard, La.	(18)	
G-12335-000, E, Feb. 6, 1984	Phillips Oil Co. (successor to Phillips Petroleum Co.), 336 HS&L Building, Bartlesville, Okla. 74004.	Southern Natural Gas Co., Breton Sound Block 20 Field, Plaquemines Parish, La.	(19)	

[1] By assignment of lease dated January 5, 1984, Mobil Producing Texas & New Mexico Inc. assigned to McAllen State Bank Trustee certain leases and assignments.
[2] Not used.
[3] By assignment, executed on July 1, 1981, effective July 1, 1980, Applicant acquired the interest of Delmer Daves in the acreage covered by the Gas Purchase and Sales Agreement dated September 6, 1957.
[4] By assignment, executed on July 1, 1981, effective July 1, 1980, Applicant acquired the interest of Delmer Daves in the acreage covered by the Gas Purchase and Sales Agreement dated August 24, 1960.
[5] Lease was released May 23, 1983.
[6] Lease released to Duval County Ranch Company individually and as Agent for the State of Texas on April 13, 1982 by MPTM. Last well plugged and abandoned.
[7] Not used.
[8] By assignment, executed on July 1, 1981, effective July 1, 1980, Applicant acquired the interest of Delmer Daves in the acreage covered by the Gas Purchase and Sales Agreement dated September 11, 1963.
[9] The available supply of gas is depleted, the well has been plugged and abandoned and the contract has been cancelled.
[10] Assignment and Bill of Sale executed on December 1, 1982, effective December 1, 1982, wherein Sun Exploration and Production Company assigned all interest in Lease No. T00397 to James T. Fenwick (25%) Jerald J. Hatcher (25%), Sam M. Udden (25%) and Gene A. Smitherman (25%).
[11] Depletion of reserves.
[12] Depletion of reserves; February 1978 is the date of last sale.
[13] Leases assigned to St. Paul Oil & Gas Corporation and to Graham Energy, Ltd.
[14] Effective November 1, 1983, Phillips Petroleum Company assigned to Phillips Oil Company its interest in the Sims lease located in Lea County, New Mexico.
[15] Leases were partially released on August 20, and August 26, 1982.
[16] Effective December 1, 1983, Phillips Petroleum Company assigned to Phillips Oil Company its interest in the Adelaide Lease located in Vermilion Parish, Louisiana.
[17] Lease expired.
[18] Effective December 1, 1983, Phillips Petroleum Company assigned to Phillips Oil Company its interest in the 5750' and 6450' Sand Units in Wells 4, 5, 9 and 10 on State Lease 2221 and Well No. 5 on State Lease 2220, both located in Saint Bernard Parish, Louisiana.
[19] Effective November 1, 1983, Phillips Petroleum Company assigned to Phillips Oil Company its 50% interest in the wells in State Lease 1997 (5800' RB SU) State Lease 1998; State Lease 1999 (5800' RA SU, 5800' BR SU, 6900' RB SU) State Lease 2000 (undesignated sands, 5800' RA SU, 6100' RASU)
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 84-4290 Filed 2-15-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RP83-81-004, CP83-254-007, and CP83-335-007]

Montana-Dakota Utilities Co.; Proposed Changes In FERC Gas Tariffs

February 10, 1984.

Take notice that on February 3, 1984, Montana-Dakota Utilities Co. (MDU) tendered for filing revisions to its FERC Gas Tariffs as follows:

First Revised Volume No. 2

Twentieth Revised Sheet No. 10
Original Sheet No. 10.1

Original Volume No. 4

Second Revised Sheet No. 5G
Original Sheet No. 5G.1
First Revised Sheet No. 5Q
Original Sheet No. 5QA.

An effective date of January 27, 1984 is requested.

MDU states that their revisions are in conjunction with a Stipulation and Agreement of Settlement (Settlement) which was filed on January 27, 1984. Under the terms of the Settlement, MDU is to file tariff sheets implementing interim rates. The above revisions are to be deemed in compliance of the Settlement.

MDU states that the Commission has not ruled on the Settlement, and that the tariff sheets filed will be subject to the

Commission's ultimate decision approving or rejecting the Settlement.

In the event that the Settlement is not approved by the Commission, or is otherwise not put into effect, MDU requests that its currently effective compliance rates may be used back to January 27, 1984. Furthermore, should the compliance rates be used, MDU requests that it may collect any amounts under Section II(14) of the Settlement necessary to collect the full charges set forth in its compliance rates which were made effective November 1, 1983.

MDU requests a waiver of the 30-day notice requirement of Section 4(d) of the Natural Gas Act, in order to permit its tariff sheets to be effective as of January 27, 1984.

MDU states that each person is designated on the official service list in this proceeding has been served with a copy of its filing.

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 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. 84-4291 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-200-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

February 9, 1984.

Take notice that on January 18, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203 filed in Docket No. CP84-200-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end-user under the authorization issued in Docket No. CP83-4-000 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.

Supply proposes to transport up to 1,000 Mcf of gas per day and 401,500 Mcf of gas per year, for the account of The Stackpole Corporation (Stackpole), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Stackpole at Stackpole's facilities in St. Mary's Pennsylvania, pursuant to the terms of the gas transportation agreement dated August 10, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2.

Supply states that the gas to be purchased by Stockpole involves gas supplies previously under contract to and released by Supply. Stackpole would use the gas transported by Supply in boiling kilns, air exchange units, steam boilers and fume incinerators which are qualified end-uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984 and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective August 8, 1983, and month to month thereafter, whichever occurs first.

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 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.84-4287 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No QF84-161-000]

AES Placerita, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 13, 1984.

On January 31, 1984, AES Placerita, Inc. (Applicant), of 1925 North Lynn Street, Suite 1200, Arlington, Virginia 22209, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined-cycle cogeneration facility will be located at the Placerita oil field in Newhall, California. The facility will consist of a gas turbine generator, a waste heat recovery boiler, and a steam turbine generator. The useful thermal energy output, which will be in the form of steam, will be injected into the oil field for enhanced oil recovery. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 74 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying stauts 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. All such petitions or protest must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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. 84-4292 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-67-001]

City of Austin Electric Utility Department, Austin, Texas; Application for Exemption

February 13, 1984.

Take notice that the City of Austin Electric Utility Department (Austin) filed an application on January 6, 1984, for exemption from certain requirements of Part 290 of the Federal Energy regulatory Commission's (FERC) regulations

concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory policies act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1984, and biennally thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E.

In its application for exemption Austin states, in part, that it should not be required to file the specified data for the following reasons:

Austin believes that the information sought under Section 290 is not necessary to carry out the intent of PURPA Section 133. The information of the type sought by section 133 is not necessary to allow for full citizen participation in rate making in Austin. Austin has and continues to make available pertinent data to citizens and there has been no complaint by citizens that necessary information is not available from the utility.

Lastly, the cost of gathering and filing the information with FERC iscessive relative to the benefits as stated above. The utility currently provides useful information to the citizens of Austin for making intelligent decisions concerning their electric rates. To obtain the information sough in Section 133 not currently available, would conservatively cost the utility from $35,000 to $50,000 per year. Indeed, to obtain some of the data will require the implementation of new systems and software by Austin at a significant cost.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. H. L. Peterson, Deputy Director, City of Austin, Electric Utility Dept., P.O. Box 1088, Austin, Texas 78767.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4293 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-20-000]

City of Farmington v. Amoco Gas Co. and Amoco Production Co.; Complaint and Petition for Declaratory Relief

Issued: February 13, 1984.

On January 18, 1984, the City of Farmington (Farmington) filed a complaint with the Federal Energy Regulatory Commission (Commission) alleging violations to the Natural Gas Act (NGA),[1] and the Natural Gas Policy Act of 1978 (NGPA).[2] Farmington petitioned for declaratory relief in the same filing.

Farmington described the background of this dispute. For twenty years, 1961–1981, Amoco Gas Company and Amoco Production Company (Amoco) sold gas intrastate to the City of Farmington. During that time, 1967–1972, Amoco sold gas interstate to El Paso. Amoco obtained a Certificate of Public Convenience and Necessity for the El Paso sale. The gas sold by Amoco was produced from the same wells and commingled in Amoco's gathering line before delivery to Farmington and El Paso. Unable to negotiate a new gas contract, Amoco stopped deliveries to Farmington. Until a preliminary injunction was ended by the District Court, Amoco delivered gas to Farmington for a few months in 1982.

Farmington states that Amoco violated § 7(b) of the NGA by stopping gas deliveries without abandonment authorization. Farmington states that Amoco violated § 504(a)(1) of the NGPA by selling gas in 1982 in excess of the maximum lawful prices.

Farmington asks that Amoco deliver gas until it gets abandonment authorization. Farmington also asks that Amoco refund with interest all monies owed from the 1982 gas sales.

Within 30 days of publication in the **Federal Register**, any person may file a protest or a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. If you wish to become a party, you must file a petition to intervene. *See* Rules 214 or 211.[3]

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4294 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 15 U.S.C. 717, *et seq.* (1976 & Supp. II 1978).

[2] 15 U.S.C. 3301-3432 (Supp. V 1981).

[3] 18 CFR 385.214 or 385.211 (1983).

[Docket No. QF84-146-000]

Greenleaf Power Corp., Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 13, 1984.

On January 27, 1984, Greenleaf Power Corp., 2815 Mitchell Drive, Suite 200, Walnut Creek, California 94598, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping cycle congeneration facility will be located in Sutter County, California. It consists of a gas turbine-generator set. Combustion products discharged from the heaf recovery steam generator will provide heat for a wood chip dryer. The primary energy source will be natural gas. The net electric power production capacity will be 49,500 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 are are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4295 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-165-000]

Greenleaf Power Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 13, 1984.

On January 27, 1984, Greenleaf Power Corp., 2815 Mitchell Drive, Suite 200, Walnut Creek, California 94598, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been

made that the submittal constitutes a complete filing.

The topping cycle cogeneration facility will be located in Sutter County, California. It consists of a gas turbine-generator set, a heat recovery steam generator, and a condensing steam turbine-generator set. Irrigation water will be warmed by intermixing it with cooling tower water that is pumped through the condenser associated with the condensing steam turbine-generator. During four months of the year, this warmed water will be used to improve growth in rice fields. The primary energy source will be natural gas. The net electric power production capacity will be 49,500 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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. 84-4296 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-57-010]

KN Energy, Inc.; Petition To Amend

February 13, 1984.

Take notice that on January 20, 1984, KN Energy, Inc. (Petitioner), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP75-57-010 a petition to amend the order issued May 11, 1977,[1] in Docket No. CP75-57, as amended, pursuant to Section 7(c) of the Natural Gas Act so as to authorize certain clarifying contract revisions, reorganized exhibits, and the addition of several new delivery points for the transportation and exchange of natural gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

It is stated that Petitioner and Montana-Dakota Utilities Company (MDU) entered into a gas sales, transportation and gas exchange agreement (agreement) on May 10, 1974, which provided for the sale of a portion of the gas available to and gathered by Petitioner in the Bowdoin area of Phillips and Valley Counties, Montana, and for the delivery and exchange of natural gas delivered by Petitioner to MDU in said counties and the redelivery to Petitioner at a point of interconnection in Fremont County, Wyoming. Petitioner further states that the agreement provided for the right to purchase various percentages of certain gas volumes being exchanged. Petitioner asserts that the services and facilities provided for in the agreement were authorized in Docket No. CP75-57.

Petitioner now requests amendment of its certificate in Docket No. CP75-57 in the following manner: Exhibit C (showing wells connected to MDU's gathering system) and Exhibit D (setting forth the dedication of gas from various wells) would be deleted. Exhibit C would be revised to set forth in all delivery points from Petitioner to MDU, including several new delivery points not yet reported under Petitioner's and MDU's next scheduled annual report of additions or deletions.

Petitioner further asserts that on June 27, 1983, Petitioner and MDU entered into an amendment to the agreement dated May 10, 1974, which serves as the basis for the instant petition.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 5, 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 Practices 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4297 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-19-003]

Pacific Power and Light Co.; Application for Exemption

February 13, 1984.

Take notice that Pacific Power and Light Company (PP&L) filed an application on January 18, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1984 and biennally thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E.

In its application for exemption PP&L states, in part, that it should not be required to file the specified data for the following reasons:

A primary emphasis of PURPA was to promote the consideration of modern approaches to rate development. The major PURPA ratemaking standards have now been considered by each of the six state regulatory jurisdictions in which PP&L operates, and most of the standards have been adopted. The implementation of PURPA has been completed and the amount and detail of the information supplied by utilities now is a function of the needs of state commissions, utilities and other participants in retail rate case proceedings. Data requests which originate with and respond to specific needs of state commissions and other interested parties will better coincide with the spirit of the PURPA legislation and more specifically the purposes of Section 133.

A major thrust of PURPA Section 133 was directed at prompting utilities and regulators to develop information which in many cases might not otherwise have been addressed including load data and cost of service information. PP&L, however, began its load data collection efforts in 1974, well in advance of the passage of PURPA legislation, and has found load data to be of great value in its research and ratemaking activities. The collection of load data will continue in the absence of PURPA requirements. Similarly, marginal cost and accounting cost information has been regularly submitted to state regulatory agencies and other interested parties as part of PP&L's requests for rate relief. Marginal cost information is required by the Oregon, California, and Montana Commissions for ratemaking proceedings and is useful to PP&L, Commissions and customers for preparing the cost-effectiveness analyses associated with various conservation programs.

Accounting or embedded cost of service studies are required by the Washington and Wyoming Commissions for ratemaking proceedings. Timely marginal cost and accounting information relevant to the issue

being addressed has been and will continue to be prepared and made available in the absence of PURPA requirements.

However, certain PURPA reporting requirements are so broad that data are either unavailable or inapplicable to specific utilities and regions. For example, variations in hydro availability impact the development of historic time-of-day costs in the PP&L Northwest. Pacific has received FERC exemptions with concurrence of the Oregon Public Utility Commissioner from certain PURPA reporting requirements for the 1980 and the 1982 filings. The Wyoming Public Service Commission also concurred with PP&L's request for exemption from the 1980 PURPA Section 133 filing.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. Fredric D. Reed, Vice President, Pacific Power and Light Company, Public Service Building, Room 1500, 920 S.W. Sixth Avenue, Portland, Oregon 97204.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4298 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA84-7-000]

Sims Oil Company, Inc.; Petition for Waiver of § 271.804(c) of Regulations Under Section 108 of the NGPA

February 13, 1984.

On January 30, 1984, Sims Oil Company, Inc., P.O. Box 31754, Dallas, Texas 75231-0754 (Petitioner), filed a petition with the Federal Energy Regulatory Commission (Commission) requesting temporary waiver of § 271.804(c) of the Commission's rules issued under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3318 (Supp. V 1982). Petitioner's request was filed under § 1.7 of the Commission's rules, but will be treated as a petition for staff adjustment under § 385.1101 *et seq.*

Section 271.804(c) requires that a stripper well determination must be based on a 90-day production period which falls entirely within the 180-days prior to the date on which the application for the determination was filed. Applicant states that, although mailed eight days earlier, its stripper well application covering four wells in Ector County, Texas (TXL Well #1, TXL Well #2, Slater C. Well #1, and Slater C. Well #2), was not stamped as filed at the Texas Railroad Commission (TRC) until December 29, 1983, the 182nd day following the start of the qualifying 90-day production period of July through September 1983. Applicant seeks waiver of § 271.804(c) to enable the 90-day production period to be used by the TRC in making its determination for the subject well.

The procedures applicable to the conduct of this adjustment proceeding are found in Rules 1101-1117 of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this proceeding must file a motion to intervene under Rule 214. All motions to intervene must be filed within fifteen days of publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4299 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-21-000]

Sonat Exploration Co.; Petition for Declaratory Order or, in the Alternative, Waiver of Regulations

February 13, 1984.

On January 27, 1984, Sonat Exploration Company (Sonat) petitioned the Federal Energy Regulatory Commission (Commission) under Rule 207[1] for a declaratory order to remove an uncertainty respecting the monthly escalation in Section 102(d) rates under Sonat's Gas Rate Schedule Nos. 11, 12, and 17. Sonat requested a finding that it is entitled to such monthly escalations under the filings it made under these rate schedules.

In the alternative, Sonat asked for waiver of the filing requirements under § 154.94(h)(2)(iii) of the Commission's regulations to permit the monthly escalation applicable to section 102(d) gas sold from certain wells, or for waiver of the notice requirement of section 4(d) of the Natural Gas Act to permit the amended blanket affidavit and Forms 250.14 submitted with its petition to become effective on the date of initial deliveries of gas.

Sonat cited numerous cases in support of its petition, including *Superior Oil Company* v. *Federal Energy Regulatory Commission*, 667 F.2d 1181 (5th Cir. 1982) and *Atlantic Richfield Corp.* v. *FPC*, 201 F.2d 568 (4th Cir. 1953). Sonat submitted that failure to grant the relief requested would constitute exaltation of form over substance, "particularly in light of the face that the rate escalations involved are constractually authorized, there was clear public notice of them, and they are Congressionally established." Sonat viewed the actions involved as "ministerial and techincal in nature, not substantive" and stated that it would suffer an unduly harsh penalty if a declaratory order or waiver is not granted. Sonat argued that relief (in whatever form) "must be granted unless undue and unlawful discrimination is to ensue."

Any person desiring to be heard or to protest this petition must 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 the requirements of Rules 211 or 214 within 15 days of publication of this notice in the **Federal Register**. The Commission will consider protests in determining the appropriate action to be taken, but protests will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of Sonat's petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4300 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 18 CFR 385.207 (1983).

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Representative Average Unit Costs of Energy

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy is forecasting the representative average unit costs of five residential energy sources for the year 1984. The five sources are electricity, natural gas, No. 2 heating oil, propane and kerosene. The representative unit costs of these energy sources are used in the energy conservation program for

consumer products established by the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 917), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619, 92 Stat. 3266).

EFFECTIVE DATE: The representative average unit costs of energy contained in this notice will become effective March 19, 1984, and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

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

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–33, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9513

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Act)[1] requires that the Department of Energy (DOE) prescribe test procedures for the determination of the estimated annual operating cost and other measures of energy consumption for certain consumer products specified in the Act. DOE has prescribed test procedures for the types of products listed in Section 322(a)(1)–(13) of the Act. These test procedures are found in 10 CFR Part 430, Subpart B.

Section 323(b) of the Act requires that the estimated annual operating cost of a covered product be computed from measurements of energy use in a representative average-use cycle and from representative average unit costs of the energy needed to operate such product during such cycle. The section further requires DOE to provide information regarding the representative average unit costs of energy for use wherever such costs are needed to perform calculations in accordance with the test procedures. Most notably, these costs are used under the Federal Trade Commission labeling program estalished by Section 324 of the Act and in connection with advertisements of appliance energy use and energy costs which are covered by Section 323(c) of the Act.

On July 15, 1977, DOE's predecessor, the Federal Energy Administration, first published representative average unit costs of residential energy for use in the energy conservation program for consumer products (42 FR 36549). Subsequently, notices updating these representative average unit costs of energy were published by DOE on June 27, 1979 (44 FR 37534), December 1, 1980 (45 FR 79575), May 4, 1982 (47 FR 19200) and January 25, 1983 (48 FR 3409). Effective [30 days after publication], the cost figures published on January 25, 1983, will be seperseded by the cost figures set forth in this notice.

DOE's Energy Information Administration (EIA) has developed the 1984 representative average unit costs of electricity, natural gas and No. 2 heating oil found in this notice. These costs were generated from the EIA Short-Term Energy Price Projection System, which forecasts the retail cost of selected energy products based on changes in world oil prices, wellhead natural gas prices, seasonal patterns in retail prices and established trends in margins and operating expenses. The development of these costs is discussed in detail in the November 1983 issue of EIA's quarterly publication of historical and forecasted energy consumption and prices, "Short-Term Energy Outlook," DOE/EIA–0202 (83/4Q). Copies of this report are available at the National Energy Information Center, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

In the case of propane and kerosene, the 1984 representative average unit costs found in this notice were developed by other means since EIA's "Short-Term Energy Outlook" does not provide forecasts of the retail costs of these fuels. However, historical refiner and gas plant operator sales prices for propane, kerosene, No. 2 heating oil and other petroleum-based fuels are available from another EIA publication, "Petroleum Marketing Monthly," DOE/EIA–0380. Referring to Table 5 of "Petroleum Marketing Monthly," DOE obtained refiner and gas plant operator average sales prices for propane, kerosene, and No. 2 heating oil for each month of the period January 1983 to the most recent month for which data was available, September 1983. Based on these data, DOE computed the average monthly sales prices for each of these fuels. To forecast 1984 representative average unit costs for propane and kerosene, DOE made the assumption that the relative difference between the average refiner and gas plant operator sales price and the average residential retail cost of propane, kerosene and No. 2 heating oil (i.e. the percentage price "mark-up") is the same for each of these types of fuel. DOE also assumed that the relative difference between the refiner and gas plant operator 1983 and 1984 average sales prices of propane, kerosene and No. 2 heating oil (i.e. percentage sales price increase) is the same for each of these types of fuel. On the basis of these two assumptions, DOE computed the relative difference between the 1984 representative average unit cost of No. 2 heating oil (taken from the November 1983 issue of "Short-Term Energy Outlook") and the average monthly refiner and gas plant operator sales prices for No. 2 heating oil over the period of January 1983 through September 1983. DOE then applied this computed value to the average monthly refiner and gas plant operator sales prices for propane and kerosene over the period of January 1983 through September 1983 to forecast their 1984 representative average unit costs.

The 1984 representative average unit costs stated in Table 1 are provided pursuant to Section 323(b)(2) of the Act and will become effective March 19, 1984. They will remain in effect until further notice.

Issued in Washington, D.C., January 31, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTAL ENERGY SOURCES

[1984]

Type of energy	In common terms	As required by test procedure	Dollars per million Btu [1]
Electricity	7.63¢/kWh [2, 3]	$0.0763/kWh	$22.36
Natural Gas	69.6¢/Therm [4] or $7.07/MCF [5, 6]	$0.00000696/Btu	6.96
No. 2 Heating Oil	$1.09/gallon [7]	$0.00000786/Btu	7.86
Propane	84.2¢/gallon [8]	$0.00000925/Btu	9.25
Kerosene	$1.14/gallon [9]	$0.00000846/Btu	8.46

[1] Btu stands for British thermal units
[2] kWh stands for kilowatt hour
[3] 1 kWh=3,413 Btu
[4] 1 therm=100,000 Btu
[5] MCF stands for 1,000 cubic foot
[6] For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,016 Btu.
[7] For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,700 Btu.
[8] For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,000 Btu.
[9] For the purposes of this table, one gallon of kerosene has an energy equivalence of 134,700 Btu.

[1] References to the "Act" refer to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act.

[FR Doc. 84–4314 Filed 2–15–84; 8:45 am]

BILLING CODE 6450–01–M

Grant Programs for Schools and Hospitals, and for Buildings Owned by Units of Local Government and Public Care Institutions

AGENCY: Department of Energy.

ACTION: Notice concerning grant program Cycle VI.

SUMMARY: The Department of Energy (DOE) announces the dates and other information for Cycle VI for the grant program for schools and hospitals.

The sixth grant program cycle will begin as of the date of this notice. Applications recommended by the State for funding must be submitted to the appropriate DOE Operations or Support Office no later than June 30, 1984. Notices of grant award will be issued for approved applications on or before August 31, 1984, the ending date of the grant program cycle.

Preliminary fund allocations by States for Cycle VI are shown below. Final fund allocations will be provided State offices by April 30, 1984. Up to fifteen percent of the funds may be used to support technical assistance analyses.

Applicable regulations governing these programs are found at 10 CFR Part 455.

DATES: February 16, 1984: beginning of grant program cycle; June 30, 1984: date State recommended applications are due at DOE Operations or Support Office; and August 31, 1984: end of grant program cycle.

FOR FURTHER INFORMATION CONTACT:

Frank M. Stewart, Institutional Conservation Programs Division, Office of Conservation and Renewable Energy, Department of Energy, Mail Stop 5G–070, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–2198.

Edward H. Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6B–144, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–9507.

SUPPLEMENTARY INFORMATION: The Grant Program for Schools and Hospitals is established under Part 1 of Title III of the National Energy Conservation Policy Act, 42 U.S.C. 6371–6371j.

Issued in Washington, D.C., February 8, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

GRANT PROGRAM CYCLE VI ALLOCATIONS

State	Cycle VI allocation
Alabama	$685,534
Alaska	294,231
American Samoa	184,400
Arizona	557,617
Arkansas	491,884
California	2,439,656
Colorado	762,522
Connecticut	769,731
Delaware	264,735
District of Columbia	271,660
Florida	1,283,186
Georgia	864,979
Guam	195,867
Hawaii	275,858
Idaho	357,910
Illinois	2,428,311
Indiana	1,197,969
Iowa	802,205
Kansas	595,555
Kentucky	757,505
Louisiana	676,183
Maine	451,216
Maryland	854,330
Massachusetts	1,277,929
Michigan	2,088,094
Minnesota	1,226,196
Mississippi	501,618
Missouri	1,053,613
Montana	350,536
Nebraska	495,136
Nevada	312,711
New Hampshire	392,844
New Jersey	1,467,309
New Mexico	367,998
New York	3,441,262
North Carolina	968,741
North Dakota	345,702
Ohio	2,175,937
Oklahoma	631,301
Oregon	559,392
Pennsylvania	2,333,708
Puerto Rico	614,484
Rhode Island	358,956
South Carolina	567,471
South Dakota	328,078
Tennessee	850,382
Texas	2,044,410
Utah	459,723
Vermont	307,367
Virgin Islands	187,814
Virginia	978,697
Washington	844,398
West Virginia	492,655
Wisconsin	1,240,754
Wyoming	271,740
Total	47,000,000

[FR Doc. 84–4204 Filed 2–15–84; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $9,719 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Blaylock Oil Company, Inc., a reseller-retailer of motor gasoline located in Homestead, Florida.

DATE AND ADDRESS: Comments must be filed on or before March 19, 1984 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF–0037.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director Office of Hearings and Appeals 1000 Independence Avenue, SW. Washington, D.C. 20585 (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Blaylock Oil Company, Inc., which settled possible pricing violations in the firm's sales of motor gasoline to wholesale and retail customers during the October 1, 1979 through December 31, 1979 audit period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Blaylock pursuant to the consent order. The DOE has tentatively established procedures under which purchasers of Blaylock motor gasoline during the audit period may file claims for refunds from the consent order fund. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted on or before March 19, 1984 and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585

Dated: February 7, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 7, 1984.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Blaylock Oil Company, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF–0037

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V regulations set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as part of a settlement agreement or pursuant to a Remedial Order. The Subpart V process is intended to be used in situations where the DOE is unable readily to ascertain the persons who were allegedly injured or the amounts that such persons are eligible to receive as a result of enforcement proceedings. *See Office of Enforcement,* 9 DOE ¶ 82,553 at 85,284 (1982).

I. Background

Pursuant to the provisions of Subpart V, on October 13, 1983, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Blaylock Oil Company, Inc. (Blaylock). Blaylock is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31, and is located in Homestead, Florida. The firm was subject to the Mandatory Petroleum Price Regulations set forth in 10 CFR Part 212, Subpart F until January 28, 1981, when motor gasoline and other refined petroleum products were exempted from price and allocation controls. Exec. Order No. 12287, 46 Fed. Reg. 9909 (January 30, 1981). A DOE audit of Blaylock's records revealed possible regulatory violations in the amount of $90,829.43 with respect to the firm's pricing of motor gasoline during the period October 1, 1979 through December 31, 1979 (the audit period). In order to settle all claims and disputes between Blaylock and the DOE regarding the firm's sales of motor gasoline during that three month period, Blaylock and the DOE entered into a consent order on October 15, 1981, in which Blaylock agreed to remit $9,719 to the DOE. This payment was deposited into an interest-bearing escrow account for ultimate distribution to the parties injured by the alleged overcharges. This Proposed Decision concerns the distribution of the $9,719 that was deposited into the escrow account, plus accrued interest.

II. Proposed Refund Procedures

We have considered the ERA's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to establish such a proceeding with respect to the Blaylock consent order fund. As we have stated in previous Decisions, refunding moneys obtained through DOE enforcement proceedings is the focus of Subpart V proceedings. *See generally Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (*Vickers*). Based upon our experience with Subpart V cases, we believe that the distribution of refunds in the present case should take place in two stages. The first stage will attempt to refund moneys to identifiable purchasers of Blaylock motor gasoline who may have been injured by Blaylock's pricing practices during the period October 1, 1979 through December 31, 1979. After meritorious claims are paid in the first stage, a second stage refund procedure may become necessary. *See generally Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) (*Amoco*) (refund procedures established for first stage applicants, second stage refund procedures tentatively proposed).

A. Refunds to Identifiable Purchasers

We propose that the Blaylock consent order funds be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by Blaylock's alleged pricing practices. The information available to us at this time regarding Blaylock's operations during the consent order period does not provide specific names and addresses of Blaylock's customers. However, from our experience with Subpart V proceedings, we believe that the claimants in this proceeding will fall into the following categories:(1) resellers (including retailers) of motor gasoline, and (2) firms, individuals, or organizations that were consumers (end-users) of Blaylock motor gasoline. The motor gasoline purchased by these claimants will have been purchased either directly from Blaylock or from other firms in a chain of distribution leading back to Blaylock.

Resellers generally will be required to establish that they absorbed the alleged overcharges. To make this showing, they will have to demonstrate that, at the time they purchased motor gasoline from Blaylock, market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. In addition, resellers will be required to show that they maintained "banks" of unrecovered costs in order to demonstrate that they did not subsequently recover those costs by increasing their prices. *See Office of Enforcement,* 10 DOE ¶ 85,029 at 88,125 (1982) (*Ada*). However, as in many prior special refund cases, resellers will not be required to demonstrate injury if their refund claim is based on average monthly purchases of less than 50,000 gallons.* *Id.* at 88,122.

If resellers made only spot purchases from Blaylock, however, we propose that they should be presumed to have suffered no injury. As we have previously stated with respect to spot purchasers:

"[T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers."

Vickers at 85,396–7. We believe the same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, spot purchasers should submit additional evidence to establish that they were unable to recover the increased prices they paid to Blaylock. *See Amoco* at 88,200.

With respect to customers who were consumers of Blaylock motor gasoline, a showing of injury should not be necessary in order to qualify for a refund. *See Standard Oil Co. (Indiana)/ Union Camp Corp.,* 11 DOE ¶ 85,007 (1983), and *Standard Oil Co. (Indiana)/ Elgin, Joliet, and Eastern Railway,* 11 DOE ¶ 85,105 (1983) (end-users of various refined petroleum products granted refunds solely on the basis of documented purchase volumes). Therefore, in this proceeding, we propose that consumers need only document the specific quantities of Blaylock motor gasoline they purchased during the consent order period.

With respect to applicants who demonstrate that they are entitled to refunds, we propose to utilize a volumetric method of allocating refunds. Under this method, a volumetric refund amount is calculated by dividing the settlement amount by the total volume of those products covered by the consent order that were sold by the firm

during the consent order period. In the present case, based on the information available to us at this time, the volumetric refund amount will be $0.00459 per gallon ($9,719 divided by 2,116,189 gallons of motor gasoline). Successful claimants will receive refunds based on their eligible purchase volumes multiplied by the volumetric refund amount, plus a proportionate share of the interest accrued on the consent order fund since it was remitted to the DOE. As in previous cases, we will establish a minimum refund amount of $15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

Detailed procedures for filing applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the consent order involved in this proceeding, we intend to publicize widely the distribution process to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the **Federal Register**, notice will be provided to the Southeastern Independent Oil Marketers Assocation, and also to the Independent Gasoline Marketers Council, the National Oil Jobbers Council, the Service Station Dealers of America, and the Society of Independent Gasoline Marketers of America. These organizations should be helpful in advising potential claimants of this proceeding. In addition, we are continuing our efforts to obtain a list of the names and addresses of first purchasers of Blaylock motor gasoline.

B. Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be distributed in various ways, or they could be deposited into the U.S. Treasury. However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission by other parties of proposals containing alternative distribution schemes.

It Is Therefore Ordered That: The $9,719 refund amount supplied by Blaylock Oil Company, Inc. pursuant to the consent order entered into with the Department of Energy on October 15, 1981, will be distributed in accordance with the foregoing Decision.

Footnote

*Resellers whose average monthly purchases during the period for which a refund is claimed exceed 50,000 gallons, but who cannot establish that they did not pass through the price increases, or who limit their claims to the threshold amount, will be eligible for a refund for purchases up to the 50,000 gallons per month threshold without being required to demonstrate injury. *See Vickers* at 85,396; *see also Ada* at 88,122.

[FR Doc. 84-4238 Filed 2-15-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL-2528-3]

Benefit Analysis of Alternative National Ambient Air Quality Standards for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA's Office of Air Quality Planning and Standards will hold a public meeting to solicit comment on a contractor's technical report developing a health benefit analysis methodology for ozone.

DATE: The meeting will be from 9:00 A.M. to 4:00 P.M. on Tuesday, April 3, 1984.

ADDRESS: The meeting will be held in the EPA Environmental Research Center Auditorium, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Janet Scheid, (919) 541-5623/FTS 629-5623, of the Economic Analysis Branch, Strategies and Air Standards Division, Office of Air Quality Planning and Standards. The mailing address is: Economic Analysis Branch (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

SUPPLEMENTARY INFORMATION: This report presents the methodology and results of a study designed to identify the benefits in the form of improved human health associated with possible alternative air quality standards for ozone. Unique features of the study include using physicians to frame health effects/pollution concentration hypotheses, specifying the residence/monitor location relationship to proxy exposure, and integrating health effects with behavioral responses to provide for development of consistent benefit functions. This report may be used in the Regulatory Impact Analysis required by E.O. 12291 for any revised national ambient air quality standards for ozone.

A panel of experts in the fields of epidemiology, statistics, atmospheric chemistry, and environmental benefit analysis will review and critically discuss this analysis. Questions and comments from the general public at this meeting will also be discussed.

Dated: February 8, 1984.

Sheldon Meyers,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84-4237 Filed 2-15-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2528-4]

Federal Role in Municipal Wastewater Treatment; Study

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice sets forth the elements and the schedule of an EPA study on the Federal role in promoting long-term self-sufficiency in the management, construction, operation and replacement of municipal wastewater treatment facilities. The study will examine alternative strategies for providing Federal assistance, including a range of transitional technical, managerial, and non-financial assistance. The purpose of this notice is to inform potentially affected parties of the study and to issue a call for papers on the study elements described in this notice. In conjunction with the reauthorization of Title II of the Clean Water Act, the study will provide a basis for possible changes in the current municipal wastewater treatment construction grant program. The Office of Water Program Operations (OWPO), EPA, will be the principal staff organization for this study. An EPA-wide Task Force on the Reauthorization of the Municipal Wastewater Treatment Construction Grants Program will provide overall direction for the study. The Task Force and OWPO staff will be aided by an Interagency Group, the Construction Grants Management Advisory Group (MAG), and a Liaison Group.

DATES: In order to receive adequate consideration, papers and written comments on the study elements described in this notice should be submitted on or before April 2, 1984.

ADDRESS: Comments should be addressed to: George F. Ames, Acting Chief, Policy and Guidance Branch (WH-595), Office of Water Program Operations, Office of Water, EPA, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Charles Mooar, Office of Water Program

Operations [WH-595], EPA, Washington, D.C. 20460, (202) 382-7276.

SUPPLEMENTARY INFORMATION:

I. Purpose

EPA is undertaking a study of Federal, State and local roles in obtaining expenditious construction of municipal wastewater treatment facilities needed to meet the requirements of the Clean Water Act. The study will identify and evaluate program alternatives which will effectively and efficiently assist local communities in meeting two underlying objectives of the Clean Water Act:

- To foster long-term local self-sufficiency and capability to construct, operate, and replace municipal wastewater treatment facilities, and
- To facilitate compliance by municipal wastewater treatment facilities with the requirements of their National Pollutant Discharge Elimination System (NPDES) permits.

A major goal throughout the course of the study will be to develop a national consensus for an appropriate funding delivery mechanism and an appropriate level of Federal involvement (financial and otherwise) for the period beyond the current authorization ending in fiscal year (FY) 1985. In order to provide an opportunity for public involvement and input to the study and to provide necessary background information and analyses for developing recommendations on the appropriate Federal role, this notice provides a call for papers and written comments on various study elements. The study recommendations will be considered within the context of reauthorization of the construction grants program.

II. Study Assumptions

A primary assumption underlying this study is that the needs and capabilities of various types of communities may differ markedly. Thus, the study will describe the needs and capabilities of small, medium, and large communities, with special attention to their unique water quality and financial requirements. In determining financial capability, the study will assess not only the financial resources of communities, but will also assess the ability of individual households to pay for wastewater treatment.

A further assumption of the study is that the attainment of the goal of long-term self-sufficiency, with an attendant reduction in the level of Federal financial involvement in the construction of municipal wastewater treatment facilities, should be phased to minimize potential disruption. A corollary assumption is that expeditious compliance by municipalities with the requirements of the Clean Water Act may require some type of continuing Federal presence in the financial arrangements for certain types of projects in certain communities. In addition, the study will examine the emerging issue of future replacement needs for communities that have previously received Federal grants to construct all of the treatment facilities needed to meet the requirements of the Clean Water Act. The study then will clarify whether such communities will be eligible for further Federal financial assistance in replacing facilities after the end of their useful life.

At the completion of this study, the Agency expects to develop a legislative proposal for a recommended Federal funding strategy, which will describe the funding delivery mechanism(s) to be used, a timetable for implementation, and specification of the dollar amounts to be authorized. The study does not assume that the final recommendation will necessarily be limited to any one particular funding delivery mechanism, *e.g.*, grants, or loans. Rather, the study assumes that alternatives comprised of a combination of different Federal funding mechanisms should be examined as a means of addressing differing community needs and capabilities.

III. Study Methods

A. *Baseline Capability Analysis for Local Communities:* In order to provide a baseline for analyses, the study will assess the ability of different types of communities to provide wastewater treatment without Federal financial assistance. In the absence of Federal financial assistance, the study will assume that local communities will rely upon local sources of capital financing and revenue. Such sources include, but are not limited to, the issuance of municipal debt (general obligation bonds and revenue bonds), new sewer connection charges, *ad valorem* taxes, and sewer use charges. This baseline analysis will assume that communities will complete all needed municipal wastewater treatment projects, including wastewater treatment facilities, interceptor sewers, collector sewers, the rehabilitation of existing collector systems, the correction of infiltration and inflow to existing systems, and the correction of combined sewer overflows. As part of this analysis, the study will also set forth non-financial Federal actions in helping States and communities reassess their needs and enhance their technical, managerial and financial skills.

B. *Assessment of State Funding Alternatives:* Where a need for outside financial assistance has been identified, the second phase of the study will examine the extent to which State programs or other non-Federal means of financing will be capable of meeting the need. Existing and proposed State programs for financial assistance will be identified and analyzed in terms of their ability to address the needs of certain communities.

C. *Assessment of Private Sector Funding Alternatives:* The study will also identify the feasibility and magnitude of the potential use of private sector funding in assisting local communities to construct and operate needed facilities.

D. *Assessment of Federal Funding Alternatives:* Given the baseline local resources and the extent to which States and the private sector can provide financial resources, the study will next address the need for Federal financial assistance to communities that will be least able to meet their projected needs. The study does not assume that any one particular form of Federal financial assistance will be recommended. A preliminary listing of types of aid would include Federal credit support, loan guarantees, loans (subsidized or market rate), and grants. A wide range of delivery systems for such types of aid will also be considered. For each type of community, the study will examine the type and level of Federal assistance that best addresses its special needs, while promoting long-term local self-sufficiency and compliance.

The design of the Federal funding alternatives will be constrained by certain factors, which are identified here at the outset of the study. First, Federal funding alternatives will be examined in terms of the provisions of the current U.S. tax code. Although the study will consider the effects of proposed legislation to change the tax code, the study will *not* take a position on such proposals. Furthermore, the study will not develop or recommend alternatives that would require changes to the U.S. tax code.

Second, the design of Federal funding alternatives will be limited by provisions of the 1981 Amendments to the Clean Water Act (Pub. L. 97-117) which established certain limits on the extent of Federal financial involvement for certain alternatives. Thus, for alternatives providing a continuation of the construction grant program, the study will *not* re-open the issues of grant eligibilities for reserve capacity and collector sewers, nor will the study consider options for increasing the

Federal grant share above 55 percent as defined in the 1981 Amendments. This initial limitation is applied to the construction grants program and will not constrain the consideration of other Federal assistance programs that might target Federal funds to projects not eligible under the construction grants program as amended by the 1981 Amendments.

Finally, the study will seek to limit the long-term dollar value for potential Federal financial involvement to a value equal to or less than $37 billion (1982 constant dollars), which represents an estimated dollar amount for Federal grants that would be potentially required if all wastewater treatment needs under the 1981 Amendments were addressed through the construction grants program.

IV. Evaluative Criteria for Assessing Alternatives

The study will evaluate funding alternatives according to the following criteria:

A. *Changes in Federal Subsidy Cost and Local Share:* In order to compare changes in grant, loan and other Federal funding alternatives from the current program, the concept of equivalent Federal grant share will be used. For subsidized interest loan programs and private sector funding arrangements that use tax subsidies, a present value of the Federal subsidy will be calculated. Each funding mechanism will be assessed to determine the proportionate share of the funded projects borne by the Federal government, and the annual cost to the U.S. Treasury. Each funding alternative will also be evaluated in terms of changes in an estimated annual cost to municipalities and typical users.

B. *Equity:* Each funding alternative will be evaluated according to its financial impact to different types of communities and their citizens. The financial impact of each alternative will be evaluated in terms of the annual project costs to communities and their citizens, the financial resources of communities, and the ability of citizens to pay for wastewater treatment facilities.

C. *Effectiveness:* Each funding alternative will be evaluated in terms of its effectiveness in targeting funds in a cost-effective and timely manner to those municipal wastewater treatment projects which contribute most directly to a community's ability to meet the requirements of its NPDES permit. This criterion will thus evaluate for each alternative the key elements that address eligibility determinations for funding, the basis for setting priorities among projects, the time required to advance funds, and any comparative cost savings that may result from the use of a given alternative.

D. *Compliance:* Each funding alternative will be evaluated according to its ability to increase each community's incentive to comply with the requirements of its NPDES permit. In applying this criterion, consideration will be given to elements of alternatives that link the award of Federal financial assistance to demonstrated compliance, and elements of alternatives that encourage municipalities to construct needed wastewater treatment facilities if Federal funds are currently unavailable.

E. *Implementation Goals:* The study will identify the institutional, program management and legislative changes that may be required to implement each funding alternative. Then, each alternative will be evaluated in terms of its ability to provide long-term stability and certainty in the construction program, its ability to enhance State and local government flexibility and participation in the program, and the ease by which it can be implemented in the short and long term.

V. A Call for Papers

To facilitate the conduct of the study, the Agency invites papers from affected parties on the following study elements:

A. *Prereguisites for Local Self-Sufficiency:* Papers on this topic should describe problems that contribute to a lack of long-term local self-sufficiency in the construction, management, operation and replacement of needed municipal wastewater treatment facilities. Such papers should discuss prerequisite functions and responsibilities that must be performed by publicly owned treatment works operators/owners in order for the treatment plant to be considered self-sufficient. (Such papers may also disucss those functions and responsibilities that should be handled at a State or Federal level.) The Agency specifically requests that papers on this topic address possible Federal, State and local actions that will ensure the collection of adequate user charges and other revenues, such that all operations, maintenance and replacement expenses will be fully met at the local level.

B. *Local Financial Needs and Capabilities:* Papers on this topic should address differences in the financial needs/capabilities of various types of communities, with special attention to factors such as community size, State and/or local laws affecting local financing, and the type of wastewater treatment needs faced by communities, *e.g.*, CSO problems, need for new collectors or wastewater treatment facilities. Such papers should address the ability of communities to finance needed facilities with and without Federal funding.

C. *Capital Financing Delivery Systems:* Papers on this topic should address the framework needed to implement certain capital financing delivery systems. Papers may be comparative or focus on a particular delivery system. A preliminary listing of capital financing delivery systems is as follows:

—Traditional Municipal Debt Issues: Bonds.

—Municipal Leasing (or Sale/Leaseback) of Facilities:

—Tax-subsidizied privatization schemes in the absence of direct Federal funds.

—External Credit Support Programs: Bond insurance, loan guarantees.

—Intergovermental Loan Programs: State or Federal loans.

—Grant Programs: State or Federal Categorical grants programs or block grant programs.

—Intergovernmental Revenue Transfer: General Revenue Sharing (GRS) or State pass-through of GRS to local governments.

There are many variants to each of these approaches. As an aid in comparing alternatives, it is suggested that writers, to the extent possible, provide detailed descriptions of the mechanics of delivery systems such that the evaluate criteria may be applied (see Section IV of this notice). The Agency specifically requests that papers on this topic include a comparison of the Federal subsidy cost of a delivery system with that of a Federal grant.

D. *Preliminary Listing of Federal Funding Alternatives:* Papers are requested on the feasibility and desirable features of the following examples of possible Federal funding alternatives. The listing is arranged starting from the level of least Federal involvement and proceeding to the highest level of Federal involvement envisioned given the scope of this study. The listing is *not* all inclusive, and can be expanded or refined. A Federal funding alternative could involve a combination of these approaches, with program responsibilities resting with EPA, States, Farmers Home Administration (FmHA), newly created entities, or shared responsibilities.

1=Complete local (or State) financing. No direct Federal grants or loans. Reliance upon traditional and innovative local financing (plus any State-initiated grant or loan programs).

2=1, but provide a loan program for small or needy communities, such as that conducted by Farmers Home Administration (FmHA).
3=2, but extend loan program to larger eligible projects.
3–1: State Loan Banks started with Federal seed money.
3–2: Federal Trust Fund loan program.
4=3, but add a limited categorical grants program for eligible small communities, *e.g.*, the combined FmHA loan/grant program.
5=4, but add a categorical grants program for the completion of projects that had received some initial EPA construction grants funding.
6=Extend the authorization period for the construction grant program under FY 1985 requirements.
6–1: Convert to Block Grant.
6–2: New Federalism.

It should be noted that a Federal *strategy* might include additional elements beyond mere financing arrangements. For example, regardless of the funding mechanisms used, consideration will be given to alternative methods of expediting cost-effective planning, design construction, and operation services.

VI. Study Recommendations

The study will provide the basis of recommendations for legislative proposals on reauthorization of the construction grants program. A final report will be prepared which summarizes the issues and alternatives addressed in the papers and comments received. The recommendations will address alternatives of delivery system(s) for the Federal funding, the time period for authorization, and levels of Federal funding.

VII. Study Organization and Schedule

As noted in the summary section of this notice, the principal staff support for this study will be provided by the EPA Office of Water Program Operations (OWOP), which will coordinate and manage the activities of a staff-level work group. Direction of the study will be provided by an EPA-wide Task Force on the Reauthorization of the Municipal Wastewater Treatment Construction Grant Program, comprised of selected EPA Assistant Administrators and Associate Administrators, a Regional Administrator, a Deputy Regional Administrator, a Regional Water Management Division Director, the Office Director, OWPO, and an ex officio State member. The Task Force will be chaired by the Assistant Administrator for the Office of Water.

The Task Force and study working group while be directly aided by an officially constituted advisory group to the construction grants program (the Construction Grants Management Advisory Group (MAG)), and an Interagency Group consisting of Federal Government officials from other U.S. government agencies and departments. An informal Liaison Group will be used to coordinate study activities with outside parties and receive comments from associations of State and local government officials, organizations of the manufacturing, construction, engineering, and consulting professions, environmental groups, and representatives of other interest groups in the municipal water pollution control field.

The papers received in response to this notice will be included in full or in part in an appendix to the final report. Copies or summaries of such papers will be provided to members of the Task Force, Interagency Group, MAG and the Liasion Group. To ensure adequate consideration, all comments and papers in response to this notice should be directed to the individual and location provided in the **ADDRESS** section of this notice.

The Agency expects to complete the study in accordance with the following schedule of activities.

Activity	Date
Close Comments	April 2, 1984
Complete Background Studies.	June 15, 1984.
Final Report	November 1984.
Legislative Propoal.	February 1985 (99th Congress, 1st Session).

Dated: February 10, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-4221 Filed 2-15-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Bank of Boston Corp.; Acquisition of Bank Shares by a Bank Holding Company

Bank of Boston Corporation, Boston Massachusetts, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to become a bank holding company by acquiring 100 percent of the voting shares of Colonial Bancorp, Inc., Waterbury, Connecticut, and indirectly Colonial Bank, Waterbury, Connecticut, through the merger of Colonial Bancorp, Inc., into a wholly-owned subsidiary of Applicant. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Bank of Boston Corporation, Boston, Massachusetts, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Colbanc Realty Corporation, Waterbury, Connecticut, and Colbanc Leasing Corporation, Waterbury, Connecticut.

Applicant states that the proposed subsidiaries would engage in the activities of mortgage banking and personal property leasing. These activities would be performed from offices of Applicant's subsidiaries in Waterbury, Connecticut and the geographic area to be served is the State of Connecticut. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than March 9, 1984.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4210 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

Commerce Union Corp., et al.; Notice of Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 7, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Commerce Union Corporation*, Nashville, Tennessee; to engage *de novo* through its wholly-owned subsidiary, Commerce Union Realty Services Corporation, Nashville, Tennessee, in the activity of arranging equity financing for income producing real properties.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Indiana National Corporation*, Indianapolis, Indiana; to engage *de novo* through its subsidiary Indiana Mortgage Corporation, Indianapolis, Indiana, in arranging equity financing for commercial and industrial income producing real estate projects.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bank System, Inc.*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, First Bank System Community Development Corporation, Minneapolis, Minnesota, in making a debt investment in the West Bank Homes Low-Income Leased Cooperative Scattered Site, an 18 unit project in the Cedar-Riverdale Neighborhood area of Minneapolis, Minnesota, designed primarily to promote community welfare through the development of the low-income housing.

2. *First Bank System, Inc.*, Minneapolis, Minnesota; to engage, *de novo* through its subsidiary, First Bank System Community Development Corporation, Minneapolis, Minnesota, in making a debt investment in the Worthington Student Housing Project, Worthington, Minnesota, designed primarily to promote community welfare through the development of low-income housing.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Centex Community Bankshares, Inc.*, Killeen, Texas; to engage in making or acquiring commercial or consumer loans and other extensions of credit and to act as insurance agent or broker for any insurance that is directly related to an extension of credit by itself or its subsidiary Citizens National Bank of Killeen.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation*, Los Angeles, California; to engage through its subsidiary, Security Pacific Finance Corp., Los Angeles, California, in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and servicing loans or other extensions of credit, pursuant to § 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4213 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

FSB Bancshares, Inc.; Formation of Bank Holding Co.

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard, Street, Dallas, Texas 75222:

1. *FSB Bancshares, Inc.*, Waco, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of each of the following banks: First State Bank-Coolidge, Coolidge, Texas; First State Bank-Mount Calm, Mount Calm, Texas; and First State Bank-Italy, Italy, Texas. Comments on this application must be received not later than March 6, 1984.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4208 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

Lewisville Bancorp, Inc., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. § 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank

holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 8, 1984.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Lewisville Bancorp, Inc.*, Lewisville, Minnesota; to become a bank holding company by acquiring 86.8 percent of the voting shares of Merchants State Bank of Lewisville, Lewisville, Minnesota.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Texas Southwest Bancorp, Inc.*, Mesquite, Texas; to acquire 100 percent of the voting shares or assets of Southwest Bank-Garland, Garland, Texas.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4209 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

Midwest Banco Corp.; Merger of Bank Holding Companies

Midwest Banco Corporation, Cozad, Nebraska, has applied for the Board's approval under § 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Wilber State Company, and indirectly acquire The Bank of Wilber, Wilber, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 8, 1984. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4211 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

The National Bank of Washington; Corp. To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as NBW International Banking Corporation, Baltimore, Maryland. NBW International Banking Corporation would operate as a subsidiary of The National Bank of Washington, Washington, D.C. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than March 9, 1984. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4212 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collections Under Review by the Office of Management and Budget (OMB); Federal Acquisition Regulation (Interim Clearance), and Request for Approval of Equipment

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to approve two requests for information collections. This action is required by the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

COMMENT DATE: Submit comments on these collections before March 2, 1984.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and to John F. Gilmore, GSA Clearance Officer (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Acquisition Policy (202-523-4799).

SUPPLEMENTARY INFORMATION:

1. *Federal Acquisition Regulation (Parts 16, 22, 31, 32, 36, 42, 45, 46).*

a. *Purpose.* This collection provides an interim clearance that covers all recordkeeping and reporting requirements necessary for the acquisition of supplies and services contained in this directive. It includes:

(1) Subchapter C, Part 16 Contracting Methods and Contract Types.

(2) Subchapter D, Part 22, Socioeconomic Programs, Application of Labor Laws to Government Acquisitions.

(3) Subchapter E, General Contracting Requirements:

(a) Part 31, Contract Cost Principles and Procedures.

(b) Part 32, Contract Financing.

(4) Subchapter F, Part 36, Special Categories of Contracting, Construction and Architect-Engineer Contracts.

(5) Subchapter G, Contract Management:

(a) Part 42, Contract Administration.

(b) Part 45, Government Property.

(c) Part 46, Quality Assurance.

(6) Subchapter H, Clauses and Forms:

(a) Part 52, Solicitation Provisions and Contract Clauses.

(b) Part 53, Forms.

(7) Miscellaneous actions:

(a) Invoice requirements.

(b) Labeling requirements.

(c) Price information.

(d) Protests.

(e) Requests for addresses, etc.
(f) Shipping documents annotations.
(g) Written claims.
(h) Discount for prompt payment.

b. *Annual reporting and recordkeeping burden.* This is estimated as follows: Respondents and recordkeepers 6,063, responses 30,315, reporting and recordkeeping hours 60,630.

2. *Request for Approval of Equipment.*

a. *Purpose.* This collection requests firms that have construction contracts that require the installation of equipment to provide data to ensure that the machinery meets Federal standards.

(b) *Annual reporting burden.* This is estimated as follows: Respondents 316, responses 747, hours 119.

3. *Copies of proposals.* Requestors may obtain copies from the Directives and Reports Management Branch (ATRAI), Room 3004, GS Building, Washington, DC 20405, telephone (202–566–066).

Dated: February 9, 1984.

William W. Hiebert,

Acting Director, Information Management Division.

[FR Doc. 84-4173 Filed 2-15-84; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority; Office of Inspector General

This notice amends Part A (Office of the Secretary) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, to make a change in Chapter AF, Office of Inspector General (47 FR 20035, May 10, 1982, as amended by 47 FR 39616, August 9, 1982; 48 FR 4917, February 3, 1983; and 48 FR 4919, February 3, 1983).

The purpose of this amendment is to reflect the reorganization of a major component within the Office of Inspector General, the Office of Systems Integrity. Although the general responsibilities of this office will be similar to those it has previously held, the title of the Office will be changed to the Office of Program Inspections, and the staff alignments within the Office will be modified.

1. Amend section AF.10 of Chapter AF by deleting "Office of Systems Integrity" and inserting instead "Office of Program Inspections".

2. Amend section AF.20.E to read as follows:

E. *The Office of Program Inspections.* The Office of Program Inspections is under the general supervision of the Assistant Inspector General for Program Inspections.

The Office of Program Inspections:

(a) Develops and leads management studies of HHS programs;

(b) Conducts service delivery assessments;

(c) Reviews proposed Congressional legislation and regulations ensuring that they contain adequate safeguards against fraud, waste, abuse and mismanagement;

(d) Develops legislative and regulatory proposals to maintain and strenthen HHS programs;

(e) Develops corrective action and recommendations for HHS OPDIVs to assist them in reducing fraud, waste, abuse and mismanagement;

(f) Tracks agency follow-up activities to ensure appropriate action from recommendations made by the Office of Inspector General (OIG), Office of Management and Budget, Government Accounting Office and/or Congressional reports;

(g) Coordinates HHS participation in the President's Council on Integrity and Efficiency (PCIE), and other interagency efforts addressing common program integrity concerns;

(h) Provides policy strategy and program advice to the Inspector General;

(i) Maintains liaison with other Offices of Inspector General, related professional organizations, Federal agencies and non-governmental entities to promote the objectives of the Office of Inspector General;

(j) Conducts reviews to identify systems vulnerabilities in HHS programs and recommends appropriate changes in program policy, regulations, and laws to decrease the opportunity for and the incidence of fraud, waste, abuse and mismanagement; and

(k) Prepares the Inspector General's Work-plan and the Semiannual Report to the Congress.

The Office of Program inspections consists of the following:

(a) Inter-Departmental Coordinations Staff

(b) Division of Legislative and Regulatory Review

(c) Division of Interagency Projects

(d) Division of Analysis and Inspections

(1) Field Inspections Branch

(2) Social Security Analysis Branch

(3) General Analysis Branch

The functions of the components of the Office of Program Inspections are:

(a) *Inter-Departmental Coordinations Staff:*

(i) Provides coordination for the Inspector General's participation in joint activities with other governmental entities, including the OMB, Agency Inspectors General and the PCIE;

(ii) Develops and maintains effective liaison with OMB staff assigned to coordinate activity with other agency PCIE coordinators and PCIE project leaders in the Department;

(iii) Supports and advises the Inspector General regarding the scope of inter-departmental activities and recommends directions for further activities;

(iv) Coordinates the Forum of Assistant Inspectors General;

(v) Prepares the Inspector General's Work-plan and Semiannual Report to the Congress; and

(vi) Organizes and issues reports to the Inspector General and the OMB on PCIE activities.

(b) *Division of Legislative and Regulatory Review:*

(i) Responsible for the major prevention activities of the Inspector General;

(ii) Inspects HHS regulations and legislative proposals;

(iii) Prepares advisory reports describing how various actions contribute to or deviate from appropriate HHS systems program integrity;

(iv) Consolidates audit, studies and inspection findings;

(v) Prepares recommendations for OIG-initiated legislation and/or regulations;

(vi) Develops legislative and regulatory proposals;

(vii) Develops OIG strategies by monitoring HHS policy trends and Congressional legislative trends.

(c) *Division of Interagency Projects:*

(i) Manages interagency projects approved and assigned by the President's Council on Integrity and Efficiency which are generally national in scope and require coordination between Federal, State, and local government agencies;

(ii) Coordinates Federal, State, and local agencies' surveys and analyzes data collected from these surveys and interviews;

(iii) Prepares and distributes technical documents;

(iv) Develops policy papers and reports on integrity and efficiency in Federal programs;

(v) Provides leadership for PCIE project task forces and technical workgroups;

(vi) Prepares testimony, speeches, and articles concerning the work and outcome of PCIE projects;

(vii) Collects and synthesizes information and prepares monographs on a variety of Departmental program issues.

(c) *Division of Analysis and Inspections:*

(i) Conducts comprehensive HHS program inspections to assess HHS programs' management efficiency and to identify systemic vulnerability to fraud, waste, abuse and mismanagement;

(ii) Conducts comprehensive inspections, which include reviewing the findings of audits, reviews, inspections and service delivery assessments to identify and measure trends and patterns of fraud, waste, abuse and mismanagement in HHS programs;

(iii) Develops recommendations to improve program efficiency and to provide early detection and prevention of fraud, waste, abuse and mismanagement.

(1) *Field Inspections Branch:*

(i) Conducts short-term inspections and service delivery assessments in HHS field programs and regional offices, including site visits and discussions with HHS program staff and program participants;

(ii) Reviews program information to identify systemic vulnerability to fraud, waste, abuse and mismanagement and coordinates all studies with components of the OIG and HHS Divisions.

(2) *Social Security Analysis Branch:*

(i) Conducts inspections and comprehensive analyses of all Social Security programs including site visits and discussions with HHS program staff and program participants;

(ii) Reviews Social Security program information to identify systemic vulnerability to fraud, waste, abuse and mismanagement;

(iii) analyzes investigative and management implication reports pertaining to any Social Security program to identify areas requiring corrective action or further analysis and coordinates all studies with components or the OIG and HHS Divisions.

(3) *General Analysis Branch:*

(i) Conducts inspections and comprehensive analyses of health, human development and Office of the Secretary (OS) programs;

(ii) analyzes management implication reports pertaining to health, human development and OS programs to identify areas requiring corrective action or further analysis;

(iii) Conducts site visits and discusses with program staff and program participants, and reviews program information to identify systemic vulnerability to fraud, waste, abuse and mismanagement;

(iv) Coordinates all studies with components of the OIG and HHS Divisions.

Dated: February 8, 1984.

John J. O'Shaughnessy,

Assistant Secretary for Management and Budget.

[FR Doc. 84-4227 Filed 2-15-84; 8:45 am]

BILLING CODE 4150-04-M

Alcohol, Drug Abuse, and Mental Health Administration

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of March 1984.

Cognition, Emotion, and Personality Research Review Committee: March 2–4; 9:00 a.m., Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, D.C. 20007.

Open: March 2; 9:00–10:00 a.m.

Closed: Otherwise.

Contact: Shirley Maltz, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to personality, emotion, cognition, and related higher mental processes, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., March 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of the Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Research Scientist Development Review Committee: March 4–6; 7:00 p.m., Sheraton Washington Hotel, 2660 Woodley Road at Connecticut Avenue, Washington, D.C. 20008.

Open: March 5; 9:00–9:30 a.m.

Closed: Otherwise.

Contact: Diana Souder, Room 9C05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6470.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals who are engaged full time in research and related activities relevant to mental health, with recommendations to the National Advisory Mental Health Council for final action.

Agenda: From 9:00–9:30 a.m., March 5, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Mental Health Research Education Review Committee: March 7–9; 9:00 a.m., Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, D.C. 20007.

Open: March 7–9; 9:00–10:00 a.m.

Closed: Otherwise.

Contact: Emilie Embrey, Room 9–101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the areas of biological sciences, the psychological sciences, and the applied behavioral sciences related to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., March 7, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and

section 10(d) of the Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Neuropsychology Research Subcommittee of the Basic Psychopharmacology and Neuropsychology Research Review Committee: March 8–10; 9:00 a.m., The Capitol Hill Hotel, 200 C Street, SE., Washington, D.C. 20003.

Open: March 8; 9:00–10:00 a.m.

Closed: Otherwise.

Contact: Fay Polcak, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., March 8, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Clinical Program Projects/Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee: March 13–14; 9:00 a.m., Sheraton Washington Hotel, 2660 Woodley Road, NW., Washington, D.C. 20008.

Open March 13; 9:00–10:00 a.m.

Closed: Otherwise.

Contact: Pamela J. Mitchell, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of Mental Health Clinical Research Centers, clinical program projects, and other large-scale multidisciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., March 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Epidemiologic and Services Research Review Committee: March 19–21; 9:00 a.m. Sheraton Washington Hotel, 2660 Woodely Road at Connecticut Avenue, NW., Washington, D.C. 20008.

Open: March 19; 9:00–10:00 a.m.

Closed: Otherwise.

Contact: Gloria Yockelson, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., March 19, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Mental Health Small Grant Review Committee: March 28–31; 1:30 p.m., The Henley Park Hotel, 926 Massachusetts Avenue, NW., Washington, D.C. 20001.

Open: March 28; 1:30–2:30 p.m.

Closed: Otherwise.

Contact: Virginia Harter, Room 9–95, Parklawn Building, 5600 Fisher Lane, Rockville, Maryland 20857, (301) 443–4843.

Purpose: The Committee is charged with the initial review of applications for research in all disciplines pertaining to alcohol, drug abuse, and mental health for support of research in the areas of psychology, psychiatry and the behavioral and biological sciences, with recommendations to the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Council on Drug Abuse.

Agenda: From 1:30–2:30 p.m., March 28, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: Ms. Helen W. Garrett, Committee Management Officer, National Institute of Mental Health, Room 17C26, Parklawn Building 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: February 10, 1984.

Sue Simmons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 84–4157 Filed 2–15–84; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. March 12, 8:30 a.m., Bldg. 29, Rm. 121, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m.; closed committee discussion, 9:30 a.m. to 5 p.m.; Jack Gertzog, National Center for Drugs and Biologics (HFN–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Closed committee discussion. The committee will discuss trade secret or confidential commercial information relevant to pending investigational new drugs (IND's), and license applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. These portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: February 10, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84–4156 Filed 2–15–84; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Detroit District Office, chaired by Alan L. Hoeting, District Director. The topic to be discussed is Patient Education.

DATE: Tuesday, February 21, 1984, 9:30 a.m.

ADDRESS: George Potter Larrick Bldg., Conference Room, 1560 East Jefferson Ave., Detroit, MI 48207.

FOR FURTHER INFORMATION CONTACT: Janine W. Jarvela, Acting Consumer Affairs Officer, Food and Drug Administration, 1560 East Jefferson Ave., Detroit, MI 48207, 313–226–6260.

Minneapolis District Office, chaired by John Feldman, District Director. The topics to be discussed are Health Fraud, Safe Use of Drugs, and Sodium.

DATE: Monday, March 5, 1984, 1 p.m. to 3 p.m.

ADDRESS: Labor Center, 2002 London Rd., Duluth, MN 55812.

FOR FURTHER INFORMATION CONTACT: Blanche L. Erkel, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612–725–2121.

Los Angeles District Office, chaired by Abraham I. Kleks, District Director. The topics to be discussed are Drugs and the Elderly and Other Current Issues.

DATE: Thursday, March 8, 1984, 9 a.m.

ADDRESS: Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015.

FOR FURTHER INFORMATION CONTACT: Gordon L. Scott, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213–688–4395.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: February 10, 1084.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–4154 Filed 2–15–84; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

Cancer Clinical Investigation Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, March 5–7, 1984, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on March 5, from 8:30 a.m. to 9:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 5, from approximately 9:00 a.m. to recess, on March 6, from 8:30 a.m. to recess, and on March 7, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual cooperative agreement applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Richard K. Hsieh, Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 819, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7481) will furnish substantive program information.

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4175 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Meetings for the Review of Grant Applications

Pursuant to Pub. L. 92–463, notice is hereby given for meetings of several committees of the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of meetings and rosters of committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: Cancer Control Grant Review Committee.

Dates: March 5–6, 1984.

Place: National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20205.

Times

Open: March 5, 8:30 a.m.–9:00 a.m.

Agenda: A review of administrative details.

Closed: March 5, 9:00 a.m.—recess; March 6, 8:30 a.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. Robert F. Browning, Westwood Building, Room 806, National Institutes of Health, Bethesda, MD 20205.

Phone: 301/496–7413.

(Catalog of Federal Domestic Assistance Number 13.399, project grants in cancer control, National Institutes of Health)

Name of Committee: Cancer Preclinical Program Project Review Committee.

Dates: March 15–16, 1984.

Place: National Institutes of Health, Building 31C, Conference Room 8, 9000 Rockville Pike, Bethesda, MD 20205.

Times

Open: March 15, 9:00 a.m.–9:30 a.m.

Agenda: A review of administrative details.

Closed: March 15, 9:30 a.m.—recess; March 16, 8:30 a.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. Dennis F. Cain, Westwood Building, Room 820, National Institutes of Health, Bethesda, MD 20205.

Phone: 301/496–7929.

(Catalog of Federal Domestic Assistance Number 13.392, project grants in cancer construction, National Institutes of Health)

Name of Committee: Clinical Cancer Program Project Review Committee.

Dates: March 29–30, 1984.

Place: National Institutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20205.

Times

Open: March 29, 8:30 a.m.–10:00 a.m.

Agenda: Review by the Division Director, Branch Chief, Executive Secretary and Chairman; and a review of administrative details.

Closed: March 29, 10:00 a.m.—recess; March 30, 8:30 a.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. M. Wayne Hurst, Westwood Building, Room 848, National Institutes of Health, Bethesda, MD 20205.

Phone: 301/496–7924.

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, National Institutes of Health)

Name of Committee: Cancer Center Support Review Committee.

Dates: March 29–30, 1984.

Place: National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20205.

Times

Open: March 29, 8:30–9:30 a.m.

Agenda: Reports by Division Director, Branch Chief, and Executive Secretary on Committee concerns followed by open discussion and review of administrative details.

Closed: March 29, 9:30 a.m.—recess; March 30, 8:30 a.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. John W. Abrell, Westwood Building, Room 826, National Institutes of Health, Bethesda, MD 20205. Phone: 301/496–9767.

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, National Institutes of Health)

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4176 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Developmental Therapeutics Contracts Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, March 12, 1984, Building 31, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20205. This meeting will be open to the public on March 12, from 8:30 a.m. to 9:00 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 12, from approximately 9:00 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposal, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Kendall G. Powers, Executive Secretary, Developmental Therapeutics Contracts Review Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7575) will furnish substantive program information.

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4177 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Environmental Health Sciences Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on March 19–20, 1984, in Building 101 Conference Room, Research Triangle Park, North Carolina. This meeting will be open to the public from 9:00 a.m. to approximately 10:30 a.m. on March 19, for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 10:30 a.m., March 19, to adjournment on March 20, for the review, discussion and evaluation of individual grant applications and contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Carol Shreffler, Executive Secretary, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919–541–7826), will provide summaries of meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4178 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Cancer Therapeutics Program Project Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Therapeutics Program Project Review Committee, National Cancer Institute, April 9 and 10, 1984, Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on April 9, from 9:00 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on April 9, from approximately 9:30 a.m. to recess, and on April 10, from 9:00 a.m. to adjournment, for the review, discussion, and evaluation of individual program project applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A–06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Eric R. Jurrus, Executive Secretary, Cancer Therapeutics Program Project Review Committee, National Cancer Institute, Westwood Building, Room 834, National Institutes of Health, Bethesda, Maryland 20205 (301/496–2330) will furnish substantive program information.

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4179 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors, Division of Cancer Etiology; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Etiology on March 1–2, 1984, Building 31, C Wing, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The meeting will be open to the public from approximately 11:00 a.m. to

recess on March 1, and from 9:00 a.m. to adjournment on March 2, for an update of the Division budget and review of concepts for grants and contracts. Attendance by the public will be limited to space available.

The Board of Scientific Counselors meeting will be closed to the public from 9:00 a.m. to approximately 11:00 a.m. on March 1, 1984, in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Etiology. The programs, projects, and discussions could reveal personal information concerning individuals associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, Room 11A04, National Institutes of Health, Bethesda, Maryland 20205 (301/496–6927) will furnish substantive program information.

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4180 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Subcommittee on Animal Resources of the Animal Resources Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Subcommittee on Animal Resources, Animal Resources Review Committee, Division of Research Resources, on March 1, 1984 from 8:00 a.m. to recess and on March 2, 1984 from 8:00 a.m. to adjournment in Conference Room 2, Building 31, National Institutes of Health, Bethesda, Md., 20205.

The meeting will be open to the public on March 1 from 3:00 p.m. to approximately 5:00 p.m. for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 1 from approximately 8:00 a.m. to 3:00 p.m. and on March 2 from 8:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Building 31, National Institutes of Health, Bethesda, Md. 20205, (301) 496.5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Md. 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: February 1, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–4181 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Biomedical Library Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on March 14–15, 1984, convening each day at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on March 15, and the meeting of the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications on March 13 from 2:00 p.m. to 5:00 p.m. in the 5th-Floor Conference Room of the Lister Hill Center Building.

The meeting on March 14 will be open to the public from 8:30 to 11:00 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the regular meeting and the subcommittee meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications as follows: The regular meeting on March 14 from 11:00 a.m. to 5:00 p.m., and on March 15, from 8:30 a.m. to adjournment; and the subcommittee meeting on March 13 from 2:00 p.m. to 5:00 p.m. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, telephone number: 301–496–4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: February 1, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–4182 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Aging Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on March 21, 22, and 23, 1984, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on March 21, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 21, from 10:00 a.m. to adjournment on March 23, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 2C05, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–5898, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: February 1, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–4183 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Vision Research Program Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, March 22 and 23, 1984, Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on March 22 from 8:30 a.m. to 9:30 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:30 a.m. on March 22 until adjournment on March 23 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Carter, Committee Management Officer, National Eye Institute, Building 31, Room 6A–03, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–4903, will provide summaries of the meeting and rosters of committee members.

Dr. Catherina Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–06, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–5561, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

Dated: February 1, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84–4184 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

National Diabetes Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Diabetes Advisory Board on March 5, 1984, 8:30 a.m. to adjournment, at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814. The meeting which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat diabetes mellitus. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the Hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, P.O. Box 30174, Bethesda, Maryland 20205, (301) 496–6045, will provide an agenda and rosters of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: February 9, 1984.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 84–4185 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors, NLM; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Library of Medicine, March 19 and March 20, 1984, in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Md.

The meeting will be open to the public from 9:00 a.m. to 4:00 p.m. on March 19, 1984, and from 8:30 a.m. to 4:00 p.m. on March 20, 1984, for the review of research and development programs of the Lister Hill National Center for Biomedical Communications. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 19, 1984, from approximately 4:00 p.m. to 5:00 p.m. for the consideration of personnel qualifications and performance of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Richard B. Friedman, Director, Lister Hill National Center for Biomedical Communications, National Library of Medicine, 8600 Rockville Pike, Bethesda, Md. 20209, telephone (301) 496–4441, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: February 6, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–4186 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, National Institutes of Health on March 11–12, 1984, at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on March 11, 1984, from 8:00 p.m. until recess, to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung and Blood Institute.

In accordance with the provisions set forth in Section 552b(c)(6), title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 12, 1984, from 8:00 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. John L. Fakunding, Executive Secretary, NHLBI, Westwood Building,

Room 550, Bethesda, Maryland 20205, phone (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: February 6, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–4187 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Health Care Financing Administration

Medicare Program; List of Covered Surgical Procedures for Ambulatory Surgical Centers

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

ACTION: Proposed notice and request for comment.

SUMMARY: HCFA is seeking suggestions for possible additions or revisions to the current list of ambulatory surgical center (ASC) procedures covered under Medicare. Our current list of covered ASC procedures was published in the **Federal Register** on August 5, 1982 (47 FR 34099). In this notice we are also soliciting comments on additional ASC procedures that have been suggested by the public since publication of our current list.

DATE: To assure consideration, comments must be received by April 16, 1984.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–274–PNC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C., or to Room 132, East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Comments will be available for public inspection beginning approximately 2 weeks from publication in Room 309–G of the Department's office at 200 Independence Ave., S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Herbert J. Jacobs, M.D., 301–597–1734.

SUPPLEMENTARY INFORMATION:

Background

Section 934 of Pub. L. 96–499, the Omnibus Reconciliation Act of 1980, amended title XVIII of the Social Security Act (the Act) to authorize Medicare Part B coverage for facility services furnished in connection with certain surgical procedures performed in an ambulatory surgical center (ASC). (42 CFR 416.60 and 416.61). For those procedures performed in the ambulatory surgical facility or on an outpatient basis in a hospital, 100 percent of the physician's reasonable charge will be paid if the physician accepts assignment. (Under the usual procedures, Medicare reimburses 80 percent of the physician's reasonable charge and the beneficiary is responsible for the remainder (42 CFR 405.240).)

With respect to the surgical procedures covered under this provision, the Act requires the Secretary to specify in consultation with appropriate medical organizations, surgical procedures that, although appropriately performed in an inpatient hospital setting, may also be performed safely in certain ambulatory settings. The report accompanying the legislation (Report of the Committee on the Budget to Accompany H.R. 7766. H.R. Rep. No. 96–1167, p. 390) explained that Congress intended that procedures currently performed on an ambulatory basis, especially in physicians' offices, that do not generally require the more elaborate facilities of an ASC, should not be included in the list of covered procedures.

In line with this Congressional intent, our current regulations specify the following four requirements regarding the range of covered services.

1. Procedures on the list are to be those commonly performed on an inpatient basis but which also may, consistent with accepted medical practice, be performed in an ambulatory surgical facility (42 CFR 416.65(a)(1)).

2. The list is to exclude procedures that are commonly performed, or that may be safely performed, in physicians' offices (42 CFR 416.65(a)(2)).

3. Procedures should be limited to those requiring a dedicated operating room and not requiring an overnight stay (42 CFR 416.65(a)(3)).

4. The list should not contain procedures excluded from Medicare coverage (42 CFR 416.65(a)(4)).

We recognize that for individuals with certain medical conditions, a procedure on the list may be safely performed only on an inpatient basis. The choice of operating site remains a matter for the professional judgment of the patient's physician.

The first list of covered ASC procedures was published as a final notice on August 5, 1982 (47 FR 34099). This notice presents potential revisions to the list of covered surgical procedures and requests information and suggestions for revisions and additions to the current list of ASC procedures. After reviewing the comments we intend to publish any revisions in a later document.

We intend to circulate this proposed notice to appropriate medical organizations as a means of initiating discussions with these groups regarding suggestions for additions and revisions to the list of covered procedures.

Request for Information

A. Suggestions for Changes to the List of Covered Procedures

Advances in medical science make additions or revisions to the list of covered ASC procedures necessary to keep pace with changing practices. In making suggestions for revisions in the list, we ask that respondents specifically consider the four requirements contained in 42 CFR 416.65(a) and discussed above. We also request that suggestions for additional procedures or changes in existing procedures refer to each surgical procedure according to HCFA Common Procedure Coding System (HCPCS) or the American Medical Association's (AMA) CPT–4 terminology and coding. This is because procedures are so listed in the Medicare Carriers Manual—Part B, and can be easily referenced.

B. Information for Determining Reimbursement for New Procedures

ASC covered procedures are classified according to a four group reimbursement classification system, as follows:

Group 1—$231
Group 2—$275
Group 3—$296
Group 4—$336.

All procedures within each group are reimbursed at a single rate adjusted for geographic variation. The reimbursement methodology employs an index method to rank each procedure based on a facility's charges for an individual procedure as compared to its average charge for all procedures offered. We account for new procedures that might be added to the list from time to time by developing an average index number from our existing charge data and assigning a procedure to its appropriate group. For an explanation of how the reimbursement rates are determined and how individual

procedures are classified to one of the four payment groups, see the preamble to the proposed rule (47 FR 12579, March 23, 1982). We are very interested in receiving charge schedules for new procedures from ambulatory surgical facilities to determine index values for new procedures and to ensure that new procedures are accurately assigned to payment groups. Based on the data in our files and the charging information we receive as a result of this notice, we will classify each procedure that we add to the list of covered surgical procedures in connection with ambulatory surgical services to one of the four payment groups.

C. Previously Suggested Additiions to the List of Covered ASC Procedures

Following is a list of suggested additions to the list of covered ASC procedures. These suggestions were taken from comments received after publication of our initial list of covered procedures. The suggested procedures are listed according to body system and the appropriate terminology and coding. The HCPCS has adopted both the code numbers and terminology of CPT–4. Therefore, reference to the listed ASC procedures may be found in both documents. These represent suggestions of commenters rather than an initial finding by HCFA that these specific procedures should be covered when performed in ASCs.

Body system and term for procedure	HCPCS or CPT–4 code
Integumentary System:	
Adjacent tissue transfer or rearrangement.	14000–14061.
Incision and drainage of abscess, complicated.	10061.
Dressings and/or debridement; under anesthesia.	16010 and 16015.
Incision and removal of foreign body, complicated.	10121.
Musculoskeletal System:	
Phalangectomy, single	28150.
Hallux valgus (bunion) correction, with metatarsal osteotomy.	28296.
Osteotomy procedures	25350–25365, 28300 and 28304.
Bursectomy procedures	27060–27062 and 27340.
Fasciotomy/Fasciectomy procedures.	27600–27602 and 28060.
Arthroplasty carpometacarpal joint.	26527.
Removal of implant; superficial and deep.	20670 and 20680.
Meniscectomy	27332 and 27333.
Webbing operation	28280.
Biopsy, muscle; deep	20205.
Respiratory System:	
Biopsy, intranasal	30100
Cardiovascular System:	
Repair of pacemaker; with replacement of pulse generator.	33219
Digestive System:	
Colonoscopy	45360–45386.
Vestibuloplasty	40840–40845.
Proctosigmoidoscopy with removal of polyp or papilloma.	45310.
Fissurectomy, with or without sphincterotomy.	46200.
Incision and drainage of rectal abscess.	45005.
Rectal biopsy	45100.
Esophageal motility study	91010.
Urinary System:	
Cystourethroscopy procedures.	52105 and 52110.
Litholapaxy	52800.
Male Genital System:	
Circumcision	54154 and 54161.
Biopsy of testis	54505–54506.
Slitting of prepuce, dorsal or lateral.	54001.
Incision and drainage of epididymis, testis and/or scrotal space.	54700.
Female Genital System:	
Biopsy of cervix	57520.
Incision and drainage of perineal abscess.	56000.
Incision and drainage, abscess of vulva, extensive.	56400.
Destruction of condylomata	56500.
Colporrhaphy	57200.
Nervous System:	
Internal neurolysis by dissection.	64727.
Eye and Ocular Adnexa System:	
Keratoplasty—all types except refractive.	65710–65750.
Destruction of progressive retinopathy, photocoagulation, laser.	67226.
Fistulization procedures for glaucoma.	66150–66170.
Cyclodiathermy	66700–66701.
Cyclocryotherapy	66720–66721.
Cyclodialysis	66740–66741.
Vitrectomy	67010 and 67015.
Repair retinal detachment	67102–67108.
Discission of secondary membranous cataract.	66820.
Paracentesis	65800–65815.
Iridectomy	66600–66635.
Removal of foreign body intraocular; magnetic and nonmagnetic.	65260–65265.
Repair laceration; conjunctiva.	65270.
Excision lesion cornea	65400.
Biopsy cornea	65410.
Excision lesion sclera	66130.
Revision or repair operative wound.	66250.
Auditory System:	
Excision aural polyp	69540.
Removal of foreign body from external auditory canal; with general anesthesia.	69205.

Please send comments and suggestions regarding these proposed additions and any other procedures to the address indicated at the beginning of this proposed notice.

Impact Statement

As noted above, we are seeking suggestions for possible additions or revisions to the current list of ASC procedures covered under Medicare and we are also soliciting comments on a proposed list of additional ASC procedures and to classifying them to appropriate payment groups. We have determined that this proposal will not meet the threshold criteria of Executive Order 12291 or the Regulatory Flexibility Act as no economic impact results from our soliciting public comments. However, we intend to analyze the impact of any additions or revisions, to the list of ASC procedures or to their classification by payment group, when the list of procedures is published in the final notice.

(Section 1833(i)(1) of the Social Security Act (42 U.S.C. 1395))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medical Insurance Program)

Dated: February 10, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 84–4281 Filed 2–15–84; 8:45 am]

BILLING CODE 4120–03–M

Public Health Service

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the first floor auditorium, Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, D.C., on March 23, 1984.

The meeting will be open to the public from 9:00 a.m. until adjournment. The primary agenda item is the completion of peer review on draft technical reports of long-term toxicology and carcinogenesis studies from the National Toxicology Program. Reviews will be conducted by the Technical Reports Review Subcommittee of the Board in conjunction with an *ad hoc* panel of experts.

Draft technical reports on the following chemicals (listed alphabetically with Chemical Abstracts Service registry numbers and routes of administration) will be peer reviewed March 23. Also listed are the NTP chemical managers for each study.

Chemical (CAS Registry No.)	Route	Chemical manager (telephone No.)
Chlorodibromomethane (124–48–1).	Gavage	Dr. J. Dunnick (919–541–4811).
Diallylphthalate (131–17–9)	Gavage	Dr. W. Kluwe (919–541–4177).
Hamamelis Water (Witch Hazel) (68916–39–2).	Dermal	Dr. P. Thadani (919–541–4633).
HC Blue 1 (2784–94–3)	Feed	Dr. J. Mennear (919–541–4178).
8-Hydroxyquinoline (148–24–3).	Feed	Dr. J. French (919–541–7790).

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919–541–3971), FTS (629–3971), will furnish rosters of subcommittee and panel members and

other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: February 10, 1984.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 84-4174 Filed 2-15-84; 8:45 am]

BILLING CODE 4140-01-M

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 48 FR 36897-36898, August 15, 1983) is amended to: (1) Reflect the transfer of the real property and space management functions from the Communications and Management Analysis Office to the Engineering Services Office, and to include responsibility for office automation and telecommunications security in the Communications and Management Analysis Office; (2) revise the functional statement of the Laboratory Program Office to delete the introductory statement referring to the position of Assistant Director for Science since the Director, Laboratory Program Office, now reports to the Director, Centers for Disease Control; (3) within the Center for Prevention Services, change the name of the Division of Venereal Disease Control to the Division of Sexually Transmitted Diseases, and change references to venereal diseases in the functional statement to sexually transmitted diseases, and revise the Division of Immunization functional statement to add the word "designated" when referring to diseases for which immunizing agents are available.

Section HC-B, *Organization and Functions,* is hereby amended as follows:

1. After the heading and statement for the *Office of Administrative Management (HCA5),* delete in their entirety the statements for the *Communications and Management Analysis Office (HCA59)* and the *Engineering Services Office (HCA52),* and substitute the following in the proper order:

Communications and Management Analysis Office (HCA59). (1) Plans, coordinates, and provides CDC-wide administrative, technical, management, and information services in the following areas: Committee management, communications, correspondence, delegations of authorities, distribution, forms, Freedom of Information Act Index, issuances, library services, mail, office automation, organization and functions, personnel and documentary security, policy and procedures, printing and reproduction, Privacy Act, public inquiries, records, regulations, reports, and studies and surveys; (2) develops and implements policies and procedures in these areas; (3) maintains liaison with HHS, PHS, General Services Administration, the Government Printing Office, and other Government and private agencies.

Engineering Services Office (HCA52). (1) Operates, maintains, repairs, and modifies CDC's Atlanta area plant facilities; and conducts a maintenance and repair program for CDC's program support equipment; (2) carries out facilities planning functions for CDC, including new or expanded facilities, and a major repair and improvement program; (3) plans and directs the real property and space management program throughout CDC, including the acquisition and utilization of leased space; (4) develops services for new, improved, and modified equipment to meet program needs; (5) maintains physical security for the Chamblee and Lawrenceville facilities; (6) provides technical assistance for and reviews maintenance and operation programs of field installations and recommends appropriate action; (7) maintains liaison with the Division of Health Facilities Planning of the Office of the Assistant Secretary for Health, and the Office of Facilities Engineering, Office of the Secretary.

2. After the heading *Laboratory Program Office (HCJ),* delete the introductory statement: "Under the direction of CDC's Assistant Director for Science:"

3. After the heading and statement for the *Center for Prevention Services HCM),* make the following changes:

a. Delete the title and statement for the *Division of Venereal Disease Control (HCM4)* in its entirety and substitute the following:

Division of Sexually Transmitted Diseases (HCM4). (1) Administers research and operational programs for the prevention and control of syphilis, gonorrhea, and other sexually transmitted diseases; (2) provides consultation, training, statistical, promotional, educational, epidemiological, and other technical services to assist and stimulate State and local health departments in the planning, development, implementation, and overall improvement of sexually transmitted disease control programs; (3) supports a nationwide framework for effective surveillance of sexually transmitted diseases; (4) provides technical supervision to State and local assignees working on sexually transmitted disease control activities.

b. In the subparagraph titled *Division of Immunization (HCM2),* amend items (2) and (3) to read as follows: "(2) provides consultation, training, statistical, promotional, educational, epidemiological, and other technical services to assist and stimulate State and local health departments in the planning, development, implementation, and overall improvement of programs for the prevention, control, and eventual eradication of designated serious diseases for which effective immunizing agents are available; (3) supports a nationwide framework for effective surveillance of designated diseases for which effective immunizing agents are available;"

Dated: February 6, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 84-4207 Filed 2-15-84; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-84-1345]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Electricity Data, Gas Data, and Water and Sewage Disposal Data
Office: Public and Indian Housing
Form number: HUD-51466a, HUD-51466b, and HUD-51466c
Frequency of submission: Annually
Affected public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 8,000
Status: New
Contact: Charles Ashmore, HUD, (202) 755–6640; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Request for Approval of Advances for Non-Permanently Financed Projects and Development Cost Budget Statement
Office: Public and Indian Housing
Form number: HUD-5216, HUD-52344, HUD-52397, HUD-52423, HUD-52427, and HUD52484
Frequency of submission: On Occasion
Affected public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 14,463
Status: Revision
Contact: Raymond W. Hamilton, HUD, (202) 426-0938; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Development Program of Public Housing Agency
Office: Public and Indian Housing
Form Number: HUD–52483
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated burdens hours: 490
Status: Revision
Contact: Raymond W. Hamilton, HUD, (202) 426–0938; Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Forms for Application and PHA Proposal
Office: Public and Indian Housing
Form Number: HUD–51971–I/II, HUD–52470, HUD–52471, HUD–52481, HUD–52482, HUD–52483–A, HUD–52485, HUD–52651–A, HUD–9009, and HUD–9013
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 4,704
Status: Revision
Contact: Raymond W. Hamilton, HUD, (202) 426–0938; Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: PHA Designation of Depositary and Depositary Agreement Forms
Office: Public and Indian Housing
Form Number: HUD–274, HUD–51999, HUD–51999A, and HUD–52000
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated burdens hours: 451
Status: New
Contact: Raymond W. Hamilton, HUD, (202) 426–0938; Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 25, 1984.

Donald C. Demitros,

Acting Director, Office of Information Policies and Systems.

[FR Doc. 84–4319 Filed 2–15–84; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–84–1344]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address

and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Tentative Allocation of Funds and Solicitation of Program Proposals
Office: Solar Energy and Energy Conservation Bank
Form number: None
Frequency of submission: On Occasion
Affected public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 800
Status: New
Contact: Richard H. Francis, HUD, (202) 755-7166; Robert Neal, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 3, 1984.

Donald C. Demitros,

Acting Director, Office of Information Policies and Systems.

[FR Doc. 84-4320 Filed 2-15-84; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-84-730]

Designation of Authority; Order of Succession; Regional Administrator

AGENCY: Department of Housing and Urban Development, Region I.

ACTION: Designation of authority—order of succession.

SUMMARY: This document designates the order of succession to the position of Regional Administrator, in the absence of the Regional Administrator.

EFFECTIVE DATE: This designation is effective January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Marvin H. Lerman, Regional Counsel, Boston Regional Office, Department of Housing and Urban Development, JFK Federal Building, Boston, MA 02203, (617) 223-4321. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: During any period when, by reason of absence or disability, the Regional Administrator is unavailable to exercise the powers and perform the duties of the Regional Administrator, appointees to the positions listed below are authorized to act as Regional Administrator and exercise all powers, functions and duties assigned to or vested in the Regional Administrator. However, no official shall act as Regional Administrator until all of the appointees listed before such official's title in this designation are unable to act by reason of absence, disability, or vacancy in office.

1. Deputy Regional Administrator.
2. Regional Counsel.
3. Director, Office of Housing.
4. Director, Office of Administration.
5. Director, Office of Community Planning and Development.
6. Director, Office of Fair Housing and Equal Opportunity.

This designation supersedes the designation effective July 28, 1978.

Authority: Delegation of Authority 27 FR 4319 (1962); Section 9(c), Department of Housing and Urban Development Act, 42 U.S.C. 3531 note; and Interim Order II, 31 FR 815 (1966).

Dated: February 13, 1984.

John C. Mongan,

Regional Administrator—Regional Housing Commissioner, Region I, Department of Housing and Urban Development.

[FR Doc. 84-4321 Filed 2-15-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona Strip District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

DATE: March 15, 1984 at 8:00 a.m.

ADDRESS: Thunderbird Motor Lodge, 150 North 1000 East, St. George, Utah.

SUPPLEMENTARY INFORMATION: The agenda will include a discussion of land patterns, Antelope Cave, areas of critical mineral potential, cooperative management agreement, wilderness status, wildlife reintroduction status and plans, and modified fire suppression plan. The public is invited to attend and anyone may appear before the Council at 3:30 p.m. to present oral or written comments.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, Arizona Strip District, 196 East Tabernacle, St. George, Utah 84770, (801/673-3545).

G. William Lamb,

District Manager.

February 6, 1984.

[FR Doc. 84-4165 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-84-M

Montana; Resource Management Plan/ Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft resource management plan/ environmental impact statement and public hearings.

SUMMARY: Pursuant to section 202(f) of the Federal Environmental Policy and Management Act of 1976 and section 102(c) of the National Environmental Policy Act of 1969, a Draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) has been prepared for the Powder River Resource Area. The Powder River Resource Area, Miles City District, contains 1,080,675 acres of public land located in southeastern Montana, including Powder River and Treasure Counties and portions of Rosebud, Carter, Big Horn and Custer Counties. The Draft RMP/EIS examines five management plan alternatives: Preferred Alternative (a combination of the other alternatives); Alternative A (continuation of existing management or no action); Alternative B (multiple use); Alternative C (resource production); and Alternative D (resource protection).

FOR FURTHER INFORMATION CONTACT: Jay Guerin, Project Manager, (406) 232-4331.

PUBLIC PARTICIPATION: Copies of the Draft RMP/EIS are available from the Miles City District Office, Garryowen Road, P.O. Box 940, Miles City, Montana 59301, phone (406) 232-4331. Public reading copies will be available for review at the following locations:

Office of Public Affairs, Location Building, 18th and C Streets, N.W., Washington, D.C. 20240
Public Affairs Office, BLM Montana State Office, 222 N. 32nd Street, Billings, Mont. 59107

Written comments on the Draft RMP/EIS should be submitted between March 9 and June 7 (90-day comment period) to: Jay Guerin, Project Manager, Bureau of Land Management, P.O. Box 940, Miles City, Mont. 59301. Oral or written comments will be received at formal public hearings to be held as follows: April 10, Carter County High School, Ekalaka, Mont.; April 11, Community Center, Broadus, Mont.; April 12, Miles Community College, Miles City, Mont.; April 17, Holiday Inn, Sheridan, Wyo.; April 18, Colstrip Junior High School, Colstrip, Mont. All meetings begin with a question and answer period at 7 p.m.

with the formal hearing beginning at 8 p.m. Oral or written comments concerning the adequacy of the Draft RMP/EIS will be considered in the preparation of the final RMP/EIS for the Powder River Resource Area.

Michael J. Penfold,

State Director.

February 7, 1984.

[FR Doc. 84-4163 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-DN-M

Wyoming, North Fork Well, Park County Worland BLM District, Wyoming; Availability of Draft Environmental Impact Statement and Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft environmental impact statement and public meeting.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a draft evnironmental impact statement (EIS) on the North Park Well in Park County, Wyoming, and has made copies of the document available for public review and comment.

In addition, notice is also given that a public meeting will be held to explain the Application for Permit to Drill and for the purpose of seeking public input on the EIS.

The draft EIS analyzes the environmental impacts that would result from drilling the proposed exploratory North Park Well (Federal 34-13) and potential subsequent development and production of that well and potential development of the area.

DATES: Written comments on the draft environmental impact statement will be accepted until April 16, 1984, at 1700 Robertson Avenue, Worland, Wyoming. A public meeting will be held on March 21, 1984, at the Cody Convention Center, 1240 Beck Avenue, Cody, Wyoming.

ADDRESSES: A copy of the draft EIS can be obtained from, and written comments on the EIS should be addressed to: John Thompson, Team Leader, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401.

The draft environmental impact statement is available for inspection at the following locations: BLM District Office (Worland); Cody BLM Area Office (Cody), Shoshone National Forest Headquarters (Cody).

Chester E. Conard,

District Manager.

[FR Doc. 84-4160 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-22-M

[AA-50379-19]

Alaska Native Claims Selection; Chugach Natives, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given taht a decision to issue conveyance under the provisions of Sec. 22(f) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1621) (ANCSA), will be issued to Chugach Natives, Inc., for approximately 580 acres. The lands involved are within the Copper River Meridian, Alaska:

T. 14 S., R. 4 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the CORDOVA TIMES upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 Code of Federal Regulation (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until March 19, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Chugach Natives, Inc., 903 West Northern Lights Boulevard, Suite 201, Anchorage, Alaska 99503.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-4217 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-JA-M

Arizona; Boundary Modification of the Eagletail Mountains Wilderness Study Area

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of boundary modification.

SUMMARY: This notice serves as an amendment to previous inventory decisions establishing the eastern boundary of the Eagletail Mountains Wilderness Study Area (AZ-020-128). Boundaries were previously established for this wilderness study area (WSA) by publication of the Palo Verde-Devers 500 kV Transmission Line Environmental Impact Statement (February 1979), the Phoenix District Wilderness Inventory Situation Evaluation (March 1979), and the Intensive Narrative Report (March 1981).

The Bureau of Land Management's Phoenix District Office has determined that inconsistencies and errors exist in maps and boundary descriptions of the Eagletail Mountain WSA. These maps were prepared for public and government agency use in reviewing BLM wilderness review proposals. These errors, due to administrative oversight, continue to cause public and governmental agency concern.

To rectify these boundary discrepancies and mapping irregularities, an eastern boundary of

the WSA will be established which differs from previous boundaries. The boundary will be established using the proposed western right-of-way boundary of the Westside Canal. The boundary change will have a beneficial impact on the WSA. Establishing the boundary parallel to the Westside Canal will create an easily recognizable and more manageable eastern WSA boundary, locatable on the ground and serving as a barrier to cross-country ORV use, wood collecting, and other ongoing activities presently detrimental to wilderness values.

Wilderness values within the Eagletail Mountain WSA remain unchanged from those described in the Intensive Inventory Narrative Report, except that the WSA acreage is changed from 120,925 acres to 119,700 acres.

This amended decision will become final 30 days from the date of this publication unless an appeal is received. Any person adversely affected by this decision may appeal the decision under the provisions of 43 Code of Federal Regulations (CFR), Part 4. Such appeals must be sent to the District Manager, Bureau of Land Management, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027 and be received within 30 days of publication of this notice.

Information of the Eagletail Mountain Wilderness Study Area can be obtained by contacting BLM personnel at the following location: Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027, (602) 581–1996: Marlyn V. Jones, District Manager; Richard B. Hanson, Wilderness Coordinator.

Dated: February 8, 1984.

Marlyn V. Jones,

Phoenix District Manager, Bureau of Land Management.

[FR Doc. 84–4250 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–32–M

[A–18991]

Arizona: Realty Action; Direct Sale of Public Land in Greenlee County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Direct Sale of Public Land in Greenlee County, Arizona.

SUMMARY: The following described land is suitable for disposal by sale under Section 203(a)(3) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value of $58,800.

Gila and Salt River Meridian, Arizona

T. 5 S., R. 30 E.,

Sec. 5: SW¼NE¼, SE¼NW¼, NE¼SW¼.

120 acres more or less.

The subject land is needed for community expansion by the Town of Clifton, Arizona which was affected by flooding in October, 1983. The direct sale of this land to the Town of Clifton will occur on April 19, 1984 at the Bureau of Land Management, Safford District Office, 425 E. 4th Street, Safford, Arizona.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All minerals will be reseved to the United States. The locatable and salable minerals can be offered for sale. The leaseable minerals, except for oil and gas and geothermal resources, can be offered for sale.

3. A right-of-way thereon described under Serial No. PHX–679873 for gas pipeline purposes granted under the Act of February 25, 1920, as amended (41 Stat. 449, 30 U.S.C. 185).

4. Same as above for gas pipeline described under Serial No. AR–06734.

5. Same as above for gas pipeline described under Serial No. A–788.

6. A right-of-way thereon described under Serial No. PHX–040734 for telephone line purposes granted under the Act of March 4, 1911 (36 Stat. 1253, 16 U.S.C. 5).

The patent will also be subject to:

1. Those rights granted by Oil and Gas Lease A–11876 made under Section 29 of the Act of February 25, 1920 (41 Stat. 437) and the Act of March 4, 1933 (47 Stat. 1570). This patent is issued subject to the right of the prior permittee or lessee to use so much of the surface of said land as is required for proper oil and gas exploration and development operations without compensation for the duration of the lease A–11876 and any authorized extension of the lease. Upon termination or relinquishment of said oil and gas lease, this reservation shall terminate.

2. Such rights for an electric powerline right-of-way as Duncan Valley Electric Cooperative, Inc. may have under Serial No. A–19032 filed under Title V of the Federal Land Policy and Management Act of 1976 (90 Stat. 2776, 43 U.S.C. 1761).

3. Such rights as Greenlee County may have for the existing road located on the subject lands.

DATE: Comments should be submitted within 45 days of the date of this publication. Comments received or postmarked after that date may not be considered in the decisionmaking process.

ADDRESS: Comments and suggestions should be sent to: District Manager, Bureau of Land Management, Safford District Office, 425 East 4th Street, Safford, Arizona 85546.

Comments will be available for public review in the Safford District Office during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jon Freeman, (602) 428–4040.

Dated: February 8, 1984.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 84–4252 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–32–M

[A–17000–C]

Arizona; Opening of Public Lands; Correction

February 8, 1984.

In Federal Register Document Number 83–24975, appearing on Page 41244, on Wednesday, September 14, 1983, the following corrections are made:

1. In Section 19, T. 8 N., R. 4 W., the S½SE¼, NE¼E½SW¼ is changed to the S½SE¼NE¼, E½SW¼.

2. In Section 20, T. 8 N., R. 4 W., the W½E¼, W¼SE¼ is changed to the W½E½SE¼, SW¼SE¼.

3. In Section 23, T. 8 N., R. 4 W., the NW¼NW¼ is changed to the NW¼SW¼.

Mildred C. Kozlow,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–4251 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–32–M

[OR–3225–A]

Oregon; Partial Termination of Classification for Multiple Use Management Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action will correct an error in the land description of the notice published September 15, 1981.

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

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

In FR Doc. 81–26800 published at page 45819, in the issue of Tuesday, September 15, 1981, make the following correction: On page 45819, in the third column under T. 17 S., R. 16 E., sec. 5, Lots 1, 2, should read sec. 5, Lots 1, 3.

Dated: February 10, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–4244 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

Emergency Closure of Public Lands in Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of emergency closure of public lands in Conejos County, Colorado.

SUMMARY: Notice is hereby given that effective immediately all public lands in:

T.35N., R.8E.,
T.34N., R.8E.,
T.34N., R.7E.,
T.33N., R.8E.,
T.33N., R.7E.
Conejos County, Colorado.
Are Closed to Snowmobile Use.

The purpose of this closure is to protect wintering big game populations of elk, deer, and antelope in the vicinity of the Mogote Peaks and La Jara Canyon.

The authority for this closure is 43 CFR 8341.2. The closure will remain in effect until May 1, 1984.

Stewart A. Wheeler,

Acting District Manager.

[FR Doc. 84–4262 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–JB–M

[OR–35886]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Douglas County, was purchased by modified competitive sale and conveyed to the party shown:

Tracy and Gail Ward, 632 Schudeiske Road, Sutherlin, Oregon 97479

Willamette Meridian, Oregon

T. 25 S., R. 6 W.,
Sec. 12, Lot 2.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. and Mrs. Ward.

Dated: February 10, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–4245 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–35889]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Douglas County, was purchased by modified competitive sale and conveyed to the party shown:

Ms. Trudy Riley, Post Office Box 1552, Winston, Oregon 97496

Willamette Meridian, Oregon

T. 28 S., R. 7 W.,
Sec. 31, Lot 9.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Ms. Riley.

Dated: February 10, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–4246 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–35888]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Douglas County, was purchased by modified competitive sale and conveyed to the party shown:

Roy William Tetrick, 1834 Swan Hill Road, Roseburg, OR 97470

Willamette Meridian, Oregon

T. 28 S., R. 7 W.,
Sec. 23, Lot 10.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Tetrick.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–4254 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–36327 A&B]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Gilliam County, was purchased by modified competitive sale and conveyed to the party shown:

Stone Machinery Co., P.O. Box 1097, Walla Walla, WA 99362

Willamette Maridian, Oregon

T. 2 N., R. 21 E.,
Sec. 30, NE¼SE¼
Sec. 32, SE¼NE¼

The purpose of this Notice is to inform the public and interested State and local government officials of the issuance of the conveyance document to Stone Machinery Co.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 4256 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–36327 C]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Gilliam County, was purchased by modified competitive sale and conveyed to the party shown:

Donald D. Ramsey, Star Route, Arlington, OR 97812

Willamette Meridian, Oregon

T. 1 N., R. 20 E.,
Sec. 14, S½SW¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Ramsey.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 4257 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–36327 D]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public

land in Gilliam County, was purchased by modified competitive sale and conveyed to the party shown:

James M. Hoag, Star Route, Arlington, OR 97812

Willamette Meridian, Oregon

T. 2 N., R. 20 E.,
Sec. 6, SE¼NE¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Hoag.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-4258 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-36328 C]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Gilliam County, was purchased by modified competitive sale and conveyed to the party shown:

Mr. & Mrs. W. E. West, Rural Route, Arlington, Oregon 97812.

Willamette Meridian, Oregon

T. 1 N., R. 22 E.,
Sec. 20, W½NW¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. & Mrs. West.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-4259 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-36315]

Washington; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Chelan County, was purchased by modified competitive sale and conveyed to the party shown:

Dan F. Henderson, 632 36th Ave. E, Seattle, WA 98112

Willamette Meridian, Washington

T. 27 N., R. 22 E.,
Sec. 12, NW¼NE¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Henderson.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-4255 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-33-M

[Utah U-51367]

Realty Action; Exchange of Public Lands in Washington County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: It is proposed to exchange public lands in lot 9, sec. 12 (including associated accreted land), T. 43 S., R. 16 W., SLB&M, totaling 11.44 acres, for non-federal land owned by Terracor Corporation in parts of lots 1 and 6, sec. 22 (including associated accreted land), T. 43 S., R. 16 W., SLB&M, totaling 36.01 acres. This land would be exchanged under Sec. 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

SUMMARY: The purpose of this exchange is to settle an unintentional occupancy trespass. The value of the lands to be exchanged is equal.

DATES: Comments should be submitted within 45 days from the date of this notice.

ADDRESS: Comments should be sent to: Area Manager, Dixie Resource Area Office, Bureau of Land Management, First South Plaza, Suite 202, P.O. Box 726, St. George, Utah 84770.

Detailed information concerning the exchange is available for review at the Dixie Resource Area Office, at the above address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the exchange are:

1. There is reserved to the United States a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1980 (43 U.S.C. 945).

2. The exchange will be for surface estate only. Minerals will remain with the appropriate party.

The publication of this notice in the **Federal Register** segregates the public lands described above from appropriation under the public land laws, including the mining laws.

Any comments received during the comment period will be evaluated and the District Manager may vacate or modify this realty-action. In the absence of any action by the District Manager, this realty action notice will become the final determination of the Department of the Interior.

Dated: February 8, 1984.

Morgan Jensen,

District Manager.

[FR Doc. 84-4242 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-DQ-M

Oregon/Washington; Filing of Plats of Survey

The plats of survey of the following described lands were officially filed in the Oregon State Office, Bureau of Land Management, Portland, Oregon on the dates hereinafter stated:

Willamette Meridian

T. 39 S., R. 1 E., OR., Accepted November 23, 1983
T. 35 S., R. 3 W., OR., Accepted November 23, 1983
T. 17 N., R. 14 E., WA., Accepted December 1, 1983
T. 26 N., R. 2 W., WA., Accepted November 30, 1983

The above-listed plats officially filed December 6, 1983, represent dependent resurveys and/or section subdivision.

T. 23 N., R. 10 W., WA., Accepted December 16, 1983
T. 21 N., R. 10 E., WA., Accepted December 19, 1983
T. 29 S., R. 9 W., OR., Accepted December 22, 1983
T. 29 S., R. 10 W., OR., Accepted December 22, 1983
T. 18 S., R. 11 E., OR., Accepted January 12, 1984
T. 12 S., R. 11 W., OR., Accepted January 6, 1984
T. 22 S., R. 13 W., OR., Accepted January 6, 1984
T. 23 S., R. 13 W., OR., Accepted December 30, 1983

The above-listed plats officially filed January 17, 1984, represent dependent resurveys, section subdivision, and/or corner remonumentation.

T. 21 S., R. 7 W., OR., Accepted January 17, 1984
T. 10 N., R. 15 E., WA., Accepted January 20, 1984
T. 11 N., R. 15 E., WA., Accepted January 20, 1984

The above-listed plats officially filed January 23, 1984, represent resurveys and/or section subdivision.

All inquiries about these lands should be sent to the Oregon State Office, P.O. Box 2965, Portland, Oregon 97208.

Dated: February 10, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-4243 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-33-M

Cedar City District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cedar City District Grazing Advisory Board will be held on Thursday, March 29, 1984. The meeting will begin at 9:30 a.m. in the Bureau of Land Management Cedar City District Office located at 1579 North Main Street, Cedar City, Utah.

The agenda is as follows: (1) Grazing Advisory Board organization, (2) Report on Grazing Fee Review and Evaluation, (3) Review of Cooperative Management Agreements, (4) Rangeland Betterment Projects and Ranking, (5) AMP Reports from resource areas, and (6) General Board Business.

Grazing Advisory Board meetings are open to the Public. Interested persons may make oral statements or file written statements for the Board's consideration. Oral statements will be received at 9:30 a.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, phone 801-586-2401, by March 23, 1984. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meetings will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: February 10, 1984.

J. Kent Giles,

Acting District Manager.

[FR Doc. 84-4247 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-DQ-M

[OR 36685]

Realty Action; Sale, Public Land in Gilliam County, Oregon

The following described land has been identified as suitable for disposal by sale under 43 CFR Part 2750 (90 Stat. 2743, 43 U.S.C. 1713), at no less than the appraised fair market value.

Parcel No.	Legal description	Acreage	Fair market value
1	T. 2 S., R. 19 E., Will. Mer., Sec. 9, SE¼SW¼.	40	$2,400
2	T. 2 S., R. 19 E., Will. Mer., Sec. 35, E½SE¼.	80	2,400
3	T. 2 S., R. 22 E., Will. Mer., Sec. 34, SE¼SE¼.	40	2,200
4	T. 2 S., R. 22 E., Will. Mer., Sec. 35, SE¼NW¼.	40	2,600
5	T. 3 S., R. 22 E., Will. Mer., Sec. 25, SE¼NW¼, SW¼SE¼.	80	4,800

These tracts are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another federal agency. There are no significant resource values which will be affected by this disposal. Physical access is by foot to all tracts with the exception of tract number 4 which has a dirt road to it. There is no legal public access to any of the tracts. The sale is consistent with BLM plans for disposal and the public interest is served by offering this land for sale.

Modified competitive bidding procedures are being used to recognize the needs of adjoining landowners and historical use by these landowners. Preference to meet the high selling bid is authorized under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713; 43 CFR 2711.3-2(a)(2).

The sale will be held on April 18, 1984, at 10:00 AM in the Prineville District Office, 184 E. 4th Street. At that time all sealed bids will be opened and the high bidders declared.

All parcels are being offered for sale through modified competitive bidding and the following designated bidders have a preference right to meet the high bid:

Parcel No. 1: Durward Kaseburg, Enid Johnstone, John Murtha and May Britt
Parcel No. 2: Luran Maley
Parcel No. 3: Ronald and Gloria Davis and David Whitehead
Parcel No. 4: David Whitehead, Jack Osterlund and Dale, Keith and Steve Beamer
Parcel No. 5: John and Mary Campbell and Delbert and Cleo Edwards.

Sealed bids are being solicited for each parcel, no oral bidding will take place and no tract will be sold for less than the appraised fair market value. Designated bidders must submit a sealed bid for at least the appraised value to exercise their right to meet the high sealed bid.

Federal law requires that individuals be 18 years of age or over and a U.S. citizen, and corporations be subject to the laws of any State of the United States.

Sealed or written bids will be considered only if received by the Bureau of Land Management, P.O. Box 550, Prineville, Oregon 97754, prior to 4:00 PM, Tuesday, April 17, 1984. A separate written bid must be submitted for each parcel desired.

All sealed bids will be opened and publicly declared at 10:00 AM, April 18, 1984, in the Prineville District Office.

Terms and conditions applicable to the sale are:

(1) If two or more envelopes containing valid bids for the same tract are of equal value, the determination of which is to be considered the qualifying bid shall be by drawing. However, should the high sealed bid be received from an individual who is not acting in the capacity of a designated bidder, all designated bidders will be notified through certified mail that they have 30 days to either meet the high bid or submit a second sealed bid of greater value. Failure to agree to meet the high bid within the 30 day period immediately following the sale, shall constitute a waiver of all preference rights.

(2) All sealed bids received from designated bidders exercising their right to meet the high bid will be opened and the high bidder declared, immediately following the 30 days period. If two or more bids of equal amounts are received from the designated bidders, the qualifying bid shall then be determined by drawing, immediately following the opening of the sealed bids.

(3) The BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

(4) A reservation to the United States for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

(5) The mineral interests being offered for conveyance have no known mineral value. A bid will constitute an application for conveyance of the mineral estate, with the exception of the oil and gas resources which will be reserved to the United States in accordance with Section 209 of the Federal Land Policy and Management Act (90 Stat. 2757; 43 U.S.C. 1719). The declared high bidder will be required to deposit a $50.00 nonreturnable filing fee immediately following the sale (43 CFR 2720.1-2).

(6) The sale will be subject to all valid existing rights.

(7) The successful bidder for each parcel shall submit the remainder of the full bid price, prior to the expiration of 30 days from the date of the sale.

Those parcels not sold pursuant to this Notice of Realty Action will continue to be available for sale on a sealed bid basis until sold or withdrawn. All sealed bids for available parcels will be opened at 10:00 AM on the first Wednesday of each month and must be received in the Prineville Office by 4:00 PM the last working day prior to the monthly drawing. Priority will not be given to first filed bids.

Detailed information concerning the sale, including the planning documents, environmental assessment and the record of public involvement is available for review at the District Office, Bureau of Land Management, P.O. Box 550, Prineville, Oregon 97754. For a period of 45 days after the issuance of this notice, the public and interested parties may submit comments to the District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the congressional committees and delegations pursuant to Pub. L. 97–394, will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Gerald E. Magnuson,

District Manager.

[FR Doc. 84–4260 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[U–53101]

Utah; Realty Action Sale of Public Lands in Uintah County

The Bureau of Land Management, based on land use plans, has determined that the following described land is suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($2,000):

T.6 S., R. 25 E., SLM,
Sec. 15: SE¼ NE¼.
Total 40 acres.

The above described land will be offered for sale on April 27, 1984, by sealed bids. All bids must be received by 12:00, April 27, 1984, at the Vernal District Office, 170 South 500 East, Vernal, Utah 84078. Bids will be opened and a high bidder declared at 1300 hours, April 27, 1984.

The land is being offered for sale in order to facilitate land-use planning in the area, enhance land-use compatibility with adjoining private lands, and to streamline administrative procedures. The land has potential for livestock grazing and limited wildlife use. The sale is consistent with the Bureau's planning for the land involved with notification to the Uintah County Commission, the Utah State Planning Office, and the Utah Division of Wildlife Resources.

The terms and conditions applicable to the sale are:

1. The BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

2. The sale will involve the surface estate only. The subsurface estate will be reserved to the United States.

3. The sale of this land will be subject to all existing rights.

4. No preference right will be given to the adjoining private land owner. No bids will be accepted for less than the appraised price and bids must include all land in the parcel. Federal law requires that bidder be U.S. citizens or, in the case of a corporation, be subject to the laws of the State of Utah. Proof of citizenship may be required.

5. The United States will reserve the right of ingress and egress for mineral development.

6. Upon disqualification of the apparent high bidder, the next high bid will be honored.

7. A right-of-way is reserved for ditches and canals constructed by the authority of the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

8. The successful bidder agrees that he takes the real estate subject to the existing grazing use of the K-Ranch. The rights of the K-Ranch to graze domestic livestock on the real estate according to the conditions and terms of the existing authorization shall cease on February 28, 1989. The successful bidder is entitled to receive annual grazing fees from the K–Ranch in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

The highest bid will establish the sale price. Each bid must be accompanied by a deposit of one-fifth of the full bid price. The remainder of the full bid price shall be paid within 30 days of the sale. Failure to pay the full price within 30 days shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the Vernal District Manager, 170 South 500 East, Vernal, Utah 84078. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Lloyd H Ferguson,

District Manager.

[FR Doc. 84–4261 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–DQ–M

[W–71186]

Wyoming; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 2,110.40-acre withdrawal for the Palisades Project continue for an additional 100 years. The land will remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments and requests for a public meeting should be received by April 16, 1984.

ADDRESS: Comments and meeting request should be sent to: Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307–772–2089.

The Bureau of Reclamation proposes that the existing land withdrawal made by the Secretarial Order of December 29, 1938, be continued for a period of 100 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Sixth Principal Meridian, Wyoming

T. 37 N., R. 118 W.,
Sec. 14, SE¼;
Sec. 28, lot 1, NE¼NW¼, and NE¼SE¼;
Sec. 20, E½E½NW¼;
Sec. 21, that part of lot 1 in NE¼SE¼, lots 2, 3, 4, 5, 6, 7, and 8;
Sec. 22, N½,SW¼ and N½SE¼;
Sec. 23, N½ and N½SW¼;

Sec. 28, NW¼, E½SW¼, and W½SE¼;
Sec. 29, Unsold part of lot 2;
Sec. 33, NE¼, NE¼NW¼, and NE¼SE¼.

The area described contains 2,110.40 acres in Lincoln County, Wyoming.

The purpose of the withdrawal is to protect the Palisades Project. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Resources, in the Wyoming State Office.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the Chief, Branch of Land Resources, within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: February 9, 1984.

P. D. Leonard,

Associate State Director, Wyoming.

[FR Doc. 84-4283 filed 2-15-84; 8:45 am]

BILLING CODE 4310-22-M

[M-59770]

Montana, Carter County; Realty Action

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of Realty Action M-59770, exchange of public and private lands in Carter County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana

T. 7 S., R. 60 E.
Sec. 2: Lots 1–4 S½N½, SW¼;
Sec. 3: Lot 3, SE¼NW¼;
Sec. 11: NW¼NW¼,SW¼NE¼,SE¼;
Sec. 12: NW¼SW¼;
Sec. 13: N½NE¼,NE¼NW¼;
Sec. 20: All.
T. 7 S., R. 61 E.
Sec. 8: E½SE¼;
Sec. 9: NW¼SW¼;
Sec. 17: N½NE¼,S½NW¼,W½SE¼;
Sec. 18: N½ Lot 1, N½NE¼NW¼.

Containing 1,994.0 acres.

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian, Montana

T. 7 S., R. 59 E.
Sec. 12: All.
T. 7 S., R. 60 E.
Sec. 7: Lots 1–4 NW¼NE¼,S½NE¼, SE¼;
Sec. 8: S½NW¼, SW¼;
Sec. 18: Lots 1–4, W½E½, N½NE¼NE¼, N½S½NE¼NE¼;
Sec. 34: Lots 3,4, N½SE¼;
Sec. 35: Lot 1, S½NW¼, N½SW¼.

Containing 2,062.6 acres.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Garryowen Road, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Miles City District Office, Garryowen Road, Miles City, Montana 59301.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to provide for more efficient land management by blocking up both the public and private land within one grazing allotment. In addition, the exchange will trade public land without access for private land with access.

This exchange is consistent with the Bureau's planning for these lands and has been discussed with State of Montana officials and Carter County Commissioners. The public interest will be well served by making the exchange. The publication of this notice segregates the public lands described above from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for lands being transferred out of federal ownership.

2. The reservation to the United States of all minerals in the lands being transferred out or federal ownership.

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record).

4. The exchange acreage has been adjusted to assure that an equal value trade is made.

5. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

Dated: February 10, 1984.

Ray Brubaker,

District Manager.

[FR Doc. 84-4249 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-DN-M

[OR-35887]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Douglas County, was purchased by modified competitive sale and conveyed to the party shown:

Mr. & Mrs. Charles E. Havel, 3750 Happy Valley Rd., Roseburg, OR 97470.

Willamette Meridian, Oregon

T. 28 S., R. 6 W.,
Sec. 7, Lot 10.

The purpose of the Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. & Mrs. Havel.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-4253 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-33-M

Bureau of Reclamation

Lower Gunnison Basin Unit, Colorado River Water Quality Improvement Program; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a proposed feasibility report/final environmental statement on a proposed salinity control project that would reduce salt loading to the Colorado River system by lining canals and laterals in Delta and Montrose Counties in western Colorado.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, D.C. 20240, Telephone: (202) 343–4991

Division of Management Support, General Service, Library Section, Code 950, Denver Federal Center, Denver, Colorado 80225, Telephone: (303) 234–3019

Regional Director, Bureau of Reclamation, Upper Colorado Regional Office, P.O Box 11568, Salt Lake City, Utah 84147, Telephone: (801) 524–5592

Grand Junction Projects Office, Bureau of Reclamation, 764 Horizon Drive, Grand Junction, Colorado 81501, Telephone: (303) 243–4992

Montrose Projects Office, Bureau of Reclamation, P.O. Box 1390, Montrose, Colorado 81401, Telephone: (303) 249–9687.

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, or the Regional Director at the above addresses. Copies also will be available for inspection in libraries in the project vicinity.

Dated: February 10, 1984.

Robert A. Olson,

Acting Commissioner.

[FR Doc. 84-4278 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Kenai National Wildlife Refuge Comprehensive Conservation Plan/ Environmental Impact Statement and Wilderness Review, Kenai Peninsula Borough, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public hearings; correction.

SUMMARY: This document corrects a notice of availability and public hearings that appeared on page 2029 in the **Federal Register** of Tuesday, January 17, 1984 (49 FR 2029). This action is necessary to correct an omission of the address of one Fish and Wildlife Service Regional Office where the document may be reviewed and to correct the date by which comments should be submitted.

FOR FURTHER INFORMATION CONTACT: William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, Telephone (907) 786–3399.

The following corrections are made in FR DOC. 84–1163 appearing on 2029 in the issue of January 17, 1984:

1. On page 2029 column one, second paragraph, first sentence, **"DATES"** is corrected to read "Comments on the draft CCP/EIS must be submitted on or before April 6, 1984 to receive consideration in the preparation of the final CCP/EIS."

2. On page 2029, column two, fifth full paragraph is amended to include the following address:

U.S. Fish and Wildlife Service, Wildlife Resources, One Gateway Center, Suite 700, Newton Corner, MA 02158

Dated: February 6, 1984.

Jan E. Riffe,

Acting Regional Director.

[FR Doc. 84-4168 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-07-M

Office of Surface Mining Reclamation and Enforcement

Extension of Public Comment Period on the Proposed Fruita Mine Complex, Mesa and Garfield Counties, Colorado

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

ACTION: Extension of public comment period.

SUMMARY: On February 1, 1984, OSM published a notice of intent to prepare an environmental impact statement on the proposed Fruita Mine Complex and to hold a public scoping meeting (49 FR 4043–4044). The public comment period, discussed in that noitce, ended on March 7, 1984, one week following the public meeting.

Several individuals from state and local government have expressed the desire to extend the comment period for an additional week. Accordingly, OSM is hereby extending the period for public comment on the scope of the EIS on the Dorchester Coal Company's Fruita Mine Complex in Mesa and Garfield Counties, Colorado.

DATE: Written comments or statements on the proposed project and the scope of the EIS must be received no later than 4:00 p.m. MST, March 16, 1984, at the address below.

ADDRESS: Written comments or statements should be sent or delivered to: Administrator, Western Technical Center, Office of Surface Mining, Second Floor, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Floyd Johnson or Stephen Parsons, (telephone (303) 837–5656) at the location shown under **ADDRESS.**

SUPPLEMENTARY INFORMATION: Additional information on the proposed project, the EIS, and the locations where the mining plan may be reviewed are contained in the notice of intent to prepare the EIS published in the **Federal Register** on February 1, 1984 (49 FR 4043–4044).

Dated: February 10, 1984.

Brent Wahlquist,

Assistant Director, Technical Service and Research.

[FR Doc. 84-4192 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

[Amendment to A.I.D. Delegation of Authority No. 40.11]

Redelegation of Authorities to the Field, Latin America and the Caribbean Region

(47 FR 24471, Jan. 4, 1982)

AID Delegation of Authority No. 40.11, is hereby amended as follows:

In IVB insert after the words "to his or her deputy", the words "and in the case of the Director RDO/C to the principal AID officer in Grenada,".

Dated: February 7, 1984.

Marshall Brown,

AA/LAC (Acting).

[FR Doc. 84-4282 Filed 2-15-84; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket Nos. 30387 and 30387 (Sub-No. 1)]

Canadian National Railway Co. and Canadian Pacific Ltd., Acquisition, Interests of Consolidated Rail Corp., in Canada Southern Railway Co. and Detroit River Tunnel Co.; and Application for Trackage Rights Over Consolidated Rail Corp. Trackage in Detroit, MI

AGENCY: Interstate Commerce Commission.

ACTION: Acceptance of applications under 49 U.S.C. 11343 and setting of procedural schedule.

SUMMARY: The Commission accepts for consideration the applications (a) of Canadian National Railway Company (CN) and Canadian Pacific Limited (CP) to acquire the interest of Consolidated Rail Corporation (Conrail) in Canada Southern Railway Company (CSR) and Detroit River Tunnel Company (DRTC); and (b) and CN and CP for the acquisition of trackage rights over Conrail trackage in Michigan.

DATES: Written comments must be served and filed with the Commission no later than March 19, 1984. Preliminary comments by intervening public parties must be filed by April 2, 1984. Additional scheduling information is included in the Commission's decision.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

ADDRESSES: An original and 10 copies of all pleadings, referring to Finance Docket No. 30387, should be sent to:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

Applicants' representatives:

Lawrence Z. Shiekman, 2001 The Fidelity Building, 123 South Broad Street, Philadelphia, PA 19109

John F. DePodesta, 1777 F Street, NW., Washington, D.C. 20006

Basil Cole, 888 Sixteenth Street, NW., Washington, D.C. 20006

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InforSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 259–4357 (DC Metropolitan area) or call toll free (800) 424–5403.

Decided: February 9, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor dissented with a separate expression.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–4198 Filed 2–15–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Modified Consent Decree Pursuant to Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 7, 1984, a proposed modified consent decree in *United States of America* v. *Orange County, Florida, et al.* (M.D. Fla., Civ. No. 79–189–ORL–CIV–Y) was lodged with the United States District Court for the Middle District of Florida. The proposed modified consent decree establishes modified compliance schedules by which Orange County will eliminate the discharge of pollutants from five wastewater treatment plants.

The proposed modified consent decree may be examined at the office of the United States Attorney, 80 North Hughey Avenue, Orlando, Florida, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. The proposed modified consent decree may also be examined at the Region Four Office of the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia. A copy of the proposed modified consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication.

Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Orange County, Florida, et al.* (M.D. Fla. Civ. No. 79–189–ORL–CIV–Y) (D.J. Ref. 90–5–1–1–1144).

F. Henry Habicht II,

Assistant Attorney General; Land and Natural Resources Division.

[FR Doc. 84–4158 Filed 2–15–84; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

Correction

In FR Doc. 84–2744 beginning on page 4051 in the issue of Wednesday, February 1, 1984, make the following correction.

On page 4052, first column, in the table, the quota for "Diphenoxylate" (sixth controlled substance from the bottom) now reading "862,000" should read "864,000".

BILLING CODE 1505–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Notice of Hearing and Reports, Recommendations and Responses; Availability of

Hearing

Notice is hereby given that the hearing in the matter of the accident involving Air Illinois, Inc., Hawker Siddley 748–2A, of United States Registry, N748LC, near Pinckneyville, Illinois, on October 11, 1983, will reconvene at 9 a.m. on February 27, 1984, in Conference Room 8ABC, 8th Floor, 800 Independence Avenue, SW., Washington, D.C.

Reports Issued

Marine Accident Report—United States Bulk Carrier Marine Electric, Capsizing and Sinking, About 30 Nautical Miles East of Chincoteague, Virginia, February 12, 1983 (NTSB/MAR–84/01) (NTIS Order No. PB84–916401).

Railroad Accident Report—Rear End Collision of Two Burlington Northern Railroad Company Freight Trains, Pacific Junction, Iowa, April 13, 1983 (NTSB/RAR–83/09) (NTIS Order No. PB83–916309).

Highway Accident Report—Collision of Humboldt County Dump Truck and Klamath-Trinity Unified District Schoolbus, State Route 96, near Willow Creek, California, February 24, 1983 (NTSB/HAR–83/05) (NTIS Order No. PB83–916205).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630.

Recommendations to

Aviation—*Federal Aviation Administration: Feb. 1: A–84–4:* Verify by appropriate sampling or other methods that all hydraulic actuator rod end bearings, Cessna part No. MS–21242S–4K, and variations thereof, are manufactured in accordance with applicable design specifications and standards. *A–84–5:* Issue an Airworthiness Directive applicable to

Cessna Model 441, 404, 421C, 414A, 402C, and 425 airplanes to require the installation of Cessna Service Kit SK–441–76 or SK–421–121, as appropriate. *A–84–6:* Conduct an engineering analysis to determine whether the stress margins of rod end bearings which do not conform to design specifications and standards installed on Cessna Model 400 series flap actuators, flap control rod assemblies, and landing gear doors are adequate and, if indicated, initiate action to require replacement of any inservice bearings not conforming to Military Standard MS–21242 or Military Specification NIL–B–81935. *Feb. 8: A–84–10:* Issue an Airworthiness Alert (Advisory Circular 43–16) to operators of Piper model PA–28 airplanes advising of the hazard of operating high-time engines in very cold weather conditions without winterization kits on crankcase breather lines. *A–84–11:* Evaluate the design of crankcase breather line installations of all Piper model 28 airplanes and Piper models with similar engine installations to determine the need to provide icing protection on crankcase breather tubes for cold weather operations, and take appropriate action to initiate a retrofit of those models of airplanes that need such protection. *Feb. 8: A–84–12:* Require that after December 3, 1984, only devices which meet the standards of TSO–C69a will be acceptable for installation on newly manufactured airplanes which are to be equipped with passenger evacuation devices. *A–84–13:* Specify a date by which airplane passenger evacuation devices which do not meet the standards of TSO–C69a must be taken out-of-service or upgraded to meet the standards of TSO–C69a.

Marine—U.S. Coast Guard: *Feb. 6: M–83–93:* Identify critical areas of the Western Rivers which are difficult to navigate due to unusual conditions, sharp bends, navigation clearance restrictions, or similar circumstances, and require future applicants for licenses as operators of uninspected towing vessels to take an examination regrading local knowledge of these areas. *M–83–94:* Expedite the promulgation of regulations to require installation of retroreflective material on bridges to supplement navigation lights. *M–83–95:* Study the use of auxiliary lighting to enhance the mariner's ability to identify lights marking the navigation spans of bridges where such lights may be difficult to detect due to interference from other lights or due to impaired visibility or where it is essential that the mariner locate a span quickly. *Feb. 8: M–84–4:* Require that jack-up offshore supply vessels, performing activities in support of exploration, exploitation, or production of offshore mineral or energy resources, be equipped with an approved operating manual that contains guidance to the master for the safe operation of the vessel including maximum deck load, maximum water depth, and the minimum air gap required for expected sea conditions. *Feb. 7: M–84–13:* Amend 46 CFR Subpart 180.40 to eliminate the present exception from the requirement to carry an Emergency Position Indicating Radiobeacon (EPIRB) on coastwise vessels carrying passengers for hire that carry radiotelephone communications equipment that complies with Federal Communications Commission requirements. *M–84–14:* Require that operators of charter fishing boats making an offshore trip or voyage to prepare a crew and passenger list and deposit the list, or copy thereof, at a suitable location ashore before departure. *M–84–15:* Direct inspectors of charter fishing boats to make a one-time verification during their next inspection that watertight hatch closures are equipped with adequate securing devices which are being properly maintained, and to inform the boat operators of the importance of keeping hatch covers secured to preserve the watertight integrity of the hull. *M–84–16:* Publicize to charter fishing boat operators and their associations the regulatory requirements for conducting safety orientations so that passengers who are not familiar with the marine environment will be better able to survive in emergencies.

U.S. Army Corps of Engineers: Feb. 6: M–83–96. Develop and publish a navigation guide or guides for mariners navigating the Western Rivers similar in format to the United States Coast Pilot. *M–83–97:* Include profile drawings of all bridges in the next revision of the Upper Mississippi River Navigation Charts.

Valley Towing Service, Inc.: Feb. 6: M–83–98: Formalize existing qualification procedures to insure that operators piloting your towing vessels have sufficient experience and knowledge regarding all areas of their assigned routes to navigate safely in all prevailing waterway conditions.

The American Waterway Operators, Inc.: Feb. 6: M–83–99: Publish an article in your newsletter informing your members of the circumstances of the accident in St. Louis, Missouri, on April 2, 1983, and of the benefits of having formal qualification procedures to insure that operators piloting towing vessels have sufficient experience and knowledge regarding all areas of their assigned routes to navigate safely in all prevailing waterway conditions.

Highway—*National Safety Council: Feb. 7: H–84–1:* Develop and include in the Safety Council's driver training textbooks and defensive driving training programs advice, such as appears in the South Carolina Driver's Guide, as to the hazards presented by highways blanketed with smoke and what actions the motorists should take if they are suddenly confronted with such a situation.

American Association of Motor Vehicle Administrators: Feb. 7: H–84–2: Urge its members to develop and include in their own State Driver Manuals advice, such as appears in South Carolina State Driver's Guide, concerning the hazards presented by highways blanketed with smoke and what actions the motorists should take if they are suddenly confronted with such a situation.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 14 cents per page ($1 minimum charge).

Recommendation Responses From

Aviation—*Federal Aviation Administration: Jan. 30: A–83–82:* Issued Change 74 to FAA Order 8340.1A which transmits Maintenance Bulletin No. 68–1, Brittan Norman BN–2A Islander and BN–2A MK–111 Trilander-Hartzell HC–C2TK–2B propellers. The bulleting requests the principal maintenance inspectors to alert and emphasize to their assigned operators the importance of establishing appropriate inspection periods and that flightcrews should pay more attention during their preflight checks to propeller blade deicer boot lead strap restrainers. *Jan. 26: A–82–145,* which recommended amending 14 CFR 135 to require human engineering evaluations of the airplane, including the operating equipment as well as its controls and displays, as a basis for certification of single-pilot, multiengine IFR operations: FAA believes the existing regulatory requirements in 14 CFR 135 adequately address the operating environment. *Jan. 26: A–83–83:* Has met with representatives of France's Direction Generale de L'Aviation Civil and of Turbomeca to discuss the axial compressor blade failures in the Turbomeca Artouste III series engines. *Jan. 26: A–83–70 through –72:* Has developed a Notice of Proposed Rulemaking to be published in the **Federal Register** proposing equipment requirements to improve cabin fire protection for airplanes operated under 14 CFR Part 121. *A–83–73:* Has evaluated the electrical design details of lavatory flushing pump motor systems on transport category airplanes and has identified several situations where improvement in wire routing, circuit breaker protection, and/or thermal protection could be made. *A–83–74 and –75:* Is considering a possible need for including protective breathing equipment standards in the operating rules of 14 CFR 121. This is currently being addressed by development of a Notice of Proposed Rulemaking in which Technical standard Order C99 or equivalent may be added to 14 CFR 121.337 of the operating rules. *A–83–76:* Is assessing various types of protective breathing equipment to determine if such equipment should be considered as a requirement for passenger cabins. *A–83–77:* Will review airplane flight manuals and training procedures to insure that they clearly state that after conducting the fire suppression and smoke evacuation procedures and even though the smoke has dissipated, if it has not or cannot be visibly verified that the fire has been put out, immediately land at the nearest suitable airport; and after conducting the cargo compartment fire suppression or smoke evacuation procedures, regardless of the duration capability of the cargo fire extinguishing system, land at the nearest suitable airport. Airplane flight manual changes will be made if needed, but not if existing procedures are found to be adequate or more conservative. *A–83–78:* Published Notice of Proposed Rulemaking No. 83–14 on Oct. 11, 1983, proposing new and more stringent flammability requirements for seat cushions used in transport category aircraft certificated under 14 CFR 25 and 29 and requiring that the cushions in transport

category airplanes type certificated after Jan. 1, 1958, and operating under 14 CFR 121 comply with these requirements. *A–83–79:* NPRM No. 83–14 also proposed new performance standards for floor proximity emergency escape path markings to provide visual guidance for emergency cabin evacuation when all sources of cabin lighting more than 4 feet above the aisle floor are totally obscured by smoke. *A–83–80:* Tactile markers on overhead stowage racks are not as readily perciptible or as effective as illuminated floor proximity escape path markings for a typical mix of airline passengers who are not necessarily familiar with the emergency features of an airplane cabin. *A–83–81:* It is not feasible or practical to require additional items such as the location of the tactile emergency exit indicators to be added to the already extensive oral briefing.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

February 13, 1984.

[FR Doc. 84–4218 Filed 2–15–84; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–70–OLR, ASLBP No. 83–481–01–OLR]

General Electric Co.; GETR Vallecitos

February 13, 1984.

Please take notice that the Prehearing Conference in the above captioned proceeding scheduled to 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, has been rescheduled to begin at 2:00 P.M. Monday, March 5, 1984, at the same location. If necessary, the conference will continue on Tuesday morning, March 6.

At the Prehearing Conference the Board wishes to hear the response of Petitioner Jack Turk to the arguments raised by the General Electric Company and the NRC Staff concerning his contentions.

Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

John H. Frye, III,

Chairman, Administrative Judge.

[FR Doc. 83–4301 Filed 2–15–84; 8:45 am]

BILLING CODE 7590–01–M

[NRC Form 354]

Reporting and Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review, the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision and extension.
2. The title of the information collection: Data Report on Spouse.
3. The form number, if applicable: NRC Form 354.
4. How often the collection is required: On occasion.
5. Who will be required or asked to report: Alien spouses of NRC applicants; alien spouses of NRC contractor and licensee employees pending NRC access authorization processing; spouses of NRC applicants, contractor or licensee employees who marry after applying for NRC access authorization; and spouses of NRC, NRC contractor and NRC licensee employees who marry after having been granted NRC access authorization.
6. An estimate of the number of responses: 88.
7. An estimate of the total number of hours needed to complete the requirement or request: 22.
8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.
9. Abstract: NRC Form 354 provides necessary security background data on spouses of individuals applying for (or who have been granted) NRC access authorizations. The data is evaluated under requirements of E.O.s 10450 and 10865; 10 CFR Part 10; and the Atomic Energy Act of 1954, as amended, to ensure only individuals possessing unquestioned character, associations and loyalty are granted access.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7430.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 9th day of February 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–4305 Filed 2–15–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Quality and Quality Assurance in Design and Construction; Meeting Date Change

The ACRS Subcommittee on Quality and Quality Assurance In Design and Construction scheduled for February 23, 1984 has been changed to Friday, Feburary 24, 1984, Room 1167, at 1717 H Street, NW, Washington, D.C. This notice was published Thursday, February 2, 1984.

The Subcommittee will have a closed meeting to review and discuss with the NRC Staff its draft report to Congress on Quality Assurance during construction of nuclear power plants (report required by Pub. L. 97–415, NRC Authorization Act, Section 13).

I have determined, in accordance with Subsection 10(d) Pub. L. 92–463 that it will be necessary to close the meeting under the provisions of Exemption (9)b to the Sunshine Act, 5 U.S.C. 552b(c).

The entire meeting will be closed because the discussions, if held in public session, would reveal information requested by the Congress before that information is submitted officially by the Agency.

Dated: February 13, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–4308 Filed 2–15–84; 8:45 am]

BILLING CODE 1590–01–M

[Docket No. 50–387]

Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc. (the licensees), for operation of the Susquehanna Steam Electric Station, Unit 1 located in Luzerne County, Pennsylvania.

The amendment would change Technical Specifications 3.6.5.1 and

4.6.5.1 to revise the operation of the Standby Gas Treatment System (SGTS) to include three zone mixing and to allow operation of the unit assuming the other unit is isolated from the SGTS and shutdown in accordance with the licensee's application for amendment dated December 19, 1983, as amended by licensee letters dated January 5, 1984, and January 21, 1984.

Specifically, in Technical Specification 3.6.5.1, the proposed change would revise the definition of secondary containment to include three zones when both units are in communication with the SGTS or two zones when one unit is isolated from the SGTS. Technical Specification 3.6.5.1 would change from: "SECONDARY CONTAINMENT INTEGRITY shall be maintained." to read: "SECONDARY CONTAINMENT # INTEGRITY shall be maintained." with an associated footnote," # Secondary Containment consists of Zone I, Zone II, and Zone III or Zone I and Zone III when Zone II is isolated from Zone I and Zone III."

Technical Specification 4.6.5.1.b.1 would be revised to clearly identify when the railroad bay access door can be opened so as not to violate secondary containment integrity. Technical Specification 4.6.5.1.b.1 would change from: "1. All secondary containment railroad access hatches are closed and sealed or the railroad bay access door is closed." to read: "1.a. When the railroad bay door (No. 101) is closed: verify all Zone I and III hatches, removable walls, dampers, and doors connected to the railroad access bay are closed,## or i) *Only* Zone I removable walls and/or doors are open to the railroad access shaft,## or ii) *Only* Zone III hatches and/or dampers are open to the railroad access shaft ##." and "1.b. When the railroad bay door (No. 101) is open: verify all Zone I and III hatches, removable walls, dampers, and doors connected to the railroad access bay are closed." The Associated footnote would read ## "Personnel ingress and egress through doors within the secondary containment is not prohibited by this specification."

Technical Specification 4.6.5.1.b.2 would become 4.6.5.1.b.2.a and Techinical Specification 4.6.5.1.b.2.b would be added to clarify that under normal operation, secondary containment zones are not connected. Technical Specification 4.6.5.1.b.2.b would read: "2.b. At least one door in each access between secondary containment zones is closed ##."

Technical Specification 4.6.5.1.b.3 would be revised via an added footnote to define secondary containment penetrations for the purpose of supporting revised analysis. The footnote would read: "** Penetrations between secondary containment zones, penetrations to no-zones, and penetrations to the outside atmosphere."

The addition of new Technical Specifications 4.6.5.1.b.4 and 4.6.5.1.b.5 would be made to allow three zone mixing of the SGTS. Technical Specification 4.6.5.1.b.4 would read: "4. The truck bay access hatch is closed." and Technical Specification 4.6.5.1.b.5 would read: "5. The truck bay door (No. 102) is closed unless Zone II is isolated from Zones I and III."

Technical Specifications 4.6.5.1.c.1 and 4.6.5.1.c.2, with its associated footnote, would be deleted and replaced with surveillance procedures to support operation of the Standby Gas Treatment System for both three zone and two zone operation. The revised Technical Specification 4.6.5.1.c.1 would read: "1.a For three zone operation: i.a Verifying that one standby gas treatment subsystem will draw down the secondary containment (Zone I and Zone III) to greater than or equal to 0.25 inches of vacuum water gauge in less than or equal to 15 seconds; i.b Operating one standby gas treatment subsystem for one hour and maintaining greater than or equal to 0.25 inches of vacuum water gauge in the secondary containment at a flow rate of less than or equal to 2885 cfm from Zone I and Zone III; and i.c Verifying by calculation that one standby gas treatment subsystem will maintain greater than or equal to 0.25 inches of vacuum water gauge in the secondary containment at a flow rate of less than or equal to 4000 cfm from Zone I, Zone II, and Zone III. Or, ii.a Verifying that one standby gas treatment sybsystem will draw down the secondary containment (Zone 1, Zone II and Zone III) to greater than or equal to 0.25 inches of vacuum water gauge in less than or equal to 92 seconds; and ii.b Operating one standby gas treatment subsystem for one hour and maintaining greater than or equal to 0.25 inches of vacuum water gauge in the secondary containment at a flow rate of less than or equal to 4000 cfm from Zone I, Zone II, and Zone III. Or"

The revised Technical Specification 4.6.5.1.c.2 would read: "2. For two zone operation (Zone II isolated from Zone I and Zone III): i. Verifying that one standby gas treatment subsystem will draw down the secondary containment (Zone I and Zone III) to greater than or equal to 0.25 inches of vacuum water gauge in less than or equal to 83 seconds; and ii. Operating one standby gas treatment subsystem for one hour and maintaining greater than or equal to 0.25 inches of vacuum water gauge in the secondary containment at a flow rate of less than or equal to 2885 cfm from Zone I and Zone III."

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee states in the December 19, 1983, January 5, 1984, and January 21, 1984, submittals that all the changes described above to revise the operation of the SGTS system involve no significant hazards consideration. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the probability of an accident has not changed due to three zone mixing since analyses for either two or three zone mixing considers single failure of the SGTS. The consequences (off-site dose) of an accident increase slightly; however, the dose is well below the 10 CFR Part 100 limits and does not involve a significant increase. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because the design of the SGTS accounts for single failures in the system. The proposed changes do not involve a significant reduction in a margin of safety because the SGTS operates within its design limits and there is only a slight increase in off-site doses, which remain well within the 10 CFR Part 100 limits. The staff agrees with the licensee's evaluation in this regard, and accordingly, the NRC staff proposes to find the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination

unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By March 19, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be issued in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference sheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to a least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addresed to A. Schwencer: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or request hearing will not be entertained absent a determination by the Commission, the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factor specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Bethesda, Maryland this 8th day of February 1984.

For the Nuclear Regulatory Commission.

A. Schwencer, Chief,

Licensing Branch No. 2 Division of Licensing.

[FR Doc. 84-4302 Filed 2-15-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-77 and DPR-79, issued to Tennessee Valley Authority (the licensee), for operation of the Sequoyah Nuclear Plant, Units 1 and 2, located in Hamilton County, Tennessee.

The amendments would authorize the operation of an installed Postaccident Sampling System (PAS) for Sequoyah Unit 1 and 2. The Sequoyah Nuclear Plant operating licenses stipulated that the licensee is required to complete the corrective actions necessary for PAS in order to meet the requirements of NUREG–0737. This system is designed to promptly obtain and perform radioisotope and chemical analysis of reactor coolant and containment atmosphere samples under degraded core accident conditions without excessive exposures to plant personnel who are performing the analysis. NUREG–0737, item II.B.3, provides the criteria for the design and operations of a PAS system, including exposure levels for individual involved with PAS.

In their amendment request the licensee informed the NRC that a portion of the modifications associated with PAS has been determined to be an unreviewed safety question. In particular, the PAS ventilation design had not been previously analyzed in the licensee's Final Safety Analysis Report.

The licensee's application for amendments was dated November 23 and supplemented December 21, 1983, and January 9 and 10, 1984.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 19, 1984, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later that fifteen (15) day prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri) (800) 342–6700. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the applications for amendments dated November 23 and December 21, 1983, and January 10, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Dated at Bethesda, Maryland this 10th day of February 1984.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 84–4303 Filed 2–15–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–266 and 50–301]

Wisconsin Electric Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–24 and DPR–27, issued to Wisconsin Electric Power Company (the licensee), for operation of the Point Beach Nuclear Plant Units 1 and 2 located in the Town of Two Creeks, Manitowoc County, Wisconsin.

The amendment would revise the surveillance interval for evaluating the leakage integrity of post-accident recovery systems outside containment in accordance with the licensee's application for amendment dated December 23, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

On July 2, 1980 all pressurized water reactor licensees were sent guidance in the form of model technical specifications in order to provide reasonable assurance that facility operation would be maintained within the limits determined acceptable following implementation of the TMI–1 Lessons Learned Category "A" items. In part, these model technical specifications included the surveillance requirement for integrated leak testing of systems outside containment that would or could contain highly radioactive fluids during a serious transient or accident "at a frequency not to exceed refueling cycle intervals." The Commission's guidance took into account that several licensees' refueling cycle intervals were at 18 month intervals.

The normal refueling interval for the Point Beach Nuclear Plant Units 1 and 2 is approximately 12 months. Wisconsin Electric Power Company (licensee) proposed a yearly surveillance frequency for evaluating the integrity of post accident recovery systems outside containment. Slight deviations (±25%) from the yearly surveillance interval were allowed by previously existing technical specifications to accommodate small changes in the annual refueling outage dates. At the time the licensee's proposed technical specifications were reviewed and approved, the licensee did not anticipate conducting extended refueling outages which might exceed the normal five-week duration. Subsequent to the issuance of the technical specifications for evaluating the integrity of post-accident recovery systems outside containment, the licensee has begun an extended refueling outage (six-months duration) on Point Beach Unit 1. This also creates the need for Unit 2 to remain in a greater than 12 month operating cycle so as not to have both units shutdown simultaneously. Because of this, the licensee has requested changes to the wording of the surveillance frequency for evaluating the integrity of post-accident recovery systems to an inspection interval of "each refueling cycle." While the interval between inspections may, in unique situations (such as following an extended refueling outage), exceed the current yearly inspection interval, it is clearly within the guidelines proposed by the Commission in their July 2, 1980 letter to all licensees of pressurized water reactors. For this reason, the staff proposes to determine that the amendments do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By March 19, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent to the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held

would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportuity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW. Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller, Chief, Operating Reactors Branch #3, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upun a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Bethesda, Maryland this 9th day of February, 1984.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 84–4304 Filed 2–15–84; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Hydropower Assessment Steering Committee; Meeting

AGENCY: Hydropower Assessment Steering Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- River assessments, National Park Service.
- Cumulative impacts proposed methodology.
- Discussion of FERC activities.
- Discussion of site ranking criteria.
- Other.
- Public comment.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Hydropower Assessment Steering Committee.

DATE: February 21, 1984. 9:30 a.m.

ADDRESS: The meeting will be held at the Council Hearing Room in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Peter Paquet at 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–4214 Filed 2–15–84; 8:45 am]

BILLING CODE 0000–00–M

PENSION BENEFIT GUARANTY CORPORATION

Approval of Special Withdrawal Liability Rules: International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of Approval.

SUMMARY: The Pension Benefit Guaranty Corporation has granted the request of the International Longshoremen's and Warehousemen's Union-Pacific Maritime Association pension Plan for approval of a plan amendment providing for special withdrawal liability rules under section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for approval was published on January 17, 1983 (48 FR 2086). The effect of this notice is to advise the public of the decision on the request.

ADDRESS: The request for approval, the comments received and PBGC response to the request are available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (611) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Attorney, Corporate Planning and Program Development Department (611), 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862.

SUPPLEMENTARY INFORMATION:

Background

Under section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1383(f), the Pension Benefit Guaranty Corporation ("PBGC") may authorize plans in industries other than construction and entertainment to adopt special complete withdrawal liability rules similar to those in section 4203(b) and (c) for the construction and entertainment industries. ERISA section 4208(e)(3) provides that PBGC may permit plans to adopt special partial withdrawal liability rules upon a finding by PBGC that the rules are consistent with the purposes of Title IV of ERISA. Under ERISA section 4203(f) and § 2645.4(a) of PBGC's regulation on procedures for extension of special withdrawal liability rules (29 CFR Part 2645), PBGC will approve a plan

amendment establishing special withdrawal rules if PBGC determines that the plan amendment—

(A) Will apply only to an industry that has characteristics that would make use of the special withdrawal rules appropriate; and

(B) Will not pose a significant risk to the insurance system.

The statute provides that the characteristics necessary for appropriateness must be "clearly shown."

In order for PBGC to determine whether a special withdrawal rule is appropriate, § 2645.3(d)(7) of the regulation requires that plans provide information on the industry which is the subject of the rule. This includes information on the effects of withdrawals on the plan's contribution base, as well as information sufficient to demonstrate the existence of industry characteristics which would indicate that withdrawals in the industry do not typically have an adverse effect on the plan's contribution base.

Under § 2645.2(a) of the regulation, a special partial withdrawal rule must be consistent with the rule the plan has adopted on complete withdrawals. The regulation also requires that a plan indicate how the special rules will operate in the event of a sale of assets by a contributing employer or the withdrawal from the plan of all employers (§ 2645.3(d)(4)). Finally, § 2645.4(b) requires PBGC to publish a notice of the pendency of a request for approval of special withdrawal rules in the **Federal Register** and to provide interested parties with an opportunity to comment on the request.

The Request

On January 17, 1983 (48 FR 2086), PBGC published a notice soliciting public comment on a request from the International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan (the "Plan") for approval of a Plan amendment providing for special withdrawal liability rules. The comment period ended on March 3, 1983. Five timely comments were received in response to the notice. One comment endorsed the request in general terms, and the Plan filed a comment providing supplementary financial information. The remaining three comments opposed approval of the request. In addition, after the close of the comment period, the Plan responded to one of the opposition comments, and another comment supporting the request was received.

The Plan is a multiemployer plan, with approximately 110 employers contributing in 1980, that is maintained pursuant to collective bargaining agreements between the International Longshoremen's & Warehousemen's Union ("ILWU") and the Pacific Maritime Association ("PMA"). The Plan, which is administered in San Francisco, covers all longshoring and stevedoring work with respect to dry cargo for ocean-going vessels arriving at or departing from any Pacific coast port. The Plan does not cover petroleum and other liquid cargoes or cargoes handled by inland boatmen.

The PMA is an employer association charged with negotiating the industry's master collective bargaining agreement. The PMA is composed of operators and owners of vessels operating from Pacific ports, stevedoring firms, and terminal operators.

Virtually all of the employees covered by the Plan work in the longshoring industry. As of December 31, 1981, the Plan covered 10,140 active workers and 9,322 retirees. The Plan had assets of $178.8 million and liability for unfunded vested benefits of $391.4 million. During calendar year 1981, the Plan received $46.4 million in contributions and paid $39.8 million in benefits.

Plan benefit levels are set by negotiations between the PMA and the ILWU, while contribution rates are determined annually by the PMA on the basis of the ERISA minimum funding requirements. Stevedoring firms contribute at the rate of $1.73 per hour of work, and vessel operators contribute on the basis of tonnage. In 1984 and thereafter, contributions for all types of employers will be based solely on hours of work.

The total number of contributing employers remained relatively stable from 1972 through 1979 (110 and 107 employers, respectively.) However, about 30 percent of the individual employers contributing in 1972 were no longer contributing by 1979.

According to the request, the west coast shipping industry as a whole has grown steadily over the past two decades and looks forward to increased growth in the future. The total tonnage of dry cargo handled through all ports amounted to about 29 million tons in calendar year 1960, 40 million tons in 1965, 60 million tons in 1970, 67 million tons in 1975 and 114 million tons in 1980. Information submitted by the Plan projects further increases over the next decade. However, because of dramatic productivity gains and technological advances, increased shipping activity has not resulted in increased manpower utilization. Productivity gains at the beginning of this period were so significant that, for a time, the industry did not require new workers to replace those retiring from the work force. That situation appears to be changing somewhat, since covered man-hours have increased in the past several years, from fewer than 16 million in 1975 to more than 18 million in 1980.

As part of its request, the Plan submitted copies of its three most recent actuarial valuation reports. The reports show that during the 4-year period spanned by the reports (12/31/77–12/31/81), the Plan population was relatively stable, while annual contributions increased from $36.7 million to more than $46 million, and Plan assets rose from $64 million to $178.8 million. During the period covered by the reports, the Plan's monthly benefit accrual rate increased from $18 to $26. This coupled with an increase in the maximum number of years for which participants could accrue benefits, raised the monthly maximum benefit from $450 to $780. These changes increased the Plan's unfunded accrued liability to approximately $529 million. The rate of benefit increases under the Plan has exceeded the rate of contribution increases. As a result, annual benefit payments, as a percentage of annual contributions have increased from 87 percent to 91 percent during the period reported.

A summary of the three actuarial valuations is set forth below.

SUMMARY OF ACTUARIAL VALUATION RESULTS [1]

	Valuation date		
	Dec. 31, 1981	Dec. 31, 1979	Dec. 31, 1977
A. Participants and benefits:			
1. Number of participants: [2]			
a. Active	10,140	10,179	10,216
b. Retired	9,322	9,237	9,073
2. Benefit accruals used for valuation:			
a. Monthly accrual rate	$26	$22	$18
b. Maximum monthly benefit	780	550	450
B. Contributions and benefits payout (in thousands):			
1. Annual contributions [3]	$43,433	$43,130	$36,689
2. Annual benefit payout [3]	39,308	37,406	31,779
3. Market value of assets	178,844	134,753	100,861

SUMMARY OF ACTUARIAL VALUATION RESULTS [1]—Continued

	Valuation date		
	Dec. 31, 1981	Dec. 31, 1979	Dec. 31, 1977
4. Net minimum funding charges, ignoring credit balance	50,156	43,540	32,741
C. Plan liabilities (in thousands):			
1. Entry age normal cost	$10,800	$8,848	$9,253
2. Unfunded [4] value of:			
a. Accrued liability—EAN	529,162	470,598	396,780
b. Liability for vested benefits	[5] 391,442	383,427	[6]
3. Interest rate used to value liabilities (percent)	6½	6¾	5

[1] Taken from actuarial reports submitted with request.
[2] Excludes terminated vested participants (2 or 3 per report).
[3] Average of cash basis for the 2-year period ending on the valuation date.
[4] Assets taken at market value as shown in B.3.
[5] Figures in report adjusted to reflect estimated effect on July 1, 1981 benefit increase.
[6] Not reported.

Complete and Partial Withdrawal Rules

On March 23, 1982, the Plan adopted an amendment prescribing special withdrawal rules. The amendment was modified by the Plan on December 3, 1982 and on January 18, 1984. The amendment provides that, upon approval by the PBGC, the special rules shall be effective as of the effective date of the withdrawal liability provisions of the Multiemployer Pension Plan Amendments Act of 1980. The special definitions for a complete and partial withdrawal read as follows:

"1.42 Complete Withdrawal: Complete Withdrawal from the Plan by an Employer occurs if—

"(A) An Employer permanently ceases to have an obligation to make Contributions to the Plan (unless such cessation of the obligation to contribute is attributable solely to a change in the method of determining Contributions to the Plan such as a change from a formula based on tonnage to one based on hours, or vice versa), and

"(B) The Employer

"(i) Continues to perform work of the type for which Contributions to the Plan are currently or were previously required at any Pacific Coast port in the United States,

"(ii) Resumes such work at any time during the Plan Year in which the obligation to make Contributions under the Plan ceases or the five succeeding Plan Years, and does not renew the obligation to make Contributions at the time of such resumption,

"(iii) Sells or otherwise transfers a substantial portion of its business or assets, directly or indirectly, to another person that, at any time during the six Plan Years described in clause (ii), performs longshore work within the meaning of Section 4.042(a) at any Pacific Coast port in the United States without having the obligation to make Contributions to the Plan in accordance with the Collective Bargaining Agreements under which the Plan is maintained, or

"(iv) Ceased to have an obligation to contribute in connection with the withdrawal of every Employer from the Plan or the withdrawal of substantially all the Employers pursuant to an agreement or arrangement to withdraw from the Plan within the meaning of Section 4219(c)(1)(D) of ERISA. For purposes of this clause, the terms 'withdraw' and 'withdrawal' shall be interpreted in accordance with Section 4203(a) of ERISA and without regard to this Section 1.42.

"1.42 Partial Withdrawal: Partial Withdrawal from the Plan by such Employer occurs on the date of a 'partial withdrawal' of such Employer within the meaning of Section 4205 of ERISA, but only if, at any time during the Plan Year in which such date occurs or the five succeeding Plan Years, the Employer.

"(A) Performs work of the type for which Contributions to the Plan are currently or were previously required at any Pacific Coast port in the United States without having the obligation to make Contributions to the Plan in accordance with the Collective Bargaining Agreements under which the Plan is maintained, or

"(B) Sells or otherwise transfers a substantial portion of its business or assets, directly or indirectly, to another person that, at any time during the six Plan Years described in Paragraph 1.43, performs longshore work within the meaning of Section 4.042(a) at any Pacific Coast port in the United States without having the obligation to make Contributions to the Plan in accordance with the Collective Bargaining Agreements under which the Plan is maintained."

Other Provisions of the Plan Amendment

1. Paragraph 4.011 of the ILWU-PMA Pension Agreement ("Agreement") was amended by adding a second sentence thereto to read as follows:
"Notwithstanding any other provision of this Plan, the Contributions for each Plan Year shall be not less than the total administrative costs and benefits to be paid by the Trustee during said Plan Year."

2. Paragraph 4.042 of the Agreement was amended to read as follows:

"4.042(a) Pursuant to ERISA Section 4203(f) and amendments to the Plan adopted thereunder, an Employer whose obligation to make Contributions to the Plan is with respect to persons all of whom perform longshore work, including work performed by any longshoreman, clerk, walking boss, or foreman, carloader, lockerman, gearman, sweeper, grain handler, or other employee employed in connection with the loading or unloading of dry cargo on or off of vessels or at any facility used in the loading or unloading of dry cargo that is subject to the jurisdiction of the Union and/or its Locals shall have withdrawal liability under Title IV, Subtitle E, Part 1 of ERISA only for a Complete Withdrawal or a Partial Withdrawal within the meaning of Paragraphs 1.42 and 1.43, respectively.

"4.042(b) Paragraph 4.042(a), as a limitation on Title IV, Subtitle E, Part 1, of ERISA, shall be effective for an Employer who has, as of the date of this Twentieth Amendment, as Amended, withdrawn from the Plan, or thereafter withdraws but, in the latter case, only when the Special Contribution Commitment has been met for each preceding Plan Year beginning with the Plan Year commencing July 1, 1984. For any Plan Year, the 'Special Contribution Commitment' shall be deemed to have been met if the 'Special Contribution Amount' (as defined below), if any, for such Plan Year is, within the period described by section 412(c)(10) of the Internal Revenue Code, contributed by the Employers of the Pension Fund in addition to Contributions otherwise required by law (determined without regard to any credit balance in the Funding Standard Account), or by other provisions of Section 4; provided that, if not otherwise met, the Special Contribution Commitment shall always be deemed to have been met for any Plan Year in which Contributions therefor are at least equal to the maximum amount deductible by Employers under Section 404 of the Internal Revenue Code for the purpose of determining their respective taxable incomes. If the Special Contribution Commitment is ever not met with respect to any Plan Year, paragraph (a) shall have no applicability to any Employer withdrawing after the last day of such Plan Year.

"4.042(c) Definitions.

"(i) The 'Special Contribution Amount' shall be the level annual amount which, on the basis of a Certified Actuarial Projection, the Plan Actuary certifies will, when added to the amounts otherwise required by law (determined without regard to any credit balance in the funding standard account) or other provisions of Section 4, be sufficient to make the Funding Percentage as of the Applicable Funding Goal Date at least equal to the Applicable Funding Goal.

"(ii) The term 'Funding Percentage' shall mean, for any Plan Year, the percentage derived by dividing the market value of the assets of the Pension Fund by the present value of nonforfeitable benefits within the meaning of ERISA section 4213(c)(A), both values to be as determined in the Certified Actuarial Projection as of the end of such Plan Year.

"(iii) For the first through fifth Plan Years commencing on or after July 1, 1984, the term 'Applicable Funding Goal' for each such Plan Year shall mean 50 percent (50%), and the 'Applicable Funding Goal Date' for each such Plan Year shall mean the last day of the tenth such Plan Year; for each succeeding Plan Year, the term 'Applicable Funding Goal' shall mean the percentage set forth in the Accelerated Funding Schedule for the Plan Year commencing four years after the end of Plan Year in question, and the 'Applicable Funding Goal Date' for each such Plan Year shall mean the last day of the Plan Year commencing four years after the end of the Plan Year in question.

"(iv) The 'Accelerated Funding Schedule' shall be the following schedule:

Plan year	Percent
10	50
11	53
12	56
13	59
14	62
15	65
16	68
17	71
18	74
19	77
20 [1]	80

[1] And all subsequent years.

"(v) The 'Certified Actuarial Projection' shall be a projection, which is prepared as of each actuarial valuation date so as to derive the Funding Percentage on the Applicable Funding Goal Date, by using the actuarial assumptions and methods utilized in the December 31, 1982 Actuarial Valuation of the Plan and the then current asset and census data, which projection shall be certified to in each Plan Year by the Plan actuary. This projection shall be on the basis of (1) the benefit levels in effect during the Plan Year for which the projection is made and (2) the Contributions required for such Plan Year by Section 4, together with any Special Contribution Amounts. When the Applicable Funding Goal is met for the twentieth or subsequent Plan Year, the Special Contribution Amount may be limited to the amount necessary to maintain such Applicable Funding Goal for each subsequent Plan Year."

3. Paragraph 7.02 of the Agreement was amended to read, in pertinent part, as follows:

"7.02 Amendment: The Union and Association by their mutual agreement in writing may at any time amend, modify, or delete any provisions of the Agreement * * * provided, further, all amendments shall be consistent with the applicable provisions of the Employee Retirement Income Security Act of 1974, and no amendments shall be made to paragraphs 1.42, 1.43 or 4.042, or to the second sentence of paragraph 4.011, without the approval of the Pension Benefit Guaranty Corporation * * *"

The special rules quoted above contain three substantive changes which the Plan made after the notice of pendency was published. First, the Plan added paragraphs 4.042 (b) and (c), which provide that the special rules will cease to apply to withdrawals that occur after a plan year in which the Plan has not satisfied certain funding requirements for that year. The funding requirements are designed so that the Plan will attain specified funding percentages (the ratio of assets to nonforfeitable benefits). Second, the Plan modified the special complete withdrawal rules so that they would not apply in the event that all, or substantially all employers, withdraw within the meaning of section 4203(a) of ERISA. Third, the Plan limited the application of the special rules to employers who contribute to the plan solely for employees who perform "longshore work" as that term is defined in paragraph 4.042(a) of the Agreement.

Treatment of Sales of Assets

The Plan has stated that ERISA section 4204 (and applicable PBGC regulations thereunder) would continue to apply to sales of assets involving contributing employers to the Plan. According to the Plan, if a sale of assets did not constitute a complete or partial withdrawal by reason of section 4202, there would be no occasion for the Plan's special liability rules to be applied, since there would be no withdrawal liability under Part 1, Subtitle E of ERISA. If, however, the sale did not meet the conditions of section 4204 and accordingly gave rise to a complete or partial withdrawal under the statute, the Plan's special withdrawal liability rules would apply.

Decision

In order to approve a request for special withdrawal liability rules, PBGC must make two independent determinations, as provided in ERISA section 4203(f)(2) and § 2645.4(a) of the regulation. First, on the basis of a clear showing by the plan, PBGC must determine that the plan amendment will apply only to an industry that has characteristics that would make use of the special rules appropriate. Second, PBGC must determine that the plan amendment will not pose a significant risk to the insurance system. PBGC discussion on each of these issues follows.

a. Appropriateness

The legislative history of the Multiemployer Act indicates that the basic consideration in determining the appropriateness of special rules is the effect of cessations of contributions by employers on the plan's contribution base. Various characteristics may be indicative of an industry in which cessations typically do not weaken the contribution base. In determining whether an industry has the characteristics that would make use of special rules appropriate, an important, although not necessarily dispositive, line of inquiry is the extent to which the particular industry possesses those characteristics that led Congress to adopt special rules for the construction and entertainment industries. An industry that is similar to construction or entertainment in terms of those characteristics is generally appropriate for rules similar to the construction and entertainment rules.

Appropriate characteristics include, but are not necessarily limited to, the mobility of employees, the intermittent nature of employment, extreme fluctuations in the level of an employer's covered work under the plan, the project-by-project or temporary nature of the employer's participation in the plan, the existence or non-existence of a consistent pattern of entry and withdrawal by employers, and the local nature of the work performed.

PBGC believes that the industry covered by the Plan clearly evidences characteristics similar to these of the construction industry, the most important of which is the local nature of the work. The work covered under the Plan involves the loading and unloading of vessels at Pacific coast ports. Workers are employed by stevedoring

firms, generally on a daily basis from hiring halls, to work pursuant to contracts with vessel operators. The work must, of course, be performed at the port of embarkation or debarkation. Thus, as long as there are vessels to unload at west coast ports, longshore work can only be performed in the jurisdiction of the Plan. If an employer leaves the Plan's geographical jurisdiction, it can no longer compete with remaining employers for work in the industry.

In addition, an employer in this industry cannot withdraw from the Plan while continuing to perform longshore work at any Pacific coast port, because longshore work along the entire west coast for all ocean-going dry cargo is covered by collective bargaining agreements that require contributions to the Plan. Therefore, unlike the construction industry, where there is no guaranty against a nonunion contractor replacing a union employer, there is an assurance in this case that a new employer who performs longshore work anywhere on the Pacific coast will contribute to the Plan.

Because of the local nature of the work and the requirement that contributions be made to the Plan for all longshore work done on the Pacific coast, the comings and goings of stevedoring firms do not have an adverse effect on the Plan's contribution base, which depends upon the level of shipping activity on the west coast, rather than the existence of particular employers. For these reasons, the covered industry evidences characteristics which indicate that cessations by employers typically do not have a weakening effect on the Plan's contribution base.

One of the comments received in response to the notice questioned whether the covered industry possessed other characteristics mentioned in the legislative history. On the issue of the project-by-project nature of the work, the comment stated that the high level of shipping activity suggests "it is unlikely that stevedoring employment could be considered intermittent or temporary within any given year. In addition, we believe that the unloading of a single ship by stevedores is not the equivalent of the construction of a building or the run of a Broadway play." The comment also questioned whether, given the significant increase in the level of west coast shipping activity, "stevedoring employers experience extreme fluctuations in covered employment especially when the available workforce has not expanded in the last decade." According to the comment, stevedoring employers must have a fairly constant level of work from year to year in order to remain in business. Finally, with respect to a consistent pattern of entry and withdrawal, the comment noted that, although there had been significant turnover of employers between 1972 and 1979, there was no demonstration of a consistent pattern of employer movement in and out of the Plan:

"* * * it is unlikely that a stevedoring employer will come into a jurisdiction for only one job. Such employers generally work primarily, if not exclusively, within a single jurisdiction * * * The continuing participation of these employers in the Plan is the norm rather than the exception."

PBGC disagrees with the comment's assertion that the work covered under the Plan is neither intermittent nor project-by-project in nature. The process of loading or unloading a vessel is, by its nature, project-by-project work. The fact that this industry uses a hiring hall system, dispatching employees to employers each day as needed, is further evidence that work occurs on an intermittent basis. In addition, PBGC believes that the project-by-project work of a stevedore is similar to that of employees in the construction and entertainment industries. For example, an electrician may work on a construction project for only one or two days, or an actor may perform in a single television program.

Where there is clear evidence, as there is in this case, of project-by-project work, fluctuations in the level of a particular employer's covered work also typically occur. Although no specific figures were provided, the Plan's request stated:

"The work done by a particular company may fluctuate dramatically from month to month as well as from year to year. A particular stevedoring company may, through the dispatch hall system, call upon a sufficient work force to unload five ships in one week, and then have no ships to unload the next * * * a given company may have forty or fifty employees on Monday and only a few on Tuesday. It may handle a hundred thousand revenue tons in one month and only a small fraction of that in the next."

PBGC agrees that the west coast shipping industry does not evidence a consistent pattern of entry and withdrawal from the Plan by employers. In fact, it appears that employer participation in the Plan is very stable, and employers do not enter or leave the Plan because specific projects are obtained or completed. However, the legislative history of the Multiemployer Act recognized that construction industry employers too could have a "long-sustained attachment to a plan." As the legislative history states: "For example, a local building contractor may have a long attachment to a plan, but work consisting of a series of contracts, each of a temporary duration." (House Floor Explanation, *Congressional Record*, H 7900 (August 26, 1980)). This is similar to the situation presented by this request. The fact that the overall level of work in the industry is stable, with many employers continuing in business for long periods of time, is not a bar to the adoption of special rules.

Moreover, the existence or nonexistence of one or even several specific characteristics is not necessarily determinative of appropriateness. The fact that an industry is similar to the construction or entertainment industries in some respects, but not similar in other respects, does not mean that the industry is inappropriate for special rules. Therefore, PBGC has concluded that the Pacific coast longshore industry, while not possessing all of the characteristics mentioned as significant in the legislative history, does clearly evidence characteristics that make use of special rules appropriate.

b. Risk to the Insurance System

In addition to determining that special rules are appropriate to this case, PBGC must find that their use will not pose a significant risk to the insurance system.

The Plan submitted actuarial reports for the four-year period, December 31, 1977 through December 31, 1981. The most recent of those reports indicates an unfunded actuarial liability of $529 million, an unfunded liability for vested benefits of $391.4 million, and assets of $178.8 million. In the four-year period, the Plan's unfunded actuarial liability increased from $397 million to $529 million, the monthly accrual rate went from $18 to $26 per year of service and the maximum number of years for which participants could accrue benefits was increased. These changes increased the monthly maximum benefit from $450 to $780. The $26 monthly accrual rate exceeds the maximum monthly accrual rate guaranteed by PBGC under ERISA section 4022A(c), which is $16.25 or 62.5 percent of the Plan's accrual rate. In addition, the rate of benefit increases under the Plan has exceeded the rate of contribution increases, with the result that annual benefit payments, as a percentage of annual contributions, have increased from 87 percent to 91 percent during the period reported. PBGC notes that the population of active participants is substantially older than under the typical multiemployer plan, and thus the

cost associated with a given level of benefits is greater than usual.

In the short term, PBGC believes that the condition of the Plan and of the covered industry is such that the use of the Plan's special rules will not pose a significant risk to the insurance system. In addition to the information already mentioned, the actuarial reports show a stable Plan population, an increase in annual contributions ($36.7 million to more than $46 million), and an increase in Plan assets ($64 million to $178.8 million) during that four-year period. Plan income has also consistently exceeded benefit pay-outs. The Plan and the covered industry have unique characteristics that suggest that the Plan's contribution base is likely to remain stable at least for the near future. The Plan covers all west coast loading and unloading of ocean-going dry cargo, the tonnage of which has been steadily increasing. Due to technology and productivity gains, increased shipping activity has not meant a commensurate increase in manpower utilization, but there has been some increase in the Plan's covered man-hours in the past several years. Moreover, because of the Plan's coverage of the entire Pacific coast, the departure of one employer from the Plan is not likely to have an adverse effect on the contribution base so long as the level of shipping does not decline.

Nevertheless, long-term considerations led PBGC to have certain reservations concerning the effect of the Plan's special rules. The Plan has large unfunded liabilities, a comparatively low ratio of assets to liabilities and a past history of benefit increases that have not been matched by increases in contributions. If the Plan's past funding practices were to continue, and the industry were to suffer a decline at some future point, the contribution base might prove insufficient to maintain the Plan and fund benefits. The result could be Plan insolvency and a claim on the insurance system. In that situation, special rules waiving withdrawal liability obviously would mean that the Plan would not have funds that otherwise would have been collected under the general statutory withdrawal rules. In addition, PBGC believes that the general withdrawal rules would have provided a strong incentive for employers to improve the funding of the Plan. For these reasons, PBGC found it difficult to conclude that the use of the Plan's special rules, as originally proposed, would not pose a significant risk to the insurance system.

PBGC communicated these concerns to the Plan. In response, the Plan revised its proposed rules to provide that specific funding objectives, designed to improve the Plan's financial condition, must be met each year in order for the special rules to continue to apply. Specifically, the Plan must satisfy an "accelerated funding schedule" requiring an annual "special contribution amount" in addition to contributions that would normally be required by ERISA's minimum funding standards. The required special contribution is the level annual amount needed to raise the Plan's vested benefit funding ratio to 50 percent after 10 years and 80 percent after 20 years. PBGC believes that meeting these objectives will place the Plan on a sound long-term financial basis. If the objectives are not met, the special rules will automatically be cancelled. In the context of this Plan and the nature of the industry that it covers, PBGC has concluded that the use of the special rules, as revised, will not pose a significant risk to the insurance system.

Two comments raised concerns relating to the issue of risk. One comment pointed out that, despite significant increases in the amount of tonnage shipped through west coast ports, "growth of stevedoring has been stragnant for the past decade", as evidenced by the very small increase in the number of covered man-hours in that period. According to the comment, this lack of growth is likely to continue in the future, and greater technological advances in the loading and unloading of vessels may result in erosion of covered employment. The comment also pointed out that, under the contribution formula scheduled to take effect in 1984, increased tonnage will not necessarily translate into increased Plan contributions, because all contributions will be based on man-hours. The comment thus concluded that "the Plan's contribution base can hardly be said to be secure when it is based on stevedoring man-hours which have not increased significantly in the last decade." After noting the Plan's underfunding, recent benefit increases and comparatively older population, the comment stated that "approval of more lenient withdrawal liability rules will remove an incentive for the PMA to establish realistic contribution levels which are sufficient to fund promised benefits." According to the comment, the result will be greater exposure to risk for the insurance system. The comment urged PBGC to "strongly encourage" the ILWU and PMA to put the Plan on a sounder financial basis. A separate comment raised concerns about "the substantial decrease in coverage over the past 10 to 15 years" and the "substantial changes in shipping patterns" which, in the opinion of the commenter, are likely to continue to occur in the future.

PBGC's decision responds to the issues raised by these comments. The evidence indicates that the Plan's contribution base has been stable, that there has been an increase in covered man-hours, and that there is no reason to conclude that this situation will change in the near future. The Plan's revision of the special rules to include mandatory funding objectives addresses the concern that the approval of special rules will remove an incentive to improve Plan funding.

Based on the facts of this case and the representations and statements made in connection with the request for approval, PBGC has determined that the Plan amendment (i) will apply only to an industry that has characteristics that would make the use of special withdrawal rules appropriate and (ii) will not pose a significant risk to the insurance system. PBGC also finds that the proposed partial withdrawal rule is consistent with the rule that the Plan proposes for complete withdrawals. Therefore, PBGC hereby grants the Plan's request for approval of the special withdrawal liability rules set forth herein. Should the Plan wish to amend these rules at any time, PBGC approval of the amendment will be required.

Issued at Washington, D.C. on this 30th day of January, 1984.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-4191 Filed 2-15-84; 8:45 am]

BILLING CODE 7708-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee: Public Hearings on the Possible Establishment of a Free Trade Area With Israel

Summary: This publication gives notice that the Trade Policy Staff Committee will conduct public hearings on consideration of the possible establishment of a U.S.-Israel Free Trade Area (FTA).

1. Public Hearings

The Chairman of the Trade Policy Staff Committee invites public comments on consideration of the possible establishment of a U.S.-Israel FTA. Such comments will be considered by the Executive Branch in deciding

whether it is in the interest of the United States to enter into a FTA arrangement with Israel. The Committee is inviting specific comments on the merits of establishing a U.S.-Israel FTA, including comments on the possible scope of a FTA arrangement.

Interested parties are invited to submit testimony or written comments on this issue.

2. Requests To Participate in the Public Hearings

Hearings will be held on April 12, 1984, beginning at 10:00 a.m. in the GSA Auditorium, 18th and F Streets, NW., Washington, D.C., and will continue on April 13 if required. Parties wishing to testify orally at the hearings must provide written notification of their intention by noon, April 3, 1984 to Carolyn Frank, TPSC Secretary (Office of the United States Trade Representative, Room 500, 600 Seventeenth Street, NW., Washington, D.C. 20506) giving:

(1) Their names, addresses and telephone numbers; and

(2) A brief summary of their presentation.

Those parties presenting oral testimony must submit a complete written brief, in 20 copies, by noon, April 6, 1984.

Remarks at the hearings should be limited to no more than 15 minutes to allow for possible questions from the Chairman and the interagency panel. participants should provide twenty typed copies of their oral presentation at the time of the hearings.

Persons not wishing to participate at the hearings may submit a written statement, in twenty copies, by April 20 to the TPSC Secretary at the address noted above.

Parties are referred to Section 2003 of Title 15 of the Code of Federal Regulations for the Committee's rules concerning oral testimony, the submission of written briefs, the treatment of business confidential information and other procedures related to TPSS hearings.

3. Background

On November 29, 1983, President Reagan and Israeli Prime Minister Shamir agreed to proceed with bilateral negotiations on a U.S.-Israel two-way free trade area. The Israeli Government had originally proposed these negotiations in 1981. Since that time, the U.S. has reviewed the economic and political merits of this proposal and recently determined that the U.S. could gain substantially from a free trade area with Israel. The U.S. began negotiations with Israel in mid-January 1984.

In connection with these negotiations, the President has requested the International Trade Commission to conduct an investigation, pursuant to section 332(g) of the Tariff Act of 1930, and to provide advice, with respect to each item in the Tariff Schedules of the United States as to the probable economic effect of providing duty free treatment for imports from Israel on industries in the United States producing like or directly competitive articles and on consumers. In addition, the President informed the International Trade Commission that he may seek additional advice regarding the probable economic effects on certain modifications in nontariff areas on domestic industries and purchasers and on prices and quantities of articles in the United States.

4. Comments

Comments are particularly invited on:

(a) potential coverage of tariff items and nontariff barriers in a U.S.-Israel FTA;

(b) general observations regarding a proposed U.S.-Israel FTA;

(c) experiences in trading with Israel;

(d) particular benefits or disadvantages to the establishment of a U.S.-Israel FTA.

5. Additional Information

Any questions with regard to the establishment of a U.S.-Israel FTA should be directed to Nancy Adams, Director, Mid-East Affairs, Office of the United States Trade Representative, Room 316, 600 17th Street, NW., Washington, D.C. 20506; telephone (202) 395-6813.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 84-4169 Filed 1-15-84; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-5784]

Caressa, Inc., Common Stock, $.50 Par Value; Application To Withdraw From Listing and Registration

February 8, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Caressa, Inc. ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on December 13, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before March 1, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4235 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13752; 812-5706]

CIGNA Aggressive Growth Fund, Inc., et al.; Application for an Order

February 8, 1984.

Notice is hereby given that CIGNA Aggressive Growth Fund, Inc. ("Aggressive") and CIGNA Value Fund, Inc. ("Value") (the "New Funds"), Hartford, Connecticut 06152, open-end, diversified management investment companies registered under the Investment Company Act of 1940 ("Act"), filed an application on November 23, 1983, requesting an order of the Commission, pursuant to Sections 6(c) and 17 (d) of the Act and Rule 17d-1 thereunder, exempting Applicants from the provisions of, and rules under,

Sections 13(a)(2), 17(d), 18(f)(1), and 22(d), (f) and (g) of the Act, in connection with a proposed Deferred Fee Arrangement to be entered into by each Applicant and transactions to be effected by the New Funds and certain of their directors pursuant to the agreement. In addition, the New Funds and CIGNA Securities, Inc. ("CIGNA Securities") (collectively, "Applicants") have applied for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicants from Section 22(d) of the Act to permit (i) the inclusion of certain accumulated annuity values, or amounts to which there is a statement of intention in effect for the purchase of such annuities, in determining the sales loan applicable to purchases of shares of Aggressive and Value where rights of accumulation, statements of intention, or aggregation of amounts invested are employed, (ii) the sales of the New Funds' shares at no-load where purchase payments represent transfers of certain accumulated annuity values and (iii) the application of amounts payable under insurance contracts issued by Connecticut General Life Insurance Company ("CG Life") to the purchase at a reduced sales charge of shares of the New Funds. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and rules thereunder for further information as to the provisions to which the exemptions apply.

According to the application, the primary objective of Aggressive is long-term capital appreciation which will be pursued through investing principally in equity securities of small-to-medium sized companies that growth. The primary objective of Value is long-term capital appreciation through investing in undervalued securities. CIGNA Investment Management Company ("CIGNA Management"), an indirect subsidiary of CIGNA Corporation ("CIGNA"), is the investment manager or adviser for various other mutual funds sponsored by affiliates of CIGNA and for a number of pension advisory and separate accounts. CIGNA Securities, an affiliate of CIGNA Management, is the New Funds' principal underwriter and distributor. Shares of the New Funds are offered to the public at their net asset value plus a sales charge payable to CIGNA Securities. The sales charge varies depending upon the amount invested and ranges from 7½ percent of the public offering price (8.11 percent of the net asset value) on purchases of less than $10,000 to a minimum of 1 percent of the public offering price 1.01 percent of the net asset value) on purchases of $1,000,000 or more.

I. Section 22(d)

Applicants state that CG Life, an affiliate of CIGNA, will sell annuity products in conjunction with shares of the New Funds as alternative or complimentary funding vehicles for tax qualified accounts ("Retirement Plans"). Shares of the New Funds and the annuities are sold with an identical sales load. Applicants assert that retirement plans that split their assets between annuities and shares of the New Funds will pay higher sales charges than Retirement Plans allocating all of their investments either to annuities or to shares of the New Funds because of applicable break-points in the sales load structure and the inability of the New Funds to consider values accumulated in annuities for purposes of the right of accumulation, a statement of intention, or the right of aggregation in determining the sales load on purchase of the New Funds' shares.

Applicants assert that a reduced sales load should be available to a Retirement Plan that chooses to split its investment between shares of the New Funds and the annuities. Applicants submit that a reduced sales load should be available through the rights of accumulation and aggregation and statements of intention which are utilized by fund complexes pursuant to Rule 22d–1. Applicants assert that because Retirement Plans use annuity contracts and shares of all the CIGNA Funds as alternative funding vehicles, only one sales effort is used to sell the package rather than a separate sales effort for each investment vehicle.

Additionally, Applicants seek authority to permit the no-load purchase of the New Funds' shares with amounts transferred from accumulated fixed annuity values in order to be consistent with the desire to charge one sales load against present and future allocations of retirement plan assets to shares of the New Funds, shares of CIGNA Funds or CG Life annuities. Applicants assert that such transfers of assets will occur as a result of changes in a Retirement Plan's investment objectives and not as a result of any selling effort. Applicants further assert that requiring a sales load under these circumstances places an unnecessary burden upon fiduciaries who should be given as much flexibility as possible in allocating assets during the life of the Retirement Plan. Finally, Applicants assert that permitting the no-load purchase of New Fund shares with annuity cash values will assure that salesmen do not churn accounts in order to generate sales commissions.

According to the application, the CG Life annuities will contain features that will discourage speculation and extreme shifts between the CG Life annuities and the New Funds. Applicants state that under the CG Life annuity contract only 15 percent of the annuities account value can be withdrawn in any year without penalty to purchase any CIGNA Fund shares. Applicants state that, consistent with the Act, no restrictions are placed on the purchase or redemption of any CIGNA Fund shares, and salesmen will not receive any compensation in advising or handling asset reallocations between the New Funds and CG Life annuities. Applicant further states that all the restrictions noted above are part of the CG Life annuities, which are regulated by state insurance departments and subject to different regulatory requirements and objectives than the New Funds.

Applicants undertake to implement certain safeguards intended to eliminate any possibility of abuse arising out of the proposed transactions. Applicants represent that annual prospectuses of the New Funds will disclose the applicable sales loads and existence of a transfer privilege to holders of certain CG Life annuities. Applicants further represent that all requests for reallocation of Retirement Plans assets will be accepted only after a request form has been signed by the Retirement Plan fiduciary and sent to CIGNA Securities. Finally, Applicants represent that all requests for reallocation of assets will be subject to CIGNA Securities' routine "compliance check" which includes an examination of whether transfers of assets are handled properly, and which helps to assure that the lowest possible sales load is applied against each purchase of New Fund shares.

Applicants seek authority to permit the application of amounts payable under insurance contracts issued by CG Life to the purchase of New Fund shares at a reduced sales load. According to the application, the premiums on CG Life insurance contracts which will be the source of the insurance proceeds will already have been subject to certain sales charges. Applicants represent that the cost of selling New Fund shares to CG Life insurance beneficiaries is less than the cost of selling fund shares to individuals that have never been "introduced" to the New Funds. If the requested relief is granted the sales load would range from 5.25 percent of the offering price for purchases of less than $10,000 to .70 percent of the offering

price for purchases of $1,000,000 or more Applicants assert that the reduced charges reflect the reduced cost of selling the New Funds' shares to individuals purchasing the shares with insurance proceeds.

II. Deferred Directors' Fees

Applicants state that each Applicant's board of directors consists of twelve persons, a majority of whom are not "interested persons" of each Applicant within the meaning of Section 2(a)(19) of the Act. Each director who is not an interested person of CIGNA, CGC, CC Life or CIGNA Management receives a retainer of $7,800 for serving as a director of all the Applicants plus a meeting fee of $525 for each board or committee meeting attended. Applicants will have audit, nominating and contracts committees. Directors acting as chairmen of committees receive an additional retainer of $1,500 per year. With two exceptions, no director who is an interested person of CIGNA, CGC, CG Life or CIGNA Management receives any remuneration from Applicants. Those exceptions are James H. Torrey, a Director of CIGNA, who receives a retainer of $26,000 per year for acting as Chairman of the Board of each Applicant in lieu of all other fees, and Harold H. Bigler, a former officer of CG Life and currently president and majority shareholder of Bigler Investment Management Company, Inc., who receives the standard amount of director's fees. Bigler Investment Management Company, Inc. has a contractual relationship with an affiliate of CIGNA Corporation.

According to the application, the total renumeration payable to the directors is allocated among all the CIGNA Funds, including Applicants, based on their relative net assets. Applicants pay no other remuneration to their directors. The amounts paid to the directors are, and are expected to continue to be, insignificant in comparison to the toal net assets of each Applicant.

Applicants state that the requested order would cover an agreement to be available for the deferral of fees payable by the Applicants. Each agreement will allow each individual director to elect to defer receipt of all director's fees which otherwise would become payable to him for services performed after the date of the agreement.

According to the application, the purpose of the agreement is to permit directors of each of the Applicants to elect to defer receipt of his directors' fees, in order to avoid diminution or loss of social security benefits to which the directors may otherwise be entitled, to enable the directors to defer payment of income taxes on such fees, or for other reasons.

Under the agreement, the deferred directors' fees will be credited to a book reserve account (the "Deferred Fee Account") as of the date such fees would have been paid. Directors' fees that become payable for attending Board meetings or meetings of committees of the Board will be credited to the Deferred Fee Account on the following business day. Deferred fees will accrue interest on a daily basis from and after the date of credit to the Deferred Fee Account in an amount equal to the amount that would have been earned had an amount equal to such deferred fees (plus all interest earned thereon on a daily basis) been invested in CIGNA Cash Fund, Inc. ("CIGNA Cash").

The agreement provides that each New Funds' obligation to make payments of deferred fees and interest accrued thereon will be a general obligation of such Applicant, and payments made pursuant to the agreement will be made from the New Funds' general assets and property. The relationship of the director to the New Fund will be only that of a general unsecured creditor. The agreement also provides that the New Funds will be under no obligation to purchase, hold or dispose of any investments under the agreement, but, if the Applicant chooses to purchase investments to cover its obligations under such agreement, then any and all such investments will continue to be a part of the general assets and property of such Applicant.

According to the application, the deferred directors' fees and any interest thereon will become payable in cash upon termination of the director's services in such capacity, in a lump sum or in such number of annual installments as shall be determined by each New Fund in its sole discretion. In the event of the director's death, amounts payable to him under the agreement will thereafter be payable to his designated beneficiary; in all other events, the director's right to receive payments will be nontransferable.

Applicants state that deferral of directors' fees in accordance with the agreement will have a negligible effect on the assets, liabilities, net assets and net income per shares of the New Funds. Further, Applicants state that the agreement will not obligate either New Fund to retain a director in such capacity, nor will it obligate either to pay any (or any particular level of) directors' fees to any director.

Applicants represent that participation in the deferred fee arrangement will be available to all directors who currently receive directors' fees from each Applicant, *i.e.*, those directors who are not "interested persons" of the Applicants within the meaning of Section 2(a)(19) of the Act and Messrs. Torrey and Bigler.

Applicants submit that the agreement is in the best interests of New Funds and their shareholders and consistent with the purposes fairly intended by the policy and provisions of the Act. In addition, Applicants submit that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors.

With respect to the requested exemptions from Sections 18(f)(1) and 13(a)(2), Applicants contend that the agreement possesses none of the characteristics of senior securities which led Congress to enact the restrictions on the issuance of such securities set forth in Sections 18 and 13(a)(2) of the Act. Applicants submit that they would not be "borrowing" from their directors in the sense that concerned Congress and that all liabilities created by credits to the Deferred Fee Accounts under the agreement would be offset by essentially equal assets of the Applicants which would not otherwise exist if the directors' fees were paid on a current basis. Applicants further argue that the agreement would not induce speculative investments by the New Funds or provide opportunity for manipulative allocations of their expenses and profits; that control of the New Funds would not be affected; and, given the common existence of deferred compensation agreements today, the agreement would not confuse investors, make it difficult for them to value the New Funds' shares or convey a false impression of safety.

With respect to the requested exemption from Section 22(f) of the Act, Applicants argue that this section was designed to bar only those restrictions on transferability or negotiability either not disclosed to the holder of the subject security or expressly prohibited by Commission rule or regulation, neither of which circumstances would apply here. Applicants point out that the restriction on transferability of directors' benefits would be clearly set forth in the agreement, would be included primarily to benefit the director and would not adversely affect the interests of the directors or of the shareholders.

As to Section 22(g) of the Act, Applicants contend that the legislative history of the Act indicates that Congress was primarily concerned with

the dilutive effect on the equity and voting power of the common stock of, or units of beneficial interest in, an open-end company if securities were issued for consideration not readily valued. Applicants submit that the agreement would not have this effect, particularly in view of current disclosure requirements applicable to director compensation. Applicants also contend that the obligation to make payments under the agreement need not be viewed as being "issued" for services or for property other than cash or securities, because, while any director's fees which might become payable to a director would clearly be for services, any such fees would become payable independent of the agreement. Thus, according to the Applicants, the agreement would merely provide for deferral of payment of such fees and thus may be viewed as being "issued" not in return for services but in return for Applicant's not being required to pay such fees on a current basis. For these reasons, Applicants submit that the requested exemption of the agreement and future transactions effected pursuant to them from Section 22(f) and (g) of the Act also would be consistent with the protection of investors and the purposes of the Act.

Applicants submit that the agreement is not a joint transaction between an Applicant and its directors within the meaning of Section 17(d) and Rules 17d-1 thereunder, as the interest to be accrued on the deferred amounts under the agreement is to be based on the yield of CIGNA Cash, not that of the Applicant entering into the agreement. If the agreement is considered to be joint transactions, Applicants state in support of their requested exemption that the use of the CIGNA Cash's yield to determine interest on deferred amounts does not inherently differ from (but might be fairer than) the use of the prime rate or another assumed rate of interest. In addition, Applicants assert that the total fees paid to the Applicants' directors which would be eligible for deferral will be de minimis as compared to the Applicants' total assets. Applicants emphasize their view that their ability to recruit and retain highly qualified directors would be enhanced if they were able to offer their directors the option of deferred payment of their directors' fees. Applicants submit that this benefit to the Applicants and their shareholders outweighs any tax, social security or other benefit that may be realized by an individual director under the proposed Agreements.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 5, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4229 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-3985]

EDO Corp., Common Stock, $1 Par Value; Application To Withdraw From Listing and Registration

February 9, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of EDO Corporation ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on November 18, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before March 2, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4230 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13757; 812-5737]

National Housing Partnership Realty Fund I, the National Housing Partnership and National Corporation for Housing Partnership; Application for an Order Granting Exemption

February 9, 1984.

Notice is hereby given that National Housing Partnership Realty Fund I ("Partnership"), a Maryland limited partnership, its general partner, The National Housing Partnership ("NHP"), and National Corporation for Housing Partnerships ("NCHP"), 1133 Fifteenth Street, NW., Washington, D.C. 20005, the sole general partner of NHP (Partnership, NHP and NCHP hereinafter collectively referred to as "Applicants"), filed an application on January 4, 1984, pursuant to Section 3(b)(2) of the Investment Company Act of 1940 ("Act") for an order declaring that the Partnership is not an investment company, or, in the alternative, pursuant to Section 6(c) of the Act exempting the partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicants state that the Partnership was formed under the Maryland Revised Uniform Limited Partnership Act as of October 21, 1983, as a vehicle for equity investment in government-assisted rental housing in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). Applicants further state that the Partnership will operate as

a "two-tier" entity, i.e., the Partnership, as a limited partner, will invest in other limited partnerships ("Local Partnerships") which in turn will own and operate existing multifamily rental housing projects, which receive one or more forms of assistance from federal, state, or local governments or agencies. All such investments are represented to be in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974), which release sets forth the views of the Commission's Division of Investment Management with respect to the applicability of the Act to two-tier real estate limited partnerships.

Applicants state that NHP and NCHP were created by Congress pursuant to Title IX "to encourage the widest possible participation by private enterprise in the provision of housing for low and moderate-income families." Applicants further state that the creation of entities such as the Partnership is merely ancillary to NHP's and NCHP's Congressionally-authorized function and that based upon the history of NHP and NCHP and the stated objectives of the Partnership, Applicants are primarily engaged in the business of providing housing for low and moderate-income persons.

It is further stated, that the Partnership is organized as a limited partnership because that form of organization is the only one that provides investors with both (i) liability limited to their capital investments, and (ii) the ability to claim on their individual tax returns the deductions, losses, credits, and other tax items that originate from the Partnership's interests in the Local Partnerships. It is represented that counsel is rendering its opinion that the Partnership will be treated as a partnership for federal income tax purposes. The Partnership's objectives, Applicant states, are to (i) preserve and protect Partnership capital; (ii) provide current tax benefits to investors to the extent permitted by law, including, but not limited to, deductions which investors may use to offset otherwise taxable income from other sources, in the form of tax losses; (iii) provide potential capital appreciation through increase in the value of Partnership investments subject to consideration of capital preservation and tax planning; and (iv) provide potential cash distributions from sales or refinancings of the Partnership's investments and, on a limited basis, from operations.

It is further stated that on October 21, 1983, the Partnership filed a registration statement and preliminary prospectus under the Securities Act of 1933 ("Securities Act"), and an amendment thereto on December 29, 1983, pursuant to which the Partnership intends to offer publicly 20,000 units of limited partnership interests ("Interests") at $1,000 per unit. It is represented that Dean Witter Reynolds, Inc. ("Dean Witter") and other authorized broker-dealers will act as selling agents for the offering of Interests. Applicants state that the Partnership will have between a minimum of $4,300,000 and a maximum of $17,500,000 available for investment from the proceeds of this offering. From the amount available for investment, the Partnership will pay certain expenses and fees to NHP, Applicants state, and the remainder of the amount available for investment will be invested in Local Partnerships.

Applicants further state that subscriptions for Interests must be approved by NHP and Dean Witter, which approval shall be conditioned upon representations as to suitability of the investment for each subscriber. The application states that in order to become a limited partner of the Partnership ("Limited Partner") each subscriber will represent among other things; that (i) some part of his income (without regard to the investment) for the current year (and which is expected to continue) will be subject to federal income tax rate of 38% or more, and (2) he has either (a) a net worth (exclusive of homes, furnishings and automobiles) of at least $60,000 and estimates that he will have an annual gross income of at least $50,000, or (b) a net worth (as computed above) of at least $150,000.

Applicants state that the Partnership will be controlled by NHP, but that the Limited Partners, consistent with their limited liability status, will be entitled to vote on certain material matters affecting the operation of the Partnership. Limited Partners owning a majority of Partnership interests, it is stated, will have the right to dissolve the Partnership, remove any General Partner and elect a replacement therefore, and to approve or disapprove a sale of all or substantially all of the assets of the Partnership in a single transaction or a series of related transactions. Any amendment to the Partnership Agreement, however, may not allow the Limited Partners to take part in the control of the Partnership's business or otherwise affect their limited liability, Applicants note. It is further stated that, under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

Applicants represent that NHP will participate in each Local Partnership as a managing general partner and if there is a co-general partner, NHP will obtain management control. Applicants further represent that the Partnership will own between 90% and 99% of the limited partnership Interests in each Local Partnership and that the Partnership together with the NHP will control each Local Limited Partnership.

It is represented, in addition, that all compensation to be paid to NHP and its affiliates is believed to be fair and within applicable guidelines necessary to permit Interests to be offered and sold in the various states which prescribe such guidelines, including, without limitation, the statement of policy adopted by the North American Securities Administrators Association, Inc. with respect to real estate programs.

Applicants state that since it is anticipated that the Partnership will register the Interests pursuant to Section 12 of the Securities Exchange Act of 1934 ("Exchange Act"), the Partnership expects to file with the Commission, pursuant to Section 15(d) of the Exchange Act, all required current reports on Forms 10–K, 10–Q and 8–K, as well as any other reports required by such Act. The Partnership will distribute to the Limited Partners certain reports concerning its business and operation, Applicants also state.

Applicants state that the Amended and Restated Certificate and Agreement of Limited Partnership ("Partnership Agreement") provides that the Partnership will indemnify NHP for losses sustained by them or their affiliates by reason of acts or omissions performed in connection with the business of the Partners. Nevertheless, the Partnership Agreement further provides that there shall be no indemnification in connection with (1) any claim or settlement involving the Securities Act unless (a) the persons seeking indemnification are successful in defending such action and (b) such indemnification is specifically approved by a court which has been advised as to the current position of the Commission concerning such indemnification (unless the Partnership's counsel advises that the matter has been settled by controlling precedent), or (2) any liability imposed by law, including liability for fraud, bad faith, or negligence.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Commission issue an order pursuant to Section 3(b)(2) of the Act declaring that the Partnership is not

an investment company or, in the alternative that the Partnership be exempted from all the provisions of the Act pursuant to Section 6(c) of the Act. In support of this request, Applicants assert that such relief is both necessary and appropriate in the public interest and would be consistent with the protection of investors and the purposes and policies underlying the Act.

Applicants assert that investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and organizational advantages of the limited partnership structure. In addition, Applicants maintain that application of the Act would discourage two-tier limited partnership arrangements and thus eliminated the best available means of attracting private equity capital into government-assisted housing and thereby frustrate national policy. Applicants maintain that contemplated operations of the Partnership are not susceptible to abuses of the sort that the Act was designed to remedy. Applicants represent that the Partnership Agreement and Partnership prospectus contain numerous provisions designed to insure fair dealing by NHP with the Limited Partners. Appliants state that the suitability standards, requirements for fair dealing and pertinent governmental regulations imposed on the Partnership and each local partnership by various federal, state and local agencies provide protection to investors comparable to and in some respects greater than that provided by the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 2, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4228 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-51]

Natomas Energy Co.—8⅞% Sinking Fund Debentures (due 3-15-97); Application To Withdraw From Listing and Registration

February 9, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Natomas Energy Company ("Company") has determined that continued lising of its debentures is no longer justified on the NYSE because of the sporadic and low volume of trading, the small number of holders of the debentures, the size and sophistication of the holders of a substantial portion of the aggregate outstanding principal amount of the debentures and the direct and indirect costs and expenses of continued listing. The NYSE has posed no objection to this matter.

Any interested person may, on or before March 2, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4231 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20628; File No. SR-MSRB-84-2]

Self-Regulatory Organizations; Proposed Rule Change by Municipal Securities Rulemaking Board Relating to Uniform Practice and Customer Confirmations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 12, 1984, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board (the "Board") is filing an interpretation of Board rules G-12 on uniform practice and G-15 on customer confirmations (hereafter referred to as the "proposed rule change"), concerning confirmation disclosures. The text of the proposed rule change, contained in a Board interpretive letter dated January 4, 1984, is as follows:

* * * [C]all features on . . . [zero coupon, compound interest, multiplier, or other similar type of security] often express the call prices in terms of a percentage of the compound accreted value of the security as of the call date. You note that, in computing a price or yield to such a call feature, it is necessary for the computing dealer to convert such a call price into its equivalent in terms of a percentage of maturity value (*i.e.*, into a standard dollar price), and use this figure in the computation. You inquire whether, in circumstances where the confirmation of a transaction is required to disclose a yield or dollar price computed to such a call feature, the call price used in the calculation should be stated on the confirmation in terms of the percentage of the compound accreted value or in terms of the equivalent percentage of maturity value.

The requirement which is the subject of your inquiry is set forth in Board rule G-15(a)(i)(I) as follows:

> In cases in which the resulting dollar price or yield shown on the confirmation is calculated to call or par option, this must be stated, and the call or option date and price used in the calculation must be shown * * * [*]

The Board is of the view that, in the case of a computation of a yield or dollar price to a call or option feature on a transaction in a

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*Comparable requirements with respect tointer-dealer confirmations are set forth in Board rule G-12(c)(v)(I).

zero coupon or similar security, the call price shown on the confirmation should be expressed in terms of a percentage of the security's maturity value. The Board believes that the disclosure of the call price in terms of the security's maturity value would provide more meaningful information to the purchaser, since other confirmation disclosures on these types of securities are also expressed in terms of the security's maturity value. This form of disclosure therefore presents the information to a purchaser in a consistent format, thereby facilitating the purchaser's understanding of the information shown on the confirmation. The Board notes also that this form of disclosure is simpler and requires less confirmation space to present.

The full text of the interpretive letter is on file at the offices of the Board.

II. Self-Regulatory Organization's Statement on Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Rules G–12 and G–15 relating to uniform practice and customer confirmations, respectively, contain certain provisions pertaining to confirmation disclosures. Rules G–15(a)(i)(I) and G–12(c)(v)(I) require that in cases in which the resulting dollar price or yield shown on the confirmation is calculated to call or par option, this must be stated, and the call or option date and price used in the calculation must be shown. The Board has received questions from municipal securities dealers concerning the appropriate method of disclosing on a confirmation a call price used in the computation of a dollar price or yield on a transaction in a zero coupon, compound interest, multiplier, or other similar type of security.

The Board has determined that, in the case of a computation of a yield or dollar price to a call or option feature on such securities, the call price shown on the confirmation should be expressed in terms of a percentage of the security's maturity value. The Board is of the view that a call price expressed in terms of maturity value would facilitate purchasers' understanding of the information on the confirmation, would be consistent with other disclosures required for these securities which must be related to the maturity value of the securities,* and would require less confirmation space to present.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Securities Exchange Act which authorizes and directs the Board to adopt rules

> * * * designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule change will not have any impact on competition since it merely clarifies the manner in which municipal securities brokers and dealers are to comply with an existing requirement of Board rules, and applies equally to all municipal securities brokers and dealers.

C. Self-Regulatory Organization's Statement of Comments on Proposed Rule Change Received From Members, Participants and Others

The Board has not solicited or received comments on the proposed rule change. The proposed rule change is an interpretation made in response to a request from a member of the industry.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal officer of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 8, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–4236 Filed 2–15–84; 8:45 am]

BILLING CODE 8310–01–M

*See Amendments Approved on Transactions in Zero Coupon, Compound Interest and Multiplier Securities, *MSRB Reports*, Vol. 3, no. 6 (October/November 1983). The amendments were the subject of file no. SR–MSRB–83–12.

Self-Regulatory Organizations; Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 8, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Anthem Electronics, Inc.
Common Stock, No Par Value (File No. 7–7364)
Ohio Mattress Co. (The)
Common Stock, $1 Par Value (File No. 7–7365)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 1, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted

trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4234 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 8, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Iowa Resources Inc.
Common Stock, No Par Value (File No. 7-7371)
Mickelberry Corporation
Common Stock, $1 Par Value (File No. 7-7372) [1]
Ohio Sealy Mattress Manufacturing Company
Common Stock, $1 Par Value (File No. 7-7373)
LTV Corporation
$3.06 Cumulative Convertible Preferred Stock, Series B, $1 Par Value (File No. 7-7374)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 1, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4232 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[1] Iowa Resources and Mickelberry Corporation ("Company") are currently listed and registered on the Midwest Stock Exchange, Inc. ("MSE"). However, at the request of each Company, the MSE filed applications on February 3, 1984 to remove their stock from listing and registration. The MSE has requested that the effective date for the delistings and the unlisted trading privileges applications be concurrent so there will be no lapse in the trading of the issues.

Self-Regulatory, Organizations; Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 8, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Atlantic Richfield Company [1]
Common Stock, $2.50 Par Value (File No. 7-7366)
CooperVision, Inc.
Common Stock, $.10 Par Value (File No. 7-7367)
Showboat, Inc.
Common Stock, $1 Par Value (File No. 7-7368)
Verbatim Corporation
Common Stock, No Par Value (File No. 7-7369)
Echo Bay Mines Ltd.
Common Stock, No Par Value (File No. 7-7370)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 1, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4233 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[1] Atlantic Richfield ("Company") is currently listed and registered on the Philadelphia Stock Exchange, Inc. ("Phlx"). However, at the request of the Company, the Phlx filed an application on February 6, 1984 to remove the Company's stock from listing and registration on the Phlx. The Phlx has requested that the effective date for the delisting and the unlisted trading privileges application be concurrent so there will be no lapse in the trading of the issue.

[Rel. No. 13760; 811-3353]

AAA U.S. Government Money Market Account, Inc.; Filing of Application

Notice is hereby given that AAA U.S. Government Money Market Account, Inc. ("Applicant") 10235 Regency Circle, Omaha, NB 68114, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on December 27, 1983, for an order, pursuant to Section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the relevant provisions.

Applicant states that it was incorporated on September 18, 1981, under the laws of the State of Nebraska, and that on December 17, 1981, it registered under the Act, pursuant to Section 8(b) of the Act. Its registration statement, filed under the Securities Act of 1933, was declared effective on April 5, 1982, and an initial public offering commenced immediately thereafter.

The application states that an "Agreement and Plan of Reorganization" was approved by Applicant's board of directors on August 22, 1983, and approved by a majority of its shareholders at a special meeting held on November 15, 1983. Also on November 15, 1983, the application indicates that Applicant's shareholders received, on an equivalent net asset value basis, an amount of shares of Mutual of Omaha Cash Reserve Fund equal to the number of shares which the respective shareholders owned in Applicant's account on that date. Applicant represents that it has filed a

Statement of Intent to dissolve and intends to file Articles of Dissolution with the State of Nebraska.

The application further indicates that Applicant has no assets, debts, or outstanding liabilities remaining, and it is not a party to any litigation or administrative proceeding. Applicant states that it had no securityholders at the time of filing of the application. Applicant further states that within the last 18 months it has not transferred any of its assets to a separate trust. Finally, Applicant states that it is not now engaged, and does not propose to engage, in any business activity other than that necessary to wind-up its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4325 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13763; 812-5731]

Hutton VIP Fund; Application

February 10, 1984.

Notice is hereby given that Hutton VIP Fund ("Applicant") 11011 North Torrey Pines Road, P.O. Box 2700, La Jolla, California 92038, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on December 21, 1983, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Sections 13(a)(2), 18(f)(1), 22(f) and 22(g) of the Act, in connection with its proposed Directors' Deferred Compensation Plan ("Plan"), and pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, to permit certain transactions to be effected by Applicant and certain of its directors pursuant to the Plan. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for a statement of the applicable statutory provisions.

Applicant states that it is a series-type investment company consisting of three series ("Money Market Series", "Bond and Income Series" and "Equity Series") each of which has its own investment objectives and policies. Applicant further states that its shares are currently only offered to the Hutton VIP Separate Account ("Separate Account") of E.F. Hutton Life Insurance Company. The Separate Account, it is stated, funds the Individual Flexible Premium Deferred Annuity and Variable Accumulation Contract offered by E.F. Hutton Life Insurance Company ("Hutton Life"). E.F. Hutton & Company Inc. ("E.F. Hutton") serves as Applicant's investment adviser and distributor.

Applicant further states that its board of directors consists of five individuals, three of whom are not "interested persons" of Applicant within the meaning of Section 2(a)(19) of the Act. Each of the directors who is not an interested person of Applicant, E.F. Hutton, or Hutton Life currently receives $8,000 annually and $1,000 per meeting attended in addition to expenses incurred in attending meetings of the board of directors. Applicant pays no other remuneration to its directors, and the amounts paid to its directors are expected to be insignificant in comparison to its total net assets, Applicant asserts.

Applicant submits that the purpose of the Plan is to permit individual directors who are not interested persons of Applicant, E.F. Hutton, or Hutton Life to elect to defer receipt of their directors' fees, so as to avoid diminution or loss of social security benefits to which the directors may otherwise be entitled, to enable the directors to defer payment of income taxes, or for other reasons. The availability of such a deferred fee arrangement will enhance Applicant's ability to continue to attract and retain directors of the same high caliber as those who now serve on its board.

Applicant states, in addition, that the Plan will allow an individual director to elect to defer receipt of fees which otherwise would become payable to him for services performed after the date of the election. This election will continue in effect until terminated in writing and any such termination will take effect on the first day of the calendar year beginning after receipt of the notice of termination. An election will be irrevocable as to payments deferred in conformity with that election and each deferred fee will be credited, at the time when it otherwise would have been payable, to an account on Applicant's books to be established for each electing director. Interest on each director's account will be compounded on the first day of each quarter based upon the balance of each director's account as of the first day of the preceding quarter. Applicant represents that the interest rate used will be equal to the prevailing 90-day U.S. Treasury Bill rate at the beginning of the preceding quarter, and will be used for the entire succeeding quarter. Applicant's obligations to the director or his designated beneficiary under the Plan will be unsecured.

It is further represented that all amounts credited to the account of a director will be paid to the director in accordance with the payment option selected by the director, which must be selected prior to the deferral of any amount under the Plan. In the event of a director's death, Applicant states, amounts payable to him under the Plan will thereafter be payable to his designated beneficiary; in all other events, a director's rights to receive payments will be non-transferable.

Applicant states further that its obligation to make payments of amounts accrued under the Plan will be a general unsecured obligation payable solely from its general assets and property. No shares of Applicant will be purchased for any director's account with those amounts nor will any special fund or separate account be established for those amounts. Additionally, Applicant submits that it is not obligated under the Plan to retain a director in such capacity, nor will it be obligated to pay any (or any particular level of) fees to any director.

Without conceding that interests in the Plan are "securities" as defined in Section 2(a)(36) of the Act, Applicant submits, with respect to the exemptions requested from Sections 18(f)(1) and 13(a)(2) of the Act, that the Plan contains none of the characteristics of senior securities which led Congress to enact the restrictions on the issuance of such securities set forth in Sections 18 and 13(a)(2) of the Act. Applicant further contends that it would not be "borrowing" from its directors in the sense that concerned Congress, *e.g.*, borrowing for securities speculation. Additionally, Applicant asserts that all liabilities created by accruals under the Plan would be offset by essentially

equal assets of Applicant which would not otherwise exist if the fes were paid on a current basis. The Plan would not induce speculative investments by Applicant, it is stated, or provide opportunity for manipulative allocation of Applicant's expenses and profits; control of Applicant would not be affected; and, given the common existence of deferred compensation agreements today, Applicant states, the Plan would not confuse investors, make it difficult for them to value Applicant's shares, or convey a false impression of safety.

As to Section 22(f) of the Act, Applicant contends that this section of the Act was designed to bar only those restrictions on transferability or negotiability either not disclosed to the holder of the subject security, or expressly prohibited by Commission rule or regulation, neither of which circumstance would apply to the restriction on transferability of a director's benefits under the Plan. Applicant also asserts that the restrictions under the Plan would be clearly set forth in the Plan and would not adversely affect the interests of the director or of any Applicant's shareholders.

Applicant contends, in addition, that the legislative history of Section 22(g) of the Act indicates that Congress was primarily concerned with the dilutive effect on the equity and voting power of the common stock of, or units of beneficial interest in, an open-end company when securities are issued for consideration not readily valued. It is submitted that the Plan would not have this effect, particulary because of current disclosure requirements applicable to director compensation. Applicant further submits that Applicant's obligation to make payments under the Plan would not be "issued" for services or for property other than cash or securities, as although any directors' fees which might become payable to a director would clearly be for services, any such fees would become payable independent of the Plan. The Plan would provide for deferral of payment of such fees and thus, should not be viewed as being "issued" in return for services but in return for Applicant's not being required to pay such fees on a current basis.

Applicant submits that the Plan is not a joint transaction between Applicant and its directors within the meaning of Section 17(d) and Rule 17d–1 thereunder, as the interest to be accrued on the deferred amounts is to be based on the objectively-determined interest rate applicable to 90-day Treasury bills, so that the Plan will possess none of the profit-sharing characteristics required for a joint transaction. Applicant contends that the effect of the Plan would be to defer the payment of fees that Applicant otherwise would be obligated to pay on a current basis as services are performed by the directors. Applicant further contends that liabilities created by the accruals under the Plan would be offset by essentially equal assets of Applicant and that those assets would not exist if the directors' fees were paid on a current basis (that is, the fees otherwise payable currently to the director would remain as part of Applicant's general assets and property). Applicant contends that there is no expectation of profits being generated through applicant or other investments on behalf of the directors since Applicant would be undertaking no funding investment commitment under the Plan and the interest earned by the directors during the deferral period would not be dependent upon Applicant's investment performance but rather to the objectively determinable interest rate applicable to 90-day Treasury bills during the immediately preceding quarter.

Applicant asserts that deferral of directors' fees in accordance with the Plan would essentialy maintain the parties viewed both separately and in their relationship to one another, in the same position as if the fees were paid on a current basis. Additionally, Applicant asserts that it is expected that deferral would have a negligible effect on its assets, liabilities, net assets and net income per share. Applicant believes that its ability to recruit and retain highly qualified directors would be enhanced if it were able to offer its directors the option of deferred payment of their directors' fees, and their benefit to Applicant and its shareholders outweighs any tax, social security, or other benefit that may be realized by an individual director under the Plan.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–4329 Filed 2–15–84; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 13762; 811–2812]

Mutual Asset and Management, Inc.; Application

February 10, 1984.

Notice is hereby given that Mutual Assets and Management, Inc. ("Applicant") 19 Main Street, New Milford, Connecticut 06776, registered under the Investment Company Act of 1940 ("Act"), as a closed-end, diversified management investment company, filed an application on January 5, 1983, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it filed its registration statement under the Act on February 22, 1978. According to the application, at June 27, 1983, Applicant had 450 shares of common stock outstanding, with an aggregate net asset value of $5,003,469.65. Those shares were the only class of Applicant's shares outstanding and had a net asset value per share of $11,000.27.

Applicant represents that on December 19, 1983, its Board of Directors authorized liquidation of Applicant. Applicant further represents that on December 19, 1983, Applicant's shareholders unanimously adopted the recommendation that the corporation be dissolved. Applicant states that no proxy material was distributed to securityholders of Applicant.

Applicant states that distributions to securityholders were made as follows: on June 28, 1983, each of Applicant's shareholders redeemed 98% of their shares, at a net asset value of $11,000.277 per share. On that same date a special dividend of $5,000 per shares was declared for the nine remaining shares of record as of June 29, 1983, which dividend was paid on June 30, 1983. The Applicant states that on June 30, 1983, after the distribution of the special dividend, Applicant's net asset

value was $53,345. Applicant represents that at the time of filing of the application, Applicant's sole remaining assets consisted of bank deposits of $55,145. Applicant further represents that such assets have not been and will not be invested in securities other than bank deposits. Applicant states that such assets have been retained as a reserve fund pursuant to the plan of liquidation and distribution, in order to pay costs and expenses associated with such liquidation and distribution. Applicant undertakes to distribute in cash to each remaining shareholder in accordance with their ownership of shares, the balance of assets remaining after the payment of the various costs and expenses associated with the liquidation and dissolution.

Applicant states that it is not a party to any litigation or administrative proceeding and that it does not intend to engage in business activities other than those necessary for the winding up of its affairs. The application states that Applicant remains in legal existence as a corporation in the State of Connecticut, but intends to file a Certificate of Dissolution prior to December 31, 1983.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4327 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13759; 812-5907]

Pacific Horizon Funds, Inc.; Filing of Application

February 10, 1984.

Notice is hereby given that Pacific Horizon Funds, Inc. ("Applicant") 3550 Wilshire Boulevard, Suite 932, Los Angeles, CA 90010 filed an application on November 25, 1983, and an amendment thereto on January 25, 1984, requesting an order of the Commission pursuant to Section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder to permit Applicant to enter into master repurchase agreements with non-affiliated financial institutions such as broker-dealers and banks pursuant to which individual repurchase transactions would be effected as described therein. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of their relevant provisions.

According to the application, Applicant is a registered open-end, management investment company that currently intends to offer four classes of shares, representing interests in four investment portfolios—a Government Portfolio, a Money Market Portfolio, a Fixed Income Portfolio and an Equity Portfolio. The relief requested by the application concerns only the Government and Money Market Portfolios.

Applicant's shares will be sold by Dreyfus Service Corporation (the "Distributor") to the general public, including individuals, businesses and customers of Security Pacific or its affiliates that maintain customer-directed, non-discretionary accounts at Security Pacific or its affiliate. In particular, a portion of the shares of the Government and Money Market Portfolios will be purchased by Security Pacific, acting as agent for its customers, in automatic investment transactions. In these transactions Security Pacific, as agent, will follow the standing instructions of its customers and automatically invest excess cash balances in customers' custody, agency, or other non-discretionary accounts in shares of either Applicant's Government or Money Market Portfolios. Shares thus purchased by Security Pacific customers are registered in the customers' names and are not held of record by Security Pacific. These sweep transactions will be effected automatically by computer each business day at 12:00 noon (Pacific Time).

According to the application, the machine processing required to tabulate the day's transaction activity in Security Pacific's customer and other accounts is completed through Security Pacific's batch data processing system, which processes account transactions from Security Pacific's more than 600 branches at a time (the "completion time") after all those branches close for the day normally not later than 10 p.m. (Pacific Time) the same day. While the total amount invested in the Applicant through the sweep program each day is therefore not known until that evening, those assets are held by Security Pacific as Applicant's sub-custodian as of 12:00 Noon (Pacific Time) and are immediately available for investment. The relief requested in the application is intended to permit Security Pacific, as Applicant's adviser, to invest those funds on behalf of Applicant in repurchase transactions with nonaffiliated financial institutions with confirmation of the exact principal amount of the transaction occurring the following business day.

The application states that the investment policies governing the Government and Money Market Portfolios will permit them to enter into repurchase agreement transactions with financial institutions such as banks and broker dealers. Applicant presently intends to use a standard master repurchase agreement ("Master Agreement") for this purpose that is substantially the same as the form General Repurchase Agreement prepared by the Investment Company Institute for the mutual fund industry.

The net asset value of the Government and Money Market Portfolios will be determined and shares of each portfolio will be priced twice daily as of 12:00 Noon and 4:00 p.m. (Eastern Time). To be executed on a given day, a purchase order for shares of these portfolios must be received that day by The Bank of New York (Applicant's custodian) prior to 12:00 Noon (Eastern Time) except that purchase orders effected automatically through Security Pacific's computer system may be received by Security Pacific (as Applicant's sub-custodian) through 12:00 Noon (Pacific Time, 3:00 p.m. Eastern Time). Purchase orders received by the custodian or sub-custodian after these times will be executed the next business day. Orders for the purchase of shares of the Government and Money Market Portfolios will be executed only when Federal or other funds are immediately available to the custodian or sub-custodian for investment by Applicant.

The application states that in accordance with its customers' standing instructions, as of 12:00 Noon (Pacific Time) Security Pacific's computers will automatically sweep excess cash balances from customers' accounts for investment in shares of the Government or Money Market Portfolios. At that time, assets invested in Applicant

through the sweep program will be held by Security Pacific as Applicant's sub-custodian and will be immediately available to Applicant for investment. In order to permit Applicant to invest anticipated net assets attributed to the sweep program on the same day they are available for investment (despite the fact that the exact amount thereof will not be known until after the time for any possible investment), Applicant and Security Pacific propose the following procedure. Security Pacific would enter into a repurchase transaction under the Master Agreement on behalf of Applicant in an amount which it considers, based upon its experience in administering its computer sweep program, to be sufficient to invest any net assets of Applicants attributable to the operation of the sweep program that day. For example, the Security Pacific, as Applicant's adviser, estimated that the Government and Money Market Portfolios would each receive net $7 million during the day through automatic investment transactions (after allowing for other net sales or net redemptions of shares of these portfolios), Security Pacific would increase the amount of repurchase transactions entered into on behalf of the respective portfolios by an amount which it believed sufficient to cover its estimate (e.g., in this example, the adviser might enter into an additional $9 million in repurchase transactions for each portfolio). This transaction would consist of either a single transaction on behalf of both the Government Money Market and Money Market Portfolios of the Fund or a separate transaction on behalf of each Portfolio, as appeared to be most advantageous. If a single repurchase agreement were entered into, the collateral therefor would be limited to investments eligible (except with regard to maturity) for purchase by the Government Money Market Portfolio.

Applicant and Security Pacific would follow the same procedures with respect to these additional repurchase transactions as would be applicable to any repurchase transaction entered into on behalf of Applicant. In particular, Security Pacific would receive all of the eligible securities transferred to it in its capacity as sub-custodian for Applicant. As required by the Master Agreement, the Seller in the transaction would take whatever action necessary to perfect a security interest in favor of Applicant in those securities at the time of transfer. At the same time, Security Pacific would credit the sale price of the transferred securities to an account of the Seller in immediately available funds. Until Security Pacific's completion time that evening, Applicant would have a perfected security interest in all of the transferred securities. However, pursuant to the Master Agreement, only those specific securities described in the Seller's confirmation the next business day would be subject to the transaction.

After the completion time that evening, the records maintained by Security Pacific for its customer accounts, and in its capacities as Applicant's sub-custodian, would show:

1. For Security Pacific's customer accounts, a cash debit (credit) for the amount of Applicant shares purchased (redeemed) and a corresponding credit (debit) to the customer accounts for the number of Applicant shares purchased (redeemed) as of 12:00 noon (Pacific Time) through operation of the computer "sweep" program; and

2. For Applicant's sub-custodian account, all share purchase and redemption transactions and the net cash proceeds received (if any) by each of the portfolios through the operation of Security Pacific's computer sweep (or, conversely, the net redemption proceeds paid or payable by Applicant if there were net redemptions).

In addition, to the extent that the portfolio's additional repurchase transaction were sufficient to make the portfolio fully invested, Applicant's subcustodian account would reflect the specific amount it had in fact invested in the transaction (including its ownership of the eligible securities purchased by such investment). If the amount of the additional repurchase transaction were not sufficient to make the portfolio fully invested, Applicant's records would reflect its investment in the entire amount of the repurchase transaction and an uninvested cash position. If the computer sweep program had resulted in unanticipated net redemptions for the portfolio, net redemptions for the portfolio, Applicant's sub-custodian account would reflect this fact and show no ownership of any of the eligible securities transferred by the Seller since (contrary to advisers' expectations) none of Applicant's assets would have been used to purchase the securities. Each portfolio is permitted by Applicant's investment policies to borrow from banks for temporary purposes up to 10% of the value of its total assets. Applicant expects to meet any unanticipated net redemptions through such borrowings.

After the completion time, Security Pacific would transmit to The Bank of New York records relating to these automatic investment transactions. The Bank of New York, as the Applicant's transfer agent, would thereafter show for the Applicant's shareholder account records a credit (debit) to each of the corresponding shareholder accounts for the number of Applicant's shares automatically purchased (redeemed) as of 12:00 noon (Pacific Time) through operation of the computer sweep program. On the next business day, based upon the amount invested by Applicant through operation of the computer sweep, the Seller and Security Pacific, as Applicant's sub-custodian, would confirm by telephone the amount of the repurchase transaction that Applicant had, in fact, entered into with its own assets and the Seller would issue the required telex or wire confirmation of the specific terms of Applicant's repurchase transaction. In addition, the Seller would also issue a separate confirmation to Security Pacific for its own account confirming that those eligible securities transferred by the Seller the previous day that Applicant had not purchased with its own assets had, in fact, been purchased by Security Pacific with its funds. Except for differences attributable to the differing amounts of the repurchase transactions, the terms of the transactions and the confirmations to Applicant and to Security Pacific would be identical.

In the event that the repurchase transaction entered into the previous day was secured by issues of securities that differed as to quality, maturity or rate, each particular issue would be apportioned pro rata to the extent possible between the Fund and Security Pacific. In the event that a pro rata allocation between the Fund and Security Pacific cannot be made (i.e., where the transfer agent for the particular issue will not divide the securities appropriately), securities would be distributed in a manner judged by the investment adviser to leave each party in a comparably secured position. Applicant would continue to have a perfected security interest in those eligible securities which were confirmed to it as being subject to its repurchase transaction under the Master Agreement. To the extent that the total amount credited to the account of the Seller when it transferred eligible securities the previous day exceeded Applicant's assets that were available for investment (as shown by the results of the day's computer processing), Security Pacific would have purchased those securities with its own funds and have entered into a repurchase transaction with the Seller for its own account.

Applicant states that it and its adviser wish to adopt the proposed investment

procedure in the interests of all shareholders and in response to the demands placed on portfolio management by automatic purchase and redemption transactions. Shareholders in the Government and Money Market Portfolios will be entitled to daily dividends on their shares beginning the day their purchase order is executed and continuing through the day before their shares are redeemed. The computer sweep program provides Security Pacific's customers who desire this service the ability to invest on a daily basis any excess cash balances in their custody, agency or other non-discretionary account and to maintain a minimum cash balance. The effect of the program is, of course, to computerize Applicant's purchase and redemption procedures for these shareholders.

Applicant asserts that the proposed procedure for helping to ensure that each of Applicant's portfolios is fully invested provides only benefits and no disadvantages to shareholders. Applicant's rights *vis-a-vis* Sellers under repurchase transactions will be protected by the Master Agreement that has been developed for the industry. Pending reconciliation of the day's transaction activity, Security Pacific will segregate and hold for the exclusive benefit of Applicant all securities transferred to Security Pacific in connection with repurchase transactions entered into for Applicant. Until the amount of Applicant's assets actually invested in the transaction is determined at the end of the day, Security Pacific will assume that only Applicant's assets were used and Applicant will have a perfected security interest in those securities.

Applicant asserts that shareholders purchasing Fund shares through the computer sweep program have funds on deposit with Security Pacific (the Fund's sub-custodian) that are available for investment on behalf of the Fund. However, because such transactions are processed through Security Pacific's batch data processing system, the precise amount of funds invested in the Fund cannot be determined until after the close of business. As described above, the Fund provides for dividends on the day of investment through the day before redemption. Absent the relief applied for herein, persons making an investment in the Fund through the computer sweep program would be entitled to a dividend on the day the investment was made; however, the Fund would be unable to determine the amount of and invest the proceeds of this investment, even though actually on deposit with the Fund's sub-custodian. Each day, therefore, the pro-rata portion of the Fund'a assets representing that day's investment through the automatic sweep program would be uninvested, thereby diluting each shareholder's dividend for the day. If the Fund revised its purchase and redemption requirements so that all shareholders would be required to deliver Federal funds to the Fund's custodian prior to 12 o'clock Noon (Eastern Time) (9:00 a.m. (Pacific Time)), to become a shareholder and receive dividends that day (as is now required for shareholders not investing through the automatic sweep), purchases of Fund shares arising from the automatic sweep would not be effected until the day after the customer's accounts were debited by the sweep. This would avoid the Fund's having uninvested assets. However, it would make the Fund materially less attractive to Security Pacific's customers because they would lose a day's income.

Applicant also asserts that the proposed transaction should result in minimal anticipated costs to Security Pacific, and should not create a substantial risk to Security Pacific of having its own funds univested. As described above, Security Pacific in effect commits to purchase with its funds the difference between the initial amount of repurchase transaction and the amount of the repurchase transaction and the amount of the repurchase transaction and the amount confirmed the subsequent day as having been purchased by the Fund. Security Pacific will, of course, receive the repurchase rate on the sums it so invests. During trading, Security Pacific's investment personnel should be able to invest in accordance with their usual procedure all available balances except for the maximum amount of Security Pacific's repurchase commitment. If Security Pacific then invests in the full amount of the repurchase commitment, it will earn a return on all available balances. If Security Pacific invests in less than all of the repurchase agreement because part or all is purchased by the Fund, Security Pacific will, of course, not earn interest on the fund's investment. However, because the Fund will invest in the repurchase transaction described above to invest amounts transferred to the Fund from Security Pacific's customer deposit accounts, the amount of Security Pacific's funds available for investment should be reduced by an amount equal to the portion of the repurchase transaction purchased by the Fund. Security Pacific should, therefore, not have available funds uninvested as a result of the program.

Applicant states that it will not enter into any repurchase transactions with Security Pacific, its affiliates or with any other affiliated person of Applicant. Both the documentation and policies followed in connection with the proposed transactions will be the same as those used for any repurchase transaction entered into by Applicant. In particular, Applicant has agreed that it will satisfy the conditions to the Division's "no-action" position concerning repurchase agreements under Section 12(d)(3) of the Act (see Investment Company Act Release No. 13005, February 2, 1983, and Investment Company Act Release No. 10666, April 18, 1979) for all repurchase transactions, including those described above.

Applicant asserts that the interest of Security Pacific in negotiating the maximum interest rate available on any repurchase transaction entered into for Applicant will be the same as that of Applicant. To the extent that the adviser is deemed to have any participation in the proposed investment procedure within the meaning of Section 17(d) and Rule 17d–1 thereunder, Applicant asserts that its participation is clearly not "on a basis different from or less advantageous than that of" Security Pacific.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–4326 Filed 2–15–84; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 3761; 811-3293]

SAFECO Variable Account A; Filing of Application

February 10, 1984.

Notice is herey given that SAFECO Variable Account A ("Applicant") SAFECO Plaza, Seattle, WA 98185, (811-3293), registered under the Investment Company Act of 1940 ("Act") as an open-end, nondiversified, management investment company, filed an application on December 6, 1983, for an order of the Commision, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the relevant provisions thereof.

A separate account of SAFECO Life Insurance Company ("SAFECO Life"), applicant states that it was created pursuant to provisions of the insurance code of the State of Washington and that on October 21, 1981, it registered under the Act, and filed its registration statement on Form N-1, pursuant to the Securities Act of 1933. As of the date of filing of the application, that registration statement, covering an indefinite number of Single Purchase Payment Deferred Variable Annuity Contracts ("Contracts"), has never become effective, and no public offering of the Contracts ever commenced. On November 4, 1983, Applicant transferred back to SAFECO Life all of its assets, i.e., $125,000, plus interest accrued, which was initially contributed to Applicant by SAFECO Life. According to oral representations of James W. Ruddy, corporate counsel to SAFECO Corporation, Applicant has retained no assets at the time of filing of the application.

Applicant represents that it has no debts or other outstanding liabilities; it has no securityholders; and it is not a party to any litigation or administrative proceeding. Applicant states that, within the last 18 months, it has not, for any reason, transferred any of its assets to a separate trust. Applicant further states that it is not now nor does it propose to engage in any activities other than the winding-up of its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than march 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4323 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20637; SR-CBOE-80-16]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Extending Partial Approval of Proposed Rule Change on a Summary and Temporary Basis

February 9, 1984.

I. Introduction

On June 9, 1980, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Van Buren, Chicago, IL 60605, filed with the Commission, pursuant to the Securities Exchange Act of 1934 (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change to modify its operations and procedures relating to options market makers. Among other things, the proposed rule change created a single class of market makers by eliminating supplemental appointments, increased the number of options classes in which market makers were permitted to have appointments, and established a new Exchange committee responsible for evaluating the performance of and taking disciplinary action against market makers. The proposed rule change also prescribed minimum requirements concerning the extent to which a market maker's trading activity must be conducted in person.[1] The rule change was approved by the Commission on February 12, 1981,[2] but the 1981 approval order was vacated on April 5, 1982, by the United States Court of Appeals for the Seventh Circuit in *Clement* v. *Securities and Exchange Commission*, an action challenging the minimum requirement for in-person market maker transactions, and the matter was remanded to the Commission.[3]

On May 11, 1982, with extensions thereafter effective until February 10, 1984, the Commission reviewed the rule filing and summarily and temporarily approved those portions of the proposed rule change not addressed in *Clement*.[4] During this interval, the Commission awaited certain amendments to the proposal and additional information from CBOE.[5] The Commission also solicited and evaluated public comment upon the proposed rule change.[6]

Further information has been received from the CBOE concerning the impact of CBOE's previous in-person requirement prior to that requirement's elimination by *Clement* v. *Securities and Exchange Commission*.[7] The Commission expects

[1] Notice of the proposed rule change was published in Securities Exchange Act Release No. 16919 (June 24, 1980), 45 FR 43914 (1980). Subsequently, on July 9, 1980, the CBOE filed an amendment to the proposed rule change excluding certain closing transactions from the calculations of transactions required to be executed in person by market makers and requiring the recording of additional information on market maker orders. Notice of the amendment to the proposed rule change was published in the Securities Exchange Act Release No. 17012 (July 25, 1980), 45 FR 51325 (1980).

[2] Securities Exchange Act Release No. 17535 (February 12, 1981), 46 FR 13055 (1981) ("1981 Approval Order").

[3] *Clement* v. *Securities and Exchange Commission*, 674 F.2d 641 (7th Cir. 1962).

[4] *See* Securities Exchange Act Release Nos. 18727 (May 11, 1982), 47 FR 21169 (1982); 18963 (August 16, 1982), 47 FR 37020 (1982); 19203 (November 1, 1962), 47 FR 50790 (1982); 19386 (December 30, 1982), 48 FR 915 (1983); 19641 (March 29, 1983), 48 FR 14795 (1983); and 19923 (June 28, 1983), 48 FR 31133 (1983); 20082 (August 12, 1983), 48 FR 37755 (1983); 20228 (September 23, 1983), 48 FR 44962 (1983); and 20362 (November 10, 1983), 48 FR 52529 (1983); 20475 (December 13, 1983), 48 FR 56291 (1983); and 20552 (January 12, 1984), 49 FR 2176 (1984).

[5] CBOE filed a substantive amendment to the proposed rule change on October 19, 1982. *See* Securities Exchange Act Release No. 19203 (November 1, 1982), 47 FR 50790 (1982). The Commission also received a letter from CBOE requesting approval of its proposed "in-person" rule on a pilot basis. *See* letter of May 10, 1983, from Anne Taylor, Secretary and Associate General Counsel, CBOE, to Richard Chase, Division of Market Regulation, Securities and Exchange Commission. File No. SR-CBOE-80-16.

[6] The public comments received since the beginning of November 1982 are discussed in Securities Exchange Act Release Nos. 19386 (December 30, 1982), 48 FR 915 (1983); 19641 (March 29, 1983), 48 FR 14795 (1983); and 20082 (August 12, 1983), 48 FR 37755 (1983), and are available for public inspection in File No. SR-CBOE-80-16. A further letter from CBOE, noted in the preceding footnote, is discussed in Securities Exchange Act Release No. 19923 (June 28, 1983), 48 FR 31133 (1983). Further letters are discussed below.

[7] *See* letter of Anne Taylor, Secretary and Associate General Counsel, CBOE, to Kevin Fogarty, Division of Market Regulation, Securities and Exchange Commission, September 22, 1983. The Chicago Board of Trade also submitted its interpretation of the data provided in this CBOE letter. *See* letter of January 10, 1984, from Thomas R. Donovan, President, Chicago Board of Trade, to

Continued

to act soon with respect to the proposed in-person rule. In the interim, it will be necessary for the Commission to extend for an additional 30 days its summary and temporary approval of those portions of the proposed rule change not at issue in *Clement*.[8]

Copies of the original 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 for inspection and copying at the principal office of the CBOE.

It is therefore ordered, that the proposed rule change referenced above, and to the extent indicated above, be, and it hereby is, approved until March 12, 1984.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4328 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20635; File No. SR-CBOE-84-06]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.; Relating to Financial Committee

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 6, 1984 the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Test of the Proposed Rule Change

Additions are italicized there are no deletions.

Financial Planning Committee

Rule 2.13. the Financial Planning Committee shall oversee the financial activities of the Exchange. The Committee shall make recommendations to the Executive Committee and the Board of Directors, in regard to fee structures, financing, capital and operating budgets, and other financial matters as it deems appropriate. The Committee shall consist of at least seven members and the President of the Exchange. The Chairman or Vice Chairman of the Committee shall be a Director. Notwithstanding the language of Rule 2.1 respecting the duration of terms of Committee members, members of this Committee shall be appointed for three-year terms staggered so that the term of at least two members expire each year. As initially constituted pursuant to this rule, the Committee shall include at least two members appointed for one-year terms and two for two-year terms. The presence of a majority of the members of the Committee shall constitute a quorum for the transaction of business.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change.

The purpose of this proposed rule change is to formally establish the Financial Planning Committee, which Committee will oversee the Exchange's financial activities and will make recommendations to the Executive Committee and to the Board of Directors. The Committee will consist of at least seven members and the Exchange's President, with the Chairman or Vice Chairman being an Exchange Director. In addition, in order to achieve continuity the Committee members will be appointed for three-year terms staggered so that the terms of at least two members expire each year. The statutory basis for the proposed rule change is section 6(b) (3) and (4) of the Securities and Exchange Act of 1934 (the Act), in that the Committee (whose members must be approved by the Board pursuant to section 8.3 of the Exchange's Constitution) will fairly represent the membership and in that the Committee will assist in insuring that reasonable dues, fees and other charges are equitably allocated among those persons and organizations using Exchange facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition.

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should

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George A. Fitzsimmons, Secretary. File No. SR-CBOE-80-16.

[8] CBOE has consented to this extension of partial approval.

be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Dated: February 9, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4322 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20647; SR-MSE-83-4]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

February 10, 1984.

The Midwest Stock Exchange, Inc. ("MSE") 120 South LaSalle Street, Chicago Illinois 60603, submitted on April 8, 1983, copies of 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 amend Article IV, Rule 3 of the MSE rules to grant the Exchange Floor Procedure Committee ("Committee") the authority to act through sub-committees, if it so determines, to perform any of the Committee's duties. The Exchange has indicated in its filing that the Committee presently has varied functions, including responsibility for floor registration process and market maker assignments, floor decorum, arbitration, trading practices, disciplinary referrals, discussion and guidance regarding Exchange operational needs, and coordination with the Specialist Assignment and Evaluation Committee. Any member adversely affected by a determination of a sub-committee can appeal to the full Committee.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19693, April 21, 1983) and by publication in the **Federal Register** (48 FR 19109, April 27, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4324 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[1] The Exchange has stated that the amendment to Article IV, Rule 3 does not give the Floor Procedure Committee the authority to delegate to a subcommittee its powers and responsibilities in connection with either any arbitration proceedings (Article VIII, Rule 23) or any disciplinary proceedings (Article XII, Rule 3). *See* letter from Patrick K. Conroy, Counsel, MSE, to Michael Cavalier, Division of Market Regulation, SEC, dated January 16, 1984.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 3004; Amdt. No. 3]

Georgia; Declaration of Physical Disaster Loan Area

The above numbered declaration (48 FR 55793, Amendment No. 1—48 FR 57396 and Amendment No. 2—49 FR 2040) is amended pursuant to the Secretary of Agriculture's Designation authorizing Farmers Home Administration (FmHA) to accept emergency loan applications in the following area:

State of Georgia

Authorized by FmHA		Incident and date
Number	Date	
S092	1/9/84	Severe losses to crops caused by extended drought and extreme high temperatures occurring from May 1, 1983, through October 10, 1983.

Counties

Appling, Bacon, Ben Hill, Berrien, Bleckley, Bullock, Chatham, Colquitt, Cook, Dodge, Forsyth, Glassock, Jeff Davis, Johnson, Laurens, Marion, Sumter, Toombs, Turner, Wayne, Worth.

As a result of this designation, I have determined the above counties in the State of Georgia constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; Corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (Economic Injury)	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on July 9, 1984. The number assigned to this disaster is 3004 for Physical damage to eligible agricultural enterprises and for Economic Injury 609301. Eligible enterprises may file applications for loan for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303, (800) 554-3455 and in Georgia (800) 241-5625 or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 1, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-4331 Filed 2-15-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3004]

Georgia; Declaration of Physical Disaster Loan Area; Correction

The above numbered declaration was erroneously published on January 17, 1984 (49 FR 2040) as Amendment No. 1. It should have been Amendment No. 2.

Ronald Allen,

Federal Register Liaison Officer.

[FR Doc. 84-4330 Filed 2-15-84; 8:45 am]

BILLING CODE 8025-01

DEPARTMENT OF STATE

[Public Notice 895]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted two proposed collections of information to the Office of Management and Budget for review.

Purpose: The Bureau of Consular Affairs proposes to revise the forms used to (A) determine an aliens

eligibility under our immigration laws to apply for an immigrant visa and (B) gather biographic data on the applicant necessary to initiate security clearances required by our laws.

SUMMARY: The following summarizes the information collection proposals submitted to OMB:

(A)

1. Type of request—revision.
2. Title of information collection—Preliminary Questionnaire to Determine Immigrant Status.
3. Origin—Bureau of Consular Affairs.
4. Form Number—Optional Form 222.
5. Frequency—On occasion.
6. Respondents—Foreign nationals who wish to immigrate to the United States.
7. Estimated number of responses—100,000.
8. Estimated total number of hours needed to respond—20,000.

(B)

1. Type of request—revision.
2. Title of information collection—Biographic Data for Visa Purposes.
3. Origin—Bureau of Consular Affairs.
4. Form Number—Optional Form 179.
5. Frequency—On occasion.
6. Respondents—Foreign nationals who are applying for immigration to the United States.
7. Estimated number of responses—350,000.
8. Esitmated total number of hours needed to respond—115,500.

Section 3504(h) of Pub. L. 96–511 does not apply.

Additional Information or Comments: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook (202) 632–3602. Comments and questions should be directed to (OMB) Francine Picoult (202) 395–7231.

Dated: January 24, 1984.

Robert E. Lamb,

Assistant Secretary for Administration.

[FR Doc. 84–4283 Filed 2–15–84; 8:45 am]

BILLING CODE 4710–22–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395–7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751–2524, FTS 858–2524.

Type of Request: New.

Title of Information Collection: Credit Application for Purchase of TVA Surplus Property.

Frequency of Use: On occasion.

Type of Affected Public: Individuals, farms, businesses or other for-profit, non-profit institutions, and small businesses.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 50.

Estimated Total Annual Burden Hours: 100.

Estimated Annual Cost from Appropriated Funds: $0.

Need For and Uses of Information: TVA proposes an information collection from purchasers of TVA surplus personal property that seek credit. The information will be used to determine whether or not to grant such credit.

Dated: February 6, 1984.

John W. Thompson,

Assistant General Manager, Senior Agency Official.

[FR Doc. 84–4172 Filed 2–15–84; 8:45 am]

BILLING CODE 8120–06–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 2–2 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: The task group will conduct a review of current Special VFR procedures and their application. A review of pertinent handbook material and Federal Aviation Regulations relating to these operations will be undertaken by the group.

DATE: Beginning Monday, March 12, 1984, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 7A/B, 800 Independence, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Associate Administrator for Air Traffic, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by March 5. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on February 9, 1984.

John Watterson,

Acting Manager, Special Projects Staff, Office of the Associate Administrator for Air Traffic.

[FR Doc. 84–4215 Filed 2–15–84; 8:45 am]

BILLING CODE 4910–13–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 33
Thursday, February 16, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 AM (Eastern Time), Tuesday, February 21, 1984

PLACE: Commission Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes
2. A Report on Commission Operations (Optional)
3. Freedom of Information Act Appeal No. 84–1–FOIA–2–BA, concerning a request for an investigator's memorandum and a memorandum of Legal advice.
4. Freedom of Information Act Appeal No. 83–12–FOIA–127–DA, concerning a request for documents from a closed ADEA charge file.
5. Freedom of Information Act Appeal No. 83–10–FOIA–069–CT, concerning a request for information deleted from an Investigator's Log of Settlement Discussion.
6. Freedom of Information Act Appeal No. 83–12–FOIA–200–SL, concerning a request for information from a charge file.
7. Proposed Opinion Letter on Foreign Relocation Allowance
8. Report on Evaluation of the First Six Voluntary Assistance Symposia

Closed

1. Litigation Authorization, General Counsel Recommendations
2. Consideration of Certain Subpoenas
3. Consideration of Commissioner Charge Decisions

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This Notice Issued February 14, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84–4391 Filed 2–14–84; 3:41 pm]

BILLING CODE 6750–06–M

2

FEDERAL ELECTION COMMISSION

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, February 16, 1984, 10:00 a.m.

The following item has been carried over from the meeting of February 9: Revised Draft Advisory Opinion #1984–1, Edward A. Dudek, Treasurer, Re-Elect Clement J. Zablocki to Congress Club.

The following item has been withdrawn: Proposed Directive: Circulation vote procedures.

* * * * *

DATE AND TIME: Wednesday, February 22, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel. Internal Procedures of the Reports and Analysis Division (Continued from the meeting of February 14).

* * * * *

DATE AND TIME: Thursday, February 23, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings correction and approval of minutes eligibility report for candidates to receive Presidential primary matching funds

Draft Advisory Opinion #1984–3, Michael Chanin on behalf of Charles C. "Cliff" Finch.

Finance Committee report.

Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84–4381 Filed 2–14–84; 3:37 pm]

BILLING CODE 6715–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, February 21, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Applications for Federal deposit insurance:

Broadway Manufacturers Hanover Industrial Bank, an operating noninsured industrial bank located at 636 South Broadway, Denver, Colorado.

Denver Manufacturers Hanover Industrial Bank, an operating noninsured industrial bank located at 1640 Champa Street, Denver, Colorado.

Manufacturers Hanover Industrial Bank, an operating noninsured industrial bank located at 1895 South Federal Boulevard, Denver, Colorado.

Southglenn Manufacturers Hanover Industrial Bank, an operating noninsured industrial bank located at 2275 East Arapahoe Road, Littleton, Colorado.

Westminster Manufacturers Hanover Industrial Bank, an operating noninusred industrial bank located at 7398 North Federal Boulevard, Westminster, Colorado.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 500 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 14, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–4398 Filed 2–14–84; 3:58 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, February 21, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Hawaii Thrift & Loan, Incorporated, an operating noninsured industrial bank, located at 165 South King Street, Honolulu, Hawaii.

Application for consent to purchase assets and assume liabilities and establish one branch:

Farmers and Merchants Bank, Milford, Nebraska, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Cordova Cooperative Credit Association, Cordova, Nebraska, and for consent to establish the sole office of Cordova Cooperative Credit Association as a branch of Farmers and Merchants Bank.

Request for reconsideration of a previous denial of an application for consent to purchase assets and assume liabilities:

Peoples National Bank, Honolulu, Hawaii, a proposed national bank, for consent to purchase the assets of and assume the liability to pay deposits made in Peoples Savings and Loan Association, Honolulu, Hawaii, a non-FDIC insured institution.

Application for consent to transfer assets in consideration of the assumption of deposit liabilities:

Horizon Bank, National Association, Morristown, New Jersey, for consent to transfer certain assets to Lakeland Savings and Loan Association, Succasunna, New Jersey, a non-FDIC insured institution, in consideration of the assumption of the liability to pay deposits made in the Fredon Office, Fredon, New Jersey, and the Tranquility Office, Green Township, New Jersey, of Horizon Bank, National Association.

Memorandum and Resolution re: Final amendments to Part 348 of the Corporation's rules and regulations, entitled "Management Official Interlocks" in order to conform that Part to a change in the Depository Institutions Management Interlocks Act which deleted all references to "Standard Metropolitan Statistical Areas" ("SMSA's") and substituted therefor the new classifications for metropolitan statistical areas adopted by the Office of Management and Budget.

Memorandum and Resolution re: Withdrawal of proposed Part 350 of the Corporation's rules and regulations, entitled "Special Reporting Basis for Insured Savings Bank," which would have required that insured savings banks modify the basis upon which Reports of Condition and Income submitted to the Corporation are prepared.

Memorandum and Resolution re: Revisions to the FDIC Statement of Policy Relating to the Development and Review of FDIC Rules and Regulations—Semiannual Agenda of Regulations.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Accounting and Corporate Services:

Memorandum re: Investment Management Report—December 31, 1983.

Report of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re: Franklin National Bank, New York, New York.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 14, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–4399 Filed 2–14–84; 3:48 pm]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:50 p.m. on Friday, February 10, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in West Olympia Bank, Los Angeles, California, which was closed by the Superintendent of Banks for the State of California on Friday, February 10, 1984; (2) accept the bid for the transaction submitted by Wilshire State Bank, Los Angeles, California, an insured State nonmember bank; (3) approve the application of Wilshire State Bank, Los Angeles, California, for consent to purchase certain assets of and to assume the liability to pay deposits made in West Olympia Bank, Los Angeles, California, and for consent to establish the two offices of West Olympia Bank as branches of Wilshire State Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was

necessary to effect the purchase and assumption transaction.

The Board of Directors also considered an application for assistance under section 13(c) of the Federal Deposit Insurance Act (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 13, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-4352 Filed 2-14-84; 11:32 am]

BILLING CODE 6714-01-M

6

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 3:30 P.M., Wednesday, February 15, 1984.

PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee, (202-377-6970).

MATTERS TO BE CONSIDERED: The following items are scheduled for the bank board meeting of Wednesday, February 15, 1984 at 3:30 p.m.

Minimum Net-Worth Requirements of Insured Institutions
Insurance Coverage of Accounts Held by Investment Companies;
Insurance of Joint Accounts

The following item is scheduled for the bank board meeting of Thursday, February 23, 1984 at 2:30 p.m., Board Room 6th floor 1700 G St., NW., Washington, D.C.

Conversions from Mutual to Stock Form

No. 75, February 14, 1984.

J. J. Finn,

Secretary.

[FR Doc. 84-4400 Filed 2-14-84; 3:58 pm]

BILLING CODE 6720-01-M

7

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 49, Page No. 5022. Date published—February 9, 1984.

PLACE: Board Room, 6th Floor, 1700 G St., N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee, (202-377-6970).

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled for Tuesday, February 14, 1984, at 2:30 p.m., has been cancelled.

No. 74, February 14, 1984.

J. J. Finn,

Secretary.

[FR Doc. 84-4368 Filed 2-14-84; 12:11 pm]

BILLING CODE 6720-01-M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Tuesday, February 21, 1984

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. Any items carried forward from a previously announced meeting.
3. Federal Reserve Bank and Branch director appointments.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4307 Filed 2-13-84; 4:34 pm]

BILLING CODE 6212-01-M

9

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting.

TIME AND DATE: The meeting will commence at 1:30 P.M. and continue until all official business is completed. Friday, February 24, 1984.

PLACE: Office of Personnel Management, Auditorium, 1900 "E" Street, N.W., Washington, D.C.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes
   —July 20, 1983
   —August 23, 1983
3. Regulations Proposed for Final Approval
   —1609—Fee-Generating Cases
   —1620—Priority Setting
4. Regulations Proposed
   —1600—Definitions
   —1612—Restrictions on Certain Activities
   —1614—Private Attorney Involvement
   —1628—Recipient Fund Balance

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272-4040.

Date issued: February 13, 1984.

Donald P. Bogard,

President.

[FR Doc. 84-4379 Filed 2-14-84; 1:52 pm]

BILLING CODE 6820-35-M

10

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 closed meeting on Monday, February 13, 1984, at 5:00 p.m. at 450 5th Street, N.W., Washington, D.C., to consider the following item.

Regulatory matter bearing enforcement implications.

The Commissioners, Counsel for the Commissioners and the Secretary of the Commission will attend the closed meeting. Certain staff members who are responsible for the calendared matter will be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the item to be considered at the closed meeting will be considered pursuant to the exemptions set forth in 5 U.S.C. 552b(c)(5) and (9)(B) and 17 CFR 200.402(a)(5) and (9)(ii).

Chairman Shad and Commissioners Treadway and Cox voted to consider the item listed for the closed meeting in closed session.

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 13, 1984.

[FR Doc. 84–4370 Filed 2–14–84; 12:44 pm]

BILLING CODE 8010–01–M

11

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: (49 FR 4066 February 1, 1984).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, January 27, 1984.

CHANGE IN THE MEETING: Additional meeting.

The following items were considered at a closed meeting scheduled for Thursday, February 9, 1984, following the 2:30 p.m. open meeting.

Chapter 11 proceedings.
Formal order of investigation.
Settlement of injunctive actions.
Institution and settlement of administrative proceedings of an enforcement nature.
Litigation matter.

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: JoAnn Zuercher at (202) 272–2014.

George A. Fitzsimmons,

Secretary.

February 13, 1984.

[FR Doc. 84–4371 Filed 2–14–84; 12:44 pm]

BILLING CODE 8010–01–M

12

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 21, 1984, at 450 Fifth Street, NW., Washington, D.C.

A closed meeting will be held on Wednesday, February 22, 1984, 9:30 a.m. An open meeting will be held on Thursday, February 23, 1984, at 2:30 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 at 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 Wednesday, February 22, 1984, 9:30 a.m., will be:

Formal orders of investigation.
Institution of injunctive action.
Regulatory matter regarding financial institution.
Opinion.

The subject matter of the open meeting scheduled for Thursday, February 23, 1984, at 9:30 a.m., will be: Consideration of whether to authorize the publication of a staff report entitled, The Financing and Regulatory Capital Needs of the Securities Industry. For further information, please contact Bill Atkinson at (202) 272–2850.

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 13, 1984.

[FR Doc. 84–4372 Filed 2–14–84; 12:44 pm]

BILLING CODE 8010–01–M

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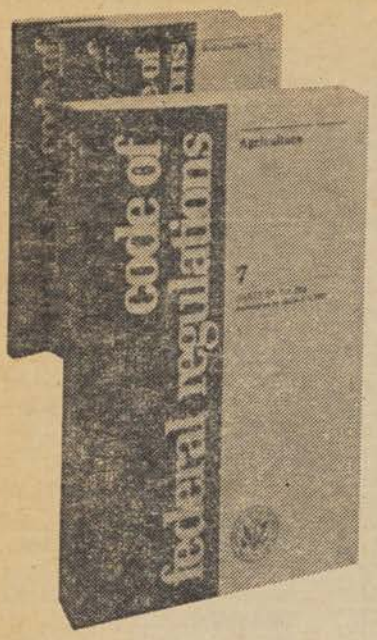

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